

Cultural Genocide: Destroying Fourth World People

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ABSTRACT

Raphael Lemkin invented the word “genocide” after spending decades researching the consequences of kingdoms and states colonizing peoples in Africa, the Americas, Asia, Melanesia and the Pacific Islands from the 15th century to the present. He concluded that colonization had the effect of destroying peoples “in whole or in part” by destroying their cultures. In this essay the authors introduce and examine the major characteristics of cultural destruction, or in Lemkin’s words, “cultural genocide.” Recognizing that when the United Nations debated and adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948 it did so to implement the significant Universal Declaration on Human Rights containing provisions such as, “Everyone has the right to freely participate in the cultural life of the community...”. The authors note that the provision of the 1948 Convention on Genocide includes neither the word “culture” nor the word “people” in the text. Lemkin’s primary definition of genocide (“the destruction of a people’s culture”) is ignored in favor of defining genocide as “acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group” – killing, causing bodily harm, physical destruction, prevention of births, and the forcible transfer of children. Lemkin argued that the domination of a people with the intent of destroying or replacing their culture in whole or in part is the first stage of genocide that can lead to violent killings and bodily harm. This essay comprises an overview of the development of Cultural Genocide as a concept, Heritage Elimination and Cultural Cleansing.

Keywords: Lemkin, state-based law, nation-based law, indigenous community, UNESCO, Fourth World, traditional knowledge, language, UN Declaration on the Rights of Indigenous Peoples, Uyghurs, Salish, Māori.

State-based domestic and international law has dominated the legal framework offering stability and continuity of states. Since the negotiation of the Treaty of Westphalia in 1648 and Emer de Vattel’s 1758 documentation of the Law of Nations (the Law of Nature applied to the conduct of affairs of nations

and sovereigns), the “rule of law” serves as the touchstone for a desired and secured system of states. The emphasis on state-based law has aimed to ensure the permanence of the state and the recognition of individual rights within a state under international law. Nation-based domestic and international law, however, is rooted in the customary, traditional, natural, and common law of nations emphasizing the maintenance of national cultural traditions and security of a people. The state system has subordinated nation-based law to state-based law due, in no small measure, to state monopolies over the exercise of centralized force. Consequently, to minimize the potential for violent conflict, nation-based law frequently interweaves fundamental national law with state statutes that often conflict with national cultures. This conflict becomes evident in the matter of prosecuting intentional acts of cultural genocide and crimes against humanity.

Since the end of World War II in 1945, state-based domestic and international humanitarian law has characterized acts of genocide dominated by the discourse on human rights. The emphasis on human rights that points to individual rights, including genocide as a “type of human right” violation, is inconsistent. This inconsistency is evident since acts of genocide refer to the intentional destruction of whole peoples, communities, societies, groups, or collectives that are defined by their cultural or national identity. The anomalous placement of genocide within the framework of human rights policy and law creates a fundamental conflict that obstructs the process of accurately and effectively prosecuting violations of individual human rights or acts of genocide that concern collectives or peoples.

Individual human rights violations must be adjudged as distinct encroachments on individual liberties and rights well within the purview of state-based domestic and international law. This narrow focus is evident by the actions of the International Criminal Court’s rulings based in the 1948 (into force 1951) Convention on the Prevention and Punishment of the Crime of Genocide. The crime of genocide must be accurately defined to include the intentional and systematic destruction of a society, community, or a peoples’ culture—a violation of collective rights.

The legal norms within a state frame the prosecution of crimes committed against individual rights. However, collective rights or commission of crimes by a political institution (nation or state) must logically depend on the nation-based law.

