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# ILSA QUARTERLY

Publication of the International Law Students Association



THE CASE CONCERNING

# THE MALACHI GAP

**JESSUP 2014**

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A Publication of the International Law Students Association



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# AIPR: Working To Change How We Prevent Genocide

by Kelly Bonner and Harold Williford<sup>1</sup>

The problem of genocide is older than most people think – dating back to the ancient world. Sadly, even after repeated instances of genocide during the 20th century, including the Armenian Genocide, the Holocaust, and the horrors of Rwanda and Bosnia, responses to genocide typically have remained reactive: After actual atrocities have begun, prevention becomes the process by which the international community uses military intervention, economic sanctions, and/or international criminal justice to end the killing. Recent examples include Rwanda, the Balkans, and Darfur, where international measures were implemented only *after* large-scale violence occurred.

Enter the Auschwitz Institute for Peace and Reconciliation (AIPR). AIPR hopes to change the paradigm for responses to genocide by focusing policies related to genocide on true prevention, as opposed to reaction. In doing so, AIPR is trying to help policy-makers better comprehend the process of genocide in societies so that they may understand how their actions may at various points interrupt cycles that can culminate in destructive violence.

The term “genocide” entered the lexicon following World War II. Raphael Lemkin, a Polish lawyer who lost nearly 50 family members in the Holocaust, coined the term to describe a historical process that he discussed in writings before and

during the war. Lemkin argued that there were certain crimes that had not previously been recognized under international law which bring harm not only to individual human rights, like the slave trade or human trafficking, but that also “undermine the fundamental basis of the social order.” What Lemkin termed “Acts of Barbarity” later became known as genocide.

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**AIPR defines prevention as the sum of actions taken to ensure that all communities participate in society and are not victimized. Key elements of prevention within this framework are good governance, sustainable development, and the rule of law, with a focus on group dynamics to prevent marginalization. Thus, AIPR seeks to expand the role of real prevention and thereby reduce instances where crisis management becomes the only option.**

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Lemkin said that genocide must be a crime under international law because its common feature “is to endanger both the existence of the collectively concerned and the entire social order.” In a prescient observation about the nature of genocide Lemkin wrote:

Considering the contagious character of any social psychosis, actions of this kind directed against collectivities constitute a general transnational danger. Similar to epidemics, they can pass from one country to another. The danger formed by these actions has the tendency to become stable since the criminal effects, which cannot be addressed as an isolated punishable act, require, on the contrary, a whole series of consecutive responses.

After World War II, Lemkin campaigned tirelessly for the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted in 1949. The Convention established

genocide as an international crime. Despite this achievement, however, attention to the problem of genocide was interrupted by the Cold War, but resurfaced in the early-1990s when atrocities in Rwanda and Bosnia-Herzegovina shocked the world. The lack of a prompt and effective international response sparked deep criticism of the international community.

In response to these and other outbreaks of mass atrocities, NGOs, academics, nation-states and the United Nations developed the concept of the “responsibility to protect,” which stands as a correlative obligation to a sovereign’s power to govern. The responsibility to protect rests on three pillars: (1) a state’s responsibility to protect its population from mass atrocities; (2) the international community’s responsibility to assist states in fulfilling that responsibility; and (3) the international community’s responsibility to use diplomatic and humanitarian means including intervention where necessary to protect populations from mass atrocity crimes.

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AIPR’s work focuses on the first and second pillars of this framework. Building on Lemkin’s recognition that genocide unfolds as an extended social process culminating in atrocity – as opposed to a sudden and random manifestation of mass violence – AIPR has developed manuals and programs designed to move genocide prevention from crisis management to crisis avoidance. Specifically, AIPR focuses on training government and military personnel to recognize and gauge the social process that can lead to genocide and to identify ways to interrupt or disrupt that process. AIPR defines prevention as the sum of actions taken to ensure that all communities participate in society and are not victimized. Key elements of prevention within this framework are good governance, sustainable development, and the rule of law, with a focus on group dynamics to prevent marginalization. Thus, AIPR seeks to expand the role of real prevention and thereby reduce instances where crisis management becomes the only option.

With the support of the UN Office of the Special Adviser of the Secretary-General on the Prevention of Genocide, AIPR has worked to move beyond the top-down approaches which have characterized the field of genocide prevention, especially humanitarian or military intervention after atrocities have occurred. AIPR embraces the guiding principles of localization and individual empowerment. Its activities cover training, research, and support for local and regional officials in promoting a culture of genocide prevention within civil society throughout the world.

The centerpiece of AIPR’s work is the Raphael Lemkin Seminar for Genocide Prevention. The Lemkin Seminar consists of a week-long curriculum taught in and around the Polish town of Oswiecim, where from 1940-1944, approximately 1.4 million perished in the Auschwitz-Birkenau death camps. The seminar is taught in partnership with the Auschwitz-Birkenau State Museum and the UN Office on the Prevention of Genocide and the Responsibility to Protect. AIPR credits the “power of the place” as one of the most important aspects of the Lemkin Seminar. Experiencing the tangible evidence of genocide firsthand at this infamous site helps participants form an emotional commitment to pursuing the difficult work of genocide prevention. Since its inception in 2008, the seminar has attracted participants from over 60 nations. This diversity of attendees is a hallmark of the Lemkin Seminar series, creating opportunities to form global yet deeply personal opportunity networks of policymakers trained in genocide prevention.

