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978-0-521-82441-5 - Reducing Genocide to Law: Definition, Meaning, and the Ultimate Crime

Payam Akhavan

Excerpt

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1 The power of a word

On 19 January 2007, at about noon, Hrant Dink left his office to walk through the bustling streets of Istanbul. Dink was chief editor of *Agos*, an Armenian weekly newspaper. He was a courageous voice for Turkey's dwindling Armenian community, the descendants of those few that remained after the mass murder and deportations of 1915–17. Dink wrote of the constant threats against him by hateful nationalists and how he had thought about leaving the country. But, for him, staying was necessary “out of respect to the thousands of friends in Turkey [who] struggled for democracy and who supported us. We were going to stay and we were going to resist.” Alluding to the recurring trauma of exile, he asked: “If we were forced to leave one day, however, [what then]? We were going to set out just as in 1915? Like our ancestors? Without knowing where we were going? Walking the roads they walked? Feeling the ordeal, experiencing the pain? With such a reproach we were going to leave our homeland. And we would go where our feet took us, but not our hearts.” As Dink walked through Istanbul's streets that day, 17-year-old Ogun Samast approached him from behind and shot him three times in the head.¹

What motivated this shocking murder?

The culprit was captured shortly afterward with the murder weapon in hand and confessed.² He had never met Dink. The unrepentant youth explained: “I read on the Internet that [Dink] said ‘I am from Turkey but Turkish blood is dirty’ and I decided to kill him ... I do not

¹ For an overview, see European Court of Human Rights, *Affaire Dink c. Turquie*, Arrêt, Requêtes nos. 2668/07, 6102/08, 30079/08, 7072/09 et 7124/09 (14 September 2010).

² “Armenian Editor Is Slain in Turkey,” *New York Times*, 20 January 2007.

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2 THE POWER OF A WORD

regret this.”³ This misconception was based on Dink’s earlier conviction by a Turkish court for “insulting Turkishness” under Article 301 of the Turkish Penal Code. His crime? Using the word *genocide* to describe the atrocities of 1915.

How could one word have set this chain of events in motion? Taner Akçam, a Turkish scholar and close friend of Dink, pointed to the irony that, throughout his career, Dink himself had diligently avoided using the dreaded *g* word, preferring to recount the story of his people rather than dwelling on abstract labels. He understood its power. As Akçam recounted in an editorial published in *Agos* prior to the murder:

Just look at [Dink’s] writings, look at his talks. You won’t find one single instance of the word “genocide,” because he never used it. Anytime he was asked if a genocide took place or not, he’d crack a smile. He didn’t place a whole lot of importance on which word was necessary to describe what happened. “You call it what you want,” he would say. “I know what happened to my people.”

I don’t recall Hrant ever took an interest in the legal label for the events of 1915. That side of the issue didn’t concern him; the human side did. From what I can remember, he even wrote on the subject. “A nation which once lived here is no more. It was pulled out by its roots, like a tree. Their lives here were ended. I can’t put into words this human tragedy, this ending of a life.” It was words like this that came out of him.

The real question for Hrant, his primary concern, was never about what happened. It was about how to construct a positive future after all the negativity we’ve seen. I know from our private conversations that he preferred to stay away from the word “genocide” because of the tension it created and because it didn’t do very much to resolve the problem.⁴

Apparently, Dink’s fatal error occurred when he was pressed in a television interview to respond either “yes” or “no” to whether he thought the events of 1915–17 constituted “genocide.” The usually cautious Dink reluctantly admitted that he thought they did. Such was his “crime,” one that culminated in his brutal murder.

Sometime in 2003, President George W. Bush was sent a summary of Samantha Power’s book, *“A Problem from Hell”: America and the Age of Genocide*.⁵ This stinging condemnation of the United States’ inaction in

³ “Armenian Editor Killed for Insulting Turks – Report,” *Reuters*, 21 January 2007, www.reuters.com/article/idUSL21636786.

⁴ Taner Akçam, “Hrant Dink, 301 and a Criminal Complaint,” *Agos*, 6 October 2006 [in Turkish].