Since the end of World War II Crimes of Genocide and crimes violating the norms of humanity have focused on “human rights” with the main emphasis on individuals. Acts of genocide and crimes against humanity are, however, concentrated on acts against “groups” of human beings—or, more precisely, intentional acts to destroy a people in whole or in part. During the 1920s and 1930s the Polish attorney Raphael Lemkin conducted studies about historical acts destroying entire peoples. He concluded that committing genocide against a people need not necessarily mean the violent and mass killing of a people though that may occur. As he wrote in his book, “Axis Rule in Occupied Europe” (1943):

“Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by

mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.”

Lemkin’s emphasis provides a significant explanation of genocide that is ignored in the International Genocide Convention and the International Criminal Court. Lemkin coined the term “genocide,” given his understanding of the intentional destruction of a “nation’s culture” through undermining and eliminating or replacing political, social, and cultural institutions as well as language and more. Cultural Genocide is, therefore, this intentional and coordinated effort to eradicate the foundations of life for nations with “the aim of annihilating the groups themselves”—primarily by substituting the dominating influence of a controlling power.

Indigenous nation leaders condemned genocide against indigenous peoples—culturally and physically—as a matter far more serious than violations of human rights. This point is made in the decisions of the International NGO Conference on Discrimination Against Indigenous Populations convened in Geneva, Switzerland by the United Nations Sub-Committee on Racism, Racial Dis-

crimination, Apartheid, and Decolonization under the Economic and Social Council (Geneve, Switzerland 1977). Indigenous leaders from throughout the Americas participated and formulated recommendations to the UN. They urged the inclusion of language at the United Nations stating that the ulterior purpose of cultural violence is the disappearance of the indigenous community, and that individual acts made with the intent of disrupting cultural and social bonds, including separation of children from families are acts that must be acknowledged. The destruction of lands, waterways and the introduction of industrial facilities that disrupt the natural world are acts of genocide. The assembly noted that the laws of indigenous nations prohibit such acts and that the laws of indigenous nations must be respected including how the jurisdiction of these nations applies their laws and customs. In the final resolution of the Conference delegates stated that while situations may vary from country to country, the roots of genocide are in “brutal colonization to open the way for plunder of (traditional) lands by commercial interests seeking maximum profits.” The Conference recommendations and Resolution became foundational to the language and principles entered into the draft UN Declaration on the Rights of Indigenous Peoples of 1994.

The Global Preparatory Conference convened for more than 400 delegations of indigenous nations representing the regions of the world met in Alta, Sami land [Norway] in June 2013 and delivered recommendations to the United Nations. The World Conference on Indigenous Peoples convened in September 2014 urging respect and

recognition of indigenous peoples' traditional governing systems and cultural practices. The UN High-Level Meeting of the General Assembly produced an Outcome Document that recognized that the Alta Conference had presented recommendations, but none of the recommendations relating to culture, governance or genocide were noted.

The Genocide Convention adopted by the UN in Paris in 1948 defines genocide without the precursors and persecution that Lemkin noted in his definitions. The Convention defines genocide as follows:

- (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."

The intentional and organized destruction of culture and all the attributes of a nation is absent in this definition, as the narrow and individual focus of the Genocide Convention and the Inter-

national Criminal Court seeks to prosecute individuals "after the fact" of cultural genocide. The United Nations persists in its failure to recognize cultural genocide. Domestic state-law mirrors this fatal flaw and thus permits genocide when intentional and organized acts aimed at the elimination of cultural heritage and cultural practice are tolerated. Cultural heritage (sacred sites, burial grounds, language, history, etc.) and the removal of cultural identity (education, language, spiritual practices, architecture, arts, political systems, food systems)—cultural cleansing or cultural genocide—are the subjects of our further discussion.

