

GENOCIDE: THE CASE OF THE BLACK  
AMERICAN

By

ADASSA RICHARDSON

A thesis submitted to the

Graduate School – Newark

Rutgers, The State University of New Jersey

In partial fulfillment of the requirements

For the degree of

Masters of Science

Graduate Program in the Division of Global Affairs

Written under the direction of

Alexander Hinton

Approved by

---

---

---

---

Newark, New Jersey

May 2016

## ABSTRACT OF THE THESIS

### Genocide: The Case of the Black American

By ADASSA RICHARDSON

Thesis Director:

Alexander Hinton

The primary purpose of this thesis was to determine whether black Americans were the targets of genocide at the hands of white Americans. In order to answer this question thoughtfully, it was necessary to first establish a definition of genocide. The growth of the field of genocide studies has resulted in numerous, and sometimes contradictory, definitions of genocide. Therefore, the genocidal nature of an atrocity is based solely on the definition of genocide used. In order to mitigate this definitional bias, I used three different definitions of genocide: the prototypical definition of genocide, the United Nations' definition of genocide, and Raphael Lemkin's original definition of genocide. Using each definition to evaluate the genocidal nature of violence against black Americans, I concluded that black Americans were not the targets of genocide carried out by white Americans. However, Lemkin's two-phase model of genocide suggested that black Americans were the survivors of genocide and the racialized violence (physical, economic, and social) they experience in America is a foundational part of American national culture not an attempt at racial eradication.

## **Acknowledgements**

First, I would like to express my sincere gratitude to my advisor, Professor Alexander Hinton, for sharing his immense knowledge and continued guidance, but also for his hard questions, which prompted me to examine my research from various perspectives. I would also like to thank Professor Jean-Marc Coicaud for his insightful comments and encouragement.

I want to thank my fellow explorer of genocide, Laura Cohen, for always being available and willing to listen, critique, and help me revise my ideas and thinking regarding genocide and race. Her insights and encouragement were invaluable. I would especially like to thank Amina Richardson and Scott Wesley Hawley, my two greatest cheerleaders throughout this *entire* writing journey. I will be forever indebted to them for sitting with me, motivating me, and sticking with me, particularly when I wanted to quit. I literally could not have written this without both of them.

Last but not the least, I would like to thank my family and friends: Dr. Michael Richardson, Hope Thelwell, Aduke Thelwell, Njeri Thelwell, Ali Thelwell, Kinte Thelwell, Kevin Bickham, Neftalem Araia, Nigar Shaikh, Parris Bourne, Alton Alexander, and too many others to name. Their consistent check-ins, encouragement, and tough love throughout this entire writing process kept me going.

## **TABLE OF CONTENTS**

<b>OBSERVATION</b>	<b>1</b>
<b>ARGUMENT</b>	<b>6</b>
<b>TERMS</b>	<b>9</b>
<b>WHY GENOCIDE?</b>	<b>11</b>
<b>WHAT IS GENOCIDE?</b>	<b>14</b>
<b>GENOCIDE IS THE HOLOCAUST</b>	<b>16</b>
<b>LEGAL DEFINITION OF GENOCIDE</b>	<b>20</b>
<b>LEMKIN'S TWO-PHASE MODEL OF GENOCIDE</b>	<b>30</b>
<b>AN AMERICAN GENOCIDE</b>	<b>41</b>
<b>INCORRECT TARGET GROUP</b>	<b>41</b>
<b>THE FIRST PHASE OF GENOCIDE</b>	<b>43</b>
<b>THE SECOND PHASE OF GENOCIDE</b>	<b>47</b>
<b>LIMITS OF THE CONCEPT OF GENOCIDE</b>	<b>63</b>
<b>IMPLICATIONS</b>	<b>71</b>
<b>FURTHER RESEARCH</b>	<b>74</b>
<b>CONCLUSION</b>	<b>75</b>
<b>BIBLIOGRAPHY</b>	<b>77</b>

## **OBSERVATION**

Looking around post-World War II America, William Patterson saw black American veterans being dragged from public buses and beaten to death by police officers, black owned houses being burned down, and the white police officers and white judges who were charged with protecting black Americans not only colluding with the attackers, but also participating in attacks themselves. Knowing that there was little use in taking these injustices to the courts of the United States, because the judicial system was made up of largely racist individuals, Patterson brought them to the United Nations. Patterson argued “that the oppressed Negro citizens of the United States, segregated, discriminated against and long the target of violence, suffer from genocide as the result of the consistent, conscious, unified policies of every branch of government” (Patterson 1951, xi).

In 1951, under the auspices of the Civil Rights Congress, Patterson penned We Charge Genocide, a petition to the newly created United Nations (U.N.) indicting the United States of America for the crime of genocide against black Americans. On 9 December 1948, the U.N. General Assembly passed Resolution 260, also known as The Convention on the Prevention and Punishment for the Crime of Genocide, as a response to the atrocities of World War II and the Holocaust. Unlike Crimes Against Humanity, the newly minted international law applied during times of both war and peace, and focused on punishing and preventing genocide. According to The U.N. Genocide Convention:

Genocide means any of the following acts committed with the 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 (The United Nations 1948).

Focusing only on the time between 1945 and 1951, Patterson argued that white America had committed three of the five genocidal acts against blacks as a racial group. Using police records and community newspapers as source material, We Charge Genocide listed over 22 police killings of black Americans and 26 murders committed by white American civilians as evidence of the killing of group members. We Charge Genocide cited the terrorism and ubiquity of the Ku Klux Klan (KKK) as the source of the serious mental harm that black Americans endured daily, such as on November 3, 1948 when a KKK motorcade burned “fiery” crosses in black residential neighborhoods from Mount Dora to Miami, Florida. The mental harm endured by black Americans from KKK activities was increased because there was no recourse available to black individuals to stop them, since the KKK was a police-protected group whose members included judges, police chiefs, and whites who had direct access to such prominent officials.

The destructive intent of these acts was enshrined in American legal codes, which white Americans had created and maintained by denying black Americans their voting rights. These laws also served the purpose of creating conditions that caused the physical destruction of black Americans. Additionally, the laws that *were* developed to protect black Americans were intentionally ignored or not

implemented. We Charge Genocide highlighted the disenfranchisement and violence experienced by black Americans through the consistent disregard of voting rights laws in Mississippi, where 485,000 eligible black voters were kept from the polls. It also cited six specific instances where black Americans were kept from voting by either physical violence or the threat of physical violence, presenting stories like that of U.N. veteran *Etoy Fletcher*, who tried to register to vote in Brandon, Mississippi. He was beaten and flogged with a heavy wire cable. US veteran *Richard Daniel* was hit on the head and arrested when he attempted to register to vote and was subsequently beaten unconscious in his cell.

We Charge Genocide was important for several reasons. It cataloged the brutal treatment of black Americans by their government and fellow citizens. It highlighted the futility black Americans encountered when trying to get justice through the U.S. judicial system. Most importantly, it highlighted the fact that the U.N. Genocide Convention protected against the partial destruction of a target group. We Charge Genocide asserted:

It is sometimes incorrectly thought that genocide means the complete and definitive destruction of a race or people . . . Any intent to destroy, *in whole or in part*, a national, racial, ethnic or religious group is genocide, according to the Convention (Patterson 1951, xi).

In other words, the U.N. Genocide Convention protected against the intentional destruction of part of a target group. Therefore, the intentional and sanctioned killing, terrorizing, and subordination of some black Americans because they were black qualified as genocide under the stipulations of international law. Patterson's innovation in making his claim of genocide against the U.S. was pointing out that the

U.N. Genocide Convention could be applied to a situation where the intent was to destroy part of the target group, not the entire group.

In a 1953 Letter to the *New York Times*, Raphael Lemkin, the Polish jurist who created the term genocide, off-handedly dismissed the charge of genocide proposed by Patterson and his team, as part of a general overture to the US government to ratify the U.N. Genocide Convention. At every moment Lemkin sought to diminish the plight of black Americans beginning with the title of the letter: *Nature of Genocide – Confusion with Discrimination Against Individuals Seen*. From the title the reader is already primed to understand that whatever is not genocide is discrimination. The reader is also directed to understand discrimination as an individual phenomenon, not a group phenomenon like genocide. Lemkin then goes on to present genocide as “a rare crime of great magnitude” that has already taken the lives of “some twenty million people”. Here the reader is again led to understand the ubiquity of racialized violence in America as *not* genocide, but individualized discrimination. Lemkin’s claim of the rarity of genocide is suspicious, since in his outline for his magnum opus on genocide he identifies 62 genocides between antiquity and the modern era, 41 of which are in the modern era (Lemkin 2012, 17-9). He then directly addresses the charge of a black American genocide by saying:

The opponents of the Genocide Convention have been asking, literally, can one be guilty of genocide when one frightens a Negro? Obviously not, because fear alone cannot be considered as serious mental harm as meant by the authors of the convention; the act is not directed against the Negro population of the country and by no stretch of imagination can one discover in the United States an intent or plan to exterminate the Negro population,



which is increasing in conditions of evident prosperity and progress (Lemkin 1953).

In one paragraph that does not even explicitly acknowledge the work of Patterson and his team, Lemkin minimizes the documented terrorism, killing, and legal exclusion of black Americans as “fear alone.” He further diminishes the charge of genocide against the U.S. by implying the ludicrousness of the indictment by saying that “by no stretch of the imagination” is there an American plan or intention to “exterminate” black Americans. Lemkin is at once employing his credibility and expertise as the “founder of the world movement to outlaw genocide” to say that not even he can think of a semi-plausible way of demonstrating an intention, not of destruction, but of “extermination” of the American Negro population. Lemkin concludes his rebuff of the charge of genocide by juxtaposing the idea of extermination with the “prosperity and progress” that black Americans are now experiencing, driving home the idea that the treatment of black Americans could not be further from genocidal.

However, the validity of Lemkin’s dismissal of a black American genocide is called into question because the entire letter is an attempt to convince the (white) American government and public to ratify the U.N. Genocide Convention. Although entitled “Nature of Genocide,” as if he were going to explain what genocide is (and is not), Lemkin begins the letter by pointing out that half the world has already ratified the U.N. Genocide Convention. This opening sentence reveals that the purpose of the letter is not explanatory, but persuasive. Then addressing “the opponents of the Genocide Convention,” which would largely be American opponents since Lemkin’s

rebuff was published in the *New York Times*, he addresses all the possible reasons that *an American* would not want to ratify the U.N. Genocide Convention. As pointed out earlier, Lemkin dismisses the Convention's applicability to the treatment of black Americans, a large concern of Southern politicians. He also highlights that the "[American] Congress shall have the right to define offenses . . . The Genocide Convention will not become the law of the land," suggesting that even if the Genocide Convention as written in the U.N. Resolution did have anything that seemed questionable, it could be changed by the U.S. Congress. Again, we see Lemkin's attempt to assuage any concerns the American government and (white) populace might have regarding being bound to the decisions of the internationally recognized United Nations.

Therefore, if Lemkin's dismissal of a black American genocide was part of an attempt to garner (white) American political support for the ratification of the U.N. Genocide Convention, as opposed to a critical analysis of the merits of the indictment, *can the treatment of black Americans by white American civilians and the American government be considered genocide?*

### *Argument*

To begin answering this question, we must first understand the definition of genocide. What are the criteria an atrocity must fulfill to qualify as genocide? Patterson and his team used the criteria of the U.N. Genocide Convention. The U.N. Genocide Convention is a legal document, with legal meanings and implications. However, their analysis was incorrect because the classification of genocide in the

U.N. Genocide Convention hinges on the intentions of the perpetrator *not* the experience of the target group. The U.N. Genocide Convention uses a very narrow definition of intent, called *specific intent*. Therefore, regardless of whether all *acts* of genocide are fulfilled, if *specific intent* cannot be proven, then genocide has not occurred. Additionally, because international laws must be translated into the laws of the land, as Lemkin pointed out in his rebuttable, the American legal definition of genocide is even narrower. Therefore, despite Patterson's insight regarding the "in part" clause of the Convention, the treatment of black Americans does not fulfill the legal criteria of genocide.

However, if the legal definition of genocide represents a limited understanding of genocide, would the treatment of black Americans qualify as genocide using a more comprehensive definition of genocide? Using Lemkin's two-phase model of genocide to assess the genocidal nature of the treatment of black Americans, we get a more complicated answer. Lemkin's two-phase model presents genocide as a process that takes place in two stages. The first stage consists of the destruction of the national pattern of the target group and the second phase of genocide is the imposition of the oppressor's national pattern on the remaining target population or the land alone. Lemkin's focus on national groups brings a very different perspective to distinguishing the targets in this atrocity. Using the idea of national patterns black and white Americans become part of the *same* national pattern. In other words, the violence experienced by black Americans is not an attempt to eradicate an undesired national pattern. The violence they experienced,

and experience still, is a feature of an American national pattern shared by both black and white Americans.

Racial distinctions, black versus white, are *American* distinctions for organizing society. In other words racial distinctions are central to the American national pattern, making a black American identity part of the American national pattern. This means that the “black American” is part of the imposition of the oppressor’s national pattern. Said another way, the black American is the product of the second phase of genocide.

Lemkin’s two-phase model of genocide is useful for several reasons. The first reason is that the model captures the basic ideas of genocide. Secondly, the two-phase model prioritizes the nation. Bringing the nation to the forefront of our understanding of genocide. This allows us to easily see and understand the various arenas and levels that genocide operates in. It also prioritizes the collective nature of genocide, in a way that is obscured by the U.N. Genocide Convention. The two-phase model of genocide also provides a way to balance the intentions of the perpetrators with the experience of the target group. Finally, the two-phase model of genocide provides a useful lens through which to understand and describe the complementary process of physical and cultural destruction. It should be noted that although the phases of genocide are presented linearly, they do not have to occur linearly. Both phases of Lemkin’s two-phase model can happen concurrently and reinforce each other.

## *Terms*

### **WHITE SUPREMACY**

When I refer to White Supremacy, I am referring to the conscious and unconscious belief that “whiteness” is superior to all other racial categorizations, as well as the actions that maintain that belief. This belief manifests in many different ways. Most prevalent is its use in supporting and justifying a racist ideology and society. However, the term White Supremacy also includes the assumption that whiteness is normal or the standard by which all other races and racial achievements should be measured. In other words, White Supremacy is also manifested through the invisibility of whiteness.

Whiteness, like blackness, is a created identity based on a combination of physical characteristics, European ancestry, and notions of progress. The definition of whiteness has changed over time, slowly including more European nations and economic levels.