⁵ Samantha Power, *“A Problem from Hell”: America and the Age of Genocide* (New York: HarperCollins, 2002).

the face of mass murder throughout the twentieth century details in one chapter the absurd contortions of the administration of President Bill Clinton to avoid using the word “genocide” to describe the unfolding extermination campaign against the Rwandan Tutsis in 1994. In a notorious incident the US State Department spokeswoman Christine Shelly found herself in the ludicrous position of admitting in response to media questions that “acts of genocide” may have taken place though she adamantly refused to characterize the overall situation as a “genocide.”⁶ A senior administration official explained that this “semantic squirm” was required because “[g]enocide is a word that carries an enormous amount of responsibility.”⁷ It has been reported that, in the margins of Power’s book, Bush penned in large letters “NOT ON MY WATCH.”⁸

Some might think that Bush meant he would never again allow the United States to stand idly by as a genocide unfolded, even in a remote African nation where Americans had little interest. But early in 2004, as it became increasingly clear that the events in Darfur, Sudan, constituted a slow-motion annihilation of an entire people, the United States took no concrete action. The Bush administration did, however, improve on the Clinton era in one respect: It proved willing early on to use the word *genocide* to describe the situation. During a visit to the region in September 2004, Secretary of State Colin Powell became the first senior government official of a major power to call the killings in Darfur “genocide.”⁹ Three months later, the US Congress passed a resolution accusing the government of Sudan of an “orchestrated campaign of genocide in Darfur.”¹⁰

Little was done, however, to effectively halt the ongoing atrocities in Darfur. It is difficult to tell whether this newfound taxonomical accuracy is an improvement. Is it better to not call a genocide “genocide” and do nothing, or is it better to call a genocide “genocide” and still do nothing? As events unfolded, much controversy arose concerning the use of the *g* word itself, but not concerning the everyday horrors confronted by the victims in Sudan.

⁶ Peter Ronayne, *Never Again? The United States and the Prevention and Punishment of Genocide Since the Holocaust* (New York: Rowman & Littlefield, 2001), 74.

⁷ *Ibid.*, 174.

⁸ Samantha Power, “Genocide and America,” *New York Review of Books*, 14 March 2002.

⁹ “Powell Calls Sudan Killings Genocide,” CNN, 9 September 2004, www.cnn.com/2004/WORLD/Africa/09/09/sudan.powell/.

¹⁰ Comprehensive Peace in Sudan Act of 2004, Pub. L. No. 108-497, 118 Stat. 4012.

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In December 2004, amidst the diplomatic storm following United States accusations of genocide, the United Nations Security Council sent a high-level panel to Darfur in order to ascertain the facts and determine whether genocide had been committed. The commission of inquiry, headed by eminent Italian jurist Antonio Cassese, concluded that the balance of evidence did not point toward a specific genocidal intent on the part of the Sudanese government.¹¹ The controversy surrounding this finding eclipsed the commission's other conclusion that, irrespective of legal classification, "massive atrocities were perpetrated on a very large scale,"¹² including the destruction of entire villages, mass killings and rape, and widespread forced displacement:

[T]he people of Darfur have suffered enormously during the last few years. Their ordeal must remain at the centre of international attention. They have been living a nightmare of violence and abuse that has stripped them of the very little they had. Thousands were killed, women were raped, villages were burned, homes destroyed, and belongings looted. About 1.8 million were forcibly displaced and became refugees or internally-displaced persons. They need protection.¹³

The commission went to great lengths to stress that its conclusion on the lack of genocidal intent "should not be taken in any way as detracting from the gravity of the crimes perpetrated in that region. International offences such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide."¹⁴ All these subtle admonitions and legal qualifications fell on deaf ears, with newspapers blaring headlines such as "UN Clears Sudan of Genocide in Darfur" and "UN Confusion as Sudan Conflict Is No Longer 'Genocide.'"¹⁵ When, in 2009, a pretrial chamber of the International Criminal Court (ICC) refused to issue an arrest warrant on charges of genocide against Sudanese president Omar Al-Bashir,¹⁶ the controversy deepened further (although the ICC Appeals Chamber ultimately reversed that decision).¹⁷

¹¹ *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General Pursuant to Security Council Resolution 1564 of 18 September 2004* (25 January 2005), www.un.org/news/dh/sudan/com_inq_darfur.pdf.