Heritage Elimination - The Destruction of the Legacy, Artifacts, and Symbols of Human Society

In 2003, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) adopted a Convention for the Safeguarding of the Intangible Cultural Heritage. "Intangible Cultural Heritage (ICH)" is defined by UNESCO as the practices, representations, expressions, knowledge, skills – as well as the instruments, objectives, artifacts, and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. It is transmitted from generation to generation, constantly evolved by communities and groups in response to their environment, interactions with nature and unique histories, and provides identity and continuity. Intangible Cultural Heritage includes, but is not limited to: a) oral traditions and expressions, including language as a vehicle for cultural heritage transmission; b) performing arts; c) social prac-

tices, rituals, and festive events; d) knowledge and practices concerning nature and the universe; and e) traditional craftsmanship.¹

The most common terminology used to express ICH by Fourth World (Indigenous) peoples is traditional knowledge. (I use Fourth World and Indigenous interchangeably) Traditional Knowledge broadly refers to Fourth World communities' ways of knowing that both guide and result from their community members' close relationships with and responsibilities towards the landscapes, waterscapes, plants, and animals that are vital to the flourishing of Fourth World communities.² They are transmitted primarily through intergenerational oral tradition and physical practices. This place-based knowledge grounds members of the society in a deep understanding of humanity's role, and specifically, their cultural group and their individual role in the world. Because the knowledge is transmitted through multiple generations, it contains thousands of years of knowledge and is cumulative of evolving, adapted, long-term observations and technologies.³

Worldviews provide a point of reference for how knowledge, and therefore values, are transmitted throughout a society's system. Fourth World peoples' worldviews are holistic in nature, mimicking symbiotic and reciprocal relationships throughout their society's structure.⁴

By contrast, the worldview of Western colonists maintains compartmentalized sectors, with only give and take relationships of benefits and gains (see Figure 1).

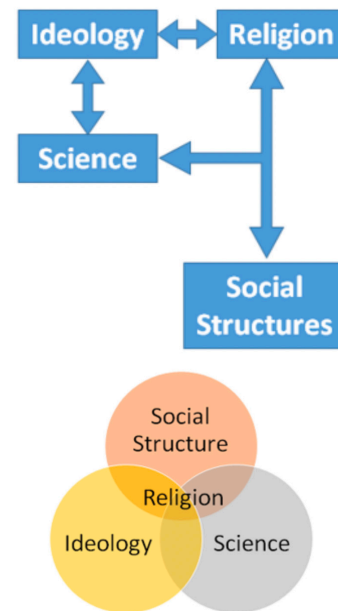


Figure 1: Indigenous World View (Source: Amelia Marchand)

Understanding the concept of Traditional Knowledge and how it is transmitted in Fourth World societies is key to understanding indigenous cultural heritage and identity.

Language is the principal vehicle through which living heritage is kept alive via culture, knowledge, values, and identity. Indigenous languages make up the majority of the world's estimated 7,000 languages and their loss repre-

¹ United Nations Educational, Scientific and Cultural Organization (UNESCO). (2018 Edition). Basic Texts of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. Available at: <https://ich.unesco.org>.

² Climate and Traditional Knowledges Workgroup (CTKW). (2014). Guidelines for Considering Traditional Knowledges in Climate Change Initiatives. Available at: <http://climatetkw.wordpress.com/>. The term "traditional ecological knowledge (TEK)" is also sometimes used interchangeably with TK.

³ Watson, Julia. (2020). Lo-TEK, Design by Radical Indigenism. Cologne, Germany: TASCHEN.

⁴ Wall Kimmerer, Robin. (2015). Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants. Minneapolis, MN: Milkweed Editions.

sent an impoverishment for humanity as a whole.⁵ However, with forty percent of global indigenous languages in danger of disappearing, there is a real threat to the heritage and identities of entire societies.⁶

The importance of indigenous languages, names, taxonomies, and oral traditions and practices is directly related to the ecological systems within which they thrive. If language is the principal vehicle of heritage, then surely the food and water, which sustain our existence, make up the second pillar. The word *túm* translates to “mother” in *nsexlcín* (Interior Salish Language of the Okanogan, Arrow Lakes, and Colville Tribes); while the word *túmx^wlax^w* is used to refer to the land and all its diversity, which we derive our existence from, and without which we would not survive or thrive. This simple truth links the food, water, and ecological health of systems together with societies and cultures (see Figure 2).

