

## CRITERIA FOR IDENTIFYING CASES

These are the five criteria used to identify the cases in table 1 and to distinguish them from similar events such as ethnic massacres, pogroms, state terror, and criminal warfare. The key is that genocides and politicides are carried out at the explicit or tacit direction of state authorities, or those who claim state authority.

**State Complicity:** First, the complicity of authorities in mass murder must be established. Any persistent, coherent pattern of action by state authorities and their agents, or by a dominant social group, that brings about the destruction of a group, in whole or in part, is *prima facie* evidence of state responsibility. Some episodes of mass murder are perpetrated by rebel groups during civil wars, for example by Serbs in Bosnia in the early 1990s. If the contenders have a territorial base from which to challenge state authority—the Bosnian Serb Republic in this instance—then their actions also are instances of geno/politicide.

**The Question of Intent:** The second guideline concerns the intent of authorities to destroy a group. Article II of the Genocide Convention defines genocide as “acts committed with intent to destroy, in whole or part, a...group.” This is the element in the Convention that distinguishes these episodes from other criminal offenses identified in international human rights law such as discrimination, detention without trial, and torture. Some human rights scholars argue that there is no need to include intent among the preconditions of genocide. For purposes of early warning, this may be accurate. However we have written extensively on why genocide is a crime under international law,<sup>1</sup> arguing strongly that it is essential that genocide scholars look for evidence that would allow us to infer intent, so that genocide can be distinguished from related phenomena. Having said this, a word of caution is in order. In many cases intent can only be inferred from the type of actions taken and by whom. How to detect intent?

- Typically potential perpetrators are agents of the state, for example part of the military or police. They can be members of a militia either authorized by or connected to agents of the state.
- Their leaders have political or organizational connections to the state or its agents.
- Potential perpetrators routinely endorse ruling elites, even if they deny close ties to the government.
- Governments and local security forces ignore isolated killings and maltreatment of individuals (malign neglect).

There are additional ways to infer intent. Physicians for Human Rights reportedly infer the means and patterns of attack by systematically assessing evidence of bodily injuries among victims. Others include testimonies from refugees or analyze geographic patterns of attacks.

It is by far more difficult to assess intent prior to victimization than during or after an episode is underway. Here area experts are of great help. Expertise helps to identify conditions or past patterns which distinguish “normal” state behavior from abnormal behavior. Thus, past patterns of oppression, discrimination, ideologies professed by leaders, and lack of democratic experience are indicators pointing to genocides in the making. Seldom, however, do we have situation like Nazi Germany in which Hitler's *Mein Kampf* clearly advocated that a people should be eliminated. Pol Pot comes close, in the sense that Khmer Rouge ideology clearly identified its future victims.

**Identity of Victims:** This guideline concerns the identity of the targeted group. We count all victims who the perpetrators identify and target as members. Thus in some cases victims may not identify with a group but are ascribed characteristics that lead to their victimization. In Nazi Germany, people who changed their religion from Judaism to Christianity were still identified as Jews by their perpetrators. New revolutionary elites may define their enemies in class terms, for example merchants and landlords (China 1950-51) or all educated city people (Cambodia 1975-79). In situations of ethnic warfare the target group is often defined to include all those who live in proximity to the rebels, irrespective of whether they share the rebels' ethnicity or support their cause.