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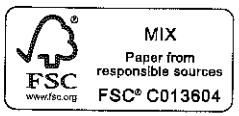


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# INTRODUCTION

> ... nations are essential elements of the world community. The world represents only so much culture and intellectual vigor as are created by its component national groups. Essentially the idea of a nation signifies constructive cooperation and original contributions, based upon genuine traditions, genuine culture, and a well-developed national psychology. The destruction of a nation, therefore, results in the loss of its future contributions to the world. (Lemkin 1944: Section III, 79–95)

> Our whole cultural heritage is a product of the contributions of all peoples. We can best understand this if we realize how impoverished our culture would be if the so-called inferior peoples doomed by Germany, such as the Jews, had not been permitted to create the Bible or to give birth to an Einstein, a Spinosa; if the Poles had not had the opportunity to give to the world a Copernicus, a Chopin, a Curie, the Czechs a Huss, and a Dvorak; the Greeks a Plato and a Socrates; the Russians, a Tolstoy and a Shostakovich. (Lemkin 1945)

Raphael Lemkin, 'the founder of the United Nations Genocide Convention', was born on 24 June 1900 in the Bialystok region of Bezwondene, Poland, which was in imperial Russia at the time but is now Volkovysk, Belarus.[1] Lemkin was fascinated with languages, history and the law, eventually becoming a lawyer and working for the Prosecutor's office in Warsaw from 1929 to 1934. As a prosecutor, he helped to codify the laws of the new Polish Republic, and in 1933 he presented a paper to the League of Nations International Conference for Unification of Criminal Law in Madrid based on two concepts – 'barbarity' (mass slaughter) and 'vandalism' (cultural destruction) – he had developed and wanted criminalized. Lemkin urged the international community to ban the destruction, both physical and cultural, of human groups. In his subsequent seminal text *Axis Rule in Occupied Europe* Lemkin combined his prior formulations,

barbarity and vandalism, to form a new, more comprehensive concept – *genocide*, combining the Greek word *genos* meaning tribe or race and the Latin *cide* meaning killing.[2] The United Nations' 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) was in large part the product of Lemkin's tireless lobbying in the corridors of the United Nations and beyond.[3] The legal definition is the only internationally accepted definition of genocide and is enshrined in Article II (a) to (e) of the Genocide Convention[4] – currently accepted by the Convention's 142 states parties.[5] In effect Lemkin helped create two definitions – the broad sociological concept sketched out in *Axis Rule* and the narrower legal definition articulated in the Genocide Convention.

The legal definition has, somewhat inevitably, been the most influential, while popular understandings reduce its meaning still further by effectively equating genocide with large-scale killing of 'ethnic groups'. The fact that the genocide concept and legal definition emerged from the context of the Second World War ensured that the Holocaust has proved hugely influential, if not paradigmatic, to both scholarly and popular understandings of the term. Arguably the primary conceptual constraint on thinking about the subject is the dominance of a Holocaust-based conception of genocide.[6] Indeed, it is only from around the turn of the millennium that some scholars began to rigorously interrogate Lemkin's thought and its implications for a range of under-discussed cases of genocide, such as settler colonial Australia.

Importantly, Lemkin's work on genocide went well beyond his seminal book *Axis Rule*. Indeed, a plethora of archival papers were donated to the American Jewish Archives in 1965, the American Jewish Historical Society in 1975, the New York Public Library in 1982, while the United Nations archive in Geneva holds a folder of formal letters and communications from Lemkin to key political figures, such as Eleanor Roosevelt, from the period when he was lobbying for the passage of the Genocide Convention.[7] Lemkin's archives contain a wealth of fascinating personal letters, research notes, historical papers, essays on philosophical, anthropological and economic approaches to genocide, and the results of genocide, while his unfinished autobiography and research into historical case studies of genocide have both finally been published.[8] Some of Lemkin's most illuminating and insightful thoughts are contained in these archives



and yet little more than a handful of scholars have interrogated them – most notably Dirk Moses, John Docker, Tanya Elder, Donna-Lee Frieze, Dominik Schaller and Jürgen Zimmerer – making their work hugely important to the field of genocide studies.[9]

What emerges from this scholarship is an understanding of genocide that is far more than a condemnatory label or even the international 'crime of all crimes', and an understanding of Lemkin himself as far more than a mere neologist. Genocide is now a robust concept with a rich intellectual history,[10] while Lemkin has been rediscovered and can now be considered a theorist and historian as well as a 'lawgiver'. These more recent studies have clarified the concept of genocide and in particular the role of cultural destruction. While it may be difficult to pin down exactly what is meant by 'cultural genocide', broadly speaking it is used to refer to a method of genocide which destroys a social group through the destruction of their culture. As we shall see in the next chapter, for Lemkin the concept of 'culture' was fundamental to how he conceived of genocide: it destroys a human cultural grouping, a '*genos*'.

Lemkin-inspired studies have also highlighted a vitally important aspect of genocide that had been somewhat ignored by prior scholarship – genocide's inherently colonial character. In Lemkin's 'History of genocide' in particular, he outlines a vital link between genocide and colonization, and yet prior to this new work it may have seemed reasonable to think of Lemkin's concept, as is popularly done, as little more than a synonym for mass murder.[11] As we shall see in the next chapter, such a position is now completely untenable.

This book is the product of my research over the last six years in the fields of genocide studies, indigenous rights, environmental justice and green criminology. My previous monograph, which analysed Australia's official reconciliation process, demonstrated the inherently *interlinked* nature of these fields, both theoretically and empirically. Indeed, it was in the Australian settler colonial context that I first entered the world of genocide studies via the heated debates about the forced removal of indigenous children from their families. Following this period of research I became heavily influenced by the seminal work of two historians: Tony Barta and his structural understanding of genocidal processes along with his idea that settler colonial societies may involve social and political 'relations of genocide'; and the pioneering work of Dirk Moses in developing

what we can now call the colonial/cultural turn in genocide studies. It was clear to me that their work could have significant analytical and explanatory potential beyond historical analysis and that a sociological understanding of genocide should embrace their insights. In addition to such socio-historical structural insights, since 2008 my work on ecocide and the environmental dimensions of genocide has drawn me into the burgeoning field of 'green' criminology, which, unlike traditional criminology with its focus on state-defined 'crime', analyses the nature, causes and societal impacts of environmental and social *harms* that are often *legal* and driven by capitalist expansion and our contemporary neoliberal economic order.

## Research strategy and theoretical orientation

The research for the book was based on sociological methods, primarily qualitative in nature, which sought to gain a nuanced understanding of complex socio-political processes. This involved participant observation at activist and protest events and official governmental and non-governmental policy forums at the local, national and international levels; academic workshops and conferences, documentary analysis, and legislative and common law legal analysis. In addition the research involved considerable textual analysis of relevant official policy documents in order to extract key phrases, metaphors and codes that can elucidate the relationship between political agendas, corporate interests and policy outcomes. The research also involved considerable periods in the United Nations and League of Nations archives in Geneva tracing the documented institutional history of the concept and potential international crime of ecocide, alongside research into the politically instrumental side of Lemkin's writings during the construction of the Genocide Convention (e.g. personal letters to key political figures).

While the case studies were not based on extensive deep ethnography they were informed by significant periods of fieldwork and include data from conversations, correspondence and semi-structured interviews with key actors. From my doctoral studies period to the present my primary research site has been Australia and the main focus of my work over the years has been settler colonial/indigenous relations and the issues of land appropriation, environmental destruction and genocide. The other case studies in this book, Palestine, Sri Lanka and Alberta, were undertaken with



experienced researchers of those contexts and the chapters co-authored. The analysis contained in the case study chapters should, however, be regarded in many ways as a springboard for further research and analysis as there is so much more information available if one cares to look, particularly when it comes to illuminating the 'lived experience' of the victims and the structures and casual factors at play in the violation of their basic human rights; they deserve entire books in their own right.

The research for this book has been informed by and contributes to a number of related fields of study and theoretical debates: the sociology of genocide, which to date has primarily examined the role played by historical, social, political and economic forces in genocidal destruction alongside individual, collective and structural dynamics; the 'sociology of human rights', in which I have worked for many years and which views human rights as a social construction, the product of the balance of power between political interests (see Short 2009); 'emancipatory cultural politics', whereby understandings of specific cultural processes that are embedded in wider structural social power relationships should be used to bolster specific endeavours for social change and/or to assist specific marginalized peoples, populations or groups in resisting threats to their survival (ibid.). Finally, the book utilizes the insights of a number of 'green criminologists', who take a 'harm'-based approach that acknowledges the fact that many 'legal' activities can be more destructive to the environmental and human and non-human animals than those deemed illegal.[12] Green criminology has much to offer the study of genocide, particularly where genocidal social harm is ecologically induced. In the penultimate chapter, I make the case for the field of genocide studies to embrace the insights of green criminologists and vice versa.

## Chapter outlines

In the first chapter of this book I develop a sociologically robust understanding of genocide and discuss its implications. I outline why the still-dominant understanding of genocide as mass killing is sociologically inadequate and at odds with the ideas of the author of the concept, Raphael Lemkin. Despite the insights of recent scholarship, to date much of the field of genocide studies has failed to appreciate the importance of culture and social death to the concept of genocide. There is still insufficient serious discussion of culturally

destructive processes which do not involve direct physical killing or violence through the analytical lens of genocide. This is especially true when it comes to the experiences of indigenous peoples in the world today. When they invoke the term genocide to describe their present-day experiences it is often derided. And yet I show that indigenous peoples' use of the concept is often more accurate and precise than that espoused by many scholars. I end the chapter with a call for more research into seemingly benign processes of indigenous 'cultural diffusion', in a globalized world dominated by neoliberal capitalism where 'land grabs' – carried out by extractive industries, industrial farms and the like – are, through the annexation of indigenous land and associated 'externalities', the principal vectors of what Martin Crook and I have called 'ecologically induced genocide' – although it's important to note that colonized indigenous peoples the world over have been pointing out such a phenomenon for some time. This brings us to a key contribution of this book – ecocide as a method of genocide.

A small number of studies have shown that ecocide, broadly speaking the destruction of ecosystems, can be a method of genocide if, for example, such destruction results in conditions of life that fundamentally threaten a social group's cultural and/or physical existence.[13] These studies date back to the 1970s, but have been largely ignored by the majority of genocide scholars. One of the earliest studies to have demonstrated how capitalism can produce environmental destruction, which in turn leads to genocide, was the 1973 study by Canadian investigative journalists Robert Davis and Mark Zannis – to my knowledge only Dirk Moses out of the key writers in genocide studies seems to have consulted it, yet the study is filled with rich material of undoubted relevance to genocide scholars. Much later, in 1998, Daniel Brook wrote a groundbreaking article, 'Environmental genocide: Native Americans and toxic waste', which made such a case more explicitly. It wasn't until Ward Churchill's (2002) second scholarly work on genocide, however, that the term 'ecocide' found its way into a monograph alongside Lemkin's concept. Even so, Churchill left the connection largely underexplored and didn't explicitly engage with the concept of ecocide and how it relates to genocide, both in theory and practice.

In the second chapter of this book I explore this under-investigated area and show how genocide and ecocide are inherently linked, institutionally, empirically and theoretically. I first became aware of



the idea of ecocide – the destruction of ecosystems – as a potential international crime akin to genocide when I met international lawyer and activist Polly Higgins, who has been a prominent advocate for the idea for many years. To test the practicality of Polly Higgins' proposal to make ecocide a crime, a mock trial was held in the UK Supreme Court in September 2011 at which the two chief executives of two fictional oil companies were found guilty by the jury of the crime of ecocide. I met Polly at the follow-up sentencing event on 31 March 2012 at the Institute for Democracy and Conflict Resolution at the University of Essex in Colchester. During her early advocacy on the subject, a journalist had tantalizingly alerted Polly to a prior time when ecocide had in fact been discussed as a potential international crime within the UN system, but the details were vague. She was interested in learning more about this little-known episode, as indeed was I. Consequently, I started an 'Ecocide Project' within our Human Rights Consortium at the School of Advanced Study to look into it. The early legwork was diligently conducted by a wonderfully gifted researcher, Anja Gauger, before being joined by a team of us in the later stages.

In short, we uncovered a fascinating institutional history of a potential crime of ecocide/environmental destruction in the UN system, the repercussions of which are discussed in the chapter.[14] The crucial point identified by our research was that, at certain points in the past, the international community had deemed ecocide/environmental destruction to be so serious that it was included in its draft Code of Crimes Against the Peace and Security of Mankind, and was also seriously considered as a missing method of genocide that could be written into the Genocide Convention. In order to grasp the contemporary conceptual and empirical dimensions of the genocide/ecocide nexus, which have been the focus of my research over the last six years, the chapter moves on to grapple with what Meadows et al. famously described as 'the Limits to Growth'; exploring the implications for the capitalist mode of production and indeed for all humanity of reaching planetary carrying capacity, alongside Ed Lloyd-Davies' '*process* of extreme energy' (2013) – as easier-to-extract resources peak, there is a drive towards more risky and environmentally destructive extraction. Indeed, the latest resource extraction technologies involved are so disturbing that I set up the Extreme Energy Initiative (extremeenergy.org) as an independent

interdisciplinary academic forum designed to investigate the human and environmental impacts of technologies such as mountain-top removal, tar sands extraction, underground coal gasification and 'fracking' (sometimes referred to as 'unconventional gas and oil' extraction). I suggest that the rush to scrape the bottom of the fossil fuel barrel is creating a perfect storm for current and future human rights abuses, with ecocidal and genocidal consequences.

In developing my thinking on the connections between genocide and ecocide, I was hugely influenced by a series of interdisciplinary workshops organized by a group of independent academics known collectively as 'Crisis Forum', in which historian and genocide scholar Mark Levene was a central figure. On 8 November 2008 the forum began the series under the title 'Climate change and violence', based on the premise that anthropogenic climate change will be the most serious accelerator to the overall crisis of mankind in the twenty-first century, featuring, among other calamities, more frequent heat waves, droughts, extreme precipitation events, and related impacts, e.g. wildfires, heat stress, vegetation changes and sea level rise (Levene 2004). The first Crisis Forum workshop was aimed at developing an understanding of the implications for human society of anthropogenic climate change via the input of leading climate scientists, such as Kevin Anderson. The central question posed was 'How bad is bad?'. By the end of the workshop it seemed the answer was that if the excesses of global capitalism, in particular the unrestrained production of greenhouse gases, were not dramatically and abruptly curbed, the situation would be somewhere along the spectrum of 'dire' and 'an extinction event'.

The workshop had a profound impact on me at a core level, as a human being partly responsible for the situation – engaged in unsustainable consumption – as a father, concerned citizen and human rights scholar. On a scholarly level the whole series of interdisciplinary workshops highlighted the interconnected nature of human beings and our natural environment but also the interconnected nature of the fields of study and topics discussed. Indeed, one quickly realized that it is impossible to fully comprehend the nature, scale and overall consequences of phenomena such as genocidal episodes without a strong appreciation of a range of environmental factors and ecological issues such as anthropogenic climate change, land use and abuse, soil degradation, water contamination and shortages,



biodiversity loss and habitat destruction. Regardless of our attempts to master nature the simple fact remains: humans are ecologically embedded beings and the destruction of our habitat will have dire consequences. Thus, these issues infuse the book both in terms of the theoretical orientation and in the empirical data discussed in the case studies.

In Chapter 3 we move on to the first of the book's case studies, all of which were chosen with a number of important dimensions in mind. First, they are all under-discussed contexts in the field of genocide studies, but contexts that both benefit from analysis through a genocide lens and which tell us something about the variations, commonalities, causal vectors and societal structures involved in such genocidal processes. Secondly, they each add their own unique elements to our understanding, such as the particular histories of group identity formation, levels and modes of inter-group conflict and environmental contexts, while at the same time highlighting key connections, such as the role of colonization, natural resource exploitation and its destruction of ecosystems and neoliberal global capitalism – the form of capitalism that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, 'free markets' and 'free trade' (Harvey 2005: 2). Under this system the role of the state is to create and preserve an institutional framework appropriate to such practices, through military, defence, police and legal structures, using force where necessary. Where markets do not exist (in areas such as land, water, education, social security or environmental pollution) then these should be created by state action if necessary (ibid.: 2).

The case studies involve two contexts that have been embroiled in long-term, almost continuously violent, protracted conflict and two cases that involve 'stable' neoliberal multicultural democracies. What we will see is that, despite considerable differences between the two violent conflict case studies and the two stable 'democratic' case studies, they share many similarities when it comes to victim experiences of cultural destruction and habitat destruction. The first case study is Palestine. As Haifa Rashed and I have argued elsewhere (Rashed et al. 2014; Rashed and Short 2012), the Palestinian case has hitherto seen little investigation by genocide scholars. Given Lemkin's focus on colonialism and genocide and subsequent scholarly

examination of settler colonial societies as inherently genocidal, we suggest that when considering the Palestinian case through the lens of settler colonialism there is a clear basis for its further exploration within the field of genocide studies. As Docker indicates, the 'conjunction of genocide studies and the history of Palestine-Israel conceived as genocidal, has grave implications for international law' (Docker 2012). This chapter considers the State of Israel's actions against the Palestinian people through a Lemkin-inspired genocide lens, and also the more restrictive legal understanding articulated in the UN Genocide Convention, specifically Article 2 (a–c).

Chapter 4 investigates the case of Sri Lanka, briefly exploring its colonial past and the shaping of social group identities before moving on to discuss the civil war (1983–2009) and post-war social, political and environmental contexts. While the language of genocide gradually appeared over time, especially during the last phase of the war, the chapter looks at the development of a comprehensive identity, a *genos*, among the Tamil population as a result of policy changes and alienation of minorities since independence. The chapter argues that in order to understand the conflict between the Tamils and the Sinhalese there is a need to explore the dominant narratives from one of Sri Lanka's national epics, the Mahavamsa, as it has been instrumental in shaping Sinhalese Buddhist nationalism and legitimizing genocidal practices on the Tamil community. The chapter also looks at the evolution of ethnic identities and their subsequent stratification and the creation of a vulnerable minority population susceptible to the peculiar harm of genocide. The final section of the chapter interrogates key issues in post-war Sri Lanka, including ecocide and environmental destruction, looking principally at the former war zone and rebel-held territories in the north and east.

Following the Sri Lanka case, in Chapter 5 we move on to investigate a classic settler colonial context – Australia. While debates about genocide in Australia have, for the most part, focused on past frontier killings and child removal practices, I discuss *contemporary* culturally destructive policies, and the colonial structures that produce them, through the analytical lens of the concept of genocide. Even though direct physical killing and genocidal child removal practices may have ceased in Australia, some indigenous people persuasively contend that genocide *is a continuing process* in an Australia that has failed to



decolonize. After many years of fieldwork and research on Australian settler/indigenous politics I concur with these views. I argue that the contemporary expression of continuing genocidal relations in Australia can be seen principally, and perversely, in the colonial state's official reconciliation process, the native title land rights regime and the more recent interventionist 'solutions' to indigenous 'problems' in the Northern Territory, alongside the invasion of extreme energy technologies and their ecocidal consequences.

In the final case study, Chapter 6 examines another 'democratic' settler colonial context – Alberta, Canada, and the impacts of the poster child of extreme energy and ecocide, the 'tar sands' mega-oil production project, sometimes described in Tolkien terminology as Canada's Mordor, and its effect on the downstream indigenous communities of the Treaty 8 region.[15] While the project has brought income to some, and wealth to the few, its impact on the environment and ecosystems is truly staggering. It is difficult to comprehend the scale of destruction even when viewing the plethora of images on the Internet. I encourage readers to view the tar sands images of the Extreme Energy Initiative's gifted and aptly named photographer, Garth Lenz (garthlenz.com), to get a sense of the enormity of the tar sands ecological devastation. But of course, ecocidal tar sands extraction and processing do not just destroy local ecosystems. The effects on downstream indigenous groups are truly staggering. Their ability to hunt, trap and fish has been severely curtailed and, where it is possible, people are often too fearful of toxins to drink water and eat fish from waterways polluted by the 'externalities' of tar sands production. The situation has led some indigenous spokespersons to talk in terms of a slow industrial genocide being perpetrated against them. The chapter begins with a discussion of the treaty negotiations which paved the way for tar sands development before moving on to discuss the impacts of modern-day tar sands extraction and the applicability of the genocide concept.

In many ways finishing the case studies with Alberta is particularly insightful as the case starkly illustrates core interrelated, interconnected themes of this book: a colonial history of land grabs that continue into the present, neoliberal capitalist pressures to secure more land and resources, environmental destruction, ecocidal extreme energy and vulnerable disadvantaged social groups highly susceptible to the harm of genocide; and finally the case has profound implications for

humanity with the potential catastrophic contribution the tars sands are making to global $CO_2$ emissions and anthropogenic climate change.

The final chapter briefly summarizes the key concepts and empirical material of the book before moving on to ask a crucial question for both genocide studies as a field of academic inquiry, and for humanity and the planet as a whole: *where to from here?* With the looming threat of runaway climate change in the twenty-first century, the advent of the geological phase classified by geologists and earth scientists as the Anthropocene (Zalasiewicz et al. 2008: 4–8) and the attendant rapid extinction of species, destruction of habitats, ecological collapse and the self-evident dependency of the human race on our biosphere, ecocide (both 'natural' and 'man-made') will become a primary driver of genocide. It is therefore incumbent upon genocide scholars to attempt a paradigm shift in the greatest traditions of science (Kuhn 2012) and produce a sustained engagement with the rich scholarly tradition of 'political ecology' and 'environmental sociology' (Crook and Short 2014: 298) alongside the emerging field of 'green criminology'[16] in order to produce a theoretical apparatus that can illuminate the links between, and drivers of, ecocide and genocidal social death (Card 2003: 63–79) in the world today. Fittingly, I finish the book with the biggest issue of all: what does all this mean for humanity and the ecosystems we are part of and depend on but are systematically destroying?