- Rites and practices of life and death
 - ▣ Birth, maturity, transitions, and passing elements
 - ▣ Decision-making, conflict resolution, and communication
 - ▣ Familial ties and governance responsibilities
- Architecture and technology
 - ▣ Adaptive education
 - ▣ Place-based history
 - ▣ Sustainable and climate-resilient
- Food and water system
 - ▣ Access and availability
 - ▣ Purity and diversity
- Sacred sites from origins and customary laws
 - ▣ Legendary landscapes
 - ▣ Food, water, medicine, and mineral sources
 - ▣ Graves, sacred, and ceremony sites

Figure 2: Aspects of Indigenous Heritage and Identity
(Source: Amelia Marchand)

When functioning ecological systems are disrupted or broken, the health and culture of societies are also impacted, triggering a cascade of sociological repercussions.⁷ It is recognized by the World Health Organization (WHO) that disparities stemming from colonialism, the social and cultural disruption of indigenous lives, lands, resources, cultural practices and transmission broaden socioeconomic inequalities and health disparities.⁸

Article 1 of the UNESCO Convention identifies its primary purpose to safeguard ICH, while Article 2 is to ensure respect for ICH of the communities, groups and individuals concerned. In 2015, Ethical Principles for Safeguarding ICH were adopted by the Convention’s Intergovernmental Committee and were intended to serve as a basis for the development of specific codes of ethics and tools adapted to local and sectoral conditions.

Importantly, the Convention recognizes that globalization and social transformation provide avenues for intolerance, grave threats of deterioration, and the disappearance and destruction of ICH around the world.⁹ In developing the Ethical

⁵ UNESCO. (January 25, 2019). Launch of International Year of Indigenous Languages 2019. Available at: <https://en.unesco.org/news/launch-international-year-indigenous-languages-2019>.

⁶ UNESCO. (2019). International Year of Indigenous Languages. Available at: <https://en.iyil2019.org/about#about-1>.

⁷ Gilio-Whitaker, Dina. (2019). *As Long As Grass Grows: The Indigenous Fight for Environmental Justice from Colonization to Standing Rock*. Boston: Beacon Press.

⁸ Neufeld, et al. (February 5, 2020). Exploring First Nation Elder Women’s Relationships with Food from Social, Ecological, and Historical Perspectives. *Current Developments in Nutrition*.

⁹ Ibid. Note 1.

Principles for Safeguarding ICH, the Convention identified nine (9) threat categories to ICH: negative attitudes, demographic issues, de-contextualization, environmental degradation, weakened practice and transmission, cultural globalization, new products and technologies, loss of objects or systems, and economic pressure. The Convention also identified forty-six (46) different risks to ICH, which were each placed within one of the threat categories (see Figure 3).¹⁰

None of these threats or risks addresses the imperialist and colonialist roots of the Western worldview, which result in the systematic and institutional exclusion of Fourth World peoples' values and knowledge. Additionally, none of the threats or risks addresses the capitalism and globalization impacts of the Western worldview's legal, social, and political framework against Fourth World peoples.¹¹ These threats result from the collective destruction of indigenous heritage, identity, ownership, governance, religion, and ultimately, exclusion and removal.

The Ethical Principles for Safeguarding ICH actually put the burden of cataloging, identifying, mapping, transmitting, communicating, and protecting ICH on indigenous peoples themselves—albeit with funding providing for activities that merit UNESCO's framework for capacity building.¹² Time and again, indigenous people collectively and cumulatively report the negative impacts of imperialism, colonialism, capitalism, and globalization to their heritage, identity, culture, values, lifeways, environments, and bodies. Where nations, states or parties to the Convention are involved in one or more

of the nine threats or forty-six risks to ICH, there is no legal framework identified to report, cease, mitigate, reprimand, hold accountable, or suspend those activities.