¹² *Ibid.*, para. 642. ¹³ *Ibid.*, para. 626. ¹⁴ *Ibid.*, 4.

¹⁵ David Luban, "Calling Genocide by Its Rightful Name: Lemkin's Word, Darfur, and the UN Report," *Chicago Journal of International Law* 7 (2006): 303, 304.

¹⁶ *Prosecutor v. Omar Hassan Ahmad Al Bashir*, Decision on the Prosecution's Application for a Warrant of Arrest Against Omar Hassan Ahmad Al Bashir (Pre-trial Chamber I, International Criminal Court, 4 March 2009).

¹⁷ *Prosecutor v. Omar Hassan Ahmad Al Bashir*, Judgment on the Appeal of the Prosecutor Against the "Decision on the Prosecution's Application for a Warrant of Arrest

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[More information](#)

And so, as the immense suffering continued unabated in Darfur, international commissions were established, decisions were rendered, politicians expounded, and jurists and scholars debated whether the horrors of Darfur met the technical definition of genocide. Meanwhile, the “nightmare of violence” continued, unchanged by the word by which it was (or was not) called.

When Russia invaded Georgia in August 2008, the g word was a prominent feature of the propaganda war. This conflict was fueled by a long history of discord – in particular, by Russia’s support of ethnic separatists in northern Georgia as a means of destabilizing a former Soviet satellite turned NATO ally. Russia originally justified its invasion by accusing Georgia of “genocide.” It was claimed that, in a brief military operation against ethnic Ossetian separatists, Georgian forces had slaughtered over 2,000 civilians in the city of Tskhinvali.¹⁸ The Russian ambassador to the United Nations even compared the situation to the massacres at Srebrenica.¹⁹ *Pravda* claimed that “Georgian troops” had locked Ossetian refugees in a house “and set the house on fire, burning all the people inside alive.”²⁰ Prime Minister Vladimir Putin himself declared that “in one hour” Georgia “wiped ten Ossetian villages from the face of the earth” and that Georgia “used tanks to knock down children and the elderly” and “burnt civilians alive.”²¹ Russia’s foreign minister, Sergei Lavrov, invoked the “responsibility to protect” in justifying the armed attack, claiming that Russia was acting only to “protect the life and dignity of Russian citizens”²² (most residents of South Ossetia, the affected region of Georgia, had been granted Russian citizenship).

against Omar Hassan Ahmad Al Bashir,” Appeals Chamber, International Criminal Court, 3 February 2010).

¹⁸ Sarah E. Mendelson, “An August War in the Caucasus,” *Center for Strategic and International Studies – Critical Questions*, 11 August 2008, csis.org/publication/august-war-caucasus.

¹⁹ *Ibid.*

²⁰ “Georgian Troops Burn South Ossetian Refugees Alive,” *Pravda*, 10 August 2008 [in Russian]. Likewise, *Russia Today*, the pro-Kremlin cable news channel, continuously ran the headline “Ossetia Genocide.”

²¹ “Russia Launches Genocide Probe over S. Ossetia Events,” *RIA: Novosti*, 14 August 2008 [in Russian].

²² Ministry of Foreign Affairs of the Russian Federation, *Interview by Minister of Foreign Affairs of the Russian Federation Sergey Lavrov to BBC*, Moscow (9 August 2008), www.in.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/f87a3fb7a7f669ebc32574a100262597?OpenDocument; see also International Crisis Group, *Russia vs. Georgia: The Fallout* (Europe Report No. 195, 22 August 2008), 28.

These inflammatory accusations turned out to be wholly false. Indeed, Russia later acknowledged that the number of casualties it had previously reported was vastly inflated and that there were only 133 combat deaths, as confirmed by Amnesty International.²³ Investigations by Human Rights Watch also found no evidence to substantiate the alleged atrocities.²⁴

The false accusation of “genocide” was used as the initial cover for a Russian invasion at a time when few in the international community knew what was actually happening on the ground. By invoking the word *genocide*, Russia incited South Ossetian militants who, relying on reports of the mass murder of their people, then engaged in a campaign of ethnic cleansing against a population of 138,000 Georgians.²⁵ A Human Rights Watch observer in South Ossetia reported that enraged Ossetians referred to reports by “Russian federal TV channels” about “thousands of civilian casualties” to “justif[y] the torching and looting of the ethnic Georgian enclave villages.”²⁶