In refining the Lemkin Seminar curriculum over time, AIPR has increasingly focused on practical issues. After establishing a baseline understanding of genocide in history, the Lemkin Seminars trace the stages of genocide and the policy options a public official would have at each stage. The goals are to help officials (1) better recognize certain “red flags” that often point to an increased risk of mass atrocity or genocide, and

(2) better understand things they might do to prevent the mass atrocity or genocide process from progressing in their nation or region. In addition, AIPR recently designed a pilot training program for the U.S. military personnel, focusing on how deployed troops can better manage local relationships, while building their capacity to document, gather and preserve evidence relating to mass atrocities or genocide should they occur.

Working with over 200 alumni, AIPR's mission has expanded into providing a support network for the participants' work in their home countries. AIPR now emphasizes sustaining relationships with and among Lemkin Seminar alumni and their governments. For example, AIPR has instituted follow-up meetings every two years to strengthen the alumni network. It also showcases its alumni's achievements in a series of "Profiles in Prevention" on the AIPR website.<sup>2</sup> In addition, AIPR promotes the idea of genocide prevention using the tools of social media. You can follow AIPR on Facebook<sup>3</sup> and Twitter<sup>4</sup> to stay up-to-date on the latest news and information about genocide and mass atrocity prevention.

Beyond training individual officials, AIPR has focused on local "ownership" of genocide prevention as a key to long-term success. Each society approaches the issue of genocide differently depending on its history and depth of experience with mass atrocity crimes. For example, in societies where transitional justice was serious and fairly successful, AIPR has found greater sensitivity and willingness to speak-out against developments that may threaten the social structure of a particular group. In contrast, states where prevention is primarily perceived as a foreign policy issue present different challenges with respect to governments engaging with their populations on genocide-related issues. AIPR's work with national governments also suggests that regional groups are better poised than global organizations to manage lower risk situations (i.e., those which may exhibit red flags for potential genocides, but

have not yet reached a crisis stage) where it can be difficult to build international political will and consensus. Unfortunately, recent history teaches that the international community's capacity to act is clearest in cases where killings and the tragedy of genocide have already started. Regional groups composed of similarly situated states not only may be able to intervene earlier—while prevention is still a possibility, but also are more likely to be attuned to the specific needs of local or regional communities.

The need for state-by-state engagement has led to a new development with impetus from the United Nations: the formation of national coordinating entities or "mechanisms" to become "focal points" for genocide prevention within governments. For example, President Obama recently issued Presidential Study Directive No. 10 on Mass Atrocities (Aug. 4, 2011), which ordered the creation of an Interagency Atrocities Prevention Board to coordinate U.S. policies on mass atrocity and genocide prevention. This effort will include recognizing and responding to early indicators of potential atrocities, and devising a broad range of "smart preventive activities." In addition, the President's National Security Advisor was ordered to lead an interagency study on how to ensure that the Interagency Board best functions and carries out its mission.

Over the last two years, AIPR has helped the United Nations press forward on this initiative. AIPR is currently facilitating the development of regional genocide prevention mechanisms in Latin America and Africa. AIPR acts as the Secretariat for the Latin American Network for Genocide and Mass Atrocity Prevention. Eighteen Latin American governments are working to implement a joint curriculum on genocide prevention for civil servants. AIPR assisted by drafting the curriculum and integrating the governments' comments and revisions. The curriculum now is being tested in seminars taught in Poland and Latin America. The Latin American Network aims to integrate the cur-

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riculum into training for all civil servants in these nations to create a common language for civil servants throughout Latin America with respect to genocide prevention. This training will serve both to facilitate deeper regional interaction and to establish a basic standard for genocide prevention throughout Latin America. In Africa, AIPR is helping the Organization of African Unity design and build its own network of nations to accomplish the same goals in Africa.

The last two decades have revealed a gap in international law on genocide: The absence of a framework specific to preventing the outbreak of genocide. Today, the Central African Republic, South Sudan, and Uganda all appear at risk for potential tragic violence. AIPR's mission is to better define and "professionalize" genocide prevention so as to provide government and military officials with the tools to prevent these spasms of violence. By creating a growing class of trained officials, AIPR hopes to increase the likelihood that individuals in different nations will find ways to cooperate and collaborate to disrupt the process by which some nations keep moving through cycles of genocide or mass atrocity. What makes AIPR's work so interesting and provocative is that it is attempting to spur the development of international law by showing how broad concepts, such as the prohibition against genocide, may best be implemented at regional and national levels. This is an important and necessary development that could reduce the likelihood that genocide will occur in the future as often as it has in the past. ■

### Endnotes for AIPR: Working To Change How We Prevent Genocide

<sup>1</sup> The authors are associates in the New York office of White & Case LLP, and work on pro bono matters for the Auschwitz Institute for Peace and Reconciliation. This article is based on that work and on interviews with Tibi Galis, AIPR Executive Director, and Samantha Horn, AIPR Director of Policy and Planning. Special thanks to Owen C. Pell for his guidance and assistance.

<sup>2</sup> [www.auschwitzinstitute.org](http://www.auschwitzinstitute.org)

<sup>3</sup> [www.facebook.com/genprev](http://www.facebook.com/genprev)

<sup>4</sup> [www.twitter.com/genprev](http://www.twitter.com/genprev) ■