Negative Attitudes	Demographic Issues	New Products & Techniques
Repressive policies Intolerance Disrespect Conflicts	Rural-urban migration Population influx Degraded habitat	Industrial production Surge of new technologies Use of modern materials
Decontextualization	Cultural Globalization	Loss of Objects or Systems
Touristification Theatritification Over commercialization Misappropriation Freezing	Educational standardization Mass media Rapid socio-cultural change Social media	Loss of ancestral language Loss of cultural spaces Loss of knowledge Material shortage
Weakened Practice & Transmission		Environmental Degradation
Aged practitioners Diminishing participation Diminishing youth interest Few practitioners Halted transmission Hampered transmission Loss of significance Reduced practice Reduced repertoire		Water pollution Urban development Natural disasters Mining Invasive husbandry Degraded ecosystems Deforestation Climate change

Figure 3: Threats and Risks to Intangible Cultural Heritage, UNESCO 2018

This staggering lack of accountability within global legal frameworks pinpoints the significant need to name, define, and codify acts of cultural genocide as threats and risks to indigenous heritage and identity and intangible cultural heritage. The existing legal framework of international cultural property addresses many scenarios: armed conflict, offenses committed by individual persons, export and transport of cultural properties which pre-date

¹⁰ Ibid. Note 1.

¹¹ Ibid. Note 7.

¹² UNESCO. (2019). "Living Heritage and Indigenous Peoples." The Convention for the Safeguarding of the Intangible Cultural Heritage. Available at: <https://ich.unesco.org/en/indigenous-peoples>.

modern political boundaries, foreign sovereign immunity, recoveries, restitutions and claims.¹³ None of these laws were made without cause, and now is the time for legal scholars to recognize the call to action for indigenous peoples: heritage elimination has been occurring against indigenous peoples for centuries under the intentionally blind eye of justice; not because it has been just or ethical or moral, but because it has fit the worldview of imperialist and colonialist expansion. Today's global society and information transmission have brought to a wider audience the shadow cast by the genocidal tendencies of humanity, which consistently target indigenous communities.

UNESCO's Ethical Standards for Safeguarding ICH are only worthy if they come with the burden on nations and states to be accountable to their histories—and ongoing heritage elimination practices—of genocide against indigenous peoples. Unraveling the historical, social, legal, and environmental determinants of this paradigm shift may take time; but the burden cannot be on indigenous peoples alone to support and guide political and legal recommendations. A more just and equitable world for all starts with strategies that support indigenous heritage, identity, and survival—and labeling all threats and risks to them as cultural genocide.

Cultural Cleansing--The Destruction of the Relationship between the People, the Land and the Cosmos

There is no legal definition of cultural cleansing, cultural genocide, or ethnic cleansing. This reality renders claims of such acts committed against peoples experiencing such acts a controversial matter. Yet, the concepts are recognized

in public claims by various peoples, political literature, scholarly analysis, and political discourse. Ethnic cleansing is, however, sometimes associated with “crimes against humanity” or “war crimes” within the framework of the 1948 Genocide Convention, and the subject is hotly debated among legal scholars. The UN Declaration on the Rights of Indigenous Peoples in Article 8 proclaims, “Indigenous nations have the right not to be subjected to forced assimilation or destruction of their culture.” Still, this pronouncement is considered “aspirational” by political and legal scholars and not determinative.

The Uyghurs of East Turkistan in western Peoples' Republic of China protest the Chinese government's reeducation camps holding hundreds of thousands of Uyghurs as “cultural genocide.” In a September 2019 interview Nury Turkel, a prominent Uighur-American lawyer, and human rights campaigner, said, “China is carrying out a ‘cultural genocide’ against his people. So, why isn't the world working to stop it? Why aren't we doing more to stop it?” Nallein Sowillo, Justice Minister for the indigenous government of Ezidikhan said to the press in February 2020, “Yezidi and Mandaean peoples in northern Iraq are protesting the Iraqi government's forced removal of their families and substituting them with Arab settlers. These acts are cultural genocide.”