These examples reflect the power of the genocide label, which is variously a pretext for murder (as in the story of Hrant Dink), inaction (as in Rwanda and Darfur), and war (as in the Russian invasion of Georgia). Yet it is a label that first emerged in the pursuit of justice and human betterment following the unprecedented horrors of Nazi Germany. How is it that an abstract juridical term that entered our vocabulary only in recent history can wield so much influence, incite so much emotion, and consume so much energy? What accounts for its perception as the ultimate crime?

The story begins with Polish jurist Raphaël Lemkin, a man who lost almost his entire family in the Holocaust. Bewildered by the enormity of the Nazi death machine, British prime minister Winston Churchill had referred to the “Final Solution” as “the crime without a name.”²⁷ It was Lemkin who put a name to this nameless crime by coining the term *genocide*. In *Axis Rule in Occupied Europe*, which he completed in 1943 during his exile in the United States, he wrote that “[n]ew conceptions

²³ Amnesty International, *Civilians in the Line of Fire* (2008), 65 (citing “Death Toll in South Ossetia a Tenth of Initial Russian Claims,” *Australian*, 22 August 2008).

²⁴ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia* (2009), 71–73.

²⁵ Amnesty International, *Civilians in the Aftermath of War: Georgia–Russia One Year After* (7 August 2009) (based on UNHCR data).

²⁶ Human Rights Watch, *Up in Flames*, 74.

²⁷ Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (London: Penguin, 1981), 12.

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require new terms.” He used *genocide* to refer to “the destruction of a national or of an ethnic group. This new word ... is made from the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing), thus corresponding in its formation to such words as tyrannicide, homicide, infanticide, etc.”²⁸

Lemkin made genocide into a coherent, manageable concept, and the postwar consensus against Nazi crimes provided the political will to adopt an international treaty. Thanks largely to Lemkin’s tireless lobbying efforts, on 9 December 1948 the UN General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide. The assembly president, Herbert Evatt of Australia, triumphantly announced that “the supremacy of international law had been proclaimed and a significant advance had been made in the development of international criminal law.”²⁹ But this euphoria was not shared by the likes of Hartley Shawcross, the illustrious British prosecutor at Nuremberg, who considered the term *genocide* superfluous. It was, he claimed, “already generally recognized as a crime punishable by law and was simply a new word to describe a particular form of murder ... While making no significant contribution to international law ... [the convention] might delude people into thinking that some great step forward had been taken whereas in reality nothing at all had been changed.”³⁰ In 1955, the eminent jurist Hersch Lauterpacht remarked that, “to a considerable extent, the Convention amounts to a registration of protest against past misdeeds of individual savagery rather than to an effective instrument of their prevention or repression.”³¹ This portentous sentiment proved to be right. Despite the convention’s forceful condemnation of genocide, it would have little impact on the sordid Cold War culture of impunity that followed.

The twentieth century, called by some the “Century of Genocide,”³² nearly ended without a single conviction for the “ultimate crime.”

²⁸ Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 79.

²⁹ UN GAOR, 3rd Sess., 19th plen. mtg. at 852, UN Doc. A/PV.179 (1948).

³⁰ UN GAOR, 3rd Sess., 6th Cmte., 64th mtg., UN Doc. A/C.6/SR.64 (1948); Hiram Abtahi and Philippa Webb, eds., *The Genocide Convention: The Travaux Préparatoires*, vol. II (Leiden and Boston: Martinus Nijhoff, 2008), 1307.

³¹ Lassa Oppenheim, *International Law: A Treatise*, vol. I, 8th edn., ed. Hersch Lauterpacht (London: Longman, 1955), 75.

³² See, for example, Samuel Totten, William Parsons, and Israel Charny, eds., *Century of Genocide: Critical Essays and Eyewitness Accounts* (New York: Routledge, 2004).