# 1 | DEFINITIONAL CONUNDRUMS: A SOCIOLOGICAL APPROACH TO GENOCIDE

## Introduction: sociology and genocide studies

The discipline of sociology was as slow to engage with Holocaust and genocide studies as it was with the theory and practice of human rights.[1] The legacy of classical sociology's emphasis on 'value-free' 'scientific' methodology, which precluded normative considerations (Short 2009: 97), was perhaps the main reason why both areas of potential study remained under-explored by sociologists for so long. Back in 1982 Irving Horowitz suggested that when it comes to such things as human rights violations and genocide 'many sociologists exhibit a studied embarrassment ... feeling that intellectual issues posed in such a manner are melodramatic and unfit for scientific discourse' (Horowitz 1982: 3). Zygmunt Bauman was equally blunt when he commented that 'phrases like "the sanctity of human life" or "moral duty" sound as alien in a sociology seminar as they do in the smoke-free sanitized rooms of a bureaucratic office' (Bauman 1990: 9–10). For a time, the dominant view of sociologists working in the field was that the discipline had not been significant in shaping our understanding of genocide as a concept and as a practice.[2]

In the years prior to serious sociological engagement with genocide studies, the Holocaust came to be seen as a paradigmatic, or even the only true, example of genocide.[3] This bias towards the Holocaust, combined with a legal scholarly focus on the United Nations Convention on the Prevention and Punishment of the Crime of Genocide 1948 (The UN Convention), produced a dominant view of genocide that focused on intentional mass killing of certain groups under the direction of the state.[4] Nevertheless, as with the study of human rights, over time sociologists began to make some important contributions to genocide studies. Given that a primary task of the sociologist 'is the construction of a special kind of general concept', as Thomas Burger put it, it was not surprising that sociologists sought to engage in the debates over the *meaning of* genocide.[5] Indeed, some of the most frequently cited definitions are from sociological studies

dating back to the early 1990s, while sociologist Leo Kuper's seminal text was published in 1981.[6]

In the definitional debates the major contentious issues have been: identifying the social groups capable of being victims of genocide, the centrality afforded mass killing, the type of genocidal 'intent' required and the exclusion of cultural genocide. Concerning potential victim groups, Alison Palmer, for example, points out the UN Convention 'definition excludes not only groups such as mentally handicapped or homosexuals, both of whom were targeted for destruction by the Nazis, but also political groups' (Palmer 2000). Adam Jones in his textbook captured the general consensus that has developed since the 1980s:[7] 'I consider mass killing to be definitional to genocide ... in charting my own course, I am wary of labelling as "genocide" cases where mass killing has not occurred' (Jones 2006: 22).

In the early 1990s two influential sociological studies engaged with the definitional debates and made contributions of lasting significance. In a book on the *History and Sociology of Genocide*, which emerged from their teaching throughout the 1980s, Frank Chalk and Kurt Jonassohn advanced a now frequently cited definition of genocide that sought to overcome some of the problems associated with defining groups by arguing that it is in fact the perpetrator that defines the victim group in genocides. For Chalk and Jonassohn (1990: Note 7) genocide is: 'a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator'.

Many social scientists now formulate their definition of genocide to include any group, be it a political, economic or cultural collectivity, with such groups being defined, as above, by perpetrator selection. In support of this position some authors cite examples from the two most prominent genocides. For example, Alison Palmer argues that during the Nazi genocides it was they who identified who qualified as a Jew or a mentally or physically handicapped person, regardless of the victim's self-perception (Palmer 2000). While in Rwanda identity cards specified the categories Hutu and Tutsi, such cards presented at checkpoints did not necessarily spare individuals 'whose skin was a bit too light, who were a bit too tall or whose necks were a bit too long' (Levene 2005: 80). As Levene suggests, 'if they looked like Tutsi they might as well be Tutsi. Ultimately, no social or any other science can determine how perpetrators define a group, whether this has some relationship to social reality, or is entirely something which has developed in their own heads' (ibid.: 80). This definition of victim group is thus infinitely open-ended, allowing for the construction of groups from the paranoid imagination of perpetrators.



Defining genocide in this way allows for the possibility that certain groups may be selected for destruction *when prior to this act of selection no such groups existed*. Although Chalk and Jonassohn did not draw specifically on labelling theory, their understanding of genocide is certainly informed by its insights. Labelling theory emerged out of the sociology of deviance and was fundamentally based on symbolic interactionist epistemology. Howard Becker's seminal 1963 work *Outsiders* (1997 [1963]) is a classic example, which posits that the construction and destruction of enemies (or so-called 'deviants') depends on their labelling as such by the powerful (on this point see Fein 1993: 14). As justification for their position Chalk and Jonassohn cite W. I. Thomas's famous dictum that 'if people define a situation as real it is real in its consequences' (Chalk and Jonassohn 1990).

Even so, sociologist Helen Fein, in her seminal special edition of *Current Sociology*, suggests that the victims of genocide are generally members of previously existing *real groups*, whether conceived of as collectivities, races or classes, and *who acknowledge their existence*. In formulating her own definition of genocide, Fein sought to circumvent the problem of excluding certain types of groups by using the term 'collectivity'. Fein argued that the 'UNGC definition of genocide can be reconciled with an expanded – but bounded – sociological definition if we focus on how core concepts are related'. Taking the root *genus*, Fein argued that Raphael Lemkin and the UN framers had in mind 'basic kinds, classes or sub-families of humanity, persisting units of society', whose definition should be 'consistent with our sociological knowledge of both the persistence and construction of group identities in society' (Fein 1993: 23–4). For Fein the distinctive sociological point is that such groups are usually ascriptive – based on birth rather than choice – often inspire enduring particularistic loyalties, and 'are the seed-bed of social movements, voluntary associations, congregations and families; in brief they are *collectivities*' (ibid.: 23). She thus settled on the following definition: 'Genocide is sustained purposeful action by a perpetrator to physically destroy a collectivity directly or indirectly, through interdiction of the biological

and social reproduction of group members, sustained regardless of the surrender or lack of threat offered by the victim' (ibid.: 24).

For Fein, then, any social collectivity could be a victim of genocide so long as the offending actions were 'purposeful' and 'physically' destructive. Such requirements were her attempt at answering two key issues in defining genocide: what should count as sufficient 'intent to destroy' and what sorts of action can count as genocidal destruction. As she points out, one of the main problems with the notion of 'intent to destroy' is that most authors conflate 'motive' with 'intent'. The words 'as such' in the UN Convention are no doubt partly to blame for this confusion as they require that groups be intentionally targeted *because of who they are* and not for any other reason such as economic gain or self-defence. Given that perpetrators may well have multiple reasons for genocidal action it is not surprising that Fein advocated a more sociologically realistic approach – *sustained purposeful action*. Under such a formula intent can also be *inferred from action*, which is entirely consistent with a long-established principle in British common law.[8] However, when considering *the type of action* that counts as genocidal her requirement that a group be 'physically' destroyed is sociologically inadequate and at odds with Lemkin's understanding.

Recent sociological engagement has continued to engage in definitional debates, exploring the contentious areas of group definition, the centrality of mass killing and the role of intent, but within a wider attempt to explain *exactly what genocide is* – I have in mind here the work of Powell (2007) and Shaw (2007). These contributions will be discussed in the next section, where I argue that much sociological work on genocide, barring a few notable exceptions, has downplayed or ignored both the importance of 'cultural genocide' to the concept of genocide itself and the relationship between genocide and colonialism; a relationship which has come under increasing scrutiny from historians writing in the field of genocide studies.[9] A hugely significant dimension of these studies has been the recovery of Lemkin's own historical writing (some of which remains unpublished), and recovering the meaning of genocide for Lemkin is, as Martin Shaw points out, a necessary beginning for the sociology of genocide (Shaw 2010a: 146).

Dirk Moses, Ann Curthoys and John Docker in particular have demonstrated that Lemkin was working on a far more ambitious



history of genocide than any undertaken since his death, and that he was more open to the diverse manifestations of genocidal relations than many guardians of his heritage believed.[10] Utilizing some of the key insights from such studies in the balance of this chapter I discuss why we should view *cultural genocide* as *central* to our understanding of genocide itself. By extension I argue that the concept is an appropriate term to describe *the current experiences* of many indigenous peoples living under settler colonial rule which has proceeded, as Patrick Wolfe observes, with a 'logic of elimination' (Wolfe 2006: 388). He writes:

> So far as Indigenous people are concerned, where they are *is* who they are, and ... to get in the way of settler colonization, all the native has to do is stay at home. Whatever settlers may say – and they generally have a lot to say – the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory. Territoriality is settler colonialism's specific, irreducible element. (Ibid.: 388)

For indigenous peoples, then, 'land is life – or, at least, land is necessary for life. Thus contests for land can be – indeed, often are – contests for life' (ibid.: 387).

## Cultural genocide as genocide

Writing about sociological approaches to human rights, Michael Freeman makes an important observation:

> the institutionalisation of human rights may ... lead, not to their more secure protection but to their protection in a form that is less threatening to the existing system of power. The *sociological* point is not that human rights should never be institutionalised, but, rather, that institutionalisation is a social process, involving power, and that it should be analysed and not assumed to be beneficial. (Freeman 2002: 85)

Freeman's warning is just as applicable to the UN Convention as it is to many of the other United Nations Agreements on Human Rights[11] and national rights institutionalization projects.[12] Indeed, the narrowed-down final text of the UN Convention was the product

of the balance of power between political interests and the exhaustive work of one highly significant individual – the term's inventor, Raphael Lemkin – in attempting to retain as much of his original conception as possible.[13] During the UN debates over the contents of the draft UN Convention cultural genocide proved to be one of the more contentious elements.[14] It elicited strong defensive responses from the colonial powers sensitive to criticism of their policies in non-self-governing territories (see Kuper 1981: 31; Churchill 1997: 411), such that the protection of cultural groups was ultimately left to conventions on human rights and minority rights (Morsink 1999). This outcome, as we shall see, dismayed Raphael Lemkin as it removed a key *method* of genocidal practice. It was also a seriously unfortunate position for indigenous peoples worldwide since their unique status is not adequately covered by the conventions on minority rights, which is why they pushed for their own international rights declaration for so long.[15]

As mentioned earlier, it was 1933 when Lemkin spoke at the International Conference for Unification of Criminal Law in Madrid, and urged the international community to converge on the necessity to ban the destruction, both physical and cultural, of human groups, invoking the linked concepts of 'barbarity' and 'vandalism'. In his subsequent work *Axis Rule in Occupied Europe*, Lemkin combined the concepts of barbarity and vandalism to form a new, more comprehensive one – *genocide*.[16]

Lemkin envisaged the crime of genocide consisting of the deliberate destruction of a nation or ethnic group:

1. by killing its individual members, i.e. physical genocide (derived from Lemkin's notion of 'barbarity');
2. by undermining its way of life, i.e. cultural genocide (derived from 'vandalism').

In a passage from *Axis Rule in Occupied Europe*, Lemkin wrote:

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



The second element of Lemkin's prior formulation, vandalism – the destruction of culture – was now a technique of group destruction (see Moses 2010). Lemkin's central ontological assertion here was that culture integrates human societies and consequently is a necessary precondition for the realization of individual material needs. For Lemkin, culture is as vital to group life as individual physical well-being.

> So-called derived needs, are just as necessary to their existence as the basic physiological needs ... These needs find expression in social institutions or, to use an anthropological term, the culture ethos. If the culture of a group is violently undermined, the group itself disintegrates and its members must either become absorbed in other cultures which is a wasteful and painful process or succumb to personal disorganization and, perhaps, physical destruction ... [Thus] the destruction of cultural symbols is genocide ... [It] menaces the existence of the social group which exists by virtue of its common culture. (Cited in Moses 2008)

'This quotation', according to Moses, 'gives us clues to Lemkin's conception of genocide. He was more concerned with the loss of culture than the loss of life' (ibid.: 12), as culture is the social fabric of a *genus*. Indeed, in Lemkin's formulation, culture is the unit of collective memory, whereby the legacies of the dead can be kept alive and each cultural group has its own unique distinctive *genius* deserving of protection (see Jones 2006: 13). National culture for Lemkin is an essential element of world culture and nations have a life of their own comparable to the life of individual. On this point Lemkin wrote:

> The world represents only so much culture and intellectual vigour as are created by its component national groups. The destruction of a nation, therefore, results in the loss of its future contributions to the world. Moreover, such a destruction offends our feelings of morality and justice in much the same way as

> does the criminal killing of a human being: the crime in the one case as in the other is murder, though on a vastly greater scale. (Lemkin 1944: 91)

After finishing *Axis Rule* Lemkin set about researching for his intended magnum opus, a comprehensive multi-volume 'History of Genocide', covering ancient, medieval and modern periods. His notes for this project have recently been explored by a few genocide scholars and their reports make for revealing reading. Lemkin's notes are particularly instructive on the 'methods and techniques of genocide', which include:

> physical – massacre and mutilation, deprivation of livelihood (starvation, exposure, etc. often by deportation), slavery – exposure to death; biological – separation of families, sterilization, destruction of foetus; cultural – desecration and destruction of cultural symbols (books, objects of art, loot, religious relics, etc.), destruction of cultural leadership, destruction of cultural centres (cities, churches, monasteries, schools, libraries), prohibition of cultural activities or codes of behaviour, forceful conversion, demoralization. (McDonnell and Moses 2005)

These methods of genocide are so pervasive throughout Lemkin's unpublished notes that it seems he viewed physical genocide and cultural genocide not as two distinct phenomena, but rather *one process that could be accomplished through a variety of means,* such as those listed above. This understanding is based on a functional view of national structure where the physical and cultural aspects are seen as interdependent and indivisible. From this perspective the destruction of a nation could occur when *any* structural element was destroyed. Even if the national group did not possess recognized sovereignty Lemkin thought it had an inherent right to exist just like the sovereign individual – and such groups provided the essential basis of human culture as a whole – such that the concept of 'genocide' was designed specifically to protect that life (Powell 2007: 534).

Lemkin defined genocide in terms of the violation of a nation's right to its collective existence – genocide in this sense is quite



simply the destruction of a nation. Such destruction can be achieved through the 'mass killings of all members of a nation'; *or* through 'a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups'. It is this latter point that is missed or ignored by those authors like Helen Fein who insist on the centrality of *physical* destruction to the concept of genocide. As Dirk Moses suggests, the extraordinary implication here is 'that Lemkin did not properly understand genocide, despite the fact that he invented the term and went to great trouble to explain its meaning. Instead, most scholars presume to instruct Lemkin, retrospectively, about his concept, although they are in fact proposing a different concept, usually mass murder' (Moses 2010: 3).

Lemkin's conception also poses a serious problem for those theorists that suggest perpetrators define the victim group, since it is quite conceivable that a perpetrator can invent a categorization that does not exist in any meaningful sense; e.g. recall Mark Levene's example of Rwanda: 'if you looked like a Tutsi you might as well be a Tutsi'. Is this the sort of offence Lemkin had in mind when he invented the term genocide? It may well be that Levene's example is better described as an individual murder or a crime against humanity within a broader genocidal context, *but not a genocidal act in and of itself,* if we presume that the victim did not belong to the type of group (with a cultural identity capable of making future contributions to the world) whose life the concept of genocide was designed to protect.

In 'What is Genocide?', a thought-provoking contribution to genocide studies, sociologist Martin Shaw attempts to move us away from problematic group definitions towards a focus on what he describes as the 'missing link' of genocide studies: 'civilians' (Shaw 2007: 113). He writes:

> we should focus on what all genocidal campaigns have in common: not the destruction of a particular group type (the groups attacked vary greatly between cases) but the civilian character of the attacked population ... Although victims are targeted for their supposed particular identities, the civilian character – not a particular identity type – is the *common* feature of both group targets and individual victims across *all* genocides. The focus on civilian enemies demarcates genocide from war

> and defines its comprehensive immortality and illegality. Thus the concept of 'civilian' is central to the understanding of genocide. (Ibid.: 117)

While the identification of *civilians* as victims is an important element of genocide, distinguishes the concept from war and is in keeping with Lemkin's use of the words 'subjects', 'civilians' and 'populations' (Lemkin 1944: 79) to describe some victim characteristics, this understanding does not seem to offer much of a distinction between genocide and crimes against humanity – which are 'directed against any civilian population'; it also downplays the importance of culture to the master concept.[17] Indeed, the foundational conceptual ingredient of genocide for Lemkin was *culture* not 'civilian'. For Lemkin culture animates the *genos* in genocide – the social group exists by virtue of its common culture. For this reason it is not surprising that during the process of construction of the draft UN Convention, Lemkin argued that 'Cultural Genocide is the most important part of the Convention' (Moses 2008: 12–13), and yet, owing to political influences and adaptations during the drafting process, the final legal definition was narrower than Lemkin had originally intended, largely omitting the cultural method.[18] In his 1958 autobiography, *Totally Unofficial Man*, Lemkin wrote:

> I defended it successfully through two drafts. It meant the destruction of the cultural pattern of a group, such as the language, the traditions, the monuments, archives, libraries, churches. In brief: the shrines of the soul of a nation. But there was not enough support for this idea in the Committee ... So with a heavy heart I decided not to press for it. (Cited in Docker 2004: 3)

Lemkin had to drop an idea that, in his words, 'was very dear to me' (ibid.).

The codified definition is the only internationally accepted legal definition of genocide and is enshrined in Article II (a) to (e) of the Genocide Convention.[19] While this definition was based on Lemkin's initial concept of genocide, as Curthoys and Docker point out there has been considerable confusion between two basic definitions of genocide: 'the discursive definition in chapter nine of *Axis Rule* and the codified definition of the 1948 Genocide Convention' (Curthoys and Docker 2008: 13).



*Lemkin and settler colonialism* Out of the two definitions that Lemkin helped to create, the legal definition has, inevitably, been the predominant definition of genocide. Furthermore, the fact that the genocide concept was formed during the context of the Second World War ensured that the Holocaust deeply influenced its conception and the subsequent understanding of the term by scholars. Indeed, views such as that the Holocaust is the 'ultimate expression' (Horowitz 1982, cited in Curthoys and Docker 2008: 27) of genocide has led to it commonly being the example case that other potential genocides are compared against. Despite the important sociological interventions mentioned above, by the mid-1980s the perception that genocide 'equals mass murder' was 'an orthodoxy of sorts'.[20] Shaw concurs with this view: 'because Genocide has been narrowed down to Nazi-like extermination policies, few recent cases have been recognised'. Only that of Rwanda (1994) has been overwhelmingly accepted, since it involved physical destruction (Shaw 2007: 48) and the designated perpetrator regime was no friend of the international community's power brokers.

For Moses, this reductionist interpretation of genocide dismisses the validity of the experience of other genocide victims: 'the establishment of the Holocaust as *the* threshold of trauma in western modernity conveniently renders invisible the experience of trauma that has driven the vengeful yet redemptive politics of minorities and displaced peoples for centuries, including, significantly, the Palestinian one' (Moses 2011: 13). This trend has meant that 'from a legal perspective, genocide unaccompanied by mass killing is rare, and has stood little chance of being prosecuted' (Jones 2006: 13). However, it is significant that it isn't actually necessary for anyone to be killed in order for genocide to take place under the Genocide Convention's definition. So, rather than prioritizing mass killings; Lemkin's focus lay with the destruction of the rudiments of social and cultural existence:

> Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killing of all members of a nation. It is intended rather to

signify *a coordinated plan of different actions aiming at the destruction of the essential foundations of the life of national groups*, with the aim of annihilating the groups themselves. The objectives of such a plan would be *disintegration of the political and social institutions of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups*. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group. (Lemkin 1944: 79, emphasis added)

A key strand of recent genocide scholarship focuses on the link Lemkin made between colonization processes[21] and genocidal practices,[22] at the heart of which is an understanding of the importance of territory as a primary cause of violence (Zimmerer 2014: 273). As Jürgen Zimmerer points out,

> Space is a finite quantity for which people (by definition indefinite in their numbers) compete. The need for land can be real or imagined (it can include imaginative landscapes, for example, plans for settlements, economic or agricultural use, or fear of land shortage). Early globalisation in the form of European colonialism affected this in three ways: The movement of people (settlement), the inclusion of distant regions in the emerging world economy (agriculture, mining, hunting, trading with certain impacts on people living there) and an increase in communication over vast distances (exchange of personnel, representations, learning experiences) … Colonialism, in particular settler colonialism, can be seen as the control of space (land) on the basis of race. It is – if nothing else – land grabbing by the colonisers on a truly global scale. Genocidal violence accompanied the colonial settlement process, particularly in settler colonies. (Ibid.: 273)

Racist colonial ideologies of 'superiority' and 'progress' served land grabs by placing the indigenous inhabitants outside the sphere of moral concern. It's important to note, however, that the primary driver of colonial genocide is an expansionist economic system, which



rationally requires more and more territory to control and exploit. In this sense rational (economic) choice is facilitated by ideology and not driven by it (ibid.: 275).