Among the Salish peoples in southwestern Canada and northwestern United States and many native peoples around the world, the practice of “cultural cleansing” is a cultural practice

¹³ Gerstenblith, Patty (ed). (2010). *International Cultural Property. Yearbook of Cultural Property Law*. Left Coast Press.

carried out through smudging and sweating to restore emotional and mental balance, and regain physical health and confidence. However, the kind of “cultural cleansing” or “cultural genocide” that is not part of the Tulalip tradition is a starkly different reality. Nations like one author’s Tulalip Reservation in Washington State have experienced what Tulalips recognize as forced reeducation, relocations, regulated and controlled tribal governance, and in years past regulated movement on and off the reservation controlled by US government officials. Virtually all native peoples in North America have experienced and, in many instances, continue to experience cultural genocide—acts perpetrated by the US government and other institutions intending to radically alter tribal cultures. Nevertheless, there is no legal or other institutional recourse to obtain justice and accountability for the damages done to indigenous communities or for the traumas still experienced by individual tribal members.

Raphael Lemkin (1900-1959), the Jewish attorney widely credited with coining the word “genocide”, was deeply concerned about the destruction of whole societies through what he initially referred to as “cultural cleansing.” He conducted intensive research and, in his later book, he focused on his plans for further studies. For example, he listed studies entitled “Genocide by the Germans against Native Africans,” “Genocide against the American Indian,” “Genocide against the Aztec,” “Genocide against the Māoris of New Zealand,” and “Genocide against the Armenians,” documenting the experiences of indigenous nations in history and in modern times. In some of his unpublished papers, he came to recognize acts of colonization as the central concept of “genocide.”

Lemkin’s studies in the 1920s and 1930s developed concepts of cultural destruction, later documented in his book “Axis Rule in Occupied Europe” (1944) where he wrote:

“Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population, which is allowed to remain, or upon the territory alone, after removal of the population and the colonization of the area by the oppressors’ own nationals.”

In other words, Lemkin defined genocide as the destruction of a culture, a people, in whole or in part, resulting from intentional and systematic techniques of assimilation, forced replacement of peoples’ social, economic, political institutions, and ways of life—cultural genocide. Dr. Michael McDonnell, at the University of Sidney, authored a 2005 article with A. Dirk Moses in the *Journal of Genocide Research* examining Lemkin’s published and unpublished works. Their article, entitled “Raphael Lemkin as historian of genocide in the Americas,” reveals that Lemkin was primarily concerned with massive destruction of cultures and peoples’ social order. His term “genocide” became attached to the Holocaust in Europe in the 1930s and 1940s only after mass murders were discovered. Cultural genocide was dismissed as controversial at the United Nations since many of the UN Member states were indeed colonizing states and they wished not to be identified as perpetrators of genocide. Lemkin’s unpublished papers call attention to the “cultural death of

societies” committed by occupying and oppressive foreign powers engaging in acts that “destroyed or permanently crippled them, that is, they were genocidal.”

Legal scholars and genocide studies scholars have failed to accurately represent Lemkin’s thinking by ignoring his primary emphasis on the cultural destruction of peoples and instead characterizing “genocide” as “mass killing” and totalitarianism. The international community’s concern about the “Holocaust” in Europe and the quick punishment of perpetrators of the horrific mass killing of Jews, Catholics, homosexuals, Roma and others led legal and political actors at the United Nations to apply the word “genocide” to such mass killings despite the fact that Lemkin never held this view and certainly did not use the word “holocaust.” Lemkin was concerned with the destruction of cultures and noted that such intentional acts of destruction and violence against peoples often came after cultural genocide.