Although White Supremacy and racism are closely linked, White Supremacy highlights the created structures and discourses that normalize the superiority of white skin and European culture. **Racism**, according to Merriam-Webster dictionary, is the belief that race is the primary determinant of human traits and capacities and that these racial differences produce an inherent superiority of a particular race (Merriam-Webster, 2015). White Supremacy is a form of racism. However, white supremacy foregrounds the structures, narratives, and assumptions that normalize whiteness and link it to civility and civilization.

## ***RACIAL HEIRARCHY***

At the center of the American national pattern is a ***racial hierarchy***. A racial hierarchy is the linear ordering of society based on racial classifications. In America, the Caucasian, or white, racial group is at the top of this hierarchy. The position of non-white groups in the American racial hierarchy is based on how much they collectively resemble the Caucasian archetype. In her book, The New Jim Crow, Michelle Alexander describes what I call an American racial hierarchy as a system of racial stigmatization and permanent marginalization (Alexander 2012, 13-5). This system, this American racial hierarchy, is what directs and spawns policies and practices directed at racial division and control, like slavery, Jim Crow laws, and mass incarceration. The American racial hierarchy is one way of operationalizing white supremacy. Additionally, referring to an American racial hierarchy highlights the fact that not only are there numerous racial groups involved in and impacted by America's racial national structure, but the term also provides a tool for examining the persistence and benefit of maintaining a black/white dichotomy in the American racial discourse.

## ***AMERICA/N***

When I speak about America I am referring to territorial North America, beginning with the thirteen British colonies and ending with the present day United States of America. As with "whiteness", America is also a created and contestable identity. To speak of America or an American before 1776, is historically inaccurate. However, to varying degrees, every British immigrant and indentured servant entering and staying in the "new world" severed their connections with Britain and

the British national pattern, replacing it with new social norms, historical narratives, religious practices, linguistic traits, etc. However, it is beyond the scope of this paper to thoroughly investigate the exact point of emergence of an American national pattern, distinct from a British national pattern. In this regard, I take the establishment of the thirteen colonies as the beginning of the American national pattern.

### ***TARGET***

Genocide is based on an unequal power dynamic. One group, the powerful group, possesses and uses its power to destroy the powerless group. This relationship is enshrined in the common monikers of “perpetrator” and “victim” when talking about the groups involved in a genocidal process. This implicit power dynamic also positions the perpetrator group as the active agents of genocide. Perpetrators identify, name, and eliminate the threat that the oppressed group poses to the genocidist nation. Conversely, the term victim implies passivity and erases the targeted group’s agency, diminishing, if not outright ignoring, their various tactics of resistance and survival. Therefore, in an effort to acknowledge the agency and ingenuity of oppressed groups, I will refer to them as the target group, as opposed to victim group.

### ***Why Genocide?***

In examining the applicability of the U.N. Genocide Convention to the genocidal nature of black/white relations in America, it became apparent that the

concept of genocide (distinct from genocide as defined by the Convention) was an extremely useful lens to analyze the nature of black/white relations in America for several reasons. First, genocide presents the American black/white conflict as one group against another, highlighting the collective nature of the conflict. Genocide is a concept that was explicitly created to describe and analyze group destruction. In America, race relations in general, and black/white relations specifically, have been and continue to be, described as discrimination, as evidenced by the title of Lemkin's *New York Times* Genocide Convention advocacy piece. However, conceptualizing destructive race relations as discrimination individualizes acts of racial violence, ignoring its roots in American society and culture (Feagin 2010, 5).

Individualizing racial violence effectively erases the connection between violent acts, making them appear random and reactionary. Discrimination also hides the national social, economic, legal, and political norms and policies that legitimate racial violence and maintain the American racial hierarchy. Genocide holds the group as the unit of analysis, and uncovers the mechanisms of racial violence in America, as well as provides insight into its persistence.

Secondly, genocidal intent questions the assumed neutrality of American national norms, institutions, and narratives. The meaning of *genocidal intent* ranges from explicit and coordinated plans for the physical eradication of the target group, as enshrined in the U.N. Genocide Convention, to a general awareness of a deleterious impact of the perpetrators' actions on the target group. This broad range of intentionality can shift settlers of the American west from pioneers to agents of a



genocidal program. Genocidal intent provides another lens for understanding and evaluating the destructive history of American national development.

Finally, genocide is useful because it speaks to the depth and breadth of the destruction levied against Indigenous Americans and enslaved Africans. The term genocide was created to articulate in a single word the reverberating and global damage manifested by the eradication of a unique human group. For Lemkin, this eradication was the ultimate offense because it deprived a group of independent life and expression, *as well as* deprived the global community of that group's unique expression. Thus genocide, from Lemkin's perspective, is a two-fold offense that necessitated global condemnation. Therefore, examining American race relations as an unfolding genocide not only signals this two-fold destruction, but also questions America's presumed moral superiority in the world.

## **WHAT IS GENOCIDE?**

*Genocide is one of the most far-reaching and dramatic of social processes. Like all social phenomena, it represents a complex synthesis of a diversity of factors; but its nature is primarily sociological, since it means the destruction of certain social groups by other social groups or their individual representatives.*

(Lemkin 2012, 33-34)

The Polish juror, Raphael Lemkin, created the word *genocide* in 1944, giving a name to a pattern of brutality he observed throughout human history. An amalgamation of the Greek word *genos* meaning race or tribe and the Latin suffix *-cide* meaning to kill, genocide literally means to kill a race or tribe. The simplicity of genocide's literal meaning belies the complexity of how genocide works. Genocide scholars agree on the meaning of the word genocide (the eradication of a human group). However, scholars vary significantly on the descriptive aspects of genocide. The definitional debate around the word genocide has persisted through the evolution of genocide studies. Genocide scholars' answers to the question *what is genocide?* fall into two broad categories: the liberal<sup>1</sup> and post-liberal perspective.

The liberal perspective defines genocide as a coherent perpetrator intentionally killing a group of individuals, who share or are perceived to share a common characteristic or characteristics. In this liberal definition, the perpetrator is imagined as cohesive, organized, and as having a distinct purpose. The perpetrator defines the target group and the method of destruction is murder (C. Powell 2007, 528). Unlike the liberal perspective, the post-liberal perspective does not hold

---

<sup>1</sup> According to Christopher Powell this group is considered liberal because of their "individualist conception of the social", their generally positive view of liberal-democratic states, and their belief that totalitarian and dictatorial states commit mass murder (Powell, 2007, p. 528).

murder (physical destruction) or the individual as central to its understanding of genocide. For post-liberals, genocide is an event, or series of events, that cause the destruction of a social structure, which does not require physical destruction or an intentional actor. In this perspective *what happened* to the target group is central to determining whether genocide has occurred and the intent of the perpetrators is secondary. The differences between the liberal and the post-liberal perspective can be understood as the difference between individualistic and holistic understandings of the world.

Each perspective has its own strengths and weaknesses. The liberal perspective's focus on the individual negates the role social constraints and pressures play on an individual's actions. Also the centrality of intent means that for liberals *how* perpetrators perceive their actions determines whether genocide has occurred, regardless of the damage done to the targeted group.

The post-liberal perspective, attempts to correct this by placing the experience of the target group at the center of its definition of genocide. The post-liberal perspective also centralizes the collective nature of genocide through its focus on social collectives. However, the post-liberal focus on social structures often leads to a deterministic understanding of genocide, robbing perpetrators of agency and subsequently absolving them of any moral responsibility for their crime. Also, the collective focus of the post-liberal perspective often homogenizes the target group, ignoring any intragroup differences and nuances, resulting in uniform groups, such as "the Native Americans" or "the Chinese people", which in reality might not be very homogenous. Additionally, the post-liberal perspective tends to

assume the naturalness of collective identities, especially of the target group's identity, ignoring the possibility that these groupings were created from the perceptions and imaginations of the genociders. In the end, scholars differ on what genocide looks like. The variations of what genocide looks like, revolve around three categories: (a) **Perpetrators** – who they are, their level of coordination, the role of intention; (b) **Targets** – who they are, completeness of their destruction; and (c) **Method(s) of destruction** – physical, biological, economic, and/or cultural destruction.

### *Genocide is the Holocaust*

One way to discern what genocide is, is to look to history for instances when a race or tribe was killed. In this approach, cases that best represent the concept, or rather typical examples of the concept, are used to define the concept. For example, if asked “what is a bird?” you might call up the image of a blue jay and use its characteristics, such as feathers and its ability to fly and lay eggs, to describe what a bird is (Moshman 2001, 432). By embodying the common characteristics of a bird, the blue jay becomes the representative example of “bird-ness” and a proxy definition for a bird. Like the blue jay, over time the Holocaust has become the representative, or proto-typical, genocide (Powell, 2007; Hinton, 2014). Therefore, as the proto-typical genocide the features and characteristics of the Holocaust have become benchmarks for determining the genocidal nature of an atrocity.

The Holocaust became the proto-typical genocide largely because of its social and academic prominence. The Holocaust was the first internationally recognized

genocide and the catalyst for the entire field of genocide studies. As such, it is the most studied genocide, giving it a privileged position in the academic landscape.

In the public sphere, the Holocaust is the best-known genocide. This is partly due to its academic popularity, but also because of its pervasiveness in the public awareness. In the U.S. there are seven Holocaust Museums, one of which is the state-funded U.S. Holocaust Memorial Museum. In 17 states, the events of the Holocaust are either mandatory or recommended parts of the educational curriculum (Moshman 2001).

In a prototype based approach of defining genocide, of which the Holocaust serves as the proto-typical model, genocide is an explicit and coordinated government plan to eliminate a specific and identifiable group residing within a given locality, through indiscriminate mass murder. Additionally, genocide is an eruption of violence, which has a clear beginning and end (Hinton, 2014; Moshman, 2001). This Holocaust based definition of genocide presents the perpetrators of genocide as a unified actor made of government or government sanctioned agents, with an explicit and highly coordinated plan for the eradication of the target group. The target group is defined by the perpetrators and marked for complete physical eradication. Finally, the method of destruction is wholesale mass murder, or physical destruction. This singular method of destruction implies a definitive beginning and end to genocide. In this way, genocide is the Holocaust.

According to this prototype-based definition of genocide, black Americans were not the targets of genocide. The conception of the perpetrator in this definition proves the most problematic characteristic of applying this definition to the

situation of black Americans. The indictment in We Charge Genocide was based on data collected between 1945 and 1951 (Patterson 1951). In this prototypical definition of genocide, mass group eradication is conceived and executed by the government. As Lemkin argues in his *New York Times* rebuttal, there is no explicit and demonstrable evidence of an explicit and coordinated plan for the mass murder of black Americans during this time. Holding up the terrorist activities of the Ku Klux Klan are not applicable because the group was not a formal or informal agent of the government, despite the fact that many government officials were members of the organization. The participation of government officials is best understood as isolated abuses of power. Similarly, police officers named in the brutalization of imprisoned black Americans were also acting as lone agents in flagrant demonstrations of abuses of power. They were not under direct orders from the federal or state government. Additionally, the consistent population increase of black Americans, from slavery to 1951, proves that they were not the targets of an American genocide, because according to the proto-typical definition, genocide requires the *physical annihilation* of the target group, exemplified by the overall reduction in the target group's population. The fact of a marked increase in the black American population proves that they were not the targets of genocide, according to this proto-typical definition.

However, using this prototype-based approach to understand genocide limits our understanding of genocide to one example, the Holocaust, which blinds many scholars to other, potentially more common, characteristics of genocide. Although

the Holocaust is *the* quintessential genocide, it is actually a very unique manifestation of genocide (Bauer 1996; Katz 1998).

The Holocaust is a unique manifestation of genocide for several reasons. First, the Holocaust was unique because of the extensive documentation that occurred. There are numerous government documents detailing the explicit targeting of Jews, photographs of concentration camps, detailed records of medical experimentation, as well as discriminatory laws against the German-Jewish population. It is also unique because of the scale and method of killing used. In less than ten years the European Jewish population was reduced by 66 percent, largely through highly efficient industrial mass killings. These unique features of the Holocaust highlight the conceptual error in equating the Holocaust's representative nature with its definitional capacity.

Although the Holocaust was the first recognized instance of an explicit attempt to eradicate a particular human group, it is not a "typical" genocide and therefore should not be used as a definitional standard. Additionally, "to the extent that a concept is prototype-based, there are likely to be marginal cases that are not sufficiently like the prototype to fit clearly in the same category but not sufficiently different to fall clearly outside that category" (Moshman 2001, 432). In other words, relying on one instance of genocide as the definitional model for the entire concept of genocide uncritically backgrounds and/or eliminates other instances of mass violence from consideration as genocide, particularly atrocities that do not entail mass killings. Although the Holocaust has provided a great deal of insight into one manifestation of the practical and functional characteristics of what genocide looks

like, it confines and artificially narrows our understanding and ability to recognize (and prevent) future genocides, arguably neglecting the bluebird for the sake of the ostrich.

### *Legal Definition of Genocide*

Another way to understand the concept of genocide is to look at formal definitions of the term. Formal definitions lay out a set of necessary and/or sufficient conditions of a phenomenon or category. Using a formal definition of genocide, rather than a prototype based definition, can potentially enhance the objectivity in evaluating and assigning the label of genocide to an atrocity (Moshman 2001, 432). The 1948 United Nation's Convention on the Prevention and Punishment of the Crime of Genocide (The U.N. Genocide Convention) is often considered the formal definition of genocide because it is an internationally created and accepted legal definition.

The U.N. Genocide Convention defines genocide as follows:

**Article I** The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law, which they undertake to prevent and to punish.

**Article II** 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.



**Article III** The following acts shall be punishable: (a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.

**Article IV** Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private citizens (The United Nations 1948).

Collaboratively drafted by the Economic and Social Council<sup>2</sup> and later ratified by 193 U.N. member countries in December 1948, the U.N. Genocide Convention provides a seemingly broad and unbiased description of genocide that also carries legal implications. The U.N. Genocide Convention has a much broader understanding of *who* can commit genocide. Unlike the prototype based definition, which places the onus of genocide on governments, the U.N. Genocide Convention holds not only governments<sup>3</sup>, but also “public officials” and “private citizens” as potential perpetrators of genocide. However, the Convention has a narrower understanding of who can be targets of genocide, limiting potential genocidal targets to “national, ethnical, racial or religious group[s]”, leaving out political groups.<sup>4</sup> However, like the prototype based definition, the U.N. Genocide Convention maintains the idea that genocide is carried out through physical destruction, and subsequently that genocide has an identifiable beginning and end.<sup>5</sup> The U.N. Genocide Convention’s prioritization of physical destruction is apparent from the fact that four of the five

---

<sup>2</sup> The Economic and Social Council or ECOSOC is a U.N. body created to facilitate international cooperation on standards making and problem solving on economic and social issues.

<sup>3</sup> In this case I am considering governments to also include “rulers”.