But on 2 September 1998, exactly half a century after the convention was adopted, the Senegalese judge Laity Kama of the International Criminal Tribunal for Rwanda (ICTR) issued the following conviction against a Rwandan mayor who had organized the systematic rape of Tutsi women: “The accused, Jean-Paul Akayesu, you are declared guilty of genocide.”³³ The decision was hailed by UN secretary-general Kofi Annan as “a landmark decision in the history of international criminal law ... [that] brings to life, for the first time, the ideals of the Genocide Convention.”³⁴

Since then, jurisprudence and commentary on genocide have proliferated on the international stage, and this “crime of crimes” has gripped the imagination of many concerned with the progress of humankind. At the International Criminal Tribunal for the former Yugoslavia (ICTY), two men have been found guilty of aiding and abetting genocide,³⁵ and two others for committing genocide,³⁶ all in relation to the massacre at Srebrenica. Another two men, Radovan Karadžić and Ratko Mladić, are currently on trial for genocide.³⁷ In addition, the War Crimes Chamber in Bosnia-Herzegovina, based in Sarajevo, has found nine individuals guilty of genocide,³⁸ and a further four convictions have been rendered in German courts.³⁹ Beyond criminal law, the Bosnian genocide has received judicial treatment in civil suits before

³³ Power, “A Problem from Hell,” 486; see Akayesu, Trial Judgement (ICTR, 2 September 1998). Shortly thereafter, on 14 December 1999, the International Criminal Tribunal for the former Yugoslavia rendered its first judgment on the crime of genocide in the *Jelisić* case, although the accused was acquitted in this instance: Jelisić, Trial Judgement (ICTY, 14 December 1999).

³⁴ *Statement by the UN Secretary-General Kofi Annan on the Occasion of the Announcement of the First Judgment in a Case of Genocide by the International Criminal Tribunal for Rwanda*, UN Doc. PR/10/98/UNIC (1998).

³⁵ Krstić, Appeals Judgement (ICTY, 19 April 2004). The second individual is Drago Nikolić, one of the seven accused in the *Popović* case (see n. 36).

³⁶ Popović, Trial Judgement (ICTY, 10 June 2010).

³⁷ See International Criminal Tribunal for the former Yugoslavia, *The Cases*, www.icty.org/action/cases/4.

³⁸ See Court of Bosnia-Herzegovina, *Verdicts of Section I*, www.sudbih.gov.ba/?opcija=sve_presude&odjel=1&jezik=e. A number of other trials have taken place in lower Bosnian courts. See Human Rights Watch, *Still Waiting: Bringing Justice for War Crimes, Crimes Against Humanity, and Genocide in Bosnia and Herzegovina's Cantonal and District Courts* (July 2008).

³⁹ Nikola Jorgić, Federal Constitutional Court, 2BvR 1290/99, 12 December 2000; Novislav Djajić, Bavarian Appeals Court, 23 May 1997, 3 St 20/96 (both are cited in Krstić, Trial Judgement [ICTY, 2 August 2001], para. 589). The two others are Maksim Sokolović, Bundesgerichtshof, Third Criminal Senate, 21 February 2001, 3 StR 372/00; Đurađ Kušljic, Bundesgerichtshof, 21 February 2001, 3 StR 244/00.

American and Dutch courts,⁴⁰ as well as the landmark 2007 case of the International Court of Justice (ICJ) in the *Bosnia v. Serbia* case (finding Serbia responsible for failing to prevent genocide in Srebrenica).⁴¹ With respect to the Rwandan genocide, the ICTR has convicted thirty-six individuals of genocide or incitement to genocide,⁴² and thousands of additional cases are the subject of domestic proceedings in Rwanda before the traditional *gacaca* courts.⁴³ Rwandan *génocidaires* have also been convicted in domestic courts in other countries, including Canada⁴⁴ and Belgium.⁴⁵ The ICC has yet to prosecute anyone for genocide, although it has issued an arrest warrant on such charges against President Omar Al-Bashir of Sudan. There are also four defendants accused of genocide in trials before the Extraordinary Chambers of the Courts of Cambodia.⁴⁶ Several other lesser-known genocide trials, of varying success and credibility, have taken place in various domestic jurisdictions in recent decades.