When Lemkin defined the genocide concept, he defined it as 'intrinsically colonial' (Moses 2008: 9). Indeed, he stated that once the 'national pattern' of a victim group had been destroyed, the act of genocide involved the imposition of the 'national pattern' of the colonial oppressor, while the oppressed population can be allowed to remain following the colonization of the area by the oppressor's own nationals (Lemkin 1944: 79). Taking up this connection, some contemporary writers such as Churchill (in Jones 2004: 80) concur that where the practice of imposing the 'national pattern' of the colonial oppressor is the result of 'policy', it should indeed be considered genocidal. Jean-Paul Sartre stated that 'Colonialization is … necessarily a cultural genocide' (Sartre 1967). This view has since been expanded by others such as Card, who describes genocide as a 'social death' (Card 2003). For Abed, it is this 'social death' that makes acts genocidal (Abed 2006). This focus on the genocidal nature of destroying a group culture is, as we have seen, similar to Lemkin's own position. He wrote: 'the destruction of cultural symbols is genocide' (Lemkin, cited in Moses 2008: 12). To destroy their function 'menaces the existence of the social group which exists by virtue of its common culture' (ibid.). Lemkin also recognized that national groups do not last for ever, and differentiated between cultural change and cultural genocide, when nations either 'fade away after having exhausted their spiritual and physical energies' (Lemkin, cited in Moses 2010) or 'when they are murdered on the highway of world history. Dying of age or disease is a disaster but genocide is a crime' (ibid.).

As already mentioned, owing to political opposition, the cultural element of genocide is largely absent from the final text of the Genocide Convention. It was, however, present in the draft stages and the term 'cultural genocide' was also included in Article 7 of the draft UN Declaration on the Rights of Indigenous Peoples.[23] While the term is not present in the final text, its initial inclusion suggests that the concept is still a valid one, despite the lack of support at state level. As Moses points out, 'although indigenous people often regard assimilation and development policies as genocidal or at least culturally genocidal, we know that they have no legal protection from

the UN Genocide Convention. "Cultural genocide" is of rhetorical effect only' (Moses 2010: 39). Despite its lack of currency from a legal perspective, 'cultural genocide' was integral to Lemkin's understanding of genocide (ibid.), and as such I consider this method in each of the case studies in this book.

When considering genocide within a colonial context it is also important to acknowledge that Lemkin never stipulated that the crime of genocide was limited to state actors (ibid.). This is also made explicit in Article 4 of the Convention, which states that 'persons committing genocide ... shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.'[24] This is extremely relevant when examining the genocidal nature of settler colonialist societies, as in some cases the settlers may commit acts of genocide despite it not being the official state practice. This consequently raises the question as to what extent any genocides committed by such settlers can be defined as a function of the colonialist agenda itself. If some rogue settlers commit such acts, it is unfair to blame the colonial authorities, or assume there was a deliberate intent endorsed and enforced by them. It is, therefore, a complex issue. The Australian academic Tony Barta perceives one possibility as being a 'genocidal society' 'as distinct from a genocidal state – one in which the bureaucratic apparatus might officially be directed to protect innocent people but in which a whole race is nevertheless subject to remorseless pressures of destruction inherent in the very nature of the society' (Barta 2000: 239).

Thus the motives of the colonizers may be 'muddled and obscure' (Curthoys and Docker 2008: 29). It could be argued that the physical destruction of indigenous people cannot be described as 'genocide' since they are not intentionally being targeted for who they are, but rather are simply in the way of the colonizers and the land they seek to possess, or, as Rose deftly stated, 'to get in the way of settler colonization, all the native has to do is stay at home' (Bird Rose 1991: 46). Many scholars have sought to counter that argument, including Césaire, who declared that 'no one colonizes innocently' (Césaire 1955) and Curthoys, who concluded that: 'to seek to take the land whatever the consequences ... is surely a genocidal process' (Curthoys 2008: 246). Abed asserts that many indigenous groups are 'territorially bounded' (Abed 2006: 326). For him, therefore,



removing these groups from their land or to control their interaction with it is inevitably a genocidal practice. As Wolfe explains: 'Land is life – or, at least, land is necessary for life. Thus contests for land can be – indeed, often are – contests for life' (Wolfe 2006: 387).

The production of new, permanent societies – forged on the back of an entrenched logic of racism which sought to protect the culturally white character of the population, and utterly destroy the indigenous world – establishes settler colonialism not as 'an essentially fleeting stage', but rather a 'persistent defining characteristic of this new world settler society' (Elkins and Pederson 2005: 1). As Wolfe illustrates with reference to Australia, 'the determination "settler-colonial state" is Australian society's primary structural characteristic rather than merely a statement about its origins' (Wolfe 1999: 163). Settler colonialism, therefore, is a 'structure not an event' (ibid.: 390); it is a phenomenon, which consists of complex social formations, and significantly it exists and develops continually with time, and thus Wolfe proposes that 'structural genocide' be the term used in such settler colonial contexts (ibid.: 403).

The structurally defining settler colonial logic typically produces societies marked by 'pervasive inequalities, usually codified in law, between the settler and indigenous populations' (Elkins and Pederson 2005: 4). This settler–indigene division is usually pervasive throughout the economy and the legal and political systems, manifested by institutionalized settler privilege. It is on this basis that later we will be considering its relationship to genocide: if, since the initial point of colonization, contests for land, and therefore life, are ongoing, it seems logical to assume that the destruction of the native population – within the colonized territory – becomes a likely possibility. This settler privilege inherent in this form of colonialism arguably 'denies human rights to human beings whom it has subdued by violence ... since the native is subhuman, the Declaration of Human Rights does not apply to him' (Sartre 1990: 22). We can see that, for Lemkin, genocide was the attempted annihilation of a group by a variety of actions aimed at undermining the foundations necessary for the survival of the group as a group. So what of indigenous peoples in the world today, and specifically those living under settler colonial rule? How should we think about the continued assimilationist pressures they face from the spread of global capitalism?

## Indigenous peoples: genocide or cultural change?

Even where national groups do not possess recognized sovereignty, like many indigenous peoples living within colonial settler states, Lemkin thought national collectivities had an inherent right to exist just like the sovereign individual. He also thought that a nation possesses a biological life and an interrelated and interdependent cultural life such that an attack on its physical existence is also an attack on its cultural existence, *and vice versa*. Lemkin clearly understood the importance of cultural destruction to group life and that such destruction will have dire *physical* consequences – which is especially true of indigenous peoples.

Regardless of whether indigenous peoples live in wealthy states like Canada, the USA, Australia or countries in South America and Africa, their stories of dispossession, environmental degradation, and appalling social statistics including endemic suicide, very high levels of infant mortality and exotic diseases, are remarkably similar. Indeed, a study by the Commonwealth Policy Studies Unit highlights 'the extraordinary similarity of experiences of Indigenous Peoples across the Commonwealth – between those in First World Countries and those in Third World countries'.[25] Such 'conditions of life' are leading increasing numbers of indigenous representatives to describe their *present* situation in terms of genocide. As Australian aboriginal academic and activist Larissa Behrendt states: 'use of the term "genocide" to describe the [indigenous] colonial experience has been met with scepticism from some quarters ... Yet the political posturing and semantic debates do nothing to dispel the feeling Indigenous people have that this is the word that adequately describes our experience as colonised peoples' (Behrendt 2001: 132).

The genocidal 'logic of elimination' (Wolfe 2006) that informed frontier massacres in places like Australia and North America, and the assimilationist agendas that emerged once it was clear that the natives would not 'die out', can in more recent times be found underpinning settler colonial expansionist land grabs driven by global capitalism. Indeed, after 1945 traditional colonial terror was transformed into a 'genocide machine' as the nature of capitalist domination became less overtly racist and more attuned to American corporate imperatives (Davis and Zannis 1973). Driven by corporate agendas governments frequently dispossess indigenous groups through industrial mining and farming, but also through



military operations and even national park schemes – all of which routinely take no account of core indigenous rights.[26] But of all such activities it is industrial extractive industries which pose perhaps the biggest threat to indigenous peoples' survival, for it is not just the accompanying dispossession which they bring but also the ecocidal 'externalities' of pollution and environmental degradation. A particularly acute example of such is the 'tar sands' mining project in northern Alberta, Canada, which we will examine in Chapter 5, an undoubted 'ecocide' that is producing horrendous environmental destruction with quite predictable consequences for human health (Stainsby 2007). Environmental pollution from the tar sands[27] has been linked to high levels of deadly diseases such as leukaemia, lymphoma and colon cancer (Petersen 2007) in indigenous communities.[28] For George Poitras, a Mikisew Cree First Nation member affected by tar sands mining in Fort Chipewyan, Alberta, the battle with industrial mining over land and resources comes down to the fundamental right to exist: 'if we don't have land and we don't have anywhere to carry out our traditional lifestyle, we lose who we are as a people. So if there's no land, then it's equivalent in our estimation to genocide of a people' (cited in ibid.).

We can see here that the victims of these policies seem to appreciate Lemkin's assertion that genocide attacks the 'essential foundations of the life of national groups',[29] much more than those writers who insist on the centrality of violent destruction for a finding of genocide. On this question, however, there is a more subtle point to discuss in Lemkin's writings. Dirk Moses recently pointed out that Lemkin appears to consider cultural destruction genocidal *only in conjunction* with attacks on the physical and biological elements of a group (Moses 2008: 13). While more recently Thomas Butcher made a similar argument, reading Lemkin's conception of genocide as *requiring* a 'synchronised' attack owing to the 'ontological character', i.e. the holistic nature, of group identity (Butcher 2013). This is even though in the same article we read Lemkin's categorical assertion that 'the destruction of cultural symbols is genocide' and that Lemkin's functional holism meant that he characterized the core elements of social groups as 'interdependent, meaning that a change to one element affects multiple other elements'. Indeed, rather than the 'necessity' of a 'synchronised attack', Lemkin's functional holism is much more convincingly interpreted as akin to the workings of the

body – whereby disease of one organ may well produce breakdowns in others and ultimate death.

Even so, in articulating his position on this point, Moses, like Butcher, drew attention to the cases of genocide Lemkin studied, where 'attacks on culture were inextricably interwoven with a broader assault encompassing the totality of group existence' (Moses 2008: 13). In other words, Lemkin's case studies involved attacks on culture as *part of* a broader offensive on the totality of group existence, and consequently he came to view cultural and physical destruction as interrelated, interdependent elements of a singular genocidal process. This position would seem injurious to the genocide claims of some indigenous peoples today since violent physical destruction is not presently occurring in places like Australia and Canada (although this is less certain in many other countries where indigenous people are resisting natural resource extraction, e.g. Botswana, Brazil, Peru and Mexico). But to take such a view involves invoking a snapshot view of history divorced from past context and experience. Indeed, most indigenous peoples will have suffered forms of violent physical destruction at some point in the history of their colonization such that their current cultural destruction should be seen as the tail end of a singular genocidal process that invariably began with direct physical destruction. Moreover, physical destruction need not be direct but can of course be achieved indirectly through inflicting on the group 'conditions of life' (such as dispossession and environmental destruction) which lead to that end. Those indigenous peoples who are currently invoking the term genocide to describe their current experiences, such as the Mikisew Cree above, are invariably referring to both physical (albeit indirect and latent) *and* cultural destruction.

When thinking through Moses' and Butcher's reading of Lemkin on this point it is worth noting that when concerned with creating the international offence of genocide, Lemkin's functional holism did not lead him to consider cultural destruction genocide *only in conjunction with physical attacks* or only as part of a *synchronized attack*. Given Lemkin's support for the original UN Convention draft (the Secretariat's)[30] it seems that he considered the cultural method of genocide to be such a serious crime, in and of itself, as to be *stand-alone punishable as genocide*, provided it was 'with the purpose of destroying [the group] in whole or in part or of preventing its preservation or development' (also note the absence of the final



Convention's 'as such' motive requirement). In the Secretariat's draft cultural genocide ('destroying the specific characteristics of the group') had its own section – Article II (3) – as a means of committing genocide *in and of itself*. To be found guilty of genocide under Article II (3), the accused party would not also have to be charged under Article II (1) or (2). It is just the same with the remnants of the idea in the final UN Convention (Articles II d and e), which are also stand-alone crimes of genocide that need not be accompanied by direct physical killing.

Even so, there is some debate on how cultural genocide differs from other forms of cultural change. On this issue Lemkin's unpublished works are again illuminating. Docker cites Lemkin's plea that cultural genocide 'must not be confused with the gradual changes a culture may undergo' (Docker 2004: 3). Lemkin was concerned to distinguish cultural genocide from 'the continuous and slow adaptation of the culture to new situations', outside influences and the 'assimilation of certain foreign culture traits' and the like, which he preferred to call a 'process of cultural diffusion' (ibid.). Cultural change, for Lemkin, was induced by outside influences resulting in weaker societies adopting the social and political institutions of more efficient ones or becoming absorbed by them because they better fulfil basic needs (Moses 2008: 11). The key point for Lemkin in making the distinction between cultural diffusion and cultural genocide was that the former was a slow and relatively spontaneous process (ibid.).

Considering the issue in a colonial context involving indigenous peoples, Lemkin suggested that with the loss of hunting grounds they were forced to accept 'the economic and social system of the white man', 'cultural change' of a 'radical and perhaps inhumane type (considering the misery of the generations undergoing the change)' but not necessarily genocidal (ibid.: 14). But such diffusion would become cultural genocide (and physical genocide) if insufficient measures were taken to assist the change from nomadic life, with the Indians through cession and warfare being left 'landless and foodless' (ibid.). On this understanding *sufficient measures* could involve indigenous peoples being permitted, by a settler state, to retain control of a land base of sufficient size as to allow for meaningful political and cultural autonomy and physical and cultural preservation; then any gradual cultural changes they would undergo would not constitute genocide since they would be of a more organic and *autonomous* nature.[31]

It has been argued, however, that Lemkin had a somewhat static view of culture and unwittingly participated in the discourse on indigenous extinction, common in the cultural evolutionism of anthropology since the nineteenth century, and which significantly downplayed indigenous agency, adaptation and survival (Moses 2008: 16). Furthermore, when writing about the Maya in twentieth-century Mexico, Lemkin suggested that although the 'condition of the Indians has been improving ... their *cultural heritage has been irrevocably lost*' (ibid.). He went on to concede that 'one million Indians still speak Maya dialect today', but stated that while they still tilled the land as their forefathers had done, 'they have lost their civilized habits, their remarkable skills and knowledge long ago' (ibid.). In contrast to perhaps the dominant twentieth-century conceptions of 'culture' and 'social structure' as somewhat static phenomena reproducing over time in the same fixed form,[32] writers like Norbert Elias maintained that change is integral to social structure – what seems fixed and stable is actually undergoing a continuous process of change. If we fail to recognize this we may misperceive change as a sign of pathological breakdown or decay (Powell 2007: 538). Despite the cultural adaptation that has seen the 'survival' of many indigenous peoples today there is still value in Lemkin's point regarding twentieth-century Maya culture that is pertinent to the issue of cultural genocide. To pinpoint this it is useful to reflect on the nature of the *genos* in genocide and its relationship to the notion of social structure.

Drawing on Norbert Elias's relational sociology, sociologist Christopher Powell suggests we replace the concept of social structure with that of social 'figuration', meaning the action or process of forming into a figure and the resulting shape, as the former concept has negative associations with stasis. Applying this idea to the concept of genocide, Powell suggests that a '*genos*' must connote a type of social figuration. The collective object designated by Lemkin's use of '*genos*' must, like other social structures, have the general property of being a dynamic relational network formed through practical social interactions in historical time (ibid.). However, as Mohammed Abed argues, the collective object must also display certain features if it is to be logically and ethically susceptible to the harm of genocide (see Abed 2006). Thinking carefully about the *genos* in genocide and the social phenomena that Lemkin was trying to protect, not



just any social figuration is capable of being the victim of genocide. As Abed suggests, its members must consent to a life in common, its culture must be comprehensive and its membership should not be easily renounced. Under these conditions, the flourishing of the group's culture and social ethos will have profound and far-reaching effects on the well-being of its individual members such that the destruction of its cultural and social institutions will eventuate in the individuals suffering the harms and deprivations peculiar to the crime of genocide (ibid.).

Thus, if we consider the *genos* in genocide to be a social figuration – made up of a fluid network of consensual practical social relations which form a comprehensive culture, from which an exit would be arduous – *then genocide is the forcible breaking down of such relationships* – the destruction of the social figuration. This destruction, as Lemkin suggested, can be achieved in a variety of ways *not restricted to physical killing*. It could be through some form of 'ethnic cleansing' to ensure that people are no longer connected to each other or through suppression of language, religion, law, kinship systems and other cultural practices through which the people maintain the relations among themselves, or through the imposition of severe conditions of life that break down social solidarities, etc.

Writing in 1845, Friedrich Engels described how the imposition of extreme conditions of life on a group could result in a form of 'social murder':

> ... society in England daily and hourly commits what the working-men's organs, with perfect correctness, characterise as social murder, ... it has placed the workers under conditions in which they can neither retain health nor live long; it undermines the vital force of these workers gradually, little by little, and so hurries them to the grave before their time ... society knows how injurious such conditions are to the health and the life of the workers, and yet does nothing to improve these conditions. That it knows the consequences of its deeds; that its act is, therefore, not mere manslaughter, but murder. (Engels 1958: 109)

Relating a very similar idea specifically to the harm of genocide, the philosopher Claudia Card suggests that '*social death is utterly central to the evil of genocide* not just when a genocide is primarily

cultural but even when it is homicidal on a massive scale' (Card 2003, emphasis added). Card emphasizes how social vitality is constituted via contemporary and intergenerational relationships that form an identity which gives meaning to a life. It follows, then, that a major loss of social vitality is a loss of identity and consequently a serious loss of meaning for one's existence. It is just such a focus on *social death* and not mass killing that allows us to distinguish the peculiar evil of genocide from crimes against humanity and mass murder. Genocidal murders are but an extreme means to achieve social death. Such death could be produced without specific 'intent to destroy' but could occur through sporadic and uncoordinated action or be a by-product of an incompatible expansionist economic system.[33] It might even result from attempts to do good: to enlighten, to modernize, to evangelize (Powell 2007: 538).

Yet if a *genos*, like all social institutions, is itself a process of change and transformation and adaptation, how can we adequately distinguish 'cultural change' from 'cultural genocide'? Following Powell's reasoning, if we take a *genos* to be a continuous changing and transforming social figuration, '*the effect of genocide is to disrupt that process*' (ibid., emphasis added). He elaborates:

> A living, breathing social figuration (as it were) decays and grows at the same time, producing new ideas, new institutions, new practices, from which emerge the 'future contributions to the world' that Lemkin wrote of. Genocide violently interrupts this process. We may count among the means by which genocide may be committed the measures that interrupt the reproduction of the figuration over time, the passing on of culture to children, the renewal of social institutions, and also the measures that prevent change, through the silencing of innovation in thought, art, technology, everyday practice, or through forcible confinement to a fossilized 'tradition' that is not allowed to be transformed. (Ibid.: 539)

Many indigenous peoples openly accept and often encourage the importing of ideas and practices from other cultures that ultimately have little impact on their uniqueness (Samson 2009). For example, in Australia and the Americas, instead of taking Christianity or science as objectively true, indigenous peoples often selectively use



them as enriching or useful to their own non-European way of life (see ibid.). Even though there is no absolute zero point of cultural authenticity, for many groups (but of course not all) that define themselves as indigenous peoples today indigeneity is synonymous with attachments to land.[34] The externally orchestrated *forcible* disruption of this relationship will gravely interrupt the reproduction of their social figuration over time and critically endanger their distinct existence.[35] Colin Samson writes:

> The loss of interconnection between territory, subsidence, livelihood and cultural practises are in almost all cases the results of impositions that do not enrich a people's experience. Among many of the world's indigenous peoples, descents into community-wide trauma and dysfunction have been precipitated by removal from lands. (Samson 2009)

Since cultures are complex and have the capacity to change rapidly, emerging as well as dying out, Pretty et al. (2008) use four intrinsic components to assess these changes; (i) beliefs, meanings and worldviews, (ii) livelihoods, practices and resource management systems, (iii) knowledge bases and languages, and (iv) institutions, norms and regulations. Crucially all four *must be sustained if cultural continuity is to be successfully attained.* So while culture is in a sense always 'changing', it is the *context and manner in which it changes* that is important to the question of genocide. Thus, when Lemkin talked of Mayan cultural heritage – 'their remarkable skills and knowledge' – being 'irrevocably lost ... long ago', he was making a valid comment that did not deny the Mayan peoples today their right to identify as Mayan but which drew attention to the fact that their present social figuration has been *forcefully* influenced by a colonization process that dispossessed them and violently interrupted the reproduction of their figuration[36] over time to the extent that important cultural continuities with the past (that cut across all of Pretty et al.'s four components) were radically violated, and quite possibly 'irrevocably lost'. It is just such an interruption of a social figuration that is genocidal.

Genocide is far more than a label or an international crime. It is a sociological concept with a rich intellectual history that connects the idea to colonization processes and their socially destructive effects.

Despite this, it is arguable that 'genocide as mass killing' is still the dominant understanding, but as this chapter has shown, such a view is contrary to Lemkin's formulation and conceptually flawed. Even so, we have seen that key sociological definitions of genocide have, somewhat strangely, downplayed the 'social' dimension implicit in a *genos*, preferring to argue out or ignore a key method of group destruction – destruction of culture. Consequently this contribution has relied on interdisciplinary observations to make *sociological* points. If we take the *genos* in genocide to be a social figuration which forms a comprehensive culture (along Abed's lines) then *genocide is the forcible breaking down of such relationships* – the destruction of the social figuration, which as we have seen can be accomplished by non-violent means. Mass killing is but one way a social figuration can be broken down, crippled or destroyed completely; '*social death is what makes* some act or series of acts genocidal' (Abed 2006: 312), not the *method* by which such destruction is achieved.