<sup>4</sup> Political groups were dropped as a protected group after the first draft of Convention due to objections from the USSR (Schabas 2000).

<sup>5</sup> In this interpretation the beginning of a genocidal campaign is marked by the first instances of killings of target group members and the killing of the last target group member marks the end of genocide.

“acts of genocide” are related to physical death. The only genocidal act not directly or indirectly related to physical death is Article IIe, the act of “Forcibly transferring children of the group to another group”. This prioritization of physical destruction could be attributed to the influence of the Holocaust on the Convention framers. It has also been suggested that the Convention’s focus on physical destruction was a deliberate attempt by colonial powers to exclude their devastating past and present colonial policies and practices from being labeled genocide (C. Powell 2007, 532; Hinton 2014, 331).

As the formal and legal definition of genocide, the U.N. Genocide Convention is the definition that Patterson and his team used in We Charge Genocide to argue that the label of genocide applied to the violent treatment of black Americans by white Americans between 1945 and 1951. In the Convention’s definition of genocide, the actions of the Klu Klux Klan (KKK) and government officials are relevant, since the legal definition of genocide extends to public officials and private citizens. Additionally, the U.N. Genocide Convention does not stipulate how many group members need to be subjected to their defined acts of genocide, only that the acts needed to be carried out with the intention of annihilation. We Charge Genocide capitalizes on this ambiguity by emphasizing “in whole or in part” in its application of the Convention’s definition of genocide. They interpret this phrase to mean that genocide is still applicable to atrocities where the perpetrators only intend to destroy *part* of the target group. Patterson and his team argue that the KKK and their government affiliates purposefully targeted specific black Americans – those who attempted to vote or move into white neighborhoods – with the intention of

annihilating those group members. However, the U.N. Genocide Convention is much narrower than the authors of We Charge Genocide acknowledged. This is because the U.N. Genocide Convention's definition of genocide is based completely on the perpetrators' intent.

The legal underpinning of the U.N. Genocide Convention rests on the notion of intent (*mens rea*), or the purpose of the crime. This means that the annihilation of the target group must be intentional on the part of the perpetrators. Therefore, from the definition of the U.N. Genocide Convention killing an entire race, tribe, or nation, for example through disease, would not be considered genocide because the perpetrator group did not intentionally kill the impacted group.

Additionally, the U.N. Genocide Convention requires that perpetrators of genocide have the **specific intent**, or specific purpose, of eliminating a nation, racial, ethnic, or religious group from existence. This means that in order for a mass killing and/or deleterious atrocity to be considered genocide, it must be shown that the perpetrator specifically targeted individuals on the basis of their group identity with the ultimate goal of completely or mostly destroying the group itself (Greenawalt 1999, 2264). Not only must the perpetrator have selected the individual target based on their group identity, but they must also have the internal aim of inflicting permanent and irreversible damage to the collective target group. It is this mental/internal element that legally distinguishes genocide from mass murder. Requiring this mental/internal aspect in determining genocide greatly limits *who* is culpable of genocide and *what* instances of eradication or attempted eradication are considered genocide (Gordon 2002, 60). Alvarez concisely describes the narrowness

of the U.N. Genocide Convention's definition of genocide, saying that "Essentially, then, for something to be considered genocide it must not only be intentionally committed, but it must also have the expressed goal of eliminating a population" (Alvarez 2014, 28). Therefore, if it cannot be proven that the perpetrator intended to eradicate the target group, genocide has not occurred.

The U.N. Genocide Convention's requirement of specific intent also demands "pure" intent. This means that the goal of destroying the target group must be the *only* goal of the perpetrator group. Legally, purity of intent is derived from the phrase "as such" in the U.N. Genocide Convention. These two words signify that the perpetrator, for example, must want to destroy Muslims simply because they are Muslim and for no other reason. If the perpetrator has the additional goal of or claims that their only goal is to make a profit or to acquire territory by eradicating Muslims, then according to the U.N. Genocide Convention genocide was not committed (Gordon 2002, 63). The result is that the U.N. Genocide Convention only prohibits the complete or partial destruction of a group if that destruction is solely due to who they are. The Convention does not prohibit the annihilation of a group because of *where* they are, *what* they have, or because their elimination might serve another purpose, such as generating national unity. Therefore, under the U.N. Genocide Convention the complete eradication of a human collective because one wants their land, as seen with Native Americans, or because one is attempting to civilize them, as seen with the Tasmanians, would not be considered genocide.

The specific or special intent of the U.N. Genocide Convention becomes ambiguous when the international law is ratified by signatory countries and

converted into domestic law to make it binding. The domestic formulations of intent vary greatly. For instance, in France, intent is taken to mean “conscious and voluntary action to violate the law”. In Germany, intent means the “willingness to realize possible criminal consequences”. In pre-1991 Yugoslavia, intent was interpreted as performing a deed knowing “it could have criminal consequences” (Greenawalt 1999, 2269).

The U.S. maintains the U.N. Genocide Convention’s understanding of specific intent, making it explicit in its domestic law. However, it is not only the concept of intent that is changed when the U.N. Genocide Convention is converted to domestic laws. In an apparent attempt to clarify genocide in the U.S. law, “substantial” was added. This addition further narrows the meaning of genocide by taking the phrase “in whole or in part” in Article II of the U.N. Genocide Convention and adding the qualification *substantial*, to make the phrase “in whole or in substantial part” {18 U.S.C. § 1091(a) (2001)}. The U.S. interpretation of genocide is even narrower than the Genocide Convention’s, due to its addition of the word “substantial”. However, as much as the addition of the word “substantial” attempts to clarify the conditions of intent, no measure of “substantial” is given. “Substantial” could be measured in absolute numbers, as in the 20-30 million Chinese people who died during Mao’s Great Leap Forward. Or it could be measured as a proportion of the entire target group, changing 20-30 million Chinese people killed during Mao’s Great Leap Forward to a mere 3-4 percent (Mann 2009, 336). Despite the efforts of the original framers of the U.N. Genocide Convention to craft a clear, comprehensive, and

unbiased law, critical loopholes and ambiguities are added when a country ratifies the international law and incorporates it into its domestic legal cannon.

Finally, the meaning of genocidal intent enshrined in the U.N. Genocide Convention creates a very high burden of proof and prioritizes the perspective of the perpetrator. For example, in Nazi Germany, genocidal intent was proven using written military communication. The purpose of killing Jews across Western and Eastern Europe was written in orders and directives and explicitly communicated to Nazi leaders and passed down to their subordinates. In Rwanda, genocidal intent was established through the inflammatory messages calling for the extermination of the Tutsi minority and their Hutu sympathizers, broadcast by the government radio station, Radio Télévision Libre des Mille Collines (RTLM) (Yanagizawa-Drott 2014). These genocidal messages also came from dominant party officials, like Léon Mugesera, who in a now infamous 1992 speech to 1,000 fellow party members said, “Do not be afraid, know that anyone whose neck you do not cut is the one who will cut your neck” and “we the people are obliged to take responsibility ourselves and wipe out this scum” (Minister of Citizenship and Immigration 2005). However, short of similar public admissions from the perpetrators, discerning the intention of mass atrocities is next to impossible, particularly in light of the fact that if the claim is made that the eradication of the group was a result of an unfortunate location or collateral damage during a war (as is the dispute between Turkey and the Armenians), then according to the U.N. Genocide Convention, the atrocity does not qualify as genocide.

Applying this legal understanding of genocidal intent to the violence experienced by black Americans between 1945 and 1951, we can see that the legal definition of genocide does not apply. Genocidal intent requires explicit calls or plans for the complete or substantial elimination of the target group through physical destruction for no other reason than because of who they are. In a potential black American genocide this would mean that people were targeted only because of their blackness. Looking at the government, or rather legislation passed by Congress, it cannot be proven that there was a coordinated plan to eliminate black Americans from the country. If anything, it can be argued that the American government made great efforts to incorporate blacks into the nation, by ending slavery, granting all blacks citizenship, and then granting blacks the right to vote. Although many of these protective and elevating policies were not enforced, as Lemkin points out, it cannot be cogently argued that the American government intentionally sought to eradicate its black citizenry.

However, the U.N. Genocide Convention also includes private citizens as potential genociders. This would mean in a potential black American genocide the actions of the KKK would be considered. Although the KKK repeatedly carried out brutal acts of violence and terrorism against blacks born from a white supremacist ideology, the intention of the violence was not the eradication of black Americans, but rather the maintenance of White Supremacy. In other words, the purpose of KKK violence was maintaining the subordinate and inferior social, economic, and political position of black Americans. This goal is made explicit in the 1920s Constitutional Laws of the Knights of the KKK, where it is stated that the KKK is:

Devoted to the sublime principles of a pure Americanism, and valiant in the defense of its ideals and institutions. We avow the distinction between the races of mankind as decreed by the Creator, and we shall ever be true to the maintenance of White Supremacy and strenuously oppose any compromise thereof (Imperial Palace, Invisible Empire Knights of the Ku Klux Klan 1921, 7).

This focus on White Supremacy was maintained in later documents that described the group as,

a white man's organization, exalting the Caucasian Race and teaching the doctrine of White Supremacy. This does not mean that we are enemies of the colored and mongrel races. But it does mean that we are organized to establish the solidarity and to realize the mission of the White Race... and organized to engender a real spirit of true Americanism (Ku Klux Klan 1940, 3-5).

These statements show that the violence exacted against black Americans by the KKK was not the result of a program of eradication, but rather an attempt to maintain white racial purity and superiority. This idea is reinforced by the fact that KKK violence was not limited to black Americans, but included Catholics, Jews, and white protestant sympathizers (Ku Klux Klan 1940). Since the intention of the KKK was not to eradicate black Americans, the violence they committed against black Americans does not qualify as genocide according to the U.N. Genocide Convention.

In addition to its extremely narrow and perpetrator centric understanding of genocide, the U.N. Genocide Convention's concept of genocide is additionally limited by its implicit bias towards European notions of civility. In the preamble of the U.N. Genocide Convention, the framers "[r]ecogniz[ed] that at all periods of history genocide has inflicted great losses on humanity". This implicitly presents genocide as an atavistic practice, no longer utilized in the modern world. They go on to criminalize genocide by stating that it is "contrary to the spirit and aims of the



United Nations and condemned by the civilized world” and that it is the responsibility of the “civilized world” “to liberate mankind from such an odious scourge”. This notion of the “civilized world” reinforces the idea that genocide is a primitive practice, creating the dichotomy of civilized versus savage, where “the perpetrator is a savage who commits an offense against the civilized world” (Hinton 2014, 329). In dissociating genocide from the “civilized world”, in other words developed nations, the U.N. Genocide Convention not only positions genocide as a practice of primitive people, but also removes all “civilized” practices from scrutiny. As a result of this rhetoric, the practices and policies of European nations remain unexamined and the violence they levied against native peoples and cultures becomes normalized.

It is clear that Lemkin was correct in arguing that the U.N. Genocide Convention did not apply to the violence and terror experienced by black Americans. The Convention’s seemingly all-encompassing definition of genocide belies its extremely narrow legal meaning and implicit biases. Its definition of genocide hinges exclusively on being able to prove a singular annihilatory aim of the perpetrator group. There is no explicit evidence that either the American government or the private citizens of the KKK had the sole and explicit intention of eliminating blacks from America. However, the prioritization of the genocidists’ perspective to the exclusion of the deleterious impact on the target group leaves only the most extreme and blatant instances of group eradication in the category of genocide.

### *Lemkin's Two-Phase Model of Genocide*

With genocide, Lemkin created a concise word to describe and condemn an age-old national practice of conquest. In highlighting the moral depravity of destroying a unique human group, Lemkin took what at the time was the unique perspective that all human groups were important and valuable to humanity. Examining Lemkin's definition of genocide provides insight into the original ideas behind genocide and how it functions. Dissecting Lemkin's original conception of genocide is not to suggest that his conception of genocide is the best or most complete articulation of the concept, but rather an attempt to identify and circumvent modern biases.

Lemkin defined genocide as the "destruction of a nation or of an ethnic group" (Lemkin 1944, 79). This national destruction happened in two phases. The first phase was the "destruction of the national pattern of the oppressed group", followed by "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 by the oppressor's own nationals" (Lemkin 1944, 79). In other words, genocide is the destruction of a nation or tribe and what genocide looks like is the dissolution of the target group's unique national pattern, combined with the implantation of the genocidist's own national pattern.

The major innovation in Lemkin's definition of genocide is his inclusion of imposing the oppressor's national pattern on to the territory and/or remaining population, otherwise known as colonization. This colonial element drastically

alters how we understand the perpetrator group, the target group, and the methods used to carry out a genocide. The centrality of colonization to his concept of genocide is evident in the fact that he introduced the concept of genocide in Axis Rule in Occupied Europe: Laws of Occupation. Including genocide in a tome about occupation signals that genocide concerns more than just killing. The chapter describing genocide was the last chapter in “Part I: German Techniques of Occupation”, clearly demonstrating that for Lemkin, genocide was a method of colonization and a nation-building endeavor. To Lemkin, genocide was the forceful and deadly acquisition of territory. Lemkin took care to distinguish genocide from denationalization, a term already in existence that meant the denial of one’s national character (Dictionary.com 2016) usually through “the deprivation of citizenship”. The distinction between denationalization and genocide was that genocide connotes “the destruction of the biological structure” of the target group, as well as “the imposition of the national pattern of the oppressor” (Lemkin 1944, 80). Denationalization was “much too restricted to apply to a process in which the population is attacked, in a physical sense, and is removed and supplanted by populations of the oppressor nation” (Lemkin 1944, 80). In other words, genocide is “a special form of foreign conquest, occupation, and often warfare” (Moses 2013, 26).

Genocide is a special form of conquest because it requires the complete erasure of the target group. The U.N. Genocide Convention and Holocaust model of genocide imagine this erasure through the mass murder of the target group. However, it is the imposition of the oppressor’s national pattern that is the last step

of national erasure. By removing the indigenous population and recreating the territory in the image of the genocidist nation, colonization guarantees that the target group's national pattern will never reemerge, like erasing a word and then writing over the cleared space. No one would ever know that there was a different word there before. Like writing over an erased word, colonization writes over the previous group such that no one would know they were there before. The distinguishing aspect of genocide, the aspect that makes it so abominable, is that the unique practices and beliefs of the target group are removed not just from the territory, but from the world writ large.