This prolific jurisprudence has infused the Genocide Convention with an unprecedented vitality and relevance that would have been unimaginable until the past decade or so. What was dismissed for so long as a merely symbolic condemnation of Nazi crimes has been transformed into the normative foundation for a burgeoning corpus of international criminal law, arousing the keen interest of academics and practitioners alike. Scholarship on the legal aspects of genocide, dormant for many years, has experienced a resurgence as courts continue to explore the legal complexities of genocide, providing ample material for academic analysis and debate.⁴⁷

⁴⁰ *Doe v. Karadžić*, No. 93 Civ. 878 (S.D.N.Y.); *Kadić v. Karadžić*, No. 93 Civ. 1163 (S.D.N.Y.); see also Mike Corder, "Dutch Court Upholds UN Immunity in Srebrenica Case," Associated Press, 30 March 2010.

⁴¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (International Court of Justice, 26 February 2007).

⁴² See International Criminal Tribunal for Rwanda, *Status of Cases*, <http://69.94.11.53/ENGLISH/cases/status.htm>.

⁴³ Human Rights Watch, *Law and Reality: Progress in Judicial Reform in Rwanda* (2008).

⁴⁴ *R. v. Munyaneza*, 2009 QCCS 2201 (22 May 2009).

⁴⁵ "Rwandans Sentenced over Genocide," *BBC News*, 29 June 2005, news.bbc.co.uk/2/hi/africa/4635637.stm.

⁴⁶ See Extraordinary Chambers in the Courts of Cambodia, *Case Information*, www.eccc.gov.kh/english/case002.aspx.

⁴⁷ The leading scholarly works include William Schabas, *Genocide in International Law: The Crime of Crimes*, 2nd edn. (Cambridge: Cambridge University Press, 2009); Larry May, *Genocide: A Normative Account* (Cambridge: Cambridge University Press,

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Despite these commendable legal developments and the growing scholarship on genocide, there is still a sense of chagrin in attempting to reconcile the rationalist credo of judicial proceedings and academic commentary with the irrationality and unspeakability of this heinous crime. As Hannah Arendt remarked after the Nuremberg Tribunal delivered its judgment, “The Nazi crimes ... explode the limits of the law; and that is precisely what constitutes their monstrousness. For these crimes, no punishment is severe enough ... This guilt, in contrast to all criminal guilt, oversteps and shatters any and all legal systems.”⁴⁸ The scale and gravity of organized mass murder, the seeming inscrutability of the perpetrators’ cruelty, and the unimaginable suffering of the victims overwhelm our conventional capacity for dispassionate legal analysis. As George Steiner rightly observes, transgressions such as the Holocaust “defy the ordering of common sense. They seem to be just on the other side of reason. They are extra-territorial to analytic debate.”⁴⁹ Yet, reducing genocide to law calls for exactly such an ordering, in which the crime is examined, measured, analyzed, and evaluated. Judicial encounters with such radical evil thus provide a valuable glimpse into whether and how something so irrational and intensely emotional can be translated into the strictures of legal idiom. Understanding this tension and what it says about our self-conception and ability to deal with moral challenges is the theme of this book. The crime of genocide provides an especially valuable case to study because of its purported preeminence as the ultimate crime.

In the imagination of jurists, there is perhaps no crime that can compare to genocide. The ICTR has designated it as the “crime of crimes,”⁵⁰ and scholars such as William Schabas have maintained that, in the hierarchy of crimes, genocide “belongs at the apex of the pyramid.”⁵¹ Others have variously called it “the most heinous international

2010); Paola Gaeta, ed., *The UN Genocide Convention: A Commentary* (Oxford: Oxford University Press, 2009); and John Quigley, *The Genocide Convention: An International Law Analysis* (Aldershot, UK: Ashgate, 2006).

⁴⁸ “Letter to Karl Jaspers,” in *Hannah Arendt/Karl Jaspers: Correspondence 1926–1969*, eds. Lotte Kohler and Hans Saner, trans. Robert Kimber and Rita Kimber (New York: Harcourt Brace Jovanovich, 1992), 51, 54.

⁴⁹ George Steiner, *No Passion Spent: Essays 1978–1995* (New Haven: Yale University Press, 1996), 346–47.

⁵⁰ Kambanda, Trial Judgement (ICTR, 4 September 1998), para. 16.

⁵¹ Schabas, *Genocide in International Law*, 10–11.