Furthermore, this chapter has argued that the dominant understanding of genocide as mass killing is at odds with the ideas of the term's originator, Raphael Lemkin, who 'rejected the idea that "the destruction of the national pattern of the oppressed group" necessarily involves the mass physical death of group members' (ibid.: 309). He argued that destroying the social relations on which a group's identity and communal life are based can be genocidal (ibid.). Indeed, we have seen that cultural destruction is '*central* to Lemkin's conception of genocide' (Moses 2008: 12), and consequently this chapter further contends that cultural genocide *is genocide* and strictly speaking does not need the 'cultural' descriptor since it simply serves to describe *a method* of genocide. In so doing we avoid the problem that Wolfe warns of whereby *only* physical genocide is seen as 'the real thing' (Wolfe 2006: 118).

Those indigenous peoples fighting to retain or regain their lands are fighting for their *life as distinct peoples* since, for them, their spirituality and cultural vitality are based in and on and with their lands. If we take this point seriously, when this relationship is *forcibly* interrupted and breaks down we can only conclude that genocide is occurring. Indeed, when indigenous peoples, who have a physical, cultural and spiritual connection to their land, are *forcibly* dispossessed and estranged from their lands they invariably experience 'social death' and thus genocide. Furthermore, when indigenous lands are used



by extractive industries the inherent corporate preference for externalizing environmental costs can lead to physical as well as cultural destruction. The tar sands project is a prime example of this, as we shall see in Chapter 5.

In my view what is needed from academics in the field is more research into the *context and manner* in which indigenous cultures are 'changing' in the face of continuing settler colonial expansionist projects driven by global capitalism and a 'logic of elimination' (Wolfe 2006). Moreover, such research should unashamedly utilize the analytical lens of *genocide* as assaults on the 'essential foundations of life of national groups' is what the concept was designed to highlight and prohibit.

through the lens of settler colonialism, this chapter has argued that 'genocidal' massacres have taken place within a wider context of a continuing 'Nakba'. The broader impacts of Israeli policies towards Palestinians – be they cultural, political or economic – are related to this inherently genocidal continuing process of colonization and dispossession – a recurring theme within all the case studies considered in this book. While respecting the differing contexts, it is also necessary to consider the effects of these techniques of genocide on the entire Palestinian *genos* – including Palestinians who are citizens of Israel and those living in the diaspora.

There is clearly scope for this case study to be explored in far more depth, particularly with regard to the potential ecocidal impacts of Israeli policies towards Palestinians, in the differing contexts of the Occupied West Bank and East Jerusalem, Gaza and within Israel itself. Ongoing deforestation, pollution and destruction of water resources and poor agricultural management of the land have impacted the capability of the environment to sustain life, which itself is a form of what Martin Crook and I have termed 'ecologically induced genocide' (Crook and Short 2014). Direct attacks on land inhabited by Palestinians in order to force them to relocate have a broader cultural, economic and environmental impact. More research and analysis in this area is sorely needed.

# 4 | SRI LANKA

*with Vinay Prakash*[1]

## Introduction

This chapter will explore the conflict between the Sinhalese and the Tamils in Sri Lanka through Lemkin's analytical lens. It will focus on questions of social identity, the creation of a *genos* and a range of key methods of genocide, from those identified by Lemkin, including physical, economic, biological and cultural, to the ecologically induced ecocidal method outlined in Chapter 2. Since its independence from the British in 1948 Sri Lanka, formerly Ceylon, has witnessed a gradual yet periodically rapid rise in animosity between the Sinhalese and the Tamils. What began as a move by the Sri Lankan government to politically alienate the Tamils resulted in severe marginalization, including the appropriation of Tamil lands in the north and the east, alongside brutal massacres, which ultimately culminated in one of Asia's longest civil wars. Both the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan government committed grotesque crimes. The number of people killed since the start of the civil war is staggering. Some estimates suggest that 338,000 people may have been killed since 1983 while others put the figure somewhere between 100,000 to 215,000.[2]

The LTTE exhibited extreme chauvinism towards Sinhalese and Muslims and vehemently quashed dissent among Tamils in pursuit of a homeland. However, many have viewed their struggle as that of a legitimate self-determination movement in response to years of state-sponsored suppression.[3] The end of the civil war not only resulted in the routing of the LTTE but also brought the Sri Lankan military's conduct during the last phase of the war to light. The military targeted hospitals in the no-fire zones and engaged in sexual violence and extrajudicial killings of suspected LTTE soldiers, including children.[4] Along with such massacres, there has been grotesque triumphalism, including the destruction of the graves of fallen LTTE fighters,[5] and the post-war functioning of government

has witnessed extreme subjugation and subordination of the Tamil community in the north and east. All of this has alerted the attention of the Office of the Commissioner for Human Rights, which has argued for a hybridized court to bring justice to victims of war crimes and crimes against humanity.[6] Furthermore, post-war Sri Lanka has seen increased hostilities between the Sinhalese and the 'Moors', a Tamil-speaking Muslim community in the eastern part of the island; all of which is examined later in the chapter.

In order to understand the conflict between the Tamils and the Sinhalese, there is a need to explore the dominant narratives from one of Sri Lanka's national epics, the Mahavamsa, as it has been instrumental in shaping Sinhalese Buddhist nationalism and legitimizing genocidal practices on the Tamil community. The chapter will then move on to outline the development of a comprehensive identity, a *genos*, among the Tamils as a result of policy changes and alienation of minorities since independence and the creation of a vulnerable minority population susceptible to the peculiar harm of genocide. The final section of this chapter will interrogate key issues in post-war Sri Lanka, including environmental degradation in the wake of 'development' and its effect on the people in the former war zone and rebel-held territories in the north and east.

## Historical context

*The Mahavamsa* The Mahavamsa was written in Pali in the sixth century AD by the Venerable Mahanama Thera, a Buddhist monk and uncle of the Sinhala king Dathusena, who ruled Anuradhapura during the time of its conception. It has surpassed all other epics in shaping the Buddhist nationalist ideology since its translation into Sinhalese and English in 1839. Although explaining the Mahavamsa in its entirety is beyond the scope of this chapter, discussing the prominent ideological concepts is necessary to understanding the conflict. Many writers have established that a substantial section of radical Sinhalese Buddhists and politicians view the Mahavamsa as the undisputable truth and as a justification for atrocities against minorities (DeVotta 2007: 40).

The genesis of Sinhalese Buddhist nationalist ideology found in the Mahavamsa and to an extent in other manuscripts like the Culavamsa and Pujavalia is the notion of 'Sidhadipa' and 'Dhammadipa', which



translates as 'island of the Sinhalese' and 'island where Buddhism [Dhamma] must be cherished and propagated' respectively (ibid.: 40). Moreover, the scriptures also highlight Buddha's prophecy regarding the deterioration of Buddhism in the land of its birth, i.e. throughout mainland South Asia, and foresees a sanctuary in Sri Lanka (Mahanama Thera 1912: ch. 1). It also explains the mythical origins of the Sinhalas as a colonizing people with the arrival of an 'Aryan' prince, Vijaya, on the island in 500 BC, coinciding with the death of Buddha (ibid.: ch. 1).

The Mahavamsa explains the arrival of Prince Vijaya on an island devoid of human civilization except for a race of demons known as the Yakkas, who were defeated by the prince and his entourage of 700 men with the assistance of a Yaka princess, Kuveni. However, in order to sanctify his claim on the island and establish a kingdom, the young prince was compelled to follow Vedic and caste customs and established matrimonial alliances with the Kshatriyas[7] from southern India. Thus, his search for worthy 'maidens of noble birth' resulted in the Pandyan king sending envoys and 'delivered up to the prince Vijaya the gifts and the maidens with the king's daughter at the head'; 'Vijaya ... bestowed the maidens, according to their ranks upon his ministers [fellow settlers] ... then the prince Vijaya consecrated the daughter of the Pandu [Pandyan] king with a solemn ceremony as his queen' (ibid.: 55).

There is no doubt that the matrimonial alliance between Vijaya and his consort from one of southern India's prominent Tamil kingdoms suggests the mixed heritage in the creation of a Sinhala state. This, however, is completely ignored by the Sinhalese nationalists in contemporary Sri Lanka. Prominent Sri Lankan intellectual Gananath Obeyesekere argues that the Sinhalese ignore the fact that the Tamils are not only 'kinfolk but also cofounders'[8] of the Sinhala nation.

The Mahavamsa's interpretation of the Aryan origin of Prince Vijaya from the Vanga kingdom (considered by Sinhalese to be in present-day Bengal) has been overtly emphasized to draw a distinction with the Dravidian Tamils. His birth and early life can be summarized briefly: Vijaya's grandmother, the daughter of the Vanga king, is abducted by a lion and forced to cohabit with it; she later conceives twins with the lion, a boy called Sihabahu and a girl called Sihasivali. Sihabahu eventually kills his father and escapes to

Vanga and is made king, with his twin sister his consort; the sibling couple eventually have twin sons of which Prince Vijaya was the eldest (ibid.: ch. 1). Obeyesekere states that this myth is entirely steeped in 'incest', 'patricide' and 'bestiality';[9] this, however, serves as a perfect 'mythomoteur' (which Anthony Smith (1986: 229) outlines as a constitutive myth that gives an ethnic group its sense of purpose) to conjure the passions of the Sinhalese claim to be a lion race and serves to legitimize their subordination of non-Sinhalese. Today, the myth of Vijaya and of the origins of the lion people is part of the Sri Lankan ethos and also institutionalized in state-run schools (DeVotta 2007: 7). Moreover, Neil DeVotta explains that the 'sword-carrying lion on the country's national flag' is disowned by some inhabitants of the island as it represents Prince Vijaya and Sinhalese hegemony over minorities (ibid.: 6). This is also used to explain the use of the tiger by the LTTE to counter the lion during the civil war.[10]

One particular event in the annals of the Mahavamsa that has been used to endorse animosity against Tamils is the battle between the Tamil Chola king Elara and the Sinhala king Duthagamini in the second century BC. According to the epic, Duthagamini, the son of the ruler of Ruhana in the extreme south-west of the island, was disgruntled with the Tamil Chola 'occupation' of Sri Lanka around the capital Anuradhapura under King Elara and successfully eliminated him in battle (Mahanama Thera 1912: 157). Authors like DeVotta claim that the ethnic distinction emphasized in the Mahavamsa is considered the most 'baneful to inter-ethnic harmony in the country' (De Votta 2007: 7); this can be attributed to the fact that the Mahavamsa exaggerates the ethnic distinction of the two rulers and dedicates an entire chapter to the one battle while only mentioning the dozens of other battles Duthagamini fought prior to the war against the Damila (Tamil) king Elara.

Leaving aside the exaggeration of the ethnic identities of the rulers, the Mahavamsa is contradictory in its portrayal of Elara as a just and secular king; this is evident from the support he garnered from among the Tamils and Sinhalese (Mahanama Thera 1912; DeVotta 2007). However, the Mahavamsa justifies the conflict solely on the basis of religion and the need to regain control over the island from the Damilas; this is evident in the ethno-symbolism in the Mahavamsa with claims that Duthagamini went to war adorned with the relic of the Buddha (possibly the tooth relic housed in Kandy) (DeVotta 2007: 8). Sinhalese nationalists not only use this battle to suppress the Tamils but also claim that the conflict between the Sinhalese and Tamils is more than two millennia old (ibid.: 8).



Moreover, Buddhist philosophers and radical thinkers claim that this battle was one of the first examples of Buddhist nationalism on the island and use the Mahamvamsa narrative to dehumanize non-Buddhists: Rahula Walpola, a radical monk and writer, states, 'The entire Sinhalese race was united under the banner of the young Gamini [Duthagamini]. This was the beginning of Nationalism among the Sinhalese ... A non-Buddhist was not regarded as a human being. Evidently all Sinhalese without exception were Buddhist' (Rahula 1956: 76; DeVotta 2007).

The Mahavamsa appears to be the key foundational myth for Sinhalese Buddhist ideology to establish the Buddha Dhamma throughout the island. Crucially, there seems to be a deep connection between the creation of the Mahavamsa and the threat to the *sanga* or Buddhist clergy with the growing influence of southern Indian Tamil non-Buddhist kings; Gunawardana argues that the Mahavamsa was created to serve as 'an inspiring model for contemporaries for future generations' (Gunawardana 1984 in Kapferer 1988: 81), i.e. a tool to rally the Sinhalese during times of great need, the latest being the threat from the LTTE. In terms of the political situation at the time the epic was conceived, Mahanama Thera's nephew-king, Dathusena, was instrumental in ending the rule of the 'six Pandyan [Tamil] kings' (Codrington 1927), which re-established Sinhalese hegemony on the island. This also explains the 'minority complex' (Tambiah 1986) endured by the Sinhalese, a majority in the state of Sri Lanka but a minority within a region with close to eighty million Tamils in mainland India.

*Social identities* Although a majority of Sinhalese and Tamils follow Buddhism and Shaivism respectively, the island is also home to a substantial population of Christians within the two groups; this is the legacy of more than four centuries of European influences.[11] However, while more or less objective distinctions exist between the Tamils and the Sinhalese – language and religion, for example – additional differences by virtue of caste, region and history have always played a significant role in creating schisms between the Sinhalese and the Tamils (Weiss 2011).

Commenting on the caste system among the Sinhalese, geographer Conrad Malte-Brun pointed out that '[the Sinhalese] are divided into castes, but they have not the ridiculous pride of caste which prevails in India, a Sinhala will not refuse to eat in the company of a respectable European' (in ibid.). Even so, geographical distinctions persisted among the Sinhalese, with many Sinhalese in the Kandyan highlands seemingly abhorring their western counterparts for harbouring and intermarrying with European Christians, and fearing domination by the southern peasants in an independent Sri Lanka, thus insisting on being classified as a distinct ethnic minority during the latter part of the colonial era (ibid.: 32).

While Malte-Brun was under the impression that Sri Lanka was immune to the rigid caste system dominant in southern India, Gunawardana, 31st Surveyor General of Sri Lanka, suggested that the Chola occupations influenced caste, not only among the Tamils of the island; immediately after the Chola occupation the 'distinctions become so rigid that they even affected the organization of Buddhist ritual' (Gunawardana 1990). However, while caste consciousness among the Sinhalese would alter and change over time, division among the Tamils, which endured throughout British rule on the island, persisted; the Jaffna Tamils of the northern peninsula, for example, were primarily from the warrior Vellala caste known for their 'chauvinistic dogma of superiority towards their mainland Indian brethren [in present-day Tamil Nadu, India], the Eastern and Plantation [Indian] Tamils' (Weiss 2011: n30). The dominant Vellalas claimed to be at the vanguard of the Tamil civilization under the Cholas and thrived in the Jaffna kingdom until the Portuguese conquest of 1619. Moreover, it was the Jaffna Tamils who benefited the most from British rule and were represented in the civil services.[12] Their intolerance and hegemonic tendencies were reflected in colonial attempts to enable 'equal seating' in Jaffna so that lower-caste Tamils might 'attend school' and met with resistance from upper-caste Tamils (ibid.: 287). Furthermore, post-independence moves for autonomy in the Tamil-speaking areas were not completely endorsed by the Tamils on the eastern coast, as they were concerned about the possibility of being dominated by the Jaffna Tamils.[13]

Despite the enduring prevalence of primordial ethno-linguistic Tamil and Sinhalese identities, constructed, reconstructed and reinforced through political use of the ethnocentric Mahavamsa



and the period of colonization and civil war, some authors backed by anthropological and historical evidence suggest that the two communities have blended to form numerous hybridized communities within the island. Proof of cultural hybridity, or what Gunawardana calls the Tamil cultural influence on the Buddhist Sinhalese, is evidenced by the objectively similar caste system practised on the island; the worship or reverence of 'assimilated Hindu Gods' among Buddhists: one such example is the Sinhalese folk deity called 'Pattini', regarded as a guardian or protectress, which resembles the Tamil worship of 'Amman' (Eternal Mother/Shakthi), glorified in the *Vayantimalaya*, a poetical work translated from Tamil on the goddess Pattini which has been assigned to the period of the Sinhala Kotte kingdom.[14] Additionally the popular elephant-headed Hindu god Ganapati (Ganesha) has been revered in southern Sri Lanka through songs and renditions like the Parevi Sandesa, written by Sinhala Buddhist Totagamuve Rahula in the fifteenth century (Gunawardana 1990: 66).

Perhaps the most striking proof of cross-cultural hybridization is that the last king of Kandy, Vikrama Rajasinha, was a Tamil-speaking Buddhist from the royal court of Madurai; his dynasty inherited the throne in Kandy after the demise of the heirless Sinhalese king Vira Narendra Sinha, who named his consort's brother from Madurai, Vijaya Rajasinha, successor.[15] The evolution of what was considered Tamil and Sinhalese identity was under constant change and 'marked by contingency'.[16] However, Mahavamsa-based ethnocentrism was neutered by the British and proved politically useful in their expansion quest on the island.

The urgency to decipher the history of the island in order to facilitate a carving up of resources and subsequent development on the island prompted early officials to build a body of knowledge that used the Mahavamsa as the sole source. This process seemingly led to British prioritization of Sinhalese (the original colonists) interests over Tamil. James Tennent, the former colonial secretary of Ceylon, in his book *Ceylon: An account of the island*, writes that 'the exploits and escapes of the Malabars [Tamils] occupy a more prominent portion of the Singhalese annals than that which treats the policy of the native sovereigns'.[17] This statement shows that the British official on the island, like many during his time, clearly viewed the Sinhalese as the 'earliest colonists' (Tennent 1860: 401) of the island

and viewed the Tamils, with a significant population in southern India separated by a 22-mile shallow strait, as invaders who 'aspired not to beautify or enrich [the island], but to impoverish and deface it' (ibid.: 401). Anecdotes of an Aryan legacy and the degradation of their civilization, due to incursions from southern India, were later replicated to the masses by the Sinhalese elites in a democratic environment, which contributed significantly to Tamil alienation on the island.

For their part, Tamil intellectuals like Arunachalam Ponnambalam claimed that the Sinhalese people were a mixed race of Aryan, Dravidian, Vedda, Mongolian and Malay origins, while the Tamils were an 'old Dravidian race',[18] implying that the Tamils were racially pure. Another contemporary Tamil author and politician, Satchi Ponnambalam, stated that the Sinhalese were originally Tamils and it was Buddhism and the Pali language that created an 'ascriptive cleavage' among the 'Dravidians' of Lanka and divided them into Tamils and Buddhists (Satchi 1983: 20). However, during the nineteenth and twentieth centuries many Sinhalese elites exposed to the works of Hegel and Max Muller on Aryan race, who claimed to be Aryans, viewed the 'derogatory' statements made by Tamil politicians as a means to delegitimize the Sinhalese presence on the island. The Mahavamsa has helped classify the Tamils and the Sinhalese on the basis of religion and language, but does not dwell on issues beyond an ethnic and linguistic distinction. The recent government census for the year 2012 claims that the Sinhalese are a majority with 74 per cent, while the Sri Lankan Tamils, who are primarily followers of Shaivism,[19] form 12.70 per cent of the population, and the second-largest minority are the Sri Lankan Moors or Muslims who are primarily Tamil speakers with 9.2 per cent.[20] The Sri Lankan government has classified the Indian Tamil community under a different category and they form 4 per cent of the population and predominantly live in the Kandyan highlands.[21] They were brought in by the British from the mid-eighteenth century and served as labourers on the tea and rubber plantations, and many continue to do so.

The Citizenship Act of 1948 was the first of a series of anti-Tamil laws that targeted the Indian or Upcountry Tamils; this Act was a deliberate attempt to mitigate the apparent threat to Sinhalese hegemony in the Kandyan highlands. The process of democratization



saw the rise in their political clout through the Ceylon Indian Congress and a check in their rise was considered necessary;[22] the implementation of the Act resulted in 'repatriation' of close to 350,000 Tamils to India over a period of three decades.[23] The elections of 1956 are considered a watershed moment in alienating Sri Lankan Tamils; they also saw the success of Sinhalese Buddhist nationalism as a tool for gerrymandering. That year was the 2,500th anniversary of Vesak, a celebration commemorating the birth, life and passing of Buddha (Arasaratnam 1964: 23). This, coupled with the Mahavamsa's narrative of Prince Vijaya's arrival coinciding with the passing of Buddha, gave the Sinhalese-oriented parties useful propaganda to exploit in the post-colonial era. In order to maximize Sinhalese votes, the Sri Lankan Freedom Party (SLFP) launched a Sinhala-only movement in conjunction with the mythomoteur and proposed making Sinhala the official language of the state if voted into power. This proposal, later replicated by other Sinhalese political parties, was subsequently passed in the parliament under a coalition led by the SLFP.[24] Tensions between the two communities escalated after non-violent protests by Tamil political parties were met with violence perpetrated by the police and Sinhalese militias.[25]

This event eventually led to *ethnic outbidding*, which is explained by Neil DeVotta as 'an insidious practice whereby parties representing the majority community [Sinhalese-oriented political parties] try to outdo each other to get the best deal for their ethnic kin, usually at the expense of minorities' (DeVotta 2007: 17).

