

# Gender and Genocide in the 21st Century:

How Understanding Gender Can Improve  
Genocide Prevention and Response



Gender Policy Project

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## I. INTRODUCTION

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“The international frameworks for addressing atrocity crimes were created at a time when gender was not really a concern. The Genocide Convention was born in the aftermath of World War II and the Geneva Conventions were mostly concerned with combat between men on battlefields. A lot of the exercise of taking those frameworks and gendering them has been to retrofit gendered experiences in order to have a full picture of the crimes committed. Without a full understanding of what has occurred, justice will not be rendered to all those affected by these crimes.”

- Akila Radhakrishnan, President, Global Justice Center

Today, there is a much greater awareness among governments, policymakers and legal practitioners of the need to apply a gendered analysis to conflict situations and the commission of international crimes, meaning war crimes, crimes against humanity, and the crime of genocide. Yet, despite the important advances that have been made, gaps in the legal and policy frameworks and challenges in implementation continue to persist, negatively impacting efforts to prevent such crimes from occurring, government responses to halt and deter these crimes, and the pursuit of justice and accountability for victims and survivors.

In September 2021, The New Lines Institute for Strategy and Policy convened a two-day conference with legal, gender, and genocide experts to examine State responses to prevent and halt genocide, challenges to justice and accountability for gendered crimes during conflict or genocide, and how the crime of genocide itself is gendered. These themes were further developed by analyzing them through the lens of four recent and ongoing situations where the asserted genocides have important gendered dimensions and implications for victims and survivors, namely the situation in Xinjiang Uyghur Autonomous Region (XUAR),<sup>i</sup> China (Uyghurs); Myanmar<sup>ii</sup> (Rohingya); ISIL crimes in Iraq (Yazidis); and Tigray, Ethiopia (Tigrayans).

This report sets out the key challenges and insights that emerged from the conference and provides recommendations on how to address these challenges with an aim to assist States and other stakeholders in their efforts to ensure that a gendered perspective is incorporated throughout all aspects of genocide prevention, response, and justice and accountability efforts.

## II. BACKGROUND

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Before delving into the specific issues raised during the conference, the following topics are briefly presented: 1) what the term “gendered analysis” entails; 2) the provisions of the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide* (“Genocide Convention”);<sup>iii</sup> and 3) a factual overview of the four situations discussed during the conference.

### A. What is a “gendered analysis”?

Too often, the understanding of what is meant by a gendered analysis is simplified to how conflict or crimes affect women and girls or is equated to acts of sexual violence. A negative consequence of this reductive definition is that the gendered manner in which crimes are strategically perpetrated against different groups of a society, including against men and boys, is often not recognized, as well as that sexual violence is often decontextualized and siloed from analysis of the broader conflict. This ultimately leads to a poorer understanding of the dynamics of the conflict at issue and negatively impacts efforts to proactively prevent a situation from devolving or to effectively intervene to halt the ongoing commission of crimes.

The term “gender” refers to a social construct about the roles men and women<sup>iv</sup> are perceived to occupy in society and, for purposes of genocide, within a protected group. Perpetrator perceptions of these gender roles inform the manner in which people are targeted for certain acts or atrocities and why they

are targeted. For example, in many societies, men traditionally are assigned the roles of head of household, and are the religious and political leaders within a group. From a perpetrator perspective, these roles represent a security threat. Thus, contrary to the common understanding, a gendered analysis helps to explain why men are often targeted for immediate killings early on in genocidal and atrocity crime campaigns. Similarly, attacks on women often relate to “their roles as mothers, wives, daughters, bearers of future life, keepers of community and family honor, and sources of labor within the home.”<sup>v</sup>

Additionally, a gendered analysis is not solely focused on the commission of crimes, but should also be incorporated into State and international atrocity prevention and response policy decisions, including in terms of considering the potential gendered consequences of those decisions.

## B. The Genocide Convention

The Genocide Convention prohibits the commission of genocide and establishes the obligation to prevent genocide and to punish perpetrators when genocide occurs.<sup>vi</sup> All three of these obligations are considered to be *erga omnes* obligations<sup>vii</sup> (meaning obligations owed by a State to the international community as a whole) and are also considered to be a part of international customary law and therefore binding on all States, whether or not a State has ratified the Genocide Convention.<sup>viii</sup>

Genocide is defined as: “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.”<sup>ix</sup>

The International Court of Justice (“ICJ”) has classified these genocidal acts to be those involving the “physical or biological destruction of a group.”<sup>x</sup> Thus, genocide has two required elements: 1) a physical element, meaning one or more of the five enumerated acts; and 2) a specific intent element, namely the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”<sup>xi</sup>

## C. Current situations of concern

The following recent and ongoing genocides were discussed during the conference in terms of how gender impacts the manner in which these genocides were or are being carried out, as well as how a lack of a gendered analysis or policy approach has negatively impacted efforts to respond to the atrocities and the pursuit of acknowledgment, justice, and accountability for victims and survivors of these genocides.