The colonial element also changes the temporality of Lemkin's genocide. In the other definitions of genocide that we have explored, genocide was a singular event, indicated by the beginning and ending of killing members of the target group. Recent examples of genocide have led to the conclusion that genocide is a relatively short affair. The Holocaust lasted four years and the Rwandan Genocide lasted a mere 100 days. However, colonization changes this. First, it adds a step to genocide, creating a genocidal *process*, as opposed to a singular event. Genocide does not begin and end with the dissolution of the target group. It also requires the filling of the vacuum created by the target group's forced absence. Filling this vacuum with a new nation, necessarily takes time. In this multiphase view of genocide, the Holocaust and the Rwandan Genocide, would constitute the first phase of genocide and the nations that would have been created would constitute the second phase. Finally, this colonial phase of genocide points to the fact that genocide is not a linear process. The dissolution and erasure of the target group does not end with the first

phase, but continues during the colonial period where the oppressor nation must spend continual effort stamping out any remaining and persistent traces of the target group. Therefore, Lemkin's genocide is not an anomalous eruption of violence. It is a policy carried out over time engaging various segments of society at different times as it is implemented.

### ***PERPETRATORS***

Lemkin conceived of genocide as a conflict between nations. For Lemkin national groups were the essential units of human society. In the final section of his chapter on genocide, entitled *Recommendations for the Future*, he articulated the centrality of the national unit to the overall human culture, as well as the irreparable damage losing one of those cultures does to humanity, saying that:

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. Moreover such 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).

Lemkin did not separate out government officials or private citizens as perpetrators of genocide, as do the other definitions mentioned. In criminalizing genocide, national culpability in carrying out a genocidal policy was shifted to smaller punishable groups, like government officials, as was done in Article 4 of the U.N. Genocide Convention, which defines the perpetrators of genocide as “**Persons** committing genocide or any of the other acts enumerated in article III shall be

punished, whether they are constitutionally responsible **rulers, public officials, or private citizens**" [emphasis added] (The United Nations 1948). In the current legal system there is no way to hold an entire nation responsible for the crime of genocide. The leaders of that nation are held as representative of the body politic, in the same way that they are seen as representing their nation at international forums. However, this is not the case for Lemkin. He treated nations as independent entities with a life of their own, distinct from the individuals who make them up (C. Powell 2007, 533-5). Thinking of the entire nation as the perpetrator of genocide provides a very different interpretation of genocidal intent and perpetrator coordination.

Lemkin's understanding of intent is much broader than those described in the Holocaust and Genocide Convention's definition of genocide. Unlike the specific intent of U.N. Genocide Convention that classifies an atrocity as genocide only if the perpetrator's only goal is the destruction of the target group, Lemkin's two-phase model of genocide imbeds multiple perpetrator goals into the definition. The inclusion of colonization demonstrates that the removal of the target group is only *part* of the goal of genocide; group dissolution is only the first step in a larger goal of territorial expansion. Through colonization the extreme act of national destruction becomes justifiable. Colonization transforms the destruction of an independent nation into a necessary act in the protection and expansion of the genocidist nation, a "creation of [a] new social constellation free of the undesirables; not the killing of innocents but justice delivered to the guilty; not a crime but progress" (Irvin-Erickson 2013, 289). Lemkin's broader understanding of intent also means that the

genocidal nature of an atrocity is no longer determined by the internal mechanizations of the perpetrator group, or the leaders of the genocidist nation. Genocide is identified based on the *actions* of the perpetrator group. In opening up the understanding of intent, Lemkin removes the burden of proof that the U.N. Genocide Convention mandates and creates a balance between the experience of the target group and actions of the perpetrator group.

It is not easy to understand a nation as the perpetrator of genocide. Blame usually falls on the government officials and soldiers, who initiate the forcible removal of the target group, carry out killings, and other forms of physical violence in order to secure the territory. However, it takes the coordination and involvement of all levels of the oppressor nation to expand the nation and proliferate the oppressor's national pattern in the new territory. Colonization is the mechanism that implicates the entire nation in genocide. This is not to say that every individual in the perpetrator nation agrees with and participates in a genocidal program. It is only to say that a majority of all aspects of society must at least be compliant with a genocidal program in order for both phases of genocide to be completed. We will delve deeper into the impact that the concept of colonization has on the methods used to carry out genocide later in this section.

### ***TARGET GROUP***

As a conflict between nations, the perpetrators, as well as the targets of genocide are nations. In Axis Rule Lemkin explains that "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). The importance of attacks against individual group members is measured in how it affects the entire group. It is easier to conceptualize a nation as the target of genocide because all members of the group are targeted.

In addition to linking killing individuals to group eradication, Lemkin's focus on the nation as the unit of analysis is also useful in interrogating group identity.

Irvin-Erickson describes the full concept of the nation as:

Nations were constituted by a shared belief among individuals that they were unified, which manifested itself through patterns of aesthetic taste, reoccurring tropes and shared understandings of symbols. A nation was very much a political, social, cultural, linguistic, religious, economic and physical/biological entity for Lemkin . . . but a nation was also a group of people who shared this collective 'mind' and thought of themselves as belonging to the same group with the help of shared languages, arts, mythologies, folklores and collective histories (Irvin-Erickson 2013, 278).

Interpreting the nation this way clears up the post-liberal pitfall of homogenizing group identities. Thinking of nations as a group of people who possess a "shared understanding of symbols" and "thought of themselves as belonging to the same group" provides a clear way to separate the identities ascribed to target groups by genocidist nations from the identities the target groups created for themselves. For example, in the United States the indigenous population is spoken about collectively as Native Americans. However, this grouping is based on the perception of white colonists. Separating out and identifying the various indigenous tribes in North America adds nuance to scholarly understandings of how genocide is carried out, as well as the various ways that target group member survivors cope with the trauma of a genocidal policy. This national perspective is also important because identifying the various targeted nations honors their distinctiveness. However, the most important aspect of focusing on the distinct national characters of targeted groups is



to actualize the magnitude of loss. Collectivizing indigenous Americans by talking about a “Native American Genocide” hides the fact that over 200 distinct Native American nations were destroyed in the creation of the United States of America.

### ***METHODS OF GENOCIDE***

Colonization broadens our understanding of how genocide is carried out. Again, unlike the Holocaust based definition and the Genocide Convention, which focus almost exclusively on mass murder, or what Lemkin called physical destruction, as the indicator of genocide, Lemkin’s two-phase model posits that a variety of methods are required to carry out a successful genocide, only **one** of which is mass murder.

Colonization indicates the level of national coordination required to carry out a complete genocide. Lemkin describes the high level of coordination, as well as the national complicity required to carry out the second phase of genocide through the example of Germany’s occupation of Poland. In Germany’s conquest and colonization of Poland, there was a deliberate switch from Polish street names, administrative and political structures, and institutions to German names, administrative and political structures, and institutions. These are the kinds of coordinated actions that continued the erasure of the Polish national pattern after the Polish army was defeated and the country became occupied. These changes take organization, coordination, and planning between various segments of the genocidist nation. This process of erasure also seeks to weaken the ties between the individuals of the target group by destroying the personal security, health, economic livelihood and dignity in individual group members, and through the promotion and

elevation of members of the genocidist nation. The two phases of genocide are not necessarily mutually exclusive processes. Imposing the genocidist national pattern also supports the disintegration of the target group's national pattern and national ties. Therefore, although these two phases are presented linearly, they are complementary and can occur simultaneously.

Genocide has become synonymous with mass murder and mass death. Prototype based definitions, as well as the U.N. Genocide Convention hold mass killing and mass death as the defining feature of genocide. In his work connecting genocide to democratic nations, Michael Mann presents genocide as a “murderous cleansing” and makes the distinction between “unpremeditated mass deaths” and “premeditated mass killing” (Mann 2009, 12). Joseph P. Gone suggests that “the concept of genocide is best reserved for instances of *group-based mass murder*” [emphasis original] (Gone 2014, 275). The association between genocide and murder is further entrenched through titles like “What Does Genocide Kill?” and The Specter of Genocide: Mass Murder in Historical Perspective (Powell 2007; Gellately and Kiernan 2003). The idea that genocide only means mass murder is so embedded in the global consciousness that when Justice Murray Sinclair, the chairman of the Truth and Reconciliation Commission of Canada, described the residential school experiences of Aboriginal Canadians as genocide, consistent with the U.N. Genocide Convention's definition that the forcible transfer of children is an act of genocide, it caused a media frenzy and prompted him to apologize to the a Jewish survivor of the Buchenwald concentration camp, who he described as experiencing “true genocide” (Gone 2014, 279).

However, mass murder does not have such a defining role in the two-phase model of genocide. In the first paragraph of the chapter describing genocide in Axis Rule, Lemkin explicitly states, “genocide, does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation” (Lemkin 1944, 79). This highlights the fact that mass murder is *not* the only method of carrying out genocide. It also alludes to the fact that genocide usually requires a significant amount of time to implement, *except* in cases where mass murder is used. Lemkin goes on to say that genocide is a combination of “different actions” that destroy not only the physical existence of the target group, but their social, political, cultural, and economic existence as well. Therefore, “the killing of individuals and attacks on language, religious practice, or other cultural institutions are not two different kinds of violence belonging to two different kinds of genocide, but differing aspects of a single multidimensional process” (C. Powell 2007, 534). Not only is mass murder one method of destruction among many, it is also most relevant to the first phase of genocide. The fact that mass murder is only one aspect of one part of Lemkin’s two-phase model of genocide, points to how much murder based definitions have curtailed the concept of genocide.

Finally, the inclusion of colonization forces scholars to re-examine the construction of the modern world. As mentioned earlier, Lemkin suggested that genocide was “a rare crime of great magnitude”. However, Lemkin’s own definition suggests that genocide may not be as rare as he presented it. European exploration into the Americas and Africa was a series of colonial endeavors. There are numerous examples of Europeans decimating indigenous communities, enslaving survivors,

and then restructuring the “cleared” territory in ways that were consistent with their national ideas of modernity and civility. This two-phase model of genocide forces scholars to consider that the colonies that birthed nations like the Democratic Republic of the Congo, Brazil, Jamaica, the United States, Canada, and so forth, were not moments of exploration and glory, but rather instances of genocide. This means that scholars must also consider that the historical method of nation-building was implemented through a policy of genocide.

## **AN AMERICAN GENOCIDE**

The two-phase model of genocide provides a variety of tools to examine the genocidal nature of black-white interactions in the United States. It presents a much more complex and nuanced understanding not only of black-white relations, but also of the strengths and weaknesses of the concept of genocide.

### *Incorrect Target Group*

The two-phase model of genocide highlights that to thoroughly understand and evaluate black-white relations in America we need to question the naturalness of racial categories, necessitating an examination of the events that initially brought blacks and whites together in America. Since genocide is the destruction of a nation or tribe, any analysis would necessarily start with the identification of the nation or tribe being destroyed. In the two-phase model of genocide the target group is a nation. It is obvious that black Americans do not constitute a separate state. However, like Jews, black Americans might have a distinct national pattern operating alongside an American national pattern. Lemkin understood a national pattern to be the combination of a group's political and social institutions, history, culture, traditions, language, national feelings, religion/mythology, monuments, archives, and libraries<sup>6</sup>, calling it "the shrines of a nation's soul" (Lemkin 2013, 171). A national pattern is the self-created identity of the group. From this

---

<sup>6</sup> This description is a combination of Lemkin's description of a national pattern in Chapter 9: "Genocide" in Axis Rule (1944) and Lemkin's post-humorous autobiography Totally Unofficial (2013).

understanding black Americans do not possess a national pattern distinct from an American national pattern. Black Americans adhere to a democratic political structure, with a capitalist economic system, speak English, largely practice a Judeo-Christian religion, share the same historical narratives, and accept a social system based on hierarchical racial categories. In fact, the black/Negro identity and its assumed distinctness from an “American” identity is itself an American tradition. In other words, black Americans are not a distinct nation and the belief that they are is an uncritical acceptance of the perpetrator’s perspective.

Assuming the naturalness of the black American identity not only starts the genocidal inquiry in the wrong place, but it also renders the destruction of numerous African national patterns invisible. The common bond between blacks in America is a product of their shared experience in America. A bond based on black skin color is a European perception forced onto enslaved Africans. Unquestioningly accepting that black skin is naturally the primary cohesive element between African-Americans normalizes and empowers a genocidist perspective. Shifting the focus to the experience of the target group, emphasizes the created nature of the black collectivity, as well as the role an imagined black unity played in the erasure of African national patterns. It is also important to note that enslaved Africans were collectively recognized based on their shared skin color, as opposed to their shared territorial existence. For example, Native Americans were called Indians. Although a misnomer, since Columbus thought he was in India, it is a recognition of a cultural existence. The racial categorization of Africans is demonstrative of the European dismissal of the value of African cultures. Accepting that skin color is naturally the

primary cohesive group element naturalizes the perpetrators' perspective and ignores the erasure of numerous African national patterns. Therefore, from the perspective of the two-phase model of genocide a black American genocide would not begin in America, but rather in Africa with the social and cultural uprooting of enslaved Africans.

### *The First Phase of Genocide*

African national groups and their national patterns were destroyed through the Trans-Atlantic slave trade and the Middle Passage. From the Trans-Atlantic Slave Trade database, which has records for over 35,000 slave trade voyages, embarkation regions covered much of Africa.<sup>7</sup> It should be noted that to even speak of Africans is a misnomer. Like Native Americans there were a number of distinct tribes that were attacked and destroyed during the Slave Trade. Many African slaves are believed to have come from present day Angola<sup>8</sup> (Amos and Gates Jr. 2013) and the Senegambia region of West Africa (Owens 1999), whose tribes included the Wolof, Foulah, Yoruba, Ashanti, and Dahomey (Anderson 2004, 46). However, a number of other groups were captured and forced into slavery, such as the Diola

---

<sup>7</sup> The listed embarkation sites/regions are: Rio de la Plata, Senegambia and offshore Atlantic, Sierra Leone, Windward Coast, Gold Coast, Bight of Benin, Bight of Biafra and Gulf of Guinea Islands, West Central Africa & St. Helena, as well as Southeast Africa & Indian Ocean Islands. It also lists that 334,196 slaves were embarked from other regions in Africa (Emory University 2013).

<sup>8</sup> It is estimated that some 5 million slaves came from Angola (Amos and Gates Jr. 2013).

(Baum 1999, 62).<sup>9</sup> For the United States specifically it is believed that the bulk of the slave population came from Upper Guinea (Senegambia to Sierra Leone), Lower Guinea (the Gold Coast to the Bight of Benin), and Kongo-Angola (West Central Africa) (Painter 2006, 31). However, it is impossible to know the true number of tribes involved in and decimated by the slave trade, since the historical recording of the various national divisions and major social groups in Africa happened after the colonial era (Baum 1999, 62).