A 'standardization policy' in the education system was introduced in 1971 and sought to promote Sinhalese enrolment into higher education by targeting Tamils, whereby students instructed in Tamil had a higher cut-off than their Sinhalese counterparts.[26] However, 1972 saw the introduction of a system of quotas to benefit underprivileged districts, i.e. districts that benefited the least from English education under the British. While enrolment from the 'underprivileged' Kandyan highlands increased, the real impact on the Tamil community is evidenced by the drop in Tamil enrolment from 1972 onwards.[27]

By curtailing the political ambitions of the Tamils through constitutional amendments in 1972 and by reducing the rate of university enrolment of Tamils according to their percentage in the population through the standardization process, the government

of Sri Lanka not only reinforced racial stereotypes and prejudices between the two communities; it also concurrently reduced employment among Tamils, affecting the livelihood of millions of Tamils and directly contributing to radicalizing Tamil youth. These two incidents prompted the consortium of Tamil parties to propose the Vaddukoddai Resolution in 1976 and to seek complete independence of the Tamil areas in the north and east by all means necessary.[28]

The burning of the Jaffna library in 1981 by an organized group of Sinhalese 'thugs' and the anti-Tamil pogroms of 1983, both of which will be discussed in the next section, seemed to stratify the Sinhalese and Tamils beyond reconciliation. Such events contributed to ethnic solidarity among the Sri Lankan Tamils, breaking away from distinctions based on geography, caste and to a certain extent religion. The complete destruction of the library was a classic genocidal tactic and was viewed as an attack on the cultural roots of the Tamils, with old and irreplaceable documents lost; the Tamil legacy and heritage were attacked and much was destroyed.

The direct impact of the policies designed to alienate Tamils was the creation of the militant Tamil New Tigers, who began using guerrilla tactics against the Sri Lankan military; these attacks propelled them into the limelight. One such attack killed twelve Lankan soldiers and directly contributed to the anti-Tamil pogroms of July 1983, commonly referred to as Black July (discussed below). The genocidal atrocities witnessed during this time include Sinhalese mobs equipped with the electoral rolls targeting Tamil homes and businesses in urban centres and the plantation lands in the Central Province. The militarized Tamil areas in the east witnessed repeated revenge attacks on Tamil civilians and Hindu temples by military personnel and organized groups of thugs; one such incident in 2006 involved attacks by air force personnel on Tamil civilians in the village of Kappalthurai, in retaliation for claymore mine attacks that killed two airmen.[29]

### Occupation, settler colonial genocide and the cultural method

'Sinhalization' is a term that has been used to describe Sinhalese expansion into areas traditionally inhabited by Tamils in the north and the east. The instrument of expansion has been colonization through strategically planned demographic alteration in the north and east through 'irrigation and resettlement' propagated by successive Sri



Lankan governments. It also includes changes to names of villages and streets from Tamil to Sinhala and the construction of Buddha statues,[30] which can also be associated with the cultural method of genocide.

Sinhalization has its roots in British Ceylon, where Universal Adult Suffrage in 1931 led to the Sinhalese majority in the State Council creating a framework for settlement of Sinhalese farmers from the densely populated south-west to the Dry Zone,[31] a region in the north and east inhabited by Tamils. While the initial justification for development projects was to alleviate population pressures in the south-west and to increase agricultural productivity in the water-deficient Dry Zone through irrigation, the ulterior motive was to revive the honour of the Sinhalese peasantry destroyed by the British introduction of 'ancillary service industries and trade and the spread of commercial crop production (tea, rubber) within the native economy'.[32] This initiative was aimed at popularizing the policy among the landless Sinhalese but invariably affected already established Tamil agriculturists in the Dry Zone.

In 1949, D. S. Senanayake inaugurated the Gal Oya Multi-Purpose Project in Paddipalai (renamed in Sinhala as 'Inginiyagala') in the east. While the initial rhetoric could have been passed off as the post-colonial nationalism of a nascent state, it is, however, clear that this laid the foundation for Sinhala Buddhist nationalist ideology, 'Sidhadipa' and 'Dhammadipa', which translates as 'island of the Sinhalese' and 'island where Buddhism [Dhamma] must be cherished and propagated' respectively (DeVotta 2007: 40). These two concepts are engrained in the Mahavamsa, Sri Lanka's national epic, as we saw earlier, penned in Pali in the sixth century AD by the Venerable Mahanama Thera, a Buddhist monk and uncle of the Sinhala king Dathusena, who ruled Anuradhapura during the time of its conception.

D. S. Senanayake considered the Sinhalese settlers as pioneers in re-establishing Sinhalese glory on the island, and in his address to Sinhalese settlers in the Padaviya settlement stated:

> Today you are brought here and given a plot of land. You have been uprooted from your village. You are like a piece of driftwood in the ocean; but remember that one day the whole country will look up to you. The final battle for the Sinhala people will be fought on the plains of Padaviya. You are

men and women who will carry this island's destiny on your shoulders. Those who are attempting to divide this country will have to reckon with you. The country may forget you for a few years, but one day very soon they will look up to you as the last bastion of the Sinhala.[33]

The statement suggests that the will of the government was to supersede established Tamil culture with Sinhalese, what Lemkin called 'supplanting'. Although this statement, along with previous statements, drives a rhetorical wedge between the Sinhalese and Tamils and thus safeguards a strong block of votes among the Sinhalese peasantry, it also epitomizes the fact that land was not merely a tool for economic development but the basis for creating an ideological plan for colonization, which was reiterated in the elite's rhetorical appropriation of Sinhalese kings to serve their political agenda: 'The early political advocates of irrigation projects, United National Party leaders D. S. Senanayake and his son Dudley, claimed descent from ancient Dry Zone kings like King Parakramabahu; their successor, President J. R. Jayawardane, posed as the Boddhisattva (an Enlightened being), claiming that like "the kings of old" he would bring "water prosperity, and justice to the people"' (Deckard 2010: 44).

Alarmed by the influx of Sinhalese into the Tamil east, the Tamil Federal Party issued a statement in 1956: 'the colonisation policy pursued by successive Governments since 1947 of planting a Sinhalese population in the traditional homelands of the Tamil speaking peoples is calculated to overwhelm and crush the Tamil speaking people in their own national areas'.[34] The statement also sought the 'immediate cessation of colonising the traditionally Tamil speaking areas with Sinhalese people'.[35] Nevertheless, the settlement/colonization policy continued and over time Tamil concerns grew. Indeed, they were reiterated twenty years later in the Vaddukoddai Resolution, where they accused the government of 'Making serious inroads into the territories of the former Tamil [Jaffna] Kingdom by a system of planned and state-aided Sinhalese colonization and large scale regularization of recently encouraged Sinhalese encroachments, calculated to make the Tamils a minority in their own homeland'.[36] However, their protests and apprehensions came at the time of the National Language Act, whereby Sinhala



superseded English and Tamil as the national language, and their non-violent protests were viewed as the 'reactionary cause' of a minority that had fallen from privilege, and regardless of the 'caste, class or place of origin' were considered a privileged community that deserved no guarantee or protection within the constitutional framework.[37]

Moreover, the agitations and non-violent *satyagraha* protests against the Language Act and the settlements were met with the first anti-Tamil pogrom, which engulfed the entire country, including the Gal-Oya settlement, where indoctrinated Sinhalese settlers in cahoots with the military and police actively committed crimes of rape, massacre and other forms of violence, and 150 Tamil civilians were massacred within a matter of five days.[38]

The elites in power firmly believed in 'infusing Sinhalese nationalism with the vision that the colonisation of the Dry Zone was a return to the heartland of the ancient irrigation civilization of the Sinhalese', thus by 1960 nearly 300,000 acres of land in the Dry Zone had been allotted to 67,000 settlers.[39] From 1946 to 1959 the Sinhalese population in the Dry Zone increased from 19 per cent to 54 per cent. In 1976 they constituted 83 per cent of the population, increasing tenfold in the thirty years between 1946 and 1976 (Peebles 1990: 37). The Dry Zone has been transformed since independence from a plural yet largely Tamil-dominated area to a homogeneous Sinhalese Buddhist one. The government of Sri Lanka was implementing the 'millennial visions' of the Sinhalese nationalists (ibid.: 40).

Following the United National Party's victory in the 1977 elections, Junius Jayawardene proposed completing the Mahaweli Development Programme in six years as opposed to the thirty years envisaged in the 1960s. The 'Accelerated' Mahaweli Programme, later sanctioned by the World Bank, planned to settle 700,000 mostly Sinhalese individuals in thirteen different settlements scattered around the Dry Zone and the east. Furthermore, areas within the settlements were given Sinhalese names; for example, the region locally known as Manal Aru in Tamil was renamed Weli Oya in Sinhala, a move that sought to culturally dilute Tamil influence on the island.

Implementation of this project brought displacement and environmental degradation, while unprecedented monsoon rains

inundated the areas adjoining the partially built Victoria Dam in Kandy, displacing thousands and destroying forests and plantations in the hill country. However, it is important to note that the government evacuated 5,825 families numbering 35,000 people (approximately 85 per cent were Sinhala Buddhist, 6 per cent were Tamil Hindus and another 7 per cent were Muslim) and resettled most of the Sinhalese in the Mahaweli zones while all the non-Sinhalese (Tamils and Muslims) were resettled in Kandy.[40]

Additionally, in order to spiritually guide the new settlers the Ministry of Maheweli Development focused on the government's intention to protect the traditions and culture of Sinhalese Buddhist society as the core aim of the entire project:

> The Mahaweli authorities ... will not only lead the settlers towards material prosperity, but also provide them with spiritual guidance to make them morally upright ... On Poya [full moon] days every family has been advised to go to temple, offer flowers, perform other rites, listen to sermons and observe sil [Buddhist precepts] ... Their engagement in rituals, ceremonies and reciting of Pali stanzas is only the first step in their spiritual ascent, as this only attunes the minds for higher and more important religious exercises.[41]

## Physical genocide

*'Black July'*

> I am not worried about the opinion of the Tamil people ... now we cannot think of them, not about their lives or their opinion ... the more you put pressure in the north, the happier the Sinhala people will be here ... Really if I starve the Tamils out, the Sinhala people will be happy.[42]

The anti-Tamil pogroms of 1983, commonly referred to as Black July, were triggered after the bodies of twelve soldiers and one officer, all Sinhalese, from the 1st Battalion of the Sri Lanka Light Infantry arrived in Colombo. The soldiers were killed in an ambush by the Tamil New Tigers in Thinevely in Jaffna.[43] The resulting crisis would directly contribute to the commencement of the Eelam Wars, or more commonly the Sri Lankan civil war.



While violence against Tamils has been a mainstay of 'post-colonial' Sri Lanka, Black July was a breaking point in Tamil–Sinhalese relations on the island and consolidated a Tamil identity that surpassed geographical, religious and caste distinctions that would otherwise have defined Tamil culture and lifestyle. While the ruling UNP party at the time defended the actions of Sinhalese mobs as a 'spontaneous backlash' to the killing of Sri Lankan soldiers in Jaffna, many Tamils and scholars consider the violence during this time 'as a genocide or holocaust of Tamils'.[44] There is sufficient evidence to suggest that mobs (*goondas*) on the government payroll and the armed forces engaged in acts of genocide against the Tamil people. *The Review*, a publication issued by the International Commission of Jurists, stated that the evidence from 1983 'points clearly to the conclusion that the violence of the Sinhala rioters on the Tamils amounted to acts of genocide'.[45] These acts included mobs torching buses ferrying Tamil civilians, killing civilians in their homes and burning Tamil homes and businesses.

According to eyewitnesses and reports at the time, prior to alcohol and violence taking hold of the mobs, attacks on Tamil homes were systematic: 'only those who resisted or chose to stay in their homes were killed. Those who chose to flee were more often than not permitted to leave, provided they did not take any valuables with them.'[46] Within days Colombo resembled a war zone, with supplies of essential commodities, such as milk, flour and sugar, hit by the elimination of Tamil establishments. Additionally, with the spread of violence to other cities and towns such as Nuwara Eliya, Kandy, Matale, Gampaha, Kalutara and Trincomalee, the numbers of casualties and Tamil refugees began to grow. One of the most chilling examples of blatant massacres under the supervision of authorities was the murder of fifty-three Tamil political prisoners in two separate massacres in Colombo's Welikada prison. An Amnesty International report stated that prison authorities assisted Sinhalese prisoners in killing the Tamil inmates; there were also reports of cell doors being deliberately left open.[47] On the streets of Colombo and other towns and cities mobs went on a killing and looting spree; Norwegian tourist Eli Skarstein and her fifteen-year-old daughter witnessed a Sinhalese mob pour petrol onto a minibus with twenty Tamil occupants inside and set it alight, killing the passengers inside.[48]

Paul Steighart, in a key International Commission of Jurists (ICJ) report, uncovered evidence of custodial killings of Tamil 'political detainees' by the military stationed in the north and east. Steighart also found that state apparatuses like the police and armed forces were routinely complicit in anti-Tamil violence.[49] As S. J. Tambiah writes in his book *Ethnic Fratricide and the Dismantling of Democracy*, 'in Trincomalee, the beautiful, coveted harbor on the east coast, where Tamils and Sinhalese (the majority of whom are considered by the Tamils as intruders/settlers) were poised in equal numbers, sailors from the Sri Lankan navy ran amok, themselves setting a bad example for the civilians to follow. The sailors, later assisted and accompanied by civilians, ran riot, killing and looting and setting houses and shops ablaze. Moreover, a district of Tamil residential concentration was reduced to ashes' (Tambiah 1986: 25). The *New York Times* reported similar military behaviour in Jaffna, where 'Sri Lankan Army troops pulled 20 civilians off a bus and executed them in retaliation for a Tamil guerilla attack that killed 13 soldiers'.[50] The government rhetoric at the time was that these events were 'Sinhala mob' rampages and not state-sanctioned or encouraged; however, Seighart argued that the incidents were:

> not a spontaneous upsurge of communal hatred among the Sinhala people – nor was it, as has been suggested in some quarters, a popular response to the killing of 13 soldiers in an ambush by Tamil Tigers on the previous day, which was not even reported in the newspapers until after the riots began. It was a series of deliberate acts, executed in accordance with a concerted plan, conceived and organized well done in advance.[51]

Rioters carried out attacks with systematic precision, which included 'the use of electoral lists to identify Tamil homes, the commandeering of state-owned vehicles to transport the goons and the direct participation by the armed forces'.[52]

There were numerous reports that highlighted the acquiescence of the army and police, who actively encouraged the looting. Eyewitnesses reported 'that army men travelling in lorries waved merrily to the looters, who waved back [while] no action whatsoever was taken to disperse the mobs. Not even tear-gas was used. The criminal gangs gained in confidence.'[53]



Eyewitnesses at the time apportioned responsibility for the violence and looting to key members of the ruling UNP party with allegiance to two prominent cabinet ministers, one of whom, Cyril Mathew, was the president of the pro-UNP trade union. According to one Tamil survivor from Colombo:

> The goon squads were organised in two ways. There was the first group under the command of UNP youth leaders and well-known local thugs often used by UNP politicians as their local militia. Then there were the more organised squads drawn from the pro-government trade union called the JSS – Jathika Seveya Sangaya. These squads had come into existence early during the UNP regime and were under the control and command of Minister Cyril Mathew who was a cabinet minister in the Jayewardene Government.[54]

Cyril Mathew had been complicit in an unofficial vendetta against the Tamils for decades. He was responsible for the propagation of several extremely chauvinistic pamphlets and published a booklet in Sinhala entitled 'Protect the Buddhist religion'. He advocated the '*bhumi putra*' and saw the Sinhalese as the only 'true sons of the soil', deserving of the lion share of Sri Lanka's wealth and resources, and the Tamils as a privileged race. In parliament he stated that the pogroms of 1983 against the Tamils were 'long overdue and only a spark was needed to make it happen and that the spark fell on 24th July'.[55]

During this time there were growing rumours of an Indian military invasion to safeguard Tamil interests, which further added to the tense situation. In September 1983, just a few weeks after the pogroms, Gamini Dissanayake, a cabinet minister in the government, addressed besieged Indian Tamil estate workers in the Central Highlands area and threatened the annihilation of all Tamils in Sri Lanka in the event of an intervention from India:

> Who attacked you? Sinhalese. Who protected you? Sinhalese. It is we who can attack and protect you. They are bringing an army from India. It will take 14 hours to come from India. In 14 minutes, the blood of every Tamil in this country can be sacrificed by us [Sinhalese]. It is not written on anyone's

forehead he is an Indian or Jaffna Tamil, a Batticalao Tamil or Upcountry Tamil. Hindu Tamil or Christian Tamil. All are Tamils.[56]

In addition to their direct participation in the pogroms of 1983, both Gamini Dissanayake and Cyril Mathew were directly involved in the riots of 1981, a prequel to the horrors of 1983 that saw the destruction of the Jaffna public library, which had a repository of 100,000 books, manuscripts and palm leaf inscriptions from antiquity. The two cabinet ministers, incumbent at the time of the riots, were in Jaffna specifically to disrupt an election rally organized by the Tamil United Liberation Front (TULF).

In a classic bout of 'vandalism' as described by Lemkin in his early thinking on genocide's cultural methods, with the presence of the two instigators in the city coinciding with the TULF election rally, uniformed security men and plain-clothed thugs took part in a destruction spree that included complete devastation of the library, a thriving symbol of Tamil cultural identity on the island, 'a Hindu Temple, the office and machinery of the independent Tamil daily newspaper *Eelanadu*, the house of the MP of Jaffna, the headquarters of the TULF, and more than 100 shops and markets'.[57] Discrete genocidal methods rarely, if ever, result in narrow corresponding impacts, but rather have considerable knock-on effects and are often accompanied by complementary methods. In this case, in addition to the destruction of the library, four people were killed in the violence and dozens more wounded.[58] Although the library has been rebuilt and has regained some of its cultural significance, it has unfortunately always been used by the Sinhalese to exercise dominance over the Tamils, with repeated vandalism and desecration, the most recent example being vandalism by Sinhalese tourists, who were most likely part of the triumphalism tour in November 2010.[59]

The number of people killed in the last week of July alone is staggering; Tamil estimates suggest 2,000 dead, while official government estimates are 371 Tamil lives lost. A further 100,000 Tamils were rendered homeless, creating at least 130,000 refugees; the government shipped nearly 70,000 refugees to the north and east, while a considerable number migrated to India, western Europe, Canada and Australia, thus establishing a diaspora (Tambiah 1986: 22). As of 1995, anywhere between 350,000 and 950,000 Tamils are believed to have migrated to India and the West.[60]



*The Mullivaikal massacre* The horrors of 1983 gave the LTTE the necessary impetus to bolster their guerrilla war against the Sri Lankan government, and although throughout their existence they engaged in a perpetual struggle, they were successful in creating a de facto Tamil state in most of the Tamil-dominated areas of the north and east. However, the twenty-first century saw a series of dramatic events, including a call for a military solution to the separatist struggle from among the Buddhist nationalists and the sudden defection of the LTTE's eastern command under 'Karuna' to the government side, leading to annihilation of the LTTE in 2009.[61]

As we saw in Chapter 2, for Lemkin both 'colonial expansion' and 'military conquests' often involve genocide Lemkin n.d., quoted in Docker 2004: 7); both these factors have made the Tamils a subjugated minority at risk of genocide. The number of civilians killed by the military in the last phase of the war is tantamount to ethnic cleansing, which again is akin to genocide. Interestingly, the Sri Lankan military is known to have been killing an average of 233 Tamil civilians every month, or seven a day, in 1986.[62] However, the People's Tribunal on Sri Lanka notes that in 2009 the military was killing thirty-three people a day at the end of January; unfortunately, however, UN agents have been quoted as stating that by May 2009 the number of Tamil civilians killed by the military was up to 1,000 a day, around 20,000 in total, although further investigation has revealed that the number could have been as high as 40,000.[63] Furthermore, according to experts and the UN, owing to the lack of government willingness to address growing grievances over the loss of Tamil lives in the war and its unwillingness to listen to the recommendation from the Lessons Learnt and Reconciliation Commission, the world will never know the real number of lives lost and must just depend on estimates. Furthermore, the UN report has claimed that there is sufficient evidence implicating the security forces in war crimes/crimes against humanity; the report also claims that the security forces' actions against the Tamil civilian population were committed on 'discriminatory grounds'.[64] Furthermore, the UNHCR strongly believes that the limitation of humanitarian relief supplies to the war zone 'may amount to the use of starvation of the

civilian population as a method of warfare, which is prohibited under international humanitarian law'.[65] In addition to this there have been discrepancies in accounts of the number of people currently missing; for example, a senior public official, Ms Imelda Sukumaran, based in Jaffna, stated that 'in January 2009 there were nearly 350,000 people [Tamils] from the districts of Kilinochchi, Mannar, Vavuniya and Mullaittivu'.[66] However, after the war in May 2009, the entire Tamil population in this region was put into internment camps; official figures for the numbers of Tamils in internment were 280,000,[67] which leaves at least 70,000 people either deceased or missing. This is further exacerbated by government-enforced disappearances of those constituting perceived threats, including alleged LTTE cadres, politicians and Tamil activists, a disturbing claim supported in the UN Human Rights Council's report on Sri Lanka.[68]

*Sexual exploitation of Tamil women* The LTTE were pioneers in women's empowerment; the role of women greatly evolved in all facets of life under their rule. According to one source, 'the police force, as well as the lawyers and the judges, had nearly 50 percent female members'.[69] Women's representation in the rebel units was high too; many Tamil women joined the LTTE to escape poverty and a strict family environment but a large number enlisted in the militia either to avoid or avenge molestation at the hands of the Sri Lankan military.