### 1. The Uyghur genocide

In 2014, the Chinese Communist Party (CCP) began a “re-education” effort in XUAR aimed primarily at its Uyghur minority population in its so-called “war on terror.” The CCP greatly expanded the program in 2017, detaining over 1 million people in concentration camps and subjecting those who were not detained to forced labor, sexual abuse, and intense surveillance, among other violations.<sup>xii</sup> There have been alarming reports of horrific living conditions within the camps where detainees are subjected to systematic sexual assault and mass rape, coercive birth prevention procedures, sleep deprivation, torture, and political indoctrination. Simultaneously, the CCP has greatly increased criminal prosecutions of prominent Uyghurs, mainly men, who have been sentenced to lengthy prison terms in proceedings lacking due process protections. Outside the camps, the CCP is attempting to “break their lineage, break their roots, break their connections, and break their origins”<sup>xiii</sup> by separating Uyghur children from their families and sending them to live in state-run orphanages. Under its “Population Optimization” policy, the CCP is forcibly sterilizing and imposing coercive birth control

measures on Uyghur women, forcibly transferring Uyghurs to other parts of China through a forced labor program, and importing Han settlers.<sup>xiv</sup> Under this policy, birth rates in Uyghur-majority prefectures have declined dramatically compared to the rest of the country and Han-majority areas.<sup>xv</sup> The aim of this policy is to reduce the size and density of the Uyghur population in XUAR.<sup>xvi</sup>

In 2021, the United States government and the parliaments of the United Kingdom, Canada, The Netherlands, Lithuania, and Czech Republic determined that China's actions in XUAR constituted a breach of the 1948 Genocide Convention, while the Belgian Parliament determined there was a serious risk of genocide. Because China is a member of the United Nations Security Council and has a reservation to the jurisdiction of the ICJ regarding the Genocide Convention, there are no current judicial proceedings underway.

## 2. The Rohingya genocide

Following decades of escalating persecution, in August 2017, the Myanmar army executed targeted attacks, known as “clearance operations,” against its ethnic minority Rohingya population living in the northern Rakhine state. The military forces killed thousands of Rohingya, with reports of attackers beating, stabbing, and raping civilians before burning hundreds of their homes to the ground. As a result of the violence, hundreds of thousands of Rohingya fled to Bangladesh where approximately 1.2 million now live in a refugee camp named Cox's Bazar. Life in these camps is incredibly difficult, with overcrowding, inadequate sanitation and a lack of services rendering many of these persons who have already survived traumatic experiences vulnerable to further violence and exploitation.

In 2019, the International Independent Fact-Finding Mission on Myanmar (IFFM) determined that there was a reasonable basis to conclude that genocidal acts with the requisite intent had been committed against the Rohingya and recommended investigations and prosecutions of potential perpetrators, as well as concluding that “Myanmar breached its obligation not to commit genocide under the Genocide Convention under the rules of State responsibility.”<sup>xvii</sup> The IFFM identified “the enormity and nature of the sexual violence perpetrated against women and girls during the ‘clearance operations’” as one indicator from which genocidal intent could be inferred.<sup>xviii</sup> To date, there is a case under the Genocide Convention before the ICJ, the International Criminal Court has opened an investigation into the potential crime of forced deportation, and there is a genocide case pending before the Argentine courts under their universal jurisdiction domestic law.

## 3. The Yazidi genocide

In August 2014, members of ISIL attacked the Sinjar region in northern Iraq, near the Syria-Iraq border, where the majority of the world's Yazidi population lives. ISIL views the Yazidis as “religious infidels” and killed civilian men, captured thousands of women and girls and placed them into sexual slavery, and forcibly conscripted boys in Syria and Iraq. Though the ISIL caliphate no longer exists, there continue to be over 2,500 Yazidi women and girls missing. Sinjar has not been rebuilt and an estimated 200,000 Yazidis are still displaced across northern Iraq in camps.