Physical abuse, mental trauma, and massive loss of life characterized the first phase of genocide for enslaved Africans. Raiding parties, consisting of African warriors equipped with guns, traveled from village to village capturing the inhabitants and taking the village livestock for food. The captives were then marched to the coast, where they would be examined for sale. At the instruction of European slave traders, dungeons were built to hold the potential slaves while they awaited examination for sale. Boone notes that the treatment in these dungeons was so brutal that many captives died in there (Boone 2012, 15). During inspection, any captive deemed invalid was killed to spare the expense of taking them back home or having to take care of them. A captive was categorized as “invalid” if they had (or were thought to have) any of the following afflictions: grey hair, missing teeth, a maimed extremity, film covering one or both of their eyes, a venereal disease, or being over 35 years old (Reiss 1997, 33). Once approved for sale, slavers purchased

---

<sup>9</sup> According to Robert Baum “...the term ‘Diola’ was given to a cluster of coastal communities of the lower Casamance by Wolof sailors who accompanied the French into the region in the nineteenth century” (1999, 62).



any person that they wanted, separating tribe members and families (Reiss 1997, 36).

Captives then had to survive the harrowing voyage across the Atlantic, known as the Middle Passage. Strangers, connected only by their shared fate, were forced to lie “spoon fashion” to increase the number of people slavers could fit into the cargo hold. Adult men were allotted a space that measured eighteen inches in width by six feet in length. Women were allotted sixteen inches in width by five feet and ten inches in length. Boys were given fourteen inches by five feet and girls were given twelve inches by four feet and six inches (Reiss 1997, 34). These dimensions amounted to less than seven square feet of space per adult and even this was a luxury since slave ships were routinely overcrowded (Painter 2006, 33). Children often died on these voyages from drowning in the tubs supplied as toilets (Reiss 1997, 36). Only 1 in 20 slave ships had wind-sails to provide ventilation to the cargo hold and the ones that did have wind-sails closed them during bad weather, creating a hot and toxic environment, resulting in fevers, dysentery, and sometimes death. The blood and mucus from those with dysentery was left on the floor of the hold, further befouling the cramped space (Reiss 1997, 35). When the captives were not in the cargo hold, they were on deck. The deck was regularly covered in vomit, urine, feces, menstrual blood, and fecal blood (Painter 2006, 33). The sick were laid on bare planks that usually rubbed away their skin because of the rocking of the boat. Those who were healthy enough were forced to dance for exercise and to “dispel melancholia” or be whipped by a cat-o’-nine-tails (Reiss 1997, 35). Women and girls were particularly vulnerable on these journeys. They were subject to

sexual assaults and rape from crew members, sometimes resulting in children being born on the slave ships (Reiss 1997, 35; Painter 2006, 33).

The brutality of the Middle Passage is further evidenced by the massive loss of life. Sea travel was already a risky proposition during this time, combined with overcrowded holds, malnutrition, and physical and mental abuse and the voyage became deadly. Mortality rates during the Middle Passage were routinely 15-20 percent (Painter 2006, 33). This figure increased to 30 percent during the Triangular Slave Trade, where slaves were taken to England or Barbados for “seasoning” before they were taken to the West Indies (Reiss 1997, 37). The Royal African Company exemplifies the high mortality rates of shipping slaves. The Board of Trade recorded that between 1680 and 1688, the Royal African Company shipped 60,783 “pieces of merchandise”, but delivered only 46,394 to their new destination. This means that 23 out of every 100 Africans that the Royal African Company shipped died during the journey (Reiss 1997, 34). However, ship mortality rates varied widely depending on the country of origin. Portuguese ships had the lowest mortality rates, while English ships had the highest. It is believed that approximately 18 million people were taken from Africa during the Slave Trade (Reiss 1997, 34). This is more than the combined populations of Sweden and Switzerland. Six million of those taken, or the equivalent of the entire population of Denmark, died during the journey.

Every aspect of an enslaved African’s identity was taken from them. They would not have been able to maintain any kinship ties because once approved for sale, slavers purchased any person that they wanted, separating tribe members and

families (Reiss 1997, 36). Separating families and tribe members was not only a traumatizing event, but also stopped the transmission of the group's traditions, mythologies, and culture to the next generation, effectively killing the nation. Assuming they survived the sea voyage, the national erasure continued through prohibitions against practicing their native religion or using their native language (C. Powell 2007, 543). However, the most enduring erasure of national identity was removing enslaved Africans from their territorial home. Severing the connection between Africans and their home made it impossible to maintain a sense of national connection or recreate a connection through identifying landmarks or returning to the territory. Enslaved Africans were ripped "from their land and culture, forced into a situation where the heritage of language, dress, custom, and family relations was bit by bit obliterated except for the remnants that blacks could hold on to by sheer, extraordinary persistence" (Zinn 2003, 42). Through tearing apart families and tribes, suppressing native religions and languages, and removing enslaved Africans from their ancestral homes, the Trans-Atlantic slave trade effectively disintegrated numerous African national patterns and completing the first phase of genocide.

### *The Second Phase of Genocide*

In the two-phase model of genocide, the second phase is the imposition, or overlaying, of the genocidist nation's national pattern on the cleared territory and/or remaining population. Overlaying a "new" national pattern finalizes the process of group erasure by burying any remaining traces of the target group's

existence under another nation. Many scholars identify this phase by focusing on territorial transformation, highlighting changes to infrastructure (territorial usage), public administration, laws, politics, education, and economic systems, among others. However, the genocidist nation's national pattern can also be imposed on the target population. This is borne out in the perspective that genocide is "an attack on cultural diversity, pernicious because it was a social practice that sought to reorder the structure of human society in accordance with the institutions and patterns of the oppressor group" (Irvin-Erickson 2013, 282). In the black American case, this would mean that after the cultural and social structures of the various African tribes were dissolved they were replaced by American notions of culture and social structures. In other words, the American national pattern was imposed on the African body.

The various African identities were replaced by the European notion of blackness. The first imposition of an American colonial national pattern was the idea that the chief cohesive factor between non-white people was their skin color, collectivizing enslaved Africans into a homogenous race.<sup>10</sup> Before coming to North America the primary bonds for Africans, as with the rest of the world, were ethnic or national/tribal ties. Skin color did not play a role in their identity. However, based on differences in technology, dress, skin color, physique, and culture, Europeans created the idea of distinct "races" and attributed the differences between Europeans and Africans to characteristics that were dictated by and inherent to "race" (Adams 2008, 45).

---

<sup>10</sup> The prioritization of skin color applied to indigenous Americans and Africans alike.

A black identity, the idea that race is the primary unifying factor for enslaved Africans, was imposed through a policy of intermixing and the shared trauma of the Slave Trade. As stated earlier the Slave Trade caused massive loss of life, as well as initiated the disintegration of ethnic and national bonds. Boone notes that “Africans brought to America had to view themselves through the eyes of race. Black people brought to mainland North America came from many different nations, but by the time they arrived, the process by which they came to share a common identity was already firmly established” (2012, 28). As much as this traumatic experience fundamentally recreated enslaved African identities, it was also a source of recreating community. Scholarship on the Slave Trade demonstrates that despite ethnic and linguistic differences “slaves created bonds of deep attachment amongst themselves, so much so that, upon arrival, groups had formed bonds comparable to ties of kinship; they had become ‘brothers’ or ‘sisters’” (Chivallon 2011, 21). The process of national disintegration and restructuring based on a concept of race continued through policies of ethnic dispersion and intermixing (Chivallon 2011, 36):

Ethnic intermixing was a deliberate strategy deployed by the colonists in their effort to obstruct the development of group spirit. As early as 1694, an eyewitness of the situation in the British islands observed that the safety of the plantations was dependent on the ethnic diversity of slaves, when he noted that linguistic diversity among slaves prevented their connivance resulting in revolt (Chivallon 2011, 37).

The shared trauma of the Middle Passage combined with a policy of intermixing erased ethnic and national bonds between enslaved Africans, replacing it with an overarching racial bond.

Another imposition of the American national pattern was the excision of African religious practices and rituals and the insertion of Christianity. In the American colonies “African religious rituals were forbidden and drums were banned, since in Africa drums had been employed not only for religious ceremonies but also to send messages” (Hughes, Meltzer and Lincoln 1983, 60). Enslaved Africans were then taught Christianity. In 1636, the first effort of educating enslaved Africans was conducted through religious training in the colony that would later become New York. Christianity served multiple purposes for imposing the American national pattern. It not only taught enslaved Africans English, but also embedded and justified the American racial hierarchy. Christian stories, like the story of the cursed Hamitic pagans, introduced the idea of the inferiority of black people to enslaved Africans, at once reinforcing skin color as the primary group identity, justifying African enslavement, and normalizing the American racial hierarchy (Adams 2008, 46). Christianity and Christian ideology spread throughout the early black American community because conversion was a way out of enslavement. However, in 1667 Virginia passed a law declaring that baptism, converting to Christianity, no longer freed a slave from bondage (BlackPast.org 2007). Maryland passed a similar law in 1671.

Although white Americans used religion as a method of social control, black Americans used religion and especially religious music to subvert white domination. Christian hymns, or Negro spirituals, were allowed relative freedom because they were less threatening to the white power structure. On the surface, they signaled an apparent acceptance of Christianity and the social strictures created from

Christianity. However, black Americans used hymns and religious music to convey messages of support, unity, revolt, and directions for escape, all while avoiding detection by their white owners (Sullivan 2001, 23). However, white slave masters were most likely aware of some of the subversive elements of these spirituals, which could explain why in the early 19<sup>th</sup> century, almost everywhere in the American south prohibited black Americans from preaching or gathering for any purpose whatsoever (Hughes, Meltzer and Lincoln 1983, 60-1). Negro spirituals were not only a way to communicate secretly, but also provided slaves with a sense of personal sovereignty and solidified their determination to overcome domination (Sullivan 2001, 25). Although Christian spiritual hymns were utilized as a method of subverting and resisting white domination, the fact is that the Christian religion was the American religion that replaced African religious traditions. Christianity was a primary tool of American cultural and social transfer because it simultaneously entrenched the English language, American cultural and social norms, and normalized racial categories.

In addition to religion and racial identity, enslaved Africans were forced to accept white domination. Europeans saw their own culture, technology, and society as more advanced and therefore better than what they found in Africa. These differences led Europeans to perceive Africans as their polar opposites; making European practices the most positive and African practices the least positive (Adams 2008, 45). The belief that European culture and technology was the pinnacle of human development was proliferated through European expansion and occupation, entrenching,

a new world divided along color lines. A new worldview was in place, corroborated by Western scientists. According to this worldview, whites were superior to any other group of people. Subjugated people were portrayed as inferior. Africans became associated with slavery, savagery, paganism, immorality, primitiveness, and wretchedness (Candido, Daddi Addoun and Lovejoy 2008, 65).

The European belief in their own superiority led them to consider black Africans as inherently different and inferior human beings because Europeans perceived Africans as completely different from themselves (Adams 2008, 46). Social and economic isolation, racial separation, population control and physical violence were all methods used to force enslaved Africans to accept white domination.

Population and demographic control was used to quickly normalize white dominance and force acceptance of the American national pattern. As regards the black American population, importing slaves directly from Africa was limited, while domestic reproduction was highly encouraged, a unique feature of British North America (The Gilder Lehrman Center 2015). The U.S. only imported 500,000 Africans during the Slave Trade, compared to 750,000 in Jamaica (Chivallon 2011, 31). Importing slaves directly from Africa renewed an “African presence” among blacks, resuscitating linkages and memories of African national patterns. Limiting direct African imports diminished the possibility of maintaining or reviving African national patterns. In addition to limiting the number of slaves coming directly from Africa, the U.S. had a high and sustained natural increase in the slave population. By 1810, 85 percent of blacks were American born, unlike Caribbean slaves who were mostly born in Africa (Painter 2006, 35). Therefore, the 4 million blacks living in America in 1860 were third-, fourth-, or fifth generation Americans. With each successive generation American culture and traditions became the primary



experience and reference point, erasing any last connections to African national patterns. In other words, where blacks in the Caribbean had personal relationships, memories, and knowledge of African traditions, black Americans were three or four times removed from any direct connection to an African national pattern (The Gilder Lehrman Center 2015).

Demographic management also included the white population. Unlike the Caribbean colonial holdings, North American colonies maintained a white majority population. Despite the exponential growth of the black American population, they remained the minority, making up only 13 percent of the country's population in 1860 (The Gilder Lehrman Center 2015). Being a minority forced enslaved, as well as free Africans to accept the national pattern being forced on them (Painter 2006, 34). In other words, being a minority forced blacks to accept and adhere to the status quo created by white Americans. Maintaining a majority white population also meant that whites could hold on to authority by virtue of number. It also meant that a majority of the population believed in and was invested in maintaining white superiority and dominance. Limiting the importation of slaves born and raised in Africa, encouraging the domestic growth of the black American population, while maintaining a white majority severed the link between black Americans and their African roots and further entrenched their new American national pattern, particularly acceptance of white superiority and domination.

Where Christianity was the primary tool for cultural and social transmission, American colonial law was the primary tool for establishing and entrenching the racial hierarchy and white domination. At every opportunity American laws sought

to codify the inferior status of “blackness” and conversely the superior status of “whiteness.” Chattel slavery was the main manifestation of black inferiority. It was the American institution that maintained and reinforced the American racial hierarchy. It was designed to normalize the inferior status of black Americans and the superior status of white Americans, through social, political, and economic exclusion. Chattel slavery was not initially tied to race in colonial America. However, beginning in the 1660s the colonies began instituting laws, or slave codes, that effectively reduced black people to a class of untouchables and raised all white men to the level of master (Finkelman 2008, 44). Slave codes galvanized racial solidarity among all economic classes of European Americans. Racialized policies adopted by the Virginia Assembly ensured that race would supersede class as a determinant of people’s social position in colonial America, because it gave poor whites a stake in being differentiated from blacks (Boone 2012, 7). In 1661 and 1662 Virginia passed laws stating that children born to enslaved mothers would be slaves for life, making slavery hereditary (Lobban Jr. 2008, 56; Painter 2006, 34). Although these laws served a clear economic purpose, in that they increased an owner’s slave population for free, it also connected blackness to the inferior status of a slave, racializing slavery. It was your black heritage that condemned you to a lifetime of servitude and no amount of white lineage could change that.