The military occupation in the north and east has put Tamil women at risk of sexual exploitation. Rape and disappearances are common in the north and east, and many refrain from complaining for fear of further harassment or confiscation of land and property; a woman from Kilinochchi, Jaffna, told the International Crisis Group that many Tamils live in minimalistic dwellings that lack doors and windows and have visitors who are 'mostly from the armed forces side. People do hear screams at times, but there are also instances where nothing is heard. I've asked why they keep quiet [and don't report to the authorities]. They say "these are our own lands, property, etc. We have to protect them, otherwise the military will take over".'[70] Moreover, according to Human Rights Watch, people in the north refrain from complaining to the authorities, 'be it about rape, murder, trafficking, disappearance as it only opens the victim to further abuse and gives the military access to people's lives'.[71] The



UN Commission on Human Rights and Human Rights Watch have also documented the use of rape and murder as a tool for retribution in the north, especially towards Tamil women with the 'audacity' to complain against the security forces. In one case at the height of the civil war, Muruguesupillai Koneswary from Batticaloa was harassed by the police after she complained that officers had stolen timber from her home; according to Human Rights Watch, 'on May 17, 1997 alleged police officers entered her home and raped her, then detonated a grenade at her genitals that caused her death. No one was convicted for the crime.'[72]

Unfortunately, and more alarmingly, Tamil women, particularly widows and those in female-led households, are vulnerable to sexual coercion at the hands of security forces and government officials; according to interviews conducted by the Crisis Group women and young girls in internment camps just after the war were expected to offer sex in exchange for using a soldier's phone or cell phone charging points; in addition to this women have to barter sex in exchange for documents or other entitlements.[73] In a survey conducted by the Sri Lanka Supporting Regional Governance programme (SuRG), 65 per cent of the women respondents said that women without husbands face 'pressures to have sexual relationships to get work done'.[74] The recently released UN report also corroborates this sentiment and states, 'In the militarised context in the conflict-affected areas, women headed households are extremely vulnerable to sexual harassment, exploitation and violence.'[75]

The stigma associated with rape prevents many women from seeking justice; many more commit suicide, are deserted by husbands and families or are forced to become sex workers in towns and cities like Jaffna and Kilinochchi, or are duped and trafficked into brothels in Colombo.[76]

Overall, the enduring trauma due to the war, especially the events during the last phase in 2009, has adversely affected the social fabric of the Tamil people in the north and east; increasing alcohol abuse among men and an omnipresent military have fuelled domestic violence within Tamil families and have also led to deteriorating societal norms among Tamils, which are essential for a healthy balanced life. A resident in Kilinochchi told the Crisis Group that '[I]n one village, there are four girls under the age of fourteen – all of whom are pregnant by men from within the community. This

happened while their mothers were away working in the paddy field. The fathers and the men in the community are visibly drunk.' Thus, notwithstanding the massacres of Tamils civilians, there is considerable evidence that the effect of the civil war and its immediate aftermath have resulted in collective trauma and a deterioration of the social fabric of Tamil society.

### Land grabs and the economic method

The anti-Tamil pogroms of the 1970s and 1980s brought many Tamils from the highlands and Colombo closer to their brethren in the north and east. Many of the displaced Tamils were housed on the Kent and Dollar Farms close to Vavuniya, properties owned by Tamils; however, their presence was resented by the local authorities owing to the 'alleged' rise of insurgency among the Tamils. Therefore, in 1984, citing law and order problems in the wake of the insurgency from the LTTE, the authorities utilized the controversial Land Acquisition Act, which was designed to 'expropriate land free of encumbrance' and was an instrument used to settle 'the dry zone by providing governments the means of expropriating private lands [mainly Tamil properties] for public purpose' (Muggah 2008: 80). Additionally Article 42 of the law allowed authorities to expropriate land within forty-eight hours; this was invoked with the help of the police and Sinhalese settlers, as seen previously in Vavuniya during anti-Tamil riots in 1984.[77] Furthermore, guerrilla attacks by the nascent LTTE forces (Tamil New Tigers) on police and Sinhalese settlements in the Kent and Dollar Farm areas saw the government and military establish High Security Zones throughout the north and east; the stated aim being to end the insurgency, although in reality it seemed more geared towards perpetuating the settlements and protecting settlers; however, with the broader goal of a nationalistic state being the establishment of Sidhadipa, it was essential to end Tamil numerical and political hegemony in the north and east.

Over the course of the Eelam Wars (1983–2009) and given the military success of the LTTE, there was an evolution of government rhetoric and apparent prioritization of 'self-preservation' in the face of a brutal insurgency and the violence perpetrated by the LTTE. The war gave rise to radical Sinhalese parties like the Jatika Hela Urumaya (JHU) led by monks that steered the government towards the elimination of the LTTE militarily and gave no quarter for peace



discussions.[78] It is a standard tactic of the genocidal perpetrator to repeatedly claim to be in some way victimized by the groups targeted for removal, and the Sinhalese were no exception. Furthermore, to boost the potency of such rhetoric, another standard tactic was invoked – the construction of fear within the civilian population. Indeed, the general Sinhalese population were targeted with classic threat propaganda – suggesting that he Sinhalese, and even Buddhism itself, were at risk of extinction at the hands of the Tamil minority. In the following statement, Champika Ranawaka, the incumbent cabinet minister at the time in Mahinda Rajapaksha's government, stoked flames of fear in an interview with Juliana Rufus from Al Jazeera: 'They [Tamils] have totally chased out the Sinhalese out of the Northern Province and some parts of the Eastern province and they are trying to link these areas together [the Central Highlands and the East]. Also since 600,000 Tamils live in the Western Province [around Colombo] as well, they will link here too, so that the Sinhalese are trapped. That is our fear.'[79]

Tambiah argues that the Sinhalese majority embraced this fear to the extent that the populace developed a distinct 'minority complex' (Tambiah 1986). Horowitz suggested that 'the Sinhalese, like the Khmers, Fijians or Malays fear extermination at the hands of contrastive ethnic communities' (in Peebles 1990: 32). The threat was of course given more weight with consistent linkage to the mere presence of 70 million Tamils in the state of Tamil Nadu in southern India – both of which have provided the rhetorical impetus and justification for policies that have produced a genocidal impact.

After the defection of LTTE's Eastern Command led by Colonel Karuna in 2004, reports surfaced of renewed escalation in settlements and colonization in the east through the process termed '*Nagenahira Navodaya*', Sinhala for Eastern Revival, in the Ampara district. The residents, mainly Tamil-speaking Muslims,[80] expressed apprehension over the government's apathy and felt vulnerable given the presence of the Sri Lankan armed forces, particularly the Special Task Force (STF).[81] There was also increased violence against Muslims; on 18 September 2006, ten Muslim labourers who had gone to repair a portion of the Radella irrigation tank the day before were found murdered; while the Muslims suspected STF of being responsible for the murders, the government blamed the LTTE even before investigations.[82] Protests against the STF were met with force,

with some observers believing that this was a warning to 'Muslims to get out of the area'.[83] In 2007 the government incorporated the Sinhala lion in the flag of the Eastern Province, which contributed to a fear of 'cultural colonization' among many Tamils and Muslims.[84] Creeping Sinhalese settler colonization was perhaps most successful in the Eastern Province, where government-stimulated demographic change eventually managed to break Tamil numerical dominance, particularly in the district of Trincomalee, where the population percentage of Sinhalese was 3 per cent in 1901, with the Tamils at 58 per cent; fast-forward to 2007 and we see a dramatic increase in the percentage of Sinhalese to 25 per cent and a decline in the percentage of Tamils to just 29 per cent.[85]

Since the end of the civil war in 2009 one of the key sources of the conflict, settler colonial-style land grabs, has not only continued but also accelerated.[86] Post-war, such land grabs are now bolstered by even more potent propaganda. Indeed, they are currently taking place under the unquestionable social and political 'goods' of 'security and development', a tried and tested global political tactic for justifying human rights abuses. The land grabs, which involve the confiscation of private and public land, are sanctioned by the government and primarily carried out by the military, facilitated by the occupation of former Tamil areas. During the war land designated as 'high security zones' (HSZs) was confiscated and since then there has been a distinct reluctance to return it to the thousands who were displaced. Moreover, although a minority of HSZs have lost such designation, considerable areas of arable agricultural land are still administered under the HSZ designation with only military personnel allowed in. During the war the legality of the HSZs rested on emergency regulations, which have now been repealed. Five years after the end of conflict, there is no clear legal basis for the remaining HSZs.

Recently, the United Nations Human Rights Council passed a resolution calling for an international inquiry into allegations of war crimes during the last stages of the war in Sri Lanka. Reports indicate that the military have made concerted efforts to identify and destroy mass burial sites and that the increased militarization and land grabs greatly aid this endeavour. Since the armed conflict ended, the military has continued to confiscate public and private land largely under the pretext of security. While many military camps have been created for the army and navy, the government has also resettled



thousands of Sinhalese soldiers and civilians from the south in Tamil areas with incentives of free land and permanent housing. Meanwhile the UNHCR reports that 57 per cent of 138,651 households residing in the north remain in transitional or emergency shelters while only 32 per cent have permanent homes.[87]

Land grabs reignited fears of a concerted effort by the government to change the demographics of Tamil areas in the north and east. Land grabs were also brazenly justified under the pretext of building Buddhist temples and statues in Tamil areas – in Lemkin's terms, imposing the national pattern of the oppressor on the oppressed. In addition to changing place names from Tamil to Sinhalese, the creation of monuments and war museums that celebrate the Sinhalese victory created additional grievances. Many of these war museums and monuments commemorating the government victory over the LTTE built in Tamil areas are open only to the Sinhalese and have been built over destroyed Hindu temples or on private land without permission. The continued promotion of Sinhala nationalism and triumphalism through land grabs, five years after the war, has done little to promote any meaningful kind of 'reconciliation'.

Given that they lived under an equally nationalistic LTTE for around thirty years, there is no doubt that the current presence of a military force speaking a different tongue and professing a different faith would make for a feeling of occupation among the Tamils of the north and east. One can get a sense of the scale of occupation by considering the ratio of 'security personnel' to civilians in northern areas. Since the end of the war the ratio of soldiers to civilians in Tamil areas has increased from 1 soldier for every 16.6 civilians to 1 for every 5.04 civilians in 2012.[88] Moreover, the military is almost entirely composed of Sinhalese from the south and includes at least fifteen army divisions and personnel from the navy, air force, civil defence force, intelligence, police and Special Task Force. This conservative estimate roughly translates into 198,000 soldiers or 70 per cent of the security personnel in 14 per cent of the country. The trend towards militarization has only increased, with Sri Lanka's defence budget for 2014 reported to be the highest allocation of funds thus far, at $1.95 billion or 12 per cent of the country's total spending.[89]

The ecstatic government-led triumphalism since the war is a clear indication of a concerted aim to subjugate the Tamil population;

alongside the destruction of graves and cemeteries of fallen LTTE fighters can be seen the confiscation of properties including houses and agricultural lands from Tamils and their redistribution among families of Sri Lankan military soldiers. While direct physical killing as part of a military conquest can produce genocidal impacts on a targeted '*genos*', other actions that also produce genocidal conditions, often through occupation and control policies, deserve attention in a Lemkin-inspired analysis. Indeed, in this case it should be noted that the Sri Lankan military has also been responsible for 'militarizing the economy' by controlling/monopolizing not only tourism in the north and east but also the sale of agricultural produce, which renders the traditional farmers redundant and dependent on state aid.

The Sri Lankan military's influence extends over almost every aspect of the former mainstays of the Tamil economy, which are agriculture and fishing, both primarily subsistent. Problems with competition over resources are a recurring theme in a landmark International Crisis Group (ICG) report, especially when it comes to fishing, as one interviewee highlighted:

> there is a group of [Sinhalese] fishermen and divers belonging to a company from the south who are now operating in Selvanagar beach. They say the owner is related to Rajapaksa and connected to the army. They are doing illegal activity by using oxygen cylinders and focus lights to dive in the ocean for kadal attai [sea cucumber] ... It affects the small fishermen who are fishing near the shores – the fish catch gets greatly affected and it is not a good practice. The army allows this to happen; when we complain to the army they say that they cannot do anything about it. They claim they are Rajapaksa's friends.[90]

Such illegal and unsustainable methods by such fishermen, in close collaboration with the military and government, are clearly detrimental to the livelihoods of the poorer, usually Tamil, fishermen in post-war Sri Lanka. Moreover, the military has confiscated large tracts of land on which it has set up farms and other business ventures, such as hotels, shops, restaurants, energy infrastructure, airline services and tourism. Worse still is the fact that such ventures rarely employ Tamil people. A telling example is the 'Thalsevena resort' in Kankesanthurai High Security Zone,



Jaffna, which is almost entirely staffed by the army, right from the receptionists to the waiters and bartenders – position here reflecting the rank one holds in the army.[91] These commercial endeavours are greatly aided by favourable government tax breaks, incentives and subsidies, which means that they can outcompete any remaining Tamil business with ease. In a recent United Nations survey only 9 per cent of 138,651 resettled families in the north have found permanent employment.[92]

Tamil communities which have relied on fishing for their livelihood have reported that in their areas 'land seizures have also occurred by scrupulously removing the names of the residents from government documents such as the voters' registry, abusing legal ownership regulations ... ignoring provisions in the customary law [and] using coercive means upon the residents who are unable to produce titles to the land they have been occupying'. The Tamil National Alliance's situation report noted:

> [b]y appropriating the limited economic opportunities that might otherwise be used by local residents to bring income and revenue to the fragile local communities, the military is sustaining and reinforcing the cycle of poverty. With the access and advertising support of corporate entities in the South and the unfair benefits of highly subsidized cost structure through the use of state infrastructure the military is distorting and suppressing any attempt at economic recovery in the North.[93]

In the village of Odhiyamalai, in Mullaitivu, Tamil farmers returning after the war, despite having valid permits covering most of their land, were not allowed to work it for over two seasons. Sinhalese from the nearby Padiviya area, working with the assistance and the protection of the army, have cultivated former Tamil land since the end of the war in 2009. The area of Weli Oya is almost entirely militarized, with a network of army camps and checkpoints limiting access for outsiders, controlling and closely monitoring movements. As a farmer from Odhiyamalai explains: 'This season [September 2011], I went to plough ... I took my tractor. First day they allowed, I went and marked out the area, but when I went on the second day, the army said that they cannot allow me. There were some Sinhalese who were working in the field.'[94]

In addition to the occupation the army is responsible for controlling the prices of vegetables and other agricultural produce in the militarized areas and spend next to nothing on the agricultural production, thus reducing the selling price of their produce and invariably placing the Tamil farmers, who spend considerable amounts of money on fertilizers, nutrients and pesticides, close to destitution. The International Crisis Group reported that the same process was under way in other nearby villages, including Maruthodai, Pattikudiyiruppu, Thanikkallu, Oonjalkatti and Vedivachchakal. It is not just the dispossession of farmers that is the problem; those who are allowed to continue cultivating are being priced out of the market. As another ICG interviewee put it:

> The [Sinhalese forces] involving themselves in agriculture is a problem. They get things for free. Their labour is paid for by the government, whereas all the expenses like seeds, fertiliser, weedicide, harvesting for a farmer are all expenditures that one has to pay for from one's own pocket. So the forces are easily able to sell their produce for a lower price than the farmers. It is creating a problem. But of course the consumers are benefiting. If we sell a product for twelve rupees, they are able to sell for eight.[95]

It is clear that the livelihoods of Tamils are being destroyed. According to a government official based in the same area:

> A farmer who had cultivated ocra was devastated by the low prices at which the civil defence forces were able to dump their produce. The farmer had a skirmish with the camp officers, and when I intervened, I found out it was about ocra. I said as a consumer I am happy to buy at a lower price. The farmer replied, 'I am living with my only child, a daughter, and if this continues I may have to take poison [and commit suicide]'. For them [the military] there is no cost for labour.[96]

Another official explains the causative factors that place the Tamil farmers in this predicament and explains how military commanders help themselves to fertilizers: 'The military commander [from Kaeppapulavu] asked the agrarian services and took the fertilisers for free. Twice. These were earmarked for farmers of the village. I think they also took water pumps and other inputs from the department … When the army comes and asks, what can a government department official do?'[97]



The military also raid Tamil farmers' water sources on a regular basis for their own cultivation projects, as one farmer explained: 'the army is also doing cultivation. Mahaweli authority constructed wells for them. But they had also used our water sources. It created a problem and the Brigade commander had to intervene. Then they took the water pumps away from our water source.'[98]

The military occupation, and its control over the land base and 'development' policy, has effectively sidelined the Tamil civil administration, suppressing any attempts to address the fundamental needs of internally displaced persons. Additionally the TNA situation report tabled in the parliament in 2011 showcases major Tamil grievances, including military control and intrusion in the private lives of the Tamils. Every village in the north and east has a Civilian Affairs Counter managed by the armed forces, where Tamils entering a village are required to register themselves. Additionally, Tamil families 'must inform the army of the guests they receive, their relationship, and the reason and duration of their visit. Any family gathering to celebrate the birth or naming of a child, attainment of puberty of a girl, a wedding or even a death, requires prior permission from the nearest police post.'[99] These factors have adversely affected the traditional practices of the Tamils, with many avoiding, as far as possible, any bureaucratic engagement with the state for fear of harassment.

*Suppression of memory and protest* The families of LTTE fighters killed during the civil war have been prohibited from commemorating or mourning their dead, a policy which also functionally extends to much of the civilian Tamil population.

The end of the war signifies two different realities for the Sinhalese government and the Tamils. While Victory Day or Remembrance Day, observed by the government on 18 May, commemorates fallen war heroes and the commencement of 'peace' on the island, the TNA and other Tamil groups unofficially celebrate it as a day of 'National Mourning and Prayer', as for them it represents a series of violent massacres of Tamil militants and civilians (even if the

language of genocide is rarely invoked for fear of further persecution) and the perpetuation of militarization, settlements and incarceration of Tamils. These two contrasting realities have resulted in the government's drive to contain Tamil mourning and memorialization through the process of cultural suppression and supplanting, or in other words the cultural method of genocide.

In the latter stages of the war, the LTTE depended on forced conscription to fill their ranks, which inevitably meant that all families in the LTTE-administered areas had someone among the LTTE cadre. The military destruction of LTTE graves and prevention of Tamils from mourning their dead seek to obliterate a large part of Tamil history since the end of British rule. Every year, in the run-up to 18 May, the military is beefed up and Tamils are barred from holding memorial activities, especially in Vellamullivaikal, in Mullaithivu district, which saw the worst massacres in 2009 and was where LTTE leader Vellupillai Prabakaran was killed.[100] Additionally, Tamil devotees are prevented from visiting Hindu temples to offer prayers to the departed during Victory Day/Remembrance Day celebrations.[101]

Alongside all this, there is a continuing denial of fundamental rights, including freedom of religion and non-violent protests.[102] During the run-up to the 2013 provincial elections, the military and STF were accused of intimidating Tamil activists protesting against military occupation, threatening them with death.[103] However, despite a heavy military presence, blatant violations of civil and political rights, voter intimidation and violence against (Tamil) candidates, the Tamil National Assembly (TNA) secured a significant victory in the 2013 Northern Provincial Elections, winning 30 out of 38 seats.[104] Although it is clear that the Tamil population in the north and east resent the government's model for development of the north, the Sinhalese elites have a very clear view on post-war reconciliation. Indeed, in their view, any meaningful reconciliation process must aim at defeating Tamil nationalism and any positive approach towards the political demands of Tamil nationalism is to be categorically rejected (Nirmal 2013: 19). It is also believed that in order to prevent a resurgence of Tamil nationalism the government must reinstate a 'pre-Tamil Nationalist order' and facilitate the 'resettlement of non-Tamil people, especially Sinhala people, who were forced to leave during the war ... and ensure sufficient military presence in the region to prevent any threat to this [Sinhalese] hegemonic order' (ibid.: 19).



This move represents a concentrated and coordinated attack upon all elements of nationhood among the Tamils and is a form of colonial genocide. Today this includes changing the names of villages and streets 'to honour fallen "war heroes" of the victorious [Sri Lankan] army'.[105] Furthermore, 'Kokachankulam village in Vavuniya district is now Kolbaswewa'[106] and 165 Sinhalese families have now settled in the same village. In addition to this, statues of Buddha have been constructed without permission on 'private land' and eyewitness accounts suggest construction of Buddhists icons and statues has taken place over destroyed Hindu temples.[107]

It is clear that the these programmes have the potential of perpetuating the conflict, as opposed to government claims of bringing peace between the two communities through integration and reconstruction, where talk of 'civil and political rights is seen as irrelevant at best'.[108] Furthermore, post-conflict reconstruction in the north clearly ignores the core issues faced by the Tamils in Sri Lanka, who seem to be paying for the crimes of the LTTE, and if current trends continue we will see renewed ethnic tensions; as Paikiasothy Saravanamuttu notes, 'if the economic development is seen as mega development projects by people in these areas, which do not answer to their [immediate] needs with regard to land ... farming ... fishing, we [the state of Sri Lanka] are only sustaining the sources of conflict'.[109] The process of Sinhalization through 'economic development' ensures that the dividends of 'peace' are not shared with those most in need.