The United Nations team investigating these atrocity crimes informed the UN Security Council that there is clear evidence that genocide was committed by ISIL against the Yazidis as a religious group and that ISIL has committed war crimes including murder, torture, cruel treatment, and outrages on personal dignity, as well as crimes against humanity.<sup>xix</sup> Under the UN investigative team's mandate, its work is to be put before national courts in Iraq and the Kurdistan Region to prosecute those responsible for these crimes, a process which is still underway and requires the passage of domestic legislation. Separately, a landmark conviction was recently handed down in Germany for war crimes against a Yazidi girl under Germany's universal jurisdiction law.<sup>xx</sup> Other prosecutions under universal jurisdiction are ongoing.

#### 4. The Tigrayan genocide

In November 2020, Ethiopian Prime Minister Abiy accused the Tigray People's Liberation Front (TPLF), an ethnic nationalist paramilitary group that was the former leading party of Ethiopia, of attacking a federal military base and sent the Ethiopian National Defense Force (ENDF) to the TPLF stronghold region of Tigray in northern Ethiopia. Eritrean forces joined Abiy's forces and jointly seized control of the Tigrayan capital of Mekelle. Fighting has continued until the present.

The conflict has resulted in an immense humanitarian crisis and ethnic cleansing campaign in which Ethiopian national forces have killed, raped, and starved civilians by blocking food aid from entering Tigray and looting food supplies. There are an estimated 900,000 civilians facing famine conditions. As of September 2021, more than 2.2 million are displaced, over 70,000 have fled the country, and more than 22,500 women have been victims of weaponized sexual and gender-based violence. Evidence indicates that rape and sexual violence has been used as a method to carry out the campaign of ethnic cleansing and genocide. International efforts have focused on halting the conflict and ensuring the provision of humanitarian aid. No formal justice mechanisms have been set up or seized of the Tigray situation to date.

### III. APPLYING A GENDERED ANALYSIS TO GENOCIDE

Of seminal importance to advances in understanding how genocide interacts with and is shaped by gender is the genocide conviction in the case of *Prosecutor vs. Jean-Paul Akayesu*.<sup>xxi</sup> This case arose out of the genocide in Rwanda and represents the first time in international criminal law that rape and sexual violence were recognized as a constituent act of genocide, namely causing serious physical or mental harm. The Trial Chamber held that:

“These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole. [...] Sexual violence was a step in the process of destruction of the Tutsi group – destruction of the spirit, of the will to live, and of life itself.”<sup>xxii</sup>

Despite this important conviction, the subsequent jurisprudence of the *ad hoc* tribunals demonstrates the entrenched resistance to recognizing sexual and gender-based violence as a part of the crime of genocide. Subsequent prosecutions continued to charge rape and sexual violence as war crimes and crimes against humanity, neglecting their use as a means to accomplish genocide. The factual backgrounds of the above genocidal situations highlight the continued need for a gendered understanding and analysis to be applied to the crime of genocide. In this section, the various components of the crime of genocide are discussed in relation to gender, with the four genocidal situations serving to demonstrate the gaps and shortfalls in their current analysis.

#### A. Genocidal acts

The Genocide Convention does not create a hierarchy among the five listed genocidal acts, nor is there a requirement that multiple acts be established. In this respect, any one of the genocidal acts is sufficient to establish the *actus reus* of the crime of genocide. Despite this, there is a consistent strain of argumentation, primarily but not exclusively from male academics, that genocide must include the first constituent act, *i.e.*, killings of members of the group. This argument has been used to suggest that the act of preventing Uyghur births through enforced sterilization and other coercive birth control measures is somehow not sufficient on its own to constitute genocide. The implied negation of the gravity of preventing births within members of a protected group when not accompanied by mass killings reflects a broader gender bias that distorts a proper understanding of how perpetrators target women members of a group *in order to* destroy the group itself.



In addition, because killings are in themselves gendered acts that primarily target men and boys, the focus and overemphasis on killings functions to not only erase and obscure how women and girls are targeted for genocide by perpetrators, but also to minimize the other genocidal acts that men and boys can be subject to, such as sexual torture, which may fall within the ambit of the act of causing serious bodily or mental harm, but is often subsumed into the act of killing.

The equation of genocide with the act of mass killings of members of the protected group also affects how governments and the international community understand the nature of the crimes committed. For example, in the case of the Yazidi, the United States recognized the Sinjar attack as genocide, but did not fully acknowledge the extent of the genocidal acts that took place. In this regard, acts of sexual and gender-based violence against Yazidi women and girls, as well as the kidnapping of boys, were removed from the description of genocide and placed within the frame of “crimes against humanity.”

## B. Genocidal intent

The overemphasis on killings as a constituent act of genocide is similarly reflected in how the *mens rea*, *i.e.*, genocidal intent, is understood both in terms of prioritizing evidence of an intent to physically destroy over biological destruction and in the lack of recognition of the genocidal intent behind non-lethal acts that are intended to physically destroy the group, but do not result in immediate death.