The slave codes further enhanced white domination through criminalizing slave insurrections and rebellions, while protecting masters, overseers, and other whites from prosecution for killing slaves for resisting authority or due to “moderate coercion.” Slave codes also made it an offense, and in some instances a

capital offense, for a slave to strike a master or overseer. Laws were also passed that prohibited private manumissions [the act of freeing a slave] (Smedley and Smedley 2011, 101). This meant that whites who might want to eschew their dominant status would not be able to. There were also laws passed limiting the number of slaves and free blacks allowed at a gathering, regulating free black services, and prohibiting slaves and sometimes free blacks from learning to read and write (Finkelman 2008, 44). By 1723, the right to vote was ultimately denied to all blacks in the southern colonies, both free and enslaved (Smedley and Smedley 2011, 101). South Carolina enacted the most extensive slave restrictions in colonial North America. South Carolina's slave codes prohibited any one from teaching slaves how to read and write, prohibited slaves from assembling in groups, from earning money for their external activities, and permitted slave owners to kill rebellious slaves (BlackPast.org 2007-15).

Similarly, free blacks were highly policed and subjected to white domination through Black Codes. Black codes were a series of laws designed to regulate and define the status of free blacks. Southern black codes were created to suppress free blacks by preventing them from moving into the state and making them so uncomfortable that they would leave (Finkelman 2008, 187). Later Black Codes went so far as to prohibit free blacks from serving on juries, testifying against whites, from holding public office, as well as severely limiting their access to public schools (Finkelman 2008, 185). White domination was forced onto all black Americans, free and enslaved, through extensive legal codes.

White domination was also maintained through white purity and privileging white skin. Laws and social conventions were employed to maintain white racial purity. In order to maintain and ensure white racial purity Virginia, Massachusetts, Maryland, Delaware, Pennsylvania, the Carolinas, and Georgia all enacted laws criminalizing interracial marriage (Zinn 2003, 55). White racial purity was also maintained through the social convention of the One-Drop rule. The One-Drop rule stipulated that “one drop” of black blood made a person a Negro, whatever his or her degree of ethnic/racial mixture, class, culture, legal status, or appearance (Painter 2006, 54). In demanding racial purity in order to identify as white, the One-Drop rule elevated whiteness making it a prize in and of itself. In addition to maintaining and protecting white racial purity, the One-Drop rule also served to bifurcate American society. Unlike the Caribbean and Brazil where there were as many as ten different racial classifications<sup>11</sup>, America maintained only two racial categories - Black and White.<sup>12</sup>

White domination was furthered entrenched by privileging white skin, resulting in racial separation. This is best seen in the aftermath of Bacon’s Rebellion, where black slaves and white indentured servants revolted against colonial

---

<sup>11</sup> The lawyer and politician Moreau de Saint-Méry made an inventory of no less than 110 racial categorizations in Saint Domingue, or what is now Haiti - (Chivallon 2011, 34).

<sup>12</sup> This is based on the 1790 census, which counted slaves and free white people. Indians, and later Chinese, were not included in the census until 1860, pointing to the largely binary construction of race in America. (<https://www.census.gov/population/race/data/MREAD 1790 2010.html>) The binary construction of American race relations is also evident in talking about white and non-white people. Again, grouping all non-white people together and only distinguishing whiteness implicitly communicates the importance and superiority of whiteness.

authorities to protest oppressive policies. After the British authorities subdued the rebellion only black participants were punished, while white participants were granted amnesty. After completing their servitude, white indentured servants were given muskets, corn, and money to build a life in America, while blacks were forbidden to carry any firm arms (Zinn 2003, 56). Racial separation also included separating Native and black Americans. The pervasive pariah status of black Americans made it advantageous for other race groups to disassociating themselves from blacks, maintaining racial categories. Howard Zinn details the conscious effort white colonists made in making sure that Native Americans were aware of black American inferiority and the dangers of allying with them, highlighting that:

The white rulers of the Carolinas seemed to be conscious of the need for a policy, as one of them put it, 'to make Indians & Negroes a checque upon each other lest by their Vastly Superior Numbers we should be crushed by one or the other.' And so laws were passed prohibiting free blacks from travelling in Indian country. Treaties with Indian tribes contained clauses requiring the return of fugitive slaves. Governor Lyttletown of South Carolina wrote in 1738: 'It has allways been the policy of this government to create an aversion in them [Indians] to Negroes' (2003, 54).

The racialization of American society cannot be separated from a capitalist economic system. White settlers, and America as a whole, profited greatly from a racialized social system. In South Carolina white settlers were given land based on how many black slaves they had, resulting in increased wealth for slaveholders (BlackPast.org 2007-15). Slavery not only generated money through crops produced from unpaid labor and the direct sale of slaves, it also generated substantial amounts of tax revenue from commercial and commodity sales, meaning that individuals *and* states were invested in the continuation of the slave system (Lobban

Jr. 2008, 57). This means that the American nation was initially constructed to enhance and maintain a system that intentionally created conditions of life that were physically and mentally damaging to black Americans.

A highly racialized society also served to de-emphasize class divisions, diminishing the threat to the authority of the wealthy white ruling elite. The class solidarity demonstrated in Bacon's rebellion threatened the authority and control of the colonial white ruling elite. Prioritizing racial distinctions over economic distinctions effectively destroyed the labor uprising and ensured there would be no similar alliances in the future. Additionally, associating blackness with slave status made controlling the exploited class easier, since white indentured servants could run away and easily blend in avoiding recapture, whereas blacks could not. The economic benefit of racial separation and privileging whiteness reinforced and enhanced white domination over blacks.

White domination and superiority was also perpetuated and legitimated through the dehumanization of blacks. Blacks in America were at best considered an "*inferior race of beings*", if they were considered human at all (Polgar 2011, 251). The American slavery system was based on the belief that enslaved Africans and their progeny were inherently inferior to all other racial groups. This belief legitimated the denigration of slaves to the status of property and ignored their humanity (Boone 2012, 20). In addition to dehumanizing black people by treating them as property, the American slave system was designed to do "its best to crush the last vestige of a man within him [black slave]; and when it is crushed, and often before, he is denied the comforts of life, on the plea that he knows neither the want

nor the use of them, and because he is considered little more or *less* than a beast” (Truth 1998, 6). Samuel Northup echoed Sojourner Truth’s sentiment in his memoir *12 Years a Slave*. Northup observed that “He [white men] looked upon a colored man, not as a human being, responsible to his Creator for the small talent entrusted to him, but as a ‘chattel person,’ as mere live property, no better, except in value, than his mule or dog” (1808, 69).

And like animals, black slaves were made to be dependent on their slave master for everything, including their names. Both Northup and Truth highlight this fact in their memoirs, commenting that “Platt Ford, now Platt Tibeats – a slave’s name changes with his change of master” (Northup 1808, 48) and “a slave’s surname is ever the same as his master; that is, if he is allowed to have any other name than Tom, Jack, or Guffin” (Truth 1998, 21). Dictating a slave’s name, their public identity, is a prime example of how white domination over blacks was woven into the very fabric of social interactions. This naming convention was also an exceptionally effective method of dissolving the national bonds enslaved Africans had to their native national patterns. Changing an enslaved African’s name to their master’s name further distanced black Americans from their African culture and heritage. This not only inextricably linked enslaved blacks to their white masters, but also made it impossible for the descendants of slaves to trace their lineage outside of America. In this way white American slave owners made it practically impossible for black Americans to (re)connect to their specific African history and

traditions.<sup>13</sup> There is no way for African-American descendants to reestablish a connection to their lost national patterns.

The inferiority of black people was so entrenched that even white abolitionists considered blacks as inferior and dependent. Black inferiority was so embedded in American culture that even whites who were actively working to end chattel slavery viewed slaves “as degraded, ignorant, and dependent – the exact opposite of every quality needed in the people of the new American nation” (Polgar 2011, 236). The result of these laws and social practices was to slowly stigmatize all black people, not just enslaved blacks, to the point that all whites began to view blacks as different and inferior (Finkelman 2008, 43). Dehumanizing black Americans justified the exclusion of black people from the American nation and legitimated white domination.

Despite these tactics black Americans still resisted white domination, leading white Americans to use physical violence to command submission to white domination. Violence was used daily on a “low level.” According to Zinn “once every four or five days, *some* slave was whipped” in America (2003, 173). In his memoir detailing his twelve years as a slave, Samuel Northup recounts that 500 hundred lashes was the “well-known penalty of running away” (1808, 57) and that “A slave caught off his master’s plantation without a pass, may be seized and whipped by any white man he meets” (1808, 59). Physical violence was also utilized on a group scale, as both a retaliatory act for rebelling against enslavement and as a warning to other slaves. On April 7, 1712, there was a major slave revolt in New York that killed

---

<sup>13</sup> This result was also produced from the practice of ethnic intermixing used on ships and plantations.



nine white people. On May 3, twenty-one slaves were executed as a result (Lobban Jr. 2008, 57). In 1741, the mere fear of a slave revolt led to the execution of thirty-one slaves and five whites in New York (Lobban Jr. 2008, 57). In 1800, when two slaves alerted their master to a slave uprising that the enslaved blacksmith Gabriel Prosser was organizing, the Governor of Virginia called in the state militia to subdue it. When Prosser was finally captured, he, his two brothers, and twenty-three other slaves were hanged (Wood 2008, 171). This practice of executing slave revolt leaders and organizers continued with the 1832 execution of the former slave Denmark Vesey of South Carolina, when it was discovered that he was organizing a massive uprising for the following year (Lobban Jr. 2008, 58). Sojourner Truth recounts how a slave master killed Ned, his slave, with one blow to the head after Ned took his master at his word that he would be allowed to leave the plantation and visit his wife. Truth sums up the visceral impact the killing had on the black witnesses of the murder, saying that "The poor colored people all felt struck down by the blow" (1998, 19). Physical violence was a common and state sanctioned practice used to force acceptance of white domination onto the black American population.

White domination and white superiority were forced onto enslaved Africans. Slavery, the institutionalization of written rules and records that organized society according to race, privileged white skin, subordinated blacks to whites, dehumanized black people, and legalized racial violence in colonial America, and later the United States, was the primary mechanism used to allow all white

Americans to maintain exclusive control and power their new country (Feagin 2010, 29; Candido, Daddi Addoun and Lovejoy 2008, 60).

It could be argued that considering the black experience in America as genocide maintains and perpetuates a narrative of white European power and dominance. That is, one might read this analysis as suggesting that enslaved Africans were passive objects, who were subjected to and directed by the whims and desires of seemingly omnipotent white Americans. This is only true if one ignores the contribution black Americans made to American culture and the various tactics they developed to resist white domination. As mentioned earlier, there were numerous ways that both free and enslaved blacks resisted white domination. The most obvious being direct resistance. By 1760 there had been six black rebellions, from South Carolina to New York, and forty riots of various origins (Zinn 2003, 59). There were more than 250 slave revolts in the U.S. between the 18<sup>th</sup> and 19<sup>th</sup> centuries (Chivallon 2011, 20). Slaves also ran away, escaping to the North where there was better treatment and occasionally forming transitory slave communities called “petit maroonage” (Chivallon 2011, 42). Slaves who remained in bondage also employed refusal to work or go-slow strategies as a form of resistance to their brutal treatment and force subordination (Chivallon 2011, 41).

In addition to resistance, black Americans also contributed to and helped shape the nation. Black slaves contributed greatly to America’s economic development through their forced labor, increasing American wealth, a vital requirement for any new nation, and critical for a nation involved in continual territorial wars with Native tribes, other European colonialists, and the British

crown. Hundreds of African Americans, primarily slaves, served in the army and navy, as laborers, dockhands, cooks, coopers, carpenters, personal servants of officers, and other similar jobs (Salas 2008, 82). Also the over 100,000 free blacks in America worked to free their brethren from bondage by purchasing slaves and permitting them to work their way out of bondage. Free blacks also owned property, started churches, as well as became skilled professionals, like doctors and lawyers (Hughes, Meltzer and Lincoln 1983, 52; Finkelman 2008, 185). So, although white Europeans dominated the New World through violence and literally writing the rules of the game, blacks were not helpless objects, completely at the mercy of white desires and actions. Through resilience, creativity, and unending fortitude, enslaved Africans became black Americans, enriching American cultural, political, and economic development.

### *Limits of the Concept of Genocide*

In many ways the black experience in America can be understood as the conclusion of a genocidal process beginning with the Slave Trade and the Middle Passage. African national patterns were disintegrated through separating families and tribes, ethnic intermingling on the slave ships, and through the physical disconnection from their ancestral homelands. The ethnic intermingling on the slave ships combined with the shared trauma of forced removal actualized the European perception that a black racial identity was a primary bond between African people. The eradication of African national patterns was then finalized through the entrenchment of a common black identity, conversions to Christianity, use of

English, and accepting the authority of the written word and American colonial law. The eradication of African national patterns was also achieved in British North America through population control. The importation of slaves directly from Africa was limited, in favor of natural reproduction, which further distanced black Americans from their African ethnicities, while also entrenching American national patterns. In addition to limited importations from Africa, whites made sure they remained a majority of the population. Numerous scholars acknowledge the depth of the destruction caused by slavery and the slave trade (Chivallon 2011). However, there are a number of ways that the black American experience does not fit within the realm of genocide. The totality of the black experience is too vast to fit within the concept of genocide. This is because genocide is predicated on the assumption of one perpetrator and one target.

Genocide cannot manage multiple perpetrators and multiple targets. Genocide assumes that there is a single unified and identifiable perpetrator attacking a single unified and identifiable target. The Rwandan genocide was a conflict between the Hutu and the Tutsi. The Tasmanian genocide was a conflict between the British and the Aboriginal population. A single perpetrator eradicates or attempts to eradicate a single target. In the black American case, a genocide would involve multiple perpetrators and targets.

The assertion that the first phase of genocide began with the Trans-Atlantic slave trade implicates all slave trading nations - the British, the Portuguese, the Spanish, the Dutch, and African elite - as perpetrators of this phase of genocide. The idea of multiple nations as perpetrators in the same genocide, also poses a problem

for the second phase of genocide. The two-phase model assumes that the nation that carried out the disintegration of the target group's national pattern is the same nation that imposes their national pattern on the cleared territory. This did not happen in the Slave Trade. Except for African elites, who were only involved in the first phase of genocide, each European nation brought slaves to their various colonial holdings, imposing their own national patterns on their imports. Because of this variance in national pattern, the two-phase model would theorize that each colonial project should be considered as a separate and distinct genocide, despite the fact that the first phase of genocide is the same for each genocide. This assumption of singularity also poses a problem for understanding the target group. Genocide assumes the destruction of *one* nation. The slave trade decimated numerous African tribes and nations. Therefore, the Slave Trade not only produced multiple genocides, but the genocide was inflicted on multiple *African* nations, not the black American population.