Although the former president Mahinda Rajapaksa's political fortunes have taken a beating since 2015, his unequivocal use of Sinhalese nationalism and his promise to rid the island of the LTTE have given him an immense baseline of popular support. In the immediate aftermath of the war posters in Colombo and the south exalted the new Sinhalese hero with statements like 'Our President, Our Leader, He is next to King Dutugamunu' (DeVotta 2007: 9) – King Dutugamunu slayed the Tamil Chola emperor Elara more than two thousand years ago, thus the circle of establishing Sri Lanka as a sanctuary for Sinhalese and Buddhism through a programme of subjugation and colonization is completed. Another episode that highlights the easy combination of Buddhist ethno-symbolism and the present political environment took place in August 2006, when numerous Buddhists flocked to temples in the south claiming that

the Buddha statues were emanating light. The 'phenomenon' was later interpreted by a political Buddhist monk, Medananda Thera: 'Sri Lanka was being blessed through President Mahinda Rajapaksa, who was a modern day Dutugamunu'.[110] It was subsequently explained by some as a political tactic to mobilize support from the Sinhalese masses for the government's bid to begin their last assault on the LTTE, but even if this explanation was incorrect the frequent use of mythomoteurs and the subsequent victory made Rajapaksa an autocratic ruler.[111]

### Ecocide and deforestation: war and neoliberalism

From 1983 onwards the war took an enormous human toll; deaths, displacements and genocide. There was also a significant ecological toll, as is usual with armed conflicts, from bombing to land clearance and the like. Indeed, in the words of Ranil Senanayake, an ecologist and chairman of Rainforest Rescue International in Sri Lanka: 'There has been destruction of much forest and mangrove areas to provide less cover for the antagonistic parties.'[112] During the latter half of the war, between 1990 and 2005, Sri Lanka suffered one of the highest rates of deforestation in the world, losing about 35 per cent of its old-growth forest and almost 18 per cent of its total forest cover. Over 2.5 million palmyra trees, for example, were felled for construction purposes alone. Reconstruction efforts in the wake of the 2004 tsunami also increased the pressure on the country's forests. However, some parts remain relatively unscathed. Indeed, it is arguable that in the north of Sri Lanka the more gradual human population movements, rather than modern warfare, have proved more destructive of the environment and ecosystems. Ranil Senanayake argues that 'many wetlands and other critical ecosystems in the "war zone" have been spared the pillaging that follows the "economic development" agents, who treat all land as a commodity to be exploited for instant economic gain'.[113]

The government of Sri Lanka is continuing to implement a rigorous neoliberal, non-sustainable development model that has no regard for the environment and has displaced and impoverished thousands of Tamil people. Already ravaged by the longest civil war in Asia and by natural catastrophes such as the 2004 tsunami, Sri Lanka in general, and the north in particular, currently faces severe environmental issues, with the worst of them being appalling levels



of deforestation and biodiversity loss. Sri Lanka is featured in several lists of 'biodiversity hotspots' – meaning regions both biologically rich and endangered – along the Indian Western Ghats,[114] but a Conservation International report states that only 1.5 per cent of the island's original forests remain.[115]

Over time the huge population transfers to the Dry Zone have produced the usual wealth of human-induced environmental 'externalities'. Where once many Tamil people in the rural population were able, at least in part, to sustain themselves on what the previously vast forest could provide, owing to population growth and the amount of available forestland, forest-based sustenance has gradually declined in favour of permanent cultivation by private owners. Deforestation of the Dry Zone has been caused by a range of human activities throughout the conflict, from agriculture and resettlements to logging. Since the end of the war there has been further encroachment into the region's protected areas, largely located in the remaining Dry Zone evergreen forest. The government is using the area to continue to redistribute Sinhalese from other regions, which has resulted, over time, in large volumes of people moving into the Dry Zone. This population boom has caused severe negative impacts to the environment. Whereas Dry Zone scrub forest ecology has adapted over the years to its dry conditions, from 1961 large-scale irrigation projects were developed to ensure the Dry Zone could be cultivated and by 1978 it was estimated that nearly one third of the country's Dry Zone area was permanently cultivated.[116] Consequently, the proportion of forestland declined and was estimated at less than 40 per cent in 1987.[117] This is the direct result of population redistribution. The government argues that irrigation is needed to sustain the large, new populations that have moved into the Dry Zone districts. Large irrigation projects such as the Gal Oya Irrigation Project (1948–52) and the Mahaweli Development and Irrigation Programme (MIDP) (1970–2000) were spawned by a modernization ideology that fused capital-intensive interventions with centralized national planning (Muggah 2008: 82–3). The Mahaweli Ganga project to bring more farming into the Dry Zone plans to irrigate 593,000 hectares. One of the main causes of deforestation now is rice production, which the government is backing to increase employment in the Dry Zone and ease the burden on the densely populated Wet Zone.

The neoliberal[118] 'development' agenda promoted by the government in Sri Lanka is the preferred rationale for contemporary population relocations and the cause of considerable displacement of Tamil people from their lands and their livelihoods. From around 1996 onwards the government began moving rural agriculture from 'low-value' crops, i.e. subsistence farming for local populations, to 'high-value' cash crops for foreign export markets.[119] Farmers were encouraged to sell their land plots and move out of the villages to seek non-farm employment. A subsequent policy document stated that the government expected migration from the countryside to make rural/urban proportions 50:50 by 2010.[120]

Neoliberal agendas frequently espouse expanding exports through attracting foreign direct investment (FDI) and promoting a regulation-free private sector that will spew out 'externalities' such as environmental degradation, bolstered by suitable infrastructure and cheap non-unionized labour. For Sri Lanka this has resulted in chronic economic disparities; the richest 10 per cent of the people hold nearly 40 per cent of the wealth and the poorest 10 per cent hold just 1 per cent,[121] with the majority of Tamil people firmly in the bottom 10 per cent.

### Conclusion

This chapter has reviewed the key aspects of the conflict between the Sinhalese and the Tamils in Sri Lanka, invoking Lemkin's colonial territorial connection and his key methods of genocide, from physical killing to the economic and cultural, supplemented by the ecologically induced ecocidal method Martin Crook and I have outlined. Despite the LTTE defeat, today the Tamil minority in Sri Lanka still challenge the state's notion of social cohesion, homogeneity and purity. Neoliberal 'democratization' and the process of ethnic outbidding have resulted in further stratification, marginalization and subjugation of the Tamil minority, seemingly with no possibility of reconciliation as the racist paradigm has spiralled out of control. The current empty rhetoric of post-war 'reconciliation' is little more than a veneer that glosses over a long-term genocidal process. Indeed, the military's occupation and dominion over the population coupled with systematic land grabs are the latest elements of a genocidal process that is destroying the land-based political, economic, social, cultural and environmental foundations of the Tamil population.

# 5 | AUSTRALIA

### Introduction

This chapter is the first of two to focus on indigenous peoples and settler colonial societies.[1] The major difference between the two well-known sites of conflict, Palestine and Sri Lanka, and the Australian and Canadian (Alberta) case studies is that the latter are not generally considered to be sites of conflict, since widespread *violent* conflict has long ceased and their current political form is generally considered to be democratic. Nevertheless, despite these differences, we shall see that at a core fundamental level there are key structural similarities between all of the case studies in this book – principally concerning broad, and continuing, colonization policies and practices that dispossess, control, dominate and subjugate social groups while inflicting considerable social, cultural and environmental harms.

Most of the scholarly works that consider the question of genocide in Australia focus on the 'dispersal' extermination campaigns of the 1800s and/or the issue of the 'Stolen Generations'.[2] Such studies often dwell on the seemingly ubiquitous problem of genocide scholarship – a preoccupation with positive and provable genocidal intent. In the Australian case this is perhaps understandable since many indigenous fatalities were not the direct consequence of an intended policy of extermination. Unknown illnesses such as smallpox accounted for the greatest number, while alcohol, malnutrition, demoralization and despair played their fatal part. Moreover, it could be argued that the intent was to take over a land, not to eradicate an ethnic or religious group. In this sense we could say that territoriality is settler colonialism's specific, irreducible element (Wolfe 2006: 388). Yet the British desire to plant colonies in Australia meant *supplanting* (Barta 2008a: 115), and, as previously noted, Patrick Wolfe observes, 'land is life – or, at least, land is necessary for life [and] thus contests for land can be – indeed, often are – contests for life' (Wolfe 2006: 387). The ensuing land grab involved such significant amounts

# NOTES

### Introduction

1 See Elder (2005: 470). And for a more detailed exploration of his life and works on the Genocide Convention see (2008).

2 Lemkin (1944: 79–95). For further discussion on this see Moses (2010).

3 For a good summary of Lemkin's tireless lobbying efforts see Power (2003), and for a detailed discussion of the political wrangles during the Convention's construction see Schabas (2000: 51–101).

4 'In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (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' (United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, UN Treaty Series, 78: 277).

5 United Nations Treaty Collection, 'Status of Treaty: Convention on the Prevention and Punishment of the Crime of Genocide', treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en, accessed 10 June 2012).

6 Moshman (2001). For further discussion of Holocaust uniqueness in genocide studies see Churchill (1997: 63–75).

7 Scholars such as Dirk Moses, John Docker and Tanya Elder have explored Lemkin's archives at length and their analysis has been hugely influential to me. Regrettably, I have only had the chance to investigate Lemkin's letters and correspondence held in the UN archive in Geneva; and so I rely heavily on the work of others when articulating Lemkin's position based on his unpublished works, apart from those few occasions when I cite material from the UN archive in Geneva.

8 Frieze (2013: 247) and Lemkin (2012). This is perhaps the first book written on the history of genocide. See also Lemkin (2013).

9 Key writings from these researchers are: Moses (2010), Docker (2008: 81–101), Elder (2005: 470), Schaller and Zimmerer (2005), which appeared in book form as Schaller and Zimmerer (2009), Frieze (2013).

10 In addition to the works above, it is worth noting here that Lemkin's writing didn't occur in a vacuum and, various writers influenced his thinking: e.g. see David Denby's excellent article on the influence of Johann Herder (Denby 2005) and the influential J. A. Hobson's seminal work (Hobson 1975 [1902]). It is also worth highlighting that the idea of 'cultural diffusion' was particularly influential in the 1940s, sparked by A. L. Kroeber's important contribution to cultural anthropology: Kroeber 1940. As Michael McDonnell and A. Dirk Moses note, however, for Lemkin's essays on colonialism in Spanish America he drew mainly upon the work of Spanish witness Bartolomé de las Casas, derived mainly from Brion (1929), which Lemkin notes was his chief source for Spanish colonial genocide, and MacNutt (1909); see McDonnell and Moses (2005: 504).

11 For a particularly illuminating example of how 'common everyday' and 'plain and ordinary' understandings of genocide are often at odds with not only Lemkin's work, but the understandings of those groups, such as many indigenous peoples, the concept was designed to protect, see Churchill (2002), particularly pp: 220–26.

12 Key examples from this perspective are: South (1998), South (2010), South and Brisman (2013), White (2013b) and White (2010).

13 See Short (2010b) and Huseman and Short (2012).

14 Much of the material on the history of ecocide in this book is taken from a version of a report we produced for the Ecocide Project. I am indebted to the researchers and Polly Higgins for their work on the project (Gauger et al. 2013).

15 The treaty area most affected by tar sands projects.

16 For a brief summary of the relevance of green criminology to these topics see Higgins et al. (2013).

### 1 Definitional conundrums: a sociological approach to genocide

1 See Short (2009: 102). Also note that some of the material and analysis in this chapter previously appeared in Short (2010).

2 For example, Gerald E. Markle has stated: 'The sad truth appears to be that the Holocaust has not been terribly significant to my discipline, and my discipline has not been terribly significant to the study of the Holocaust' (Markle 1999); on this point see also Shaw (2010a) and Abowitz (2002: 27) (and yet this overlooks some highly influential sociological studies such as Bauman 1990), Dadrian (1975), Hamilton (1982) and Porter (1993).

3 On this point see Shaw (2007: 7), and for an example of such ideological 'wars' see the now classic book *Is the Holocaust Unique?* (Rosenbaum 1995).

4 For further discussion on this point see Curthoys and Docker (2008: 26) and Jones (2006: 20–21).

5 See Shaw (2010a: 148, 145).

6 We should not downplay the significance of the following important sociological studies: Chalk and Jonassohn (1990), Fein (1993), Kuper (1981). Add to these the more recent sociological contributions: Powell (2007), Shaw (2007), Van Kreiken (1999, 2004 and 2008).

7 For a discussion of the narrowing of the definition of genocide in the 1980s, see Curthoys and Docker (2008: 26).

8 In British common law 'foresight and recklessness are evidence from which intent may be inferred'; see J. Wien J. in *R* v. *Belfon* (1976) 3 All ER 46.

9 Some key writings from the main authors in the area: Barta (2000); Docker (2004); Moses (2000); Moses (2004); Moses (2008); and Moses and Stone (2006). See also these two excellent pieces: Schaller (2008); Zimmerer (2008).

10 Barta (2008c: 297).

11 For a summary of these see the UN web page, www.hrweb.org/legal/undocs.html.

12 For a discussion of a prime example of a rights institutionalization project that demonstrates the importance of Freeman's warning, see Short (2007).

13 See Power (2003), and for a detailed discussion of the political

wrangles during the Convention's construction see Schabas (2000: 51–101).

14 On the social construction of the genocide convention and the question of cultural genocide, see generally the pieces by Van Kreiken (1999) and (2004); and in particular (2008).

15 For the final text of the 2007 Declaration, see www.un.org/esa/socdev/unpfii/en/drip.html, and for a discussion of the global indigenous movement's impact on international law see Morgan (2004).

16 Lemkin (1944: 79–95). For further discussion on this, see Moses (2010).

17 Rome statute of the International Criminal Court, Article 7: Crimes against humanity. For a discussion of these crimes see Bassiouni (1999).

18 For more on the drafting process of the Genocide Convention, see Kuper (1981: 19–39).

19 'In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (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' (United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, UN Treaty Series, 78: 277).

20 Churchill (1997: 423). See e.g. Jones (2006: 22): 'I consider mass killing to be definitional to genocide. The inclusion of what some would call "ethnocide" (cultural genocide) is important, valid, and entirely in keeping with Lemkin's original conception. It is also actionable under the UN Convention; but in charting my own course, I am wary of labelling "genocide" cases where mass killing has not occurred.'

21 For an interpretation of the difference between 'colonization' and 'colonialism' see Fieldhouse (1981: 4–5).

22 See e.g. Kuper (1981), Barta (1985), Docker (2008), Curthoys (2008) and Moses (2008).

23 United Nations, 'Draft United Nations declarations on the rights of indigenous peoples', 1994/45, www.unhchr.ch/huridocda/huridoca.nsf/%28Symbol%29/E.CN.4.SUB.2.RES.1994.45.En, accessed 16 June 2015.

24 United Nations, Convention on the Prevention and Punishment of the Crime of Genocide.

25 See www.cpsu.org.uk/index.php?id=75. For a detailed discussion on these issues see Samson and Short (2006).

26 In particular the right to 'free prior and informed consent' of those indigenous peoples affected by them – now an established international core principle most recently enshrined in Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples – available at www.un.org/esa/socdev/unpfii/en/drip.html.

27 A damning report on waterway pollution, highlighting arsenic among other highly toxic substances, can be found in Timoney (2007).

28 For example, the Dene, Cree and Metis communities in Treaty 8 and Treaty 11 Territories.

29 See Docker (2004) on this point.

30 Secretariat Draft, 'First Draft of the Genocide Convention', Prepared by the UN Secretariat, May 1947, UN Doc. E/447.

31 In contemporary terms if cultural change were to occur while indigenous peoples were exercising their right to Free, Prior and Informed Consent (FPIC) – which is a requirement, prerequisite and manifestation of the exercise of their fundamental right to self-determination as defined in international law – then such changes would not be genocidal. See United Nations Declaration on the Rights of Indigenous Peoples, 2007, especially Article 19, at www.un.org/esa/socdev/unpfii/en/drip.html.

32 The work of Talcott Parsons is arguably the prime example of this; see Parsons (1937) and more generally Parsons (1960).

33 See Wolfe (2006) on this point.

34 See the seminal report of UN Special Rapporteur Erica Daes, 'Indigenous Peoples and Their Relationship to Land, Final Working Paper', Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-third session, at www.unhchr.ch/Huridocda/Huridoca.nsf/0/78d418c307faa00bc1256a9900496f2b/$FILE/G0114179.pdf.

35 Ibid.

36 Which, while in a process of continual change, had a definite historical form. This point is made by Powell (2007: 538) with a Cree example.

## 2 The genocide–ecocide nexus

1 The Sub-Commission on Prevention of Discrimination and Protection of Minorities undertakes studies and makes recommendations to the Commission concerning the prevention of discrimination against racial, religious and linguistic minorities. Composed of twenty-six experts, the Sub-Commission meets each year for four weeks. It has working groups and established Special Rapporteurs to assist it with certain tasks; www.un.org/rights/dpi1774e.htm, accessed 16 July 2012.

2 In international forums the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities used the term 'ecocide' to describe a potential crime involving environmental destruction, while in later years the International Law Commission preferred narrower formulations based around the notion of 'severe damage to the environment'.

3 Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Study of the Question of the Prevention and Punishment of the Crime of Genocide*, Prepared by Mr Nicodème Ruhashyankiko, 4 July 1978, E/CN.4/Sub.2/416.

4 *New York Times*, 26 February 1970, cited in Weisberg (1970).

5 An independent organisation (1970–76) which built awareness among governments and society of damage to nature by human misuse of technology and chemical products.

6 The purpose of the Convention was to describe the destruction of the Indochinese peoples and environments by the United States government; and to call for a United Nations Convention on Ecocidal Warfare, which would receive evidence of the devastation of the human ecology of Indochina caused by the Indochina War, determine which belligerent caused that devastation, request reparations from the responsible belligerent or belligerents, and seek to define and proscribe 'Ecocide' as an international crime of war; www.aktivism.info/rapporter/ChallengingUN72.pdf, accessed 16 July 2012.

7 Austria, Holy See, Poland, Romania, Rwanda, Congo and Oman; see E/CN.4/Sub.2/416, pp. 11–117.

8 E/CN.4/Sub.2/SR.658, p. 53.

9 E/CIT.4/Sub.2/416, p. 185.

multilingual street signs in Israeli cities', *Social & Cultural Geography*, 13(5), 2012, p. 476.

149 Jonathan Cook, 'Israel conducts population transfer training exercises', *The Electronic Intifada*, online, electronicintifada.net/v2/article11570.shtml.

150 UNHRC 25th session, Agenda item 7, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk, 13 January 2014, para. 51, p. 14.

151 Ibid.

152 See Boyle (2003); Boyle, 'The United States promotes Israeli genocide against the Palestinians', Z Space, 11 January 2009, online, www.zcommunications.org/the-united-states-promotes-israeli-genocide-against-the-palestinians-by-francis-boyle.html; and Boyle, 'The Palestinian genocide by Israel', 30 August 2013, www.countercurrents.org/boyle300813.htm.

153 Boyle (2003: 159).

154 See, e.g., israelgenocide.com for a citizen's campaign petitioning the UN Office of the Special Adviser on the Prevention of Genocide to 'Investigate the Possibility that Israel is Committing the Crime of Genocide Against the Palestinian People', as well as 'Jews Against Genocide', a group of activists particularly active during Operation 'Protective Edge' in 2014: www.facebook.com/Jews-Against-Genocide-694634937278932/timeline/.

155 Russell Tribunal on Palestine, Findings of the Final Session, Brussels, 16/17 March 2013. www.russelltribunalonpalestine.com/en/full-findings-of-the-final-session-en.

156 Claudia Card, 'Genocide and social death', *Hypatia*, 18(1), Winter 2003.

157 Mohammed Abed, 'Clarifying the concept of genocide', *Metaphilosophy*, 37(3/4), p. 326.

158 Including, non-exhaustively, 'politicide' (e.g. Kimmerling 2003), 'indigenocide' (e.g. Raymond Evans, '"Crime without a name": colonialism and the case for indigenocide', in Moses (2008: 133–47), 'ethnocide' and 'memoricide' (e.g. Masalha 2012). For more on these terms, see Patrick Wolfe, 'Structure and event', in Moses (2008: 120).

159 Kuala Lumpur Foundation to Criminalise War, 'Israel found guilty of genocide', 2013, online, criminalisewar.org/2013/israel-found-guilty-of-genocide/.

160 Ibid.

161 See Rashed and Short (2012) for more on this.

162 Massad 2006: 171). Presumably, therefore, any just and peaceful resolution to the 'Palestinian Question' would necessarily incorporate a process of decolonization, although it is beyond the remit of this chapter to elaborate on this.

## 4 Sri Lanka

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2 ABC News, 'Up to 100,000 killed in Sri Lanka's Civil War: UN', 20 May 2009, goo.gl/uUcQcl. A study conducted by Harvard Medical School and the University of Washington says at least 215,000 people have been killed in Sri Lanka's civil war, with the likely estimate being around 338,000. The numbers, first published in the *British Medical Journal*, are quoted at goo.gl/V058D4.



3 J. Lunn, C. Taylor and I. Townsend, 'War and peace in Sri Lanka', Research Paper 09/51, House of Commons Library, 2009.

4 The UNSC panel states that 40,000 civilians may have been killed during the last stages of the civil war, other reports suggest more; Francis Harrison claims 100,000 Tamil civilians have been missing since the war and may have been killed; 'One hundred thousand Tamils missing after Sri Lanka war', 17 December 2012, goo.gl/7Djo9M.