First, as set out above in the background section, the ICJ and the *ad hoc* international criminal tribunals have recognized that genocidal intent relates to an intent to physically *or biologically* destroy a group in whole or in part. In the case of the Uyghurs, there is an abundance of evidence in the form of government and government-affiliated academic statements and policies that indicate an intent to biologically destroy the Uyghur group at least in part through the act of imposing measures to prevent births within the group. However, in many analyses, the CCP’s genocidal intent is framed as an intent to physically destroy the Uyghurs. This inappropriate focus on an intent to physically destroy leads back to and is intertwined with the gendered overemphasis on the act of killing. It also creates unnecessary confusion regarding the genocidal intent associated with the CCP’s Population Optimization policy, specifically the coercive birth control measures imposed on the Uyghurs.

Second, the narrow interpretation that has been given to the Yazidi and Rohingya genocides demonstrates the manner in which the genocidal intent behind non-lethal acts, such as causing severe bodily and mental harm or imposing conditions of life calculated to bring about the groups’ destruction, is not adequately recognized. This non-recognition of genocidal intent often results in these acts being classified as crimes against humanity or war crimes. Because women are more often the victims of non-lethal acts of genocide, this exclusion disproportionately affects women and can lead to them being misidentified as witnesses, instead of victims and survivors, of the very genocide that they experienced. This exclusion is exacerbated by the fact that women tend to be less likely to speak about the gendered harms that they suffered during a genocide.

Finally, a gendered analysis of genocide would permit exploration of the ways in which perpetrators weaponize patriarchal and sexist societal views in genocidal campaigns. In the context of genocide, sexual violence is used to stigmatize particular segments of the population and to break the targeted group’s community bonds. Patriarchal societies tend to blame victims for sexual violence. For example, in the case of the Rohingya and Yazidi, survivors of sexual violence often face societal stigma and discrimination because of the sexual violence that they had suffered. Survivors can be excluded from society, rejected by their families and spouses, or deemed unmarriageable. The consequences of this societal stigmatization and rejection can imperil a group’s ability to regenerate and sustain itself as a cohesive group in the future. Genocidal perpetrators are aware of these societal dynamics and use targeted sexual violence accordingly. Whether this type of conduct would be analyzed as indicating an intent to physically destroy or to biologically destroy the group is not clear at this time. However, a more nuanced, gendered understanding of the various ways that specific segments of a protected group have been targeted and why they have been targeted in that manner would provide a useful framework for such an analysis.

### C. The obligation to prevent genocide

The ICJ has held that the obligation to prevent genocide is triggered when “the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”<sup>xxiii</sup> The ICJ has also held that this obligation is not territorially limited,<sup>xxiv</sup> meaning that States have an obligation to prevent genocide from occurring in other States and must do so regardless of if the perpetrators and/or victim group(s) are of a different nationality.<sup>xxv</sup>

The “gender blindness” discussed above that affects how genocidal acts and genocidal intent is understood necessarily also affects efforts to identify whether there is a serious risk of genocide occurring. In order to identify whether a “serious risk” exists, the United Nations and various States have created risk assessment frameworks. A review of these frameworks shows that most do not recognize gender-based crimes. Further, the UN *Framework of Analysis for Atrocity Crimes: A Tool for Prevention*,<sup>xxvi</sup> which identifies risk factors and associated indicators for atrocity crimes generally as well as specific risk factors and indicators for genocide, only has two indicators that are related to gender, and which notably group women and children together without differentiation. There is therefore a noticeable gap both in terms of ensuring that gender-based crimes are a part of the risk assessment being carried out and with regards to the suitability of these tools as risk indicators for identifying gendered aspects of atrocity crimes, including genocide.

The situation in Tigray, Ethiopia, underscores the dangers of ignoring gender-based crimes in atrocity risk assessments.<sup>xxvii</sup> In Tigray, reports of widespread and systematic rape were accompanied by survivor testimony that these acts were being carried out in order to accomplish ethnic cleansing and to “cleanse their [Tigrayan] blood”<sup>xxviii</sup> from Ethiopia. The international community failed to recognize the indicators of genocidal intent associated with these acts. In fact, months later, once additional statements from the government triggered concerns regarding a risk of the conflict devolving into genocide, the vast majority of UN and State statements did not include sexual violence as either a potential constituent act of the feared genocide or as an indicator of the risk of genocide. Instead, as occurred with the Yazidi and Rohingya, acts of rape and sexual violence continue to be placed outside of genocide, and are referred to in the context of human rights abuses, war crimes, and crimes against humanity.