Genocide cannot manage a shifting perpetrator. The two-phase model of genocide assumes the genocidist nation is an established and largely unchanging entity. In this proposed case of genocide, the genocidist national patterns shift several times. The first national pattern is the British national pattern. In this national pattern, religion and class were the dominant social organizers. Enslaved Africans brought to the British colonies were initially treated as indentured servants and had pathways to gaining their freedom (Finkelman 2008, 43). Black and white indentured servants mixed freely, equally engendering the contempt of the English elite because of their powerless and subordinate social status (Boone 2012, 26). In

the 1660s, the colonies began passing laws that deviated from traditional British socioeconomic norms in favor of racialized social norms, arguably signaling the rise of a new national pattern. In this national pattern, social structure and life conditions became determined by race. The perpetrator national identity shifted again in 1776, when the British colonies declared their independence from Britain and became the United States of America. Despite the new political structure, the “American” national pattern was arguably the British colonial national pattern. America maintained its Protestant religious values, the laws developed under the colonial governments, as well as the strict racialized social structure. This change in the proposed perpetrator’s national identity, from British to British colonial to American, complicates the issue which national pattern was imposed on enslaved Africans and who is to blame for this potential genocide. Should Britain be held responsible for the genocide that produced the black American collectivity, since *at the time* genocide was being perpetrated they were the nation in existence? Or should America be held responsible since this genocidal history is the national origin that they claim?

The perpetrator also shifts in the sense that the victim of one genocide became the perpetrator in another genocide. Black American’s were coopted into the genocide of Native Americans. The territory that would become the United States of America was taken from over 200 Indigenous American tribes. From the perspective of the two-phase model of genocide, the British and other European settlers came into Native American lands and through massacres, disease, and relocation programs removed the Native population from the territory. British

nationals then colonized the land, initiating the second phase of a Native American<sup>14</sup> genocide. British colonization began with British indentured servants. However, to increase the viability and productivity of the colonies, African labor was imported. Through assisting in the survival of the British colonial project, enslaved Africans assisted in the completion of the second phase of genocide against Native tribes.

Enslaved Africans also furthered the eradication of various Native tribes by participating in the militias that fought against the tribes to gain and maintain control over territory. In what is now New York, former slaves were given land grants as compensation for their service in fighting against Native tribes. In 1652 all black slaves were required to receive military training to assist in the defense of the colonies (BlackPast.org 2007), and in South Carolina a measure to arm slaves to assist in the fight against the Cherokees failed by one vote (Zinn 2003, 55). By ensuring the viability, productivity, and security of the colonies, enslaved Africans, the survivors of genocide, assisted in the successful implementation of the second phase of genocide against the indigenous American population.

Genocide is also assumed to happen in one territorial location. Genocide is rooted in the idea of territory. In the two-phase model of genocide this is enshrined in the second phase of genocide, which is characterized by colonization. Said another way, genocide (often) looks like the complete removal of the target group from a delineated geographical location, followed by the creation of the perpetrator's idea of the ideal nation in that same geographical location. "In this

---

<sup>14</sup> Again this is a misnomer because not every Native tribe had a genocidal experience, nor did every Native tribe experience genocide in the same way or from the same perpetrators.

respect genocide is a new technique of occupation aimed at winning the peace even though the war itself is lost” (Lemkin 1944, 81). Native American tribes were removed from most of North America to make way for European colonies. In South Africa the indigenous population was removed to make way for Dutch settlers. In Rwanda, the Tutsi and their Hutu sympathizers were removed from the territory to make way for an ideal Hutu run state. A genocide targeting enslaved Africans has no territorial linkages. There was no attempt to remove enslaved Africans from a specific territory, in service of claiming that territory or colonization of cleared African lands. Enslaved Africans were imported into America to facilitate the establishment and growth of the colonies. Enslaved Africans were not barriers to creating the ideal nation; they were tools to creating the ideal nation.

Genocide also cannot accurately manage the temporality of a black American genocide in two ways. In all definitions of genocide presented here, genocide is considered a one-time process or event. In the proto-type based definition and the U.N. Genocide Convention definition, genocide can only happen once because it is signified by mass killings. In Lemkin’s conceptualization of genocide, the perpetrator nation removes the target group and then colonizes the cleared territory. This process of conquest and colonization might take decades to complete, but it does have a beginning, middle, and end. It is not a reoccurring process. The removal of Africans through the Slave Trade, followed by the imposition of a British American national pattern on the traumatized African imports happened over 500 times between 1619 and 1808, the first arrival of Africans in North America and the



official end of the international slave trade in America.<sup>15</sup> Was each time this process of capture and enslavement enacted an instance of genocide? In addition to the repetitive nature of the enslavement process, the amount of time being considered is significant. Only including the years that the international slave trade was in official operation would mean that this proposed genocide lasted 189 years. At some point it would appear that there is a shift from genocide to assimilation.

Finally, the black experience in America does not fit the label of genocide because it was not completely destructive. Genocide is imagined as a completely destructive process. It is by definition the complete eradication of a national group. In the final section of Lemkin's chapter on genocide, entitled *Recommendations for the Future*, he argues that:

The destruction of a nation, therefore, results in the loss of its future contributions to the world. Moreover such 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).

The moral reprehensibility of genocide is not simply that it is mass murder, but rather the global loss of a culture, a nation, and a unique collective creation (Irvin-Erickson 2013, 289). However, the atrocity experience by enslaved Africans in America is also constructive. It created black Americans and the United States of America. This interpretation forces scholars to acknowledge the creative aspect of genocide. Some genocide scholars have already made this step, acknowledging "that creation and destruction can be complexly braided together in a simultaneous

---

<sup>15</sup> The importation of African slaves was legally banned in America in 1808. However, there was still illegal trading in slaves until the 1830s. Additionally, this law only banned the *international* slave trade. The domestic slave trade was still permitted.

process that enables a positive response from the targets of genocide” (Benvenuto 2014, 210). Black Americans would be a superb example of this idea. It has been suggested that acknowledging the resilience and survival strategies of the target group detract from the claim of genocide, as well as reduces the genocidist’s culpability (McDonnell and Moses 2005). This perspective is only viable when genocide is thought of as mass murder. Through the two-phase model of genocide, the story of resilience and recreation in the face of intentional group destruction speaks to the boundless creativity of humanity and should be lauded. Minimizing this feat is only a tactic employed to hide the moral depravity of the European colonial past.

Evaluating the genocidal nature of the black experience is critical for black and white Americans alike because it disrupts the assumption of the naturalness of racial groupings and hierarchies, reconnects the brutality and damage wrought by the Slave Trade to the experience of black Americans, and black people in the Western Hemisphere more generally. Additionally, reconnecting the black American experience to the slave trade helps genocide scholars more accurately assess what was lost and gained through this genocidal process, and lends valuable insights into the long term psychological impacts of genocide, as well as how target groups survive their genocidal experience.

Based on the two-phase model of genocide, genocide was not perpetrated against black Americans. Rather black Americans are the product of a genocide perpetrated against Africans. Because the two-phase model of genocide is based on the concept of the nation, it immediately highlights the logical error in accepting

black Americans as an organically formed group, exposing “black” as a collective identity imposed on enslaved Africans in the Western Hemisphere by their white captors. Since the black identity is a grouping forced onto enslaved Africans, it is part of the second phase of genocide and is only half of the genocidal story. The first part of the genocidal story is the complete social and cultural destruction of numerous African national patterns through the Trans-Atlantic slave trade. Therefore, black Americans are not the targets of genocide, but rather the survivors of genocide.

### *Implications*

The two-phase model of genocide demonstrates that black Americans were not the targets of genocide, but rather the products of a genocide carried out against enslaved Africans. Therefore, a genocide involving blacks in America was carried out before the formal formation of the United States. What does this mean for America? Placing this conclusion in the historical context of American national development leads to the implication that America was founded on two simultaneous and complementary genocides. It also implies that racial violence is a fundamental aspect of the American national pattern.

America is the result of two genocides. The first genocide is that of the Native American population. This is more accurately described as a series of successive genocides that progressively removed and relocated the over 200 distinct Native American tribes from the North American territory. Different tribes had different experiences with European colonialists. In Connecticut, the Montauks and Mohawks

were forced to support British colonialists in fighting against the Pequot Indians in the Pequot wars, which left only 200 survivors, who were then given to the Mohegans and Narragansetts with the instructions that the survivors “shall no more be called Pequots but Narragansetts and Mohegans” (Madley 2015, 125). Five Native tribes were involved in one war and one tribe, the Pequots, were dissolved and their land colonized, while the others remained. The sixteen million indigenous Americans were reduced to 237,196<sup>16</sup>, a 98.5 percent decline, and their lands turned into the United States of America (Nunpa 2013, 97). As this process of Native removal and colonization began on the east coast of North America, Africans were ripped from their communities and ancestral homelands, enslaved, and forced to accept an American colonial national pattern. In this case the African body was preserved and the African mind was colonized. As stated earlier, the genocide that produced black Americans, also served to facilitate the colonization of Native lands, effectively completing the second phase of a Native genocide. These dual genocides established the thirteen colonies, which would become the United States of America. Therefore, America was founded on two genocides.

This genocidal foundation of America is important for two reasons. The first is that it again points to the creative aspect of genocide. Out of two complementary genocides a new nation was born; a nation that would later spearhead the global proliferation of democracy. But perhaps most importantly acknowledging the genocidal foundation of America recognizes the depth and breadth of destruction and violence endured by indigenous and black people in the creation of America, as

---

<sup>16</sup> As of the 1900 US Census.

well as the violence attached to the nation-building process. Acknowledging America's genocidal foundation begins the process of seriously reckoning with the truth of America's past and present. It also provides a potential explanation into America's failed global nation-building attempts. Acknowledging America's genocidal roots begins to dismantle the historical American narrative that "glorifies the 'peopling' of the 'New World' at the expense of 'feeble barbarians' and 'primitive tribes'" (Hinton 2014, 8). It is these frontier narratives that present genocide as antithetical to America's national character and renders the violence of America's history invisible. America is the country it is today not because of exceptionalism, but because it was willing to destroy countless nations and their people.

Racial violence is a part of America's national pattern. In Faces at the Bottom of the Well, author Derrick Bell asserts, "racism is an integral, permanent, and indestructible component of this [American] society" (1992). Race became the singular factor in determining an individual's economic, political, and social standing in the American national system. In this ladder-like hierarchy, whites were at the top, while blacks were at the bottom. As demonstrated earlier American laws, social norms, and economic system were predicated on and entrenched in white dominance. Challenges to white dominance were met with violence, both physical and psychological. Maintaining white dominance has been a central aspect of American national psychology. Lemkin's two-phase model of genocide has demonstrated how "each institution has embedded, maintained, and enhanced the unjust impoverishment of people of color and the unjust enrichment and privilege for whites" and that "racial oppression is truly part of the bedrock of the United

States, forming part of the country's foundation" (Feagin and Lavelle 2008, 181). No amount of time, or economic progress, will equalize these institutions and systems. Combating American racism and creating a truly equal America, will require nothing less than the fundamental restructuring and recreation of the American national pattern.

### *Further Research*

The scope of this project was limited to North America. It would be interesting to conduct a detailed comparative analysis of the two-phase genocidal process throughout the Western Hemisphere, focusing specifically on the psychological impacts of loss and abuse experienced by enslaved Africans, as well as examining the methods African-Americans used to cope with physical, social, and psychological trauma, and the struggles they had in creating an empowering identity, in an effort to provide insights into the experience of genocide survivors, and expand the discourse around genocide survival and group continuation.

## **CONCLUSION**

*From the perpetrator's perspective, genocide was not genocide; that is, genocide was not the destruction of a 'family of mind' but the creation of new social constellations free of the undesirables; not the killing of innocents but justice delivered to the guilty; not a crime but progress (Irvin-Erickson 2013, 289).*

This thesis set out to understand persistent racial violence in America through the lens of genocide. Race in America is talked about as racism, oppression, or extreme discrimination. This is borne out in Raphael Lemkin's response to William Patterson's charge of genocide in 1951. Lemkin argued that Patterson had inappropriately applied the U.N. Genocide Convention and implied that in no way did the concept of genocide apply to racial violence in America. However, Lemkin's answer was clearly a political maneuver to persuade the American government and public to support the ratification of the U.N. Genocide Convention. Lemkin's unabashed bias and political agenda delegitimize his rebuttal, reopening the possibility that Patterson's indictment was well founded and black Americans were the targets of an American genocide.

In addition to evaluating the genocidal nature of race relations in America, this thesis also sought to expand the understanding of genocide. Although there is a general consensus of *what* genocide is, there is great diversity and disagreement around *how* genocide is carried out.

In answering the question: *Does the violence experienced by black people in America qualify as genocide*, this thesis attempted to re-contextualize race relations in America, as well as contribute to the definitional debate within genocide studies.

Because genocide scholars differ greatly on what constitutes genocide the definition used is critical in assigning the label of genocide to an atrocity. Based on three different definitions of genocide - a prototype based definition, the internationally recognized U.N. Genocide Convention definition, and Lemkin's original two-phase model of genocide- the persistent racial violence in America does *not* qualify as genocide.

However, Lemkin's two-phase model of genocide highlighted two major points. The first point is that black Americans, and every descendant of enslaved Africans in the Western Hemisphere, are the survivors of genocide. The second point is that the violence that is characteristic of American race relations is part of the American national pattern. In other words, racial violence is a part of America's national psychology.



## **BIBLIOGRAPHY**

- Adams, Russell L. *Slave Trade Ideology*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 44-53. New York: Thomson and Gale, 2008.
- Alexander, Michelle. *The New Jim Crow*. New York : The New Press, 2012.
- Alvarez, Alex. *Native America and the Question of Genocide*. New York: Rowman & Littlefield, 2014.
- Amos, Jason, and Henry Louis Gates Jr. *My Slave Ancestors: From Angola?* . Univision Communication Inc. June 21, 2013.  
[http://www.theroot.com/articles/world/2013/06/where\\_did\\_slaves\\_come\\_from\\_in\\_africa\\_angola\\_is\\_one\\_place.html](http://www.theroot.com/articles/world/2013/06/where_did_slaves_come_from_in_africa_angola_is_one_place.html) (accessed Jan 4, 2015).
- Anderson, Mary J., ed. *The Life Writings of Mary Baker McQuesten: Victorian Matriarch*. Waterloo: Wilfrid Laurier University Press , 2004.
- Barta, Tony. "He Whose Interest It Was, Did it: Lemkin's Lost Law of Genocide ." *Global Dialogue* 15, no. 1 (Winter/Spring 2013).
- Baum, Robert M. *Shrines of the Slave Trade: Diola Religion and Society in Precolonial Senegambia*. New York : Oxford University Press , 1999.
- Bell, Derrick A. *Faces at the Bottom of the Well: The Permanence of Racism* . New York , NY: Basic Books , 1992.
- Benvenuto, Jeff. "Revisiting Choctaw Ethnocide and Ethnogenesis: The Creative Destruction of Colonial Genocide." In *Colonial Genocide in Indigenous North America*, edited by Andrew Woolford, Jeff Benvenuto and Alexander Laban Hinton. Durham: Duke University, 2014.
- BlackPast.org. *African American History Timeline*. 2007-15.  
<http://www.blackpast.org/timelines/african-american-history-timeline-1700-1800>  
 (accessed Sep 15, 2014).
- . *African American Timeline 1600-1700*. 2007.  
<http://www.blackpast.org/timelines/african-american-history-timeline-1600-1700>  
 (accessed Sep 15, 2014).
- Blee, Kathleen M. "Racial Violence in the United States." *Ethnic and Racial Studies* (Routledge) 28, no. 4 (2005): 599-619.
- Bonilla-Silva, Eduardo. *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*. New York , NY, 2003.