Fourth World nations agree with Lemkin’s analysis and his characterization of cultural genocide. State-based law has virtually ignored the actual meaning of “genocide” at the expense of whole peoples and individuals among those peoples who have suffered and continue to suffer from the terror of cultural genocide.

The Australian government for generations “assumed legal guardianship” over the lives of Aboriginal children and removed a large number of children from their families with the avowed intent of “assimilating” them into Australian society.

Sinclair, Littlechild, and Wilson in a 2015 article¹⁴ documented the statement by Canada’s first prime minister John Alexander McDonald, who admitted Canada’s intent to commit a massive crime against the native peoples in what would become Canada. McDonald said in 1887, “The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change.”

Between 1991 and 1996, Canada’s Royal Commission on Aboriginal Peoples produced a 4,000-page report containing 440 recommendations for new policies to guide relations between the First Nations, Metis, and the government of Canada.

The Truth and Reconciliation Commission,¹⁵ organized and undertaken between 2008 and 2015, was one product of the Commission’s report that focused on the cultural, social and emotional effects of Canada’s Residential School System. As reported in the *Washington Post* on June 5, 2015, the Commission recognized that the residential school system is evidence of cultural genocide defined in this way:

“Cultural genocide is the destruction of those structures and practices that allow the group to continue as a group. States

¹⁴ Sinclair, M., Littlechild, W., and Wilson, M. (2015). “Aboriginal policy to assimilate, civilize, Christianize, not applied in uniform manner.” Truth and Reconciliation Commission, Government of Canada. Justice Murray Sinclair, Commissioner Chief Wilson Littlechild and Commissioner Marie Wilson served on the Truth and Reconciliation Commission releasing its report on December 15, 2015.

¹⁵ The Truth and Reconciliation Commission operating between 2008 and 2015 was initiated as a result of the Indian Residential Schools Settlement Agreement.

that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.”

Oppressively destroying or substituting the social, economic, political, and cultural practices, values, and physical heritage of one society by another with the intention of eliminating the oppressed society is cultural genocide. It is a form of genocide since the intentional and systematic acts perpetrated result in the destruction of a people in whole or in part.

In India, the February 2019 decision of the Supreme Court ordered the eviction of more than a million tribal families (as many as eight and a half million people) from their traditional lands. This is a clear act of intentional destruction of whole peoples to advantage Indian Government forest management officials and various businesses.

The United States came into being after the French, English, Spanish and the Dutch established settlements from 1603 through 1755 along the eastern coast of North America. While they mainly acted to take land by acts of war and treaties, the formation of the United States in 1787 resulted in the American military, governmental and community militias directly attacking and engaging in massacres against scores of Indian nations along with systematic and intentional re-

movals. The Trail of Tears (Cherokee —1836-39) as part of the Indian Removal Act of 1830 forced Cherokee, Choctaw, Seminole, Potawatomi, Chickasaw other nations out of their homelands into “Indian Country” otherwise known as Oklahoma—a state never to be included in the Union of States. Indian nations in the Pacific Northwest were forced by military acts to move to so-called ‘reserved lands’ and give over to the United States vast lands that would become occupied by American citizens and other foreign settlers. In the present day, the US government’s Bureau of Indian Affairs (BIA) educational system systematically strips away traditional values and cultural practices while installing American values and norms.

Cultural genocide, as experienced today by Indian nations in North America and the rest of the Western Hemisphere and by many other indigenous nations in Europe, Asia, Africa, and the Pacific Islands, continues to be carried in the Spirit and psyche of individuals and communities. No government, other institutions, or individuals have been held accountable for the damage to the many nations colonized and oppressed and forever altered. No law or counter policy has been authored under state-based domestic or international legal institutions to hold accountable those who have perpetrated cultural genocide.