5 BBC, 'Why Sri Lankan Tamils won't remember war dead this year', 27 November 2010, goo.gl/7HDfkb.

6 Report of the Office of the United Nations High Commissioner for Human Rights on Promoting Reconciliation, *Accountability and Human Rights in Sri Lanka*.

7 Kshatriyas is a Sanskrit term for one of four broad social groups (*varnas*) that comprise the military and ruling elite. They are economically and politically active and second to the Brahmins in the social hierarchy.

8 Obeyeskere (2006), cited in DeVotta (2007: 7).

9 Gananath Obeyesekere, 'Religious symbolism and political change in Ceylon', *Modern Ceylon Studies*, 1970, p. 45; DeVotta (2007).

10 The tiger was the state symbol of the Tamil Cholas, whose reign and influence extended beyond southern India and Sri Lanka to include South-East Asia. The political upheaval in Sri Lanka saw the LTTE utilize the myth of the Cholan tiger in the fight for independence against the Sri Lankan state.

11 The Portuguese brought Catholicism in the sixteenth century, the Dutch and later the British brought with them different branches of Christianity. See De Silva (1981).

12 Although the popular belief is that the Tamils benefited the most from English education, it is clear that this was primarily the Jaffna Tamils and not the eastern or Indian Tamils. Similarly, the same can be said about the Sinhalese in western Sri Lankan, particularly in and around Colombo, who were more anglicized and formed the elite.

13 This is reflected in Whitaker (1990).

14 For more see Obeyesekere (1984); Kapferer (1988); Gunawardana (1990).

15 The Kandy kings were Hindus who embraced Buddhism and DeVotta states that this proved effective in ruling the kingdom as the Buddhist clergy (sanga) cared only for the kings to provide 'subventions and protection to Buddhism more than their ethnicity' (DeVotta 2007: 13).

16 DeVotta (2007: 314). This is further enunciated in the Mahavamsa.

17 Tennent (1860: 400). Tennent's use of Malabar clearly refers to the Tamils. However, the term today refers to the people from the northern part of Kerala, India. While Tennent's use of the word could be an unintentional error, it must be noted that many scholars considered that medieval Lanka was a cosmopolitan melting pot with the presence of communities from as far as the Deccan and South-East Asia. See Gunawardana (1990).

18 Arunachalam in Rogers (1990: 97).

19 Shaivism is a branch of Hinduism that reveres Shiva as the principal supreme deity as opposed to Vaishnavism, where reverence is given

to Vishnu. Although reverence is given to a principal deity, many practitioners of this faith do acknowledge and worship other deities within the Hindu pantheon but to a lesser extent.

20 Department of Census and Statistics, 2012, www.statistics.gov.lk/.

21 The Indian and the Sri Lankan Tamils are classified as two different ethnic groups in Sri Lanka; ibid.

22 For first-hand information on the politics in colonial Sri Lanka, see *British Documents on the End of the Empire Part 1: The Second World War and the Soulbury Commission 1939–1945*, ed. K. M. Silva, Stationery Office, London, 1997, and *British Documents on the End of Empire Part II: Towards Independence 1945–1948*, ed. K. M. De Silva, Stationery Office, London, 1997.

23 The 'repatriation' of Indian Tamils took place in three phases, with the Nehru-Kotelwala Pact, 1954, the Sirima-Shastri Pact, 1964, and the Sirima-Gandhi Pact, 1972. The percentage of the Indian Tamil population in Sri Lanka today stands at 4.8 per cent, down from 11 per cent in 1948; the 'Grant of Citizenship to Persons of Indian Origin Act (2003)' regularized the remaining stateless Indian Tamils on the island.

24 The SLFP sought to win the votes of the majority by exploiting the language issue; however, many Sinhalese political parties first opposed this move but were forced to endorse the Sinhala-only view when realization dawned that failure to do so would lead to permanent loss of the Sinhalese electorate.

25 The Official Language Act failed to recognize Tamil. The law saw protests from Tamils and moderate Sinhalese. See Arasarathnam (1964).

26 De Silva stated: 'The qualifying mark for admission to the medical faculties was 250 (out of 400) for Tamil students, whereas it was only 229 for the Sinhalese. Worse still, this same pattern of a lower qualifying mark applied even when Sinhalese and Tamil students sat for the examination in English. In short, students sitting for examinations in the same language, but belonging to two ethnic groups, had different qualifying marks.' In Wilson (1988).

27 The enrolment percentage of Tamil medium students into engineering courses fell from 40.8 per cent in 1970/71 to 24.4 per cent in 1973/74. Implementation of district quotas saw it fall further to 13.2 per cent in 1975. Tamil enrolment into medical courses fell from 36.9 per cent in 1973 to 25.9 per cent in 1974 and just 20 per cent in 1975. See C. R. de Silva, 'The impact of nationalism on education: the school takeover (1961) and the university admission crisis, 1970–75', 1978. The Tamils were considered a 'privileged race' (Coomaraswamy) under the British, hence the Tamil districts in the north and east faced the brunt of the quota system along with people in Colombo, which was the bastion of anglicized Sinhalese elites.

28 Prior to the Vaddhukoddai resolution, all the Tamil political parties demanded devolution of powers in the north and east and always pursued non-violent means.

29 Report by the Fact Finding Mission to Trincomalee (Eastern Province) Sri Lanka, 16/17 April 2006, goo.gl/K4niG4.

30 International Crisis Group, 'Sri Lanka's North I: The denial of minority rights', *Asia Report*, 219, 16 March 2012, p. 17.

31 Sri Lanka's land mass is divided into three zones; eastern and northern Lanka constitute the island's Dry Zone, while the Central Highlands and south-western part of the island form the Wet Zone. Added to this there is a third intermediate zone circling the highlands which serves as a buffer between the Wet and the Dry Zones. See Patrick Peebles, 'Colonisation and ethnic conflict in the Dry Zone of Sri Lanka', *Journal of Asian Studies*, 49(1), 1990; Muggah (2008).

32 G. H. Peiris, 'Agrarian transformations in British Sri Lanka', *Sri Lanka Journal of Agrarian Studies*, 2, 1981, p. 5. Also cited in Peebles, 'Colonisation and ethnic conflict', p. 37.

33 H. M. Gunaratne, *For a Sovereign State*, Sarvodaya Publications, Colombo, 1988, p. 201.

34 Federal Party, *Ilankai Tamil Arasu Kadchi Silver Anniversary Volume*, Jaffna, 1974, in Peebles (1990: 38).

35 N. Sanderatne, 'Agricultural development: controversial issues', in S. Kelegama (ed.), *Economic Policy in Sri Lanka, Issues and Debates*, Vijitha Yapa Publications, Colombo, 2004.

36 Vaddukoddai Resolution, 14 May 1976.

37 Radhika Coomaraswamy, *The 1972 Republican Constitution in the Postcolonial Constitutional Evolution of Sri Lanka*, p. 137.

38 The Gal-Oya Riots of 1956 are considered the first of many anti-Tamil pogroms, and began when Sinhalese mobs attacked peaceful protesters in Gal-Oya, Eastern Province. *Sunday Times*, 16 October 2005, sundaytimes.lk/051016/plus/4.html.

39 Amerasinghe, in Peebles (1990: 37).

40 The People's Tribunal on State-aided Sinhala Colonisation, p. 13, ptsrilanka.org/en/evidence/sri-lanka/colonisation/10-state-aided-sinhala-colonisation.

41 Ministry of Mahaweli Development, *Mahaweli: Project and Programme*, Ministry of Land and Land Development and Ministry of Mahaweli Development, 1984, p. 93.



42 J. R. Jayawardene, 'Remembering Black July', *Daily Telegraph*, 11 July 1983, blackjuly.info/quotestext.html. Statement to the press just a few weeks prior to the anti-Tamil pogroms.

43 Eleanor Pavey, 'The massacres in Sri Lanka during Black July riots of 1983', *Online Encyclopedia of Mass Violence*, Science Po, 2008, p. 5.

44 Tambiah (1986); Pavey, 'The massacres in Sri Lanka'.

45 *The Review*, International Commission of Jurists, December 1983.

46 Ana Pararajasingham, 'State terror: Black July revisited', 2006, blackjuly.wordpress.com/2006/07/03/state-terror-black-july-of-1983-revisited/ or www.sangam.org/ANALYSIS/AnaJuly83.htm.

47 E. O Ballance, *The Cyanide War: Tamil Insurrection in Sri Lanka 1973–1988*, Brassey's, 1989; Amnesty International, *Rapport annuel pour l'année civile 1983*, 1984; Pavey, 'The massacres in Sri Lanka'.

48 *Daily Express*, 19 July 1983; Pararajasingham, 'State terror'.

49 P. Seighart, 'Sri Lanka mounting tragedy of errors', International Committee of Jurists, March 1984, p. 76, icj.wpengine.netdna-cdn.com/wp-content/uploads/1984/03/Sri-Lanka-mounting-tragedy-of-errors-fact-finding-mission-report-1984-eng.pdf.

50 *New York Times*, 7 August 1983.

51 Seighart, 'Sri Lanka mounting tragedy', p. 76.

52 Ibid.

53 'Sri Lanka: racism and the authoritarian state', *Race & Class, a Journal for Black & Third World Liberation*, XXVI(1), Summer 1984, p. 4.

54 Pararajasingham, 'State terror'.

55 Ibid.

56 Gamini Dissanayake, addressing Tamil estate workers on 5 September 1983, just a month after anti-Tamil pogroms; in DeVotta (2007: 30).

57 N. Murray, 'The state against Tamils', *Race & Class*, XXVI(1), 1984, p.100.

58 Ibid., p.100.

59 BBC, 'Sri Lanka's historic Jaffna Library "vandalised"', 10 November 2010.

60 Pavey, 'The massacres in Sri Lanka', 11.

61 The Hindu, 'Tiger vs Tiger in eastern Sri Lanka', 15 March 2004, www.thehindu.com/2004/03/15/stories/2004031504231400.htm.

62 Permanent People's Tribunal, 'People's Tribunal Sri Lanka', 7–10 December 2013.

63 Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, p. 41, para. 137.

64 Report of the Office of the United Nations High Commissioner for Human Rights on Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, p. 6, para. 24.

65 Ibid., p. 11, para. 53.

66 Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, 4.171, November 2011, p. 92.

67 *Telegraph*, 'More than 280,000 Sri Lankan refugees could be held in camps for up to two years', November 2011.

68 Report of the Office of the United Nations High Commissioner for Human Rights on Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, p. 7.

69 N. Malathy, 'A fleeting moment in my country: the last years of the LTTE de-facto state', *Clarity Press Atlanta*, 2012, p. 106.

70 'Sri Lanka: women's insecurity in the north and east', *Crisis Group Asia Report*, 217, December 2011, p. 23.

71 Human Rights Watch, 'We will teach you a lesson; sexual violence against Tamils by the Sri Lankan security forces', 2013, p. 43.

72 Human Rights Watch (2013), 'We Will Teach You a Lesson; Sexual Violence against Tamils by the Sri Lankan Security Forces', p.19

73 Ibid., p. 20.

74 Sri Lanka Supporting Regional Governance program (SuRG), 'Post-war support for widowed mothers: a gender impact assessment', prepared for the US Agency for International Development (USAID), May 2011, p. 6.

75 Report of the Office of the United Nations High Commissioner for Human Rights on Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, p. 5, para. 18.

76 Read more in Human Rights Watch, 'We will teach you a lesson'.

77 Muggah (2008); Land Acquisition Act 1950 at goo.gl/g43vf7.

78 'As fighting flares in civil war, key Buddhist shuns nonviolence', *Washington Post*, 26 March 2008, goo.gl/Uxx8D6.

79 Champika Ranawaka, interview with Juliana Rufus of Al Jazeera, 29 August 2007.

80 The Tamils and the Muslims of the east share cultural ties, including the matrilineal clan structure, marriage patterns, and other cultural and religious practices; joint paddy cultivations and other forms of economic cooperation were commonplace between the Eastern Tamils and Muslims. This also helped reinforce distinctions with the higher-caste Tamils of the north; International Crisis Group, 'Sri Lanka's Eastern Province: land, development, conflict', *Asia Report*, 159, 15 October 2008, p. 21.

81 Ibid., p. 9.

82 Ibid., p. 23.

83 Easwaran Ratnam, 'Curfew in Ampara as Muslims clash with STF', *Daily Mirror*, 21 September 2006; International Crisis Group interview, representative of the Peace Secretariat for Muslims, Colombo, May 2008.



84 International Crisis Group, 'Sri Lanka's Eastern Province', p. 21.

85 Basic population information on Trincomalee district, 2007, based on special enumeration report, Department of Census and Statistics. See also Appendix C, International Crisis Group, 'Sri Lanka's Eastern Province'.

86 Christina Williams, 'Land grabs jeopardize peace in Sri Lanka', Terra Nullius: Land Rights, Human Rights and Law, 2014, goo.gl/CfMCZH.

87 IRIN Humanitarian News and Analysis, 'Sri-Lanka's northern housing funding gap', 25 February 2014.

88 'Notes on the military presence in Sri Lanka's Northern Province', *Economic and Political Weekly of India*, July 2012.

89 IHS Jane Defence Academy, 'Sri Lanka outline 12% defence budget increase', 28 September 2014, goo.gl/st89P1.

90 International Crisis Group interview, fisherman, Selvanagar and Mullaitivu, August/September 2011, *Asia Report*, 219, 16 March 2012.

91 Ellis Eric, Brother Grip e-link, sri-lanka.theglobalmail.org/brothers-grip.

92 Inter Press Service 'Women battle on after Lanka war', 30 October 2013.

93 Tamil National Alliance (TNA), Situation report, 21 October 2011.

94 International Crisis Group interview, September 2011, *Asia Report*, 219, 16 March 2012.

95 International Crisis Group interviews, farmers, Weli Oya, September 2011.

96 Ibid.

97 International Crisis Group interviews, villagers, Maritimepattu, Mullaitivu, August 2011.

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99 TNA Situation Report: North and East, 21 October 2011, p. 4.

100 'Rajapaksa's "War Heroes' Day" to counter Sirisena's "Remembrance Day"', *New Indian Express*, 17 May 2015.

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102 Ibid.

103 'Army occupation angers Sri Lankan Tamils four years after war ends. Methods of intimidation include "text message, a phone call and a delivery of two cow skulls", an animal sacred to Tamil Hindus', Reuters, 15 November 2013, full text available at goo.gl/coPK7A.

104 'Tamil National Alliance wins northern provincial elections in Sri Lanka', *Times of India*, 22 September 2013, goo.gl/9A9fr1.

105 '3 roads close to A9 highway in Kanyakaranakulam have been renamed', two after fallen soldiers and one after a Buddhist monk, International Crisis Group report, 16 March 2012, p. 17, cited by TNA situation report.

106 International Crisis Group report, 16 March 2012, p. 17.

107 Ibid., p. 18.

108 Al Jazeera interview with Dr Saravanamuttu, www.youtube.com/watch?v=XE_T42f3gfY.

109 Ibid.

110 Medananda Thera in De Votta (2007: n2).

111 'Sri Lanka president wins constitutional power boost', Reuters, 8 September 2010, goo.gl/QFr2WA.

112 Janaki Lenin, 'On track to "go beyond the critical point": Sri Lanka still losing forests at rapid clip', 2014, goo.gl/MY1JKN.

113 Ibid.

114 Conservation International, *Western Ghats and Sri Lanka*, www.biodiversityhotspots.org/xp/hotspots/ghats/Pages/default.aspx.

115 Ibid.

116 Lenin, 'On track to "go beyond ... "'

117 Ibid.

118 For the best description of all that such an agenda entails see Harvey (2005).

119 S. Fernando, 'People and the environment should be first', Movement for National Land and Agricultural Reform (MONLAR), 2012, goo.gl/RBygsy.

120 Government of Sri Lanka, 'Connecting to growth: Sri Lanka's Poverty Reduction Strategy, in regaining Sri Lanka: vision and strategy for accelerated development', 2002, p. 83.

121 M. Hardy, 'Poverty in Sri Lanka', *Sunday Leader*, 4th April 2010, goo.gl/9ojDFk.

## 5 Australia

1 A variation of some of the arguments and data analysis presented in this chapter was previously published as Short (2010b).

2 Indeed, Dirk Moses (2004: 16) writes: 'the term genocide is used to refer to two phenomena in Australian history: frontier violence, mainly in the nineteenth century, and the various policies of removing Aboriginal children of mixed decent from their families, mainly in the twentieth century'. For detailed discussion on the question of cultural genocide in Australia see Van Kreiken (1999, 2004 and in particular 2008)

3 Tony Barta (2000: 249) ends his paper suggesting that 'relations of genocide are alive', while Patrick Wolfe (2006) argues, correctly in my view, that settler colonialism is structure not an event.

4 Such as Kevin Buzzacot and Darren Blomfeld from the Tent Embassy, Michael Anderson and John Ah Kitt, to name a few.

5 As of 17 February 2015 there are at least 250 indigenous groups in Australia that have proved to the satisfaction of the Native Title Tribunal that they have a continuing attachment to their land and live by 'traditional laws and customs'; see www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx.

6 Although such indigenous peoples are not the focus of the arguments presented here, this is not to suggest that they are not therefore to be considered indigenous. As Yin Paradies (2006: 363) writes, 'although the poor and the rich Indigene, the cultural reviver and the quintessential cosmopolitan, the fair, dark, good, bad and disinterested may have little in common, they are nonetheless all equally but variously Indigenous'.

7 Broadly speaking, this concept incorporates the political rights to autonomy and self-government and can be achieved without impacting upon the territorial integrity of the settler state itself. Furthermore, as Pritchard notes, 'the right to self-determination embraces a comprehensive scale of realisation-possibilities, including: the creation of a State, secession, self-government and self-administration'. See Pritchard (1992). In the Australian context the realization of this right will stretch across the range of possibilities Pritchard lists, varying according to the nature of the indigenous group to which it is directed. For at least those 250 groups which have, to date, proved a continuing connection to their ancestral lands, and which still primarily live in accordance with distinct 'traditional' laws and customs, referred to earlier, it could involve the negotiation of a decolonizing international legal instrument (with the indigenous peoples being regarded as nations equal in status but not in form to the settler state) independent of the institutions of all parties and the establishment of an impartial implementation mechanism. This approach was advocated by the National Aboriginal and Islander Legal Service Secretariat (NAILSS) to the UN in the 1990s – see Pritchard (ibid.) on this, and for a more theoretical outline of such 'treaty federalism' see the excellent chapter by Tully (2000). For those indigenous peoples whose indigeneity is primarily based on 'placelessness', as Paul Havemann (2005) has termed it, or on a lack of culture, and who have been dispossessed from their ancestral lands, it could simply involve having a meaningful role in the design and implementation of those government policies directed at them; loosely covered by Pritchard's notion of 'self-administration'.

8 Moran (1999). For a detailed critique of the Australian reconciliation process, see Short (2008).

9 CERD. Decision 1(53); Cerd/C/53/Misc.17/Rev.2, 11 August 1998.

10 M. Brough, Explanatory Memorandum Aboriginal Land Rights (Northern Territory) Act 1976 Amendment Bill 2006, Commonwealth Parliament of Australia, House of Representatives, 2006.

11 Ibid.

12 Altman (2007: 6) cites one community a whole year later. Consequently, under the new Northern Territory policy 'Stronger Futures', there is even more of a steer towards opening up indigenous land to economic development, with extractive industries no doubt at the top of the waiting list.

13 Sydney Morning Herald, 13 September 2007, www.theaustralian.news.com.au/story/0,25197,22409420-2702,00.html.

14 'Indigenous intervention "genocide"', AAP, 7 August 2007, www.news.com.au/story/0,23599,22202385-29277,00.html.

15 Ampe Akelyernemane Meke Mekarle, *Little Children Are Sacred*, Northern Territory Government, Board of Enquiry into the Protection of Aboriginal Children from Sexual Abuse, www.inquirysaac.nt.gov.au/pdf/bipacsa_final_report.pdf.

16 See UN Special Rapporteur James Anaya's comments, www2.ohchr.org/english/issues/indigenous/rapporteur/docs/ReportVisitAustralia.doc.

17 Langton (2007) and Noel Pearson, 'Noel Pearson discusses the issues faced by Indigenous communities', ABC Lateline Interview, 26 June 2007, www.abc.net.au/lateline/content/2007/s1962844.htm.

18 Copy on file with author.

19 Press release, Prescribed Area Peoples' Alliance, 7 November 2008, on file with author.

20 *Open Letter: Enough Is Enough*, Prescribed Area Peoples' Alliance, 3 February 2009.

21 Ibid.

22 P. O'Mara, 'Health impacts of the Northern Territory Intervention', *Medical Journal of Australia*, 192(10), 17 May 2010. Executive summary available at www.mja.com.au/public/issues/192_10_170510/oma10307_fm.pdf.

23 Ibid.

24 Ibid., my emphasis.

25 Ibid., my emphasis. The government has since engaged in 'consultations' with some indigenous peoples but on the understanding that the Intervention will continue – only the fine detail is up for discussion. These 'consultations' have since been exposed as grossly inadequate in a major response from the group known as 'concerned Australians' in conjunction with the relevant Aboriginal communities in the Northern Territory, and authors Michele Harris, Larissa Behrendt and Nicole Watson: *Will They Be Heard?*, intranet.law.unimelb.edu.au/staff/events/files/Willtheybeheard%20Report.pdf.