- Boone, Sherle L. *Meanings Beneath Skin: The Evolution of African-Americans*. New York, NY: Rowman & Littlefield Publishers, 2012.
- Bouie, Jamelle. "Violence and Economic Mobility in the Jim Crow South." *The Nation*, Jul 29, 2011.
- Candido, Mariana P., Yacine Daddi Addoun, and Paul E. Lovejoy. *Slavery and Race*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 60-66. New York, NY: Thomson & Gale, 2008.
- Chivallon, Christine. *The Black Diaspora of the Americas: Experiences and Theories out of the Caribbean*. Kingston: Ian Randle Publishers, 2011.
- Chua, Amy. *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability*. New York, NY: Anchor Books.
- Coates, Ta-Nehisi. "How Racism Invented Race in America." *The Atlantic*. Jul 2014. [http://www.theatlantic.com/politics/archive/2014/06/the-case-for-reparations-a-narrative-bibliography/372000/?single\\_page=true](http://www.theatlantic.com/politics/archive/2014/06/the-case-for-reparations-a-narrative-bibliography/372000/?single_page=true) (accessed Jul 14, 2014).
- . "The Case for Reparations." *The Atlantic*. May 2014. <http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/> (accessed Jul 14, 2014).
- Costa Vargas, Joao H. "Hyperconsciousness of Race and its Negation: The Dialectic of White Supremacy in Brazil." *Identities* 11, no. 4 (2004): 443-470.
- Degler, Carl. *Pivotal Interpretations of America History*. Vol. 1. New York, NY: Harper Torchbooks, 1966.
- Dictionary.com. *Dictionary.com*. Random House, Inc. 2016. <http://dictionary.reference.com/browse/denationalize> (accessed Jan 26, 2015).
- Docker, John. "Raphael Lemkin, Creator of the Concept of Genocide: A World History Perspective." *Humanities Research* 16, no. 2 (2010): 49-74.
- Drake, Bruce. "Incarceration Gap Widens Between Whites and Blacks." *Pew Research Center*. Sep 2013. <http://www.pewresearch.org/fact-tank/2013/09/06/incarceration-gap-between-whites-and-blacks-widens/> (accessed Aug 15, 2014).
- Emory University. *The Trans-Atlantic Slave Trade Database - Voyages*. Emory University. 2013. <http://www.slavevoyages.org/voyage/search> (accessed Jan 12, 2015).
- Feagin, Joe R. *The White Racial Frame: Centuries of Racial Framing and Counter-Framing*. New York, NY: Routledge, 2010.

- Feagin, Joe R., and Kristen M. Lavelle. *Institutional Racism* . Vol. 1, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 180-3. New York , NY: Thomson & Gale, 2008.
- Finkelman, Paul. *Black Codes*. Vol. 1, in *Encyclopedia of Race & Racism*, edited by John Hartwell Moore, 185-9. New York, NY: Thomson & Gale, 2008.
- Finkelman, Paul. *Slave Codes* . Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 42-44. New York , NY: Thomson & Gale , 2008.
- Freeman, Harold P. "Why Black Women Die of Cancer." *The New York Times*, Mar 13, 2014.
- Gellately, Robert, and Ben Kiernan. *The Specter of Genocide: Mass Murder in Historical Perspective*. New York, NY: Cambridge University Press, 2003.
- Gone, Joseph P. "Colonial Genocide and Historical Trauma in Native North America: Complicating Contemporary Attributions." In *Colonial Genocide in Indigenous North America*, translated by Jeff Benvenuto, Alexander Hinton and Andrew Woolford, 273-89. Durham, NC: Duke University Press, 2014.
- Gordon, Joy. "When Intent Makes All the Difference in the World: Economic Sanctions on Iraq and the Accusation of Genocide." *Yale Human Rights and Development Law Journal* 5 (2002): 57-84.
- Greenawalt, Alexander K.A. "Rethinking Genocidal Intent: The Case or a Knowledge-Based Interpretation." *Columbia Law Review* 99, no. 8 (Dec 1999): 2259-2294.
- Harris, Scott R. *Social Problems*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 71-4. New York , NY: Thomson & Gale, 2008.
- Hinton, Alexander. "Afterword." In *Colonial Genocide in Indigenous North America*, edited by Jeff Benevenuto, Alexander Hinton and Andrew Woolford, 325-32. Durham, NC: Duke University Press , 2014.
- Hughes, Langston, Milton Meltzer, and C. Eric Lincoln. *A Pictorial History of Black Americans* . 5th Revised Edition. New York, NY: Crown Publishers, 1983.
- Ignatiev, Noel. *Irish Americans and Whiteness*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 199-202. New York , NY : Thomson & Gale, 2008.
- Imperial Palace, Invisible Empire Knights of the Ku Klux Klan . *Constitution of the Knights of the Ku Klux Klan* . Atlanta, GA: Knights of the Ku Klux Klan Inc., 1921.
- Irvin-Erickson, Douglas. "Genocide, the 'Family of Mind' and the Romantic Signature of Raphael Lemkin." *Journal of Genocide Research* (Routledge) 15, no. 3 (2013): 273-296.

Ku Klux Klan. *Ideals of the Ku Klux Klan*. PDF . MSU Libraries . 1940.

Lawrence III, Charles R. "The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism." *Stanford Law Review* 39, no. 2 (Jan 1987): 317-88.

Lemkin, Raphael. "Axis Rule in Occupied Europe: Laws of Occupation - Analysis of Government - Proposals for Redress." *Prevent Genocide*. 1944.  
<http://www.preventgenocide.org/lemkin/AxisRule1944-1.htm> (accessed June 6, 2014).

—. "Genocide - A Modern Crime." *Prevent Genocide International* . Jun 1, 2000.  
<http://www.preventgenocide.org/lemkin/freeworld1945.htm> (accessed Sep 15, 2014).

Lemkin, Raphael. "Genocide." *American Scholar* 15, no. 2 (April 1946): 227-230.

Lemkin, Raphael. "Tasmania." Edited by Ann Curthoys. *Patterns of Prejudice* (Routledge) 39, no. 2 (2005): 170-196.

—. "Nature of Genocide - Confusion with Discrimination Against Individuals Seen." *The New York Times*, Jun 14, 1953: 149.

Lemkin, Raphael. "The Project." In *Lemkin on Genocide*, edited by Steven Leonard Jacobs, 3-53. New York , NY: Lexington Books, 2012.

—. *Totally Unofficial: The Autobiography of Raphael Lemkin*. Edited by Donna-Lee Frieze. New York: Yale University Press, 2013.

Lippman, Matthew. "The Convention on the Prevention and Punishment of the Crime of Genocide: Fifty Years Later." *Arizona Journal of International and Comparative Law* 15 (Spring 1998): 415-514.

Lobban Jr., Richard A. *Slavery, Racial* . Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 53-60. New York , NY: Thomson & Gale, 2008.

Madley, Benjamin. "Reexamining the American Genocide Debate: Meaning, Historiography, and New Methods." *American Historical Review*, Feb 2015: 98-139.

Mann, Michael. *The Dark Side of Democracy: Explaining Ethnic Cleansing* . New York , NY : Cambridge University Press , 2009.

McDonnell, Michael A., and Dirk A. Moses. "Raphael Lemkin as Historian of Genocide in the Americas." *Journal of Genocide Research* (Routledge) 7, no. 4 (December 2005): 501-529.

Merriam Webster. *Racism*. 2015. <http://www.merriam-webster.com/dictionary/racism> (accessed Dec 15, 2014).

- Minister of Citizenship and Immigration v. Mugesera et al.* . 30025 (Supreme Court of Canada, Quebec Jun 28, 2005).
- Mintz, Sidney W., and Richard Price. *The Birth of African American Culture: An Anthropological Perspective*. Boston: Beacon Press, 1976.
- Mintz, Steven. *Facts about the Slave Trade and Slavery*.  
<http://www.gilderlehrman.org/history-by-era/slavery-and-anti-slavery/resources/facts-about-slave-trade-and-slavery> (accessed April 24, 2014).
- Moses, A. Dirk. "Lemkin, Culture, and the Concept of Genocide." In *The Oxford Handbook of Genocide Studies*, edited by Donald Bloxham and A. Dirk Moses, 19-41. New York , NY : Oxford University Press, 2013.
- Moshman, David. "Conceptual Constraints on Thinking About Genocide." *Journal of Genocide Research* 3, no. 3 (2001): 431-450.
- National Association for the Advancement of Colored People. "Criminal Justice Fact Sheet." *NAACP*. <http://www.naacp.org/pages/criminal-justice-fact-sheet> (accessed Aug 15, 2014).
- Northup, Solomon. *Twelve Years a Slave*. New York , NY : Penguin, 1808.
- Nunpa, Chris Mato. "Historical Amnesia: The 'Hidden Genocide' and Destruction of the Indigenous People of the United States." In *Hidden Genocides*, edited by Douglas Irvin-Erickson and Alexander Hinton, 96-108. 2013.
- Owens, Maida. *Louisiana's Traditional Cultures: An Overview*. 1999.  
[http://www.louisianafolklife.org/LT/Maidas\\_Essay/main\\_introduction\\_onepage.html](http://www.louisianafolklife.org/LT/Maidas_Essay/main_introduction_onepage.html) (accessed Jan 4, 2014).
- Painter, Nell Irvin. *Creating Black Americans: African American History and its Meaning, 1619 to the Present*. New York, NY: Oxford University Press, 2006.
- . *The History of White People* . New York , NY: W.W. Norton & Company, 2010.
- Patterson, William. *We Charge Genocide*. New York , NY: Civil Rights Congress , 1951.
- Polgar, Paul J. "To Raise Them to an Equal Participation: Early National Abolitionism, Gradual Emancipation, and the Promise of African American Citizenship." *Journal of the Early Republic* 31, no. Summer (2011): 229-258.
- Powell, Christopher. "What Do Genocides Kill? A relational conception of genocide." *Journal of Genocide Research* (Routledge: Taylor and Francis Group) 9, no. 4 (Dec 2007): 527-547.
- Powell, Kevin. "The Fatal Racism that Shot Darius Simmons to Death ." *The Guardian*, Jun 11, 2012.

- Quillian, Lincoln. "Does Unconscious Racism Exist." *Social Psychology Quarterly* 71, no. 1 (2008): 6-11.
- Rastogi, Sonya, Tallese D. Johnson, Elizabeth M. Hoeffel, and Malcolm P. Drewery Jr. "Publications ." *United States Census Bureau*. Sep 2011.  
<http://www.census.gov/content/dam/Census/library/publications/2011/dec/c2010br-06.pdf> (accessed April 12, 2015).
- Reiss, Oscar. *Blacks in Colonial America*. NC: McFarland & Company, Inc. , 1997.
- Salas, Elizabeth. *Soldiers of Color*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John Hartwell Moore, 81-85. New York , NY, 2008.
- Sartre, Jean-Paul. "On Genocide." *Ramparts Magazine*, Feb 1968.
- Schabas, William. *Genocide in International Law: The Crimes of Crimes* . Cambridge: Cambridge University Press, 2000.
- Schaller, Dominik J. "Raphael Lemkin's View of European Colonial Rule in Africa: Between Condemnation and Admiration." *Journal of Genocide Research* 7, no. 4 (2005): 531-538.
- Smedley, Audrey, and Brian Smedley. *Race in North America: The Origin and Evolution of a Worldview*. 4th Edition. New York , NY : Westview Press, 2011.
- Sullivan, Megan. "African-American Music as Rebellion: From Slavesong to Hip-hop." *Cornell University*. 2001.  
[http://www.arts.cornell.edu/knight\\_institute/publicationsprizes/discoveries/discoveriespring2001/03sullivan.pdf](http://www.arts.cornell.edu/knight_institute/publicationsprizes/discoveries/discoveriespring2001/03sullivan.pdf) (accessed Sep 5, 2014).
- The Gilder Lehrman Center. *Facts About the Slave Trade and Slavery*. 2015.  
<https://www.gilderlehrman.org/history-by-era/slavery-and-anti-slavery/resources/facts-about-slave-trade-and-slavery> (accessed Sep 5, 2014).
- The United Nations . "The Convention on the Prevention and Punishment of the Crime of Genocide." *The United Nations* . Dec 9, 1948.  
<https://treaties.un.org/doc/Publication/UNTS/Volume%2078/volume-78-I-1021-English.pdf> (accessed Jun 5, 2014).
- Truth, Sojourner. *Narrative of Sojourner Truth*. Reprint Edition. New York , NY: Penguin Classics, 1998.
- "U.S. Constitution." *Yale University*. 1861.  
[http://avalon.law.yale.edu/18th\\_century/usconst.asp](http://avalon.law.yale.edu/18th_century/usconst.asp) (accessed Sep 3, 2014).
- United States Constitutional Convention. *Notes of Debates in the Federal Convention of 1787*. Edited by James Madison. Athens, OH: Ohio University, 1984.

van Wees, Hans. "Genocide in the Ancient World." In *The Oxford Handbook of Genocide Studies*, edited by Donald Bloxham and A. Dirk Moses, 239-258. New York, NY: Oxford University Press, 2010.

Walker, David. "David Walker's Appeal to the Coloured Citizens of the World." *PBS*. <http://www.pbs.org/wgbh/aia/part4/4h2931t.html> (accessed Aug 30, 2014).

Wimmer, Andreas. *National Exclusion and Ethnic Conflict Shadows of Modernity*. New York, NY: Cambridge University Press.

Wood, Peter H. *Turner, Nat 1800-1831*. Vol. 3, in *Encyclopedia of Race and Racism*, edited by John H. Moore, 171-2. New York : Macmillan Reference USA/Thomson Gale, 2008.

Yanagizawa-Drott, David. "Research." *Harvard University*. Harvard University. August 2014. <http://www.hks.harvard.edu/fs/dyanagi/Research/RwandaDYD.pdf> (accessed April 2, 2015).

Zinn, Howard. *A People's History of the United States*. New York, NY: W.W. Norton Press, 2003.