What is important to understand is that cultural genocide, genocide, crimes against humanity, war crimes, and torture are not merely theoretical constructs. In essence, they must be understood as concrete acts committed by governments, agents of governments, groups, and individuals that fundamentally violate the continuing existence of human societies. These are not abstrac-

tions, but specific acts of violent force that can no longer be permitted by democratic societies in the 21st century.

It is said quite repeatedly that democratic societies are “ruled by laws and not by men.” This sentiment is also thought equally true of indigenous nations all over the world. They practice nation-based laws rooted in their cultures. When acts of cultural genocide are perpetrated, and there is no accountability for the adverse effects, then no society, no nation or any state is safe. State-based law and nation-based law must be formulated jointly to hold accountable what must be understood as crimes—as immoral acts—that are prohibited by all civilized societies.

Some indigenous nations, working with the Center for World Indigenous Studies, have formally enacted statutes—laws—prohibiting acts of genocide, cultural genocide, ecocide, and crimes against humanity. The nation of Ezidikhan enacted just such a law in 2018. It recognizes that their people, the Yezidi, continue to suffer from cultural genocide committed by the Kurds, Iraqi,

the Turkish government, and Syria’s government and the genocide committed by the Islamic State, resulting in the death of 10,000 Yezidi in over just a few days in August 2014. The Q’anjol’al of Guatemala have enacted a cultural genocide law, and the Uyghurs of East Turkistan are working on enacting such a law as well.

It is long past due for countries like the United States and many other UN member states to draft and enact laws making cultural genocide punishable—enforceable under state-based and nation-based international law. Yes, governments, agencies of governments, groups, and institutions must be held accountable. If they are not, then there is no meaning to “human rights” or “genocide.” State-based international law begins as domestic law as does nation-based international law. Officers of the court must step forward to help facilitate the development and enactment of new laws with defined punishments to affirm justice and accountability for the crime of cultural genocide.

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Dr. Rudolph C. Ryser grew to maturity in the Cowlitz Indian culture on the US Pacific Northwest coast though he is of Cree/Oneida descent on his mother's side and Swiss descent on his father's. He earned his doctorate in international relations and has served as the Founding Chair of the Center for World Indigenous Studies since 1979. He is widely recognized around the world as the principle architect of theories and the practice of Fourth World Geopolitics. He is the author of the seminal book "Indigenous Nations and Modern States: The Political Emergence of Nations Challenging State Power" (2012), the Fourth World Geopolitical Reader and the currently released "Biodiversity Wars, Coexistence or Biocultural Collapse in the 21st Century" (2019). He has for more than fifty years worked in the field of Indian Affairs as a writer/ researcher/ and advisor to political leaders of Fourth World nations throughout the world.



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Amelia Marchand is a citizen of the Colville Confederated Tribes. She holds a BA in anthropology and an MA in environmental law and policy and resides on the lives with her husband three children. She is a Director on the Center for World Indigenous Studies Board of Directors, and volunteers with Conservation Northwest, Hearts Gathered, and the Nez Perce Wallowa Homeland. Throughout her professional career, Amelia has been the first woman and the first indigenous person to serve in four government positions with her Tribe. She is an alumnus of Presidential Classroom and the Ronald E. McNair Scholars Program. Amelia is a wife, daughter and granddaughter of U.S. Army veterans, and a descendant of U.S. prisoners of war and the U.S. boarding school system. Her personal experiences and family history have increased her passion for indigenous rights, environmental justice, and implementing socially equitable solutions for climate change adaptation and mitigation that not only honor values of community and reciprocity; but also heal wounds from intergenerational trauma and institutional colonialism.



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Deborah Parker is the former vice chair of the Tulalip Tribes government and a nationally recognized advocate and activist for the rights of Indigenous Nations. Most notably during her tenure as vice chair, Deborah played a prominent role in the advocacy for the inclusion of the tribal jurisdiction provision in the US government's Violence Against Women Act. Deborah is a frequent speaker at conferences and symposia related to the restoration of tribal sovereignty, justice and safety for Indigenous Nations.