### D. The way forward

The deficits related to recognizing the gendered aspects of genocide are not due to a gap in the legal frameworks. To the contrary, the *Akayesu* jurisprudence and the “serious risk” threshold set out by the ICJ already provide the legal entry points for a gendered analysis to be incorporated into genocide prevention and prosecutions. What is lacking is the political will to incorporate a gender lens into these processes and the needed gender competency to ensure that they are effectively implemented. There are steps that States and international organizations can take to address these deficiencies.

First, there is a need for better gender representation throughout governments and international institutions, including judicial mechanisms. In this regard, it is important that women are represented throughout these bodies at all levels and particularly within decision-making spaces. States should take this into account in terms of staffing decisions and when considering nominations and appointments to international bodies, particularly international justice mechanisms.

Second, gender competency should be a required skill of staff and appointed officials. While many organizations have “gender advisors,” these individual roles are insufficient to ensure that gender is regularly and systemically taken into account in decision-making across an entire organization. States and international organizations should ensure that their staffs are provided with adequate training and education in this regard. States should also ensure that international organizations and judicial mechanisms have the needed funding for such trainings in their budget-approving roles.



Lastly, States and United Nations bodies should undertake a substantive review of their atrocity risk frameworks and toolkits in order to ensure that they appropriately take into account gender-based crimes and contain risk factors and indicators that are capable of capturing the gendered aspects of atrocity crimes.

#### IV. CHALLENGES TO JUSTICE FOR SEXUAL VIOLENCE IN CONFLICT AND GENOCIDE

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For far too many victims and survivors of sexual violence that occurred during a conflict or a genocide, their pursuit of justice for the crimes and violations they suffered is a frustrating, unsatisfactory, and even re-traumatizing experience. What is meant by “justice” is personal to each individual, but broadly includes the elements of: 1) acknowledgement of the violation and harm caused; 2) formal accountability processes that establish either individual accountability or state responsibility for the violations; and 3) redress and reparation of the harms suffered. In this section, the challenges and potential improvements to current practices related to each of these notions of justice are discussed.

##### A. Acknowledgment of the violation and harm caused

Clear and unambiguous acknowledgement that sexual violence is a crime is an important way to combat the stigma and discrimination that is often placed on survivors of sexual violence. In this sense, acknowledgement can serve to reorient the blameworthiness associated with sexual violence onto the perpetrator and strengthen societal norms and understanding that sexual violence is a wrongful act. State acknowledgement that it either failed to protect its nationals from acts of sexual violence or was responsible for these violations can serve a similar function.

Formal justice processes can also result in acknowledgement, however, criminal convictions or judgments establishing State responsibility are traditionally understood as an acknowledgment by the international community or judicial mechanism and not necessarily of the convicted person or responsible State. While this form of acknowledgement is often important to victims and survivors, formal justice processes are quite lengthy, often spanning years if not decades. Additionally, academic researchers have questioned the degree to which this form of acknowledgement, particularly when emanating from an international judicial body, affects societal views and ameliorates stigma and discrimination faced by survivors.

Given these concerns, additional support for non-judicial transitional justice measures focused on addressing societal stigma and discrimination faced by survivors of sexual violence, including activities focused on acknowledging the violations suffered and the harms caused, can provide some measure of justice to victims and survivors. However, it is important that victims and survivors participate and have an approval role in the design and framing of any acknowledgment activity, particularly those in which State officials participate.

##### B. Challenges in a formal justice setting

Sexual violence is prohibited under international humanitarian law, recognized as a violation under international human rights law, and criminalized under international criminal law as either a war crime, crime against humanity, or constituent act of genocide. The exact classification will depend upon the specific context in which the violation or crime occurred and the specific circumstances and facts of the act of sexual violence. This means, for example, that rape may be classified as the crime against humanity of rape, of torture, or of persecution. It is important that prosecutors clearly explain the reasons for the legal classification(s) given to acts of sexual violence to the victims concerned.

##### 1. The investigation stage

The investigation stage is one of the most critical stages in criminal proceedings because often the information and evidence gathered at this moment will determine what charges are brought, how acts

are legally classified, and the manner in which they are factually presented. Victims who participate in interviews that are not conducted in a trauma-sensitive manner may not disclose important information or context, may decline to participate further in the process, and may suffer re-traumatization from the experience. Even with a gender- and trauma-sensitive approach, victims and survivors may need support services to address negative effects caused by their interaction with the justice process. Investigators should receive gender- and trauma-specific trainings that focus on best practices in terms of interview techniques, evidence gathering, and support service provision when appropriate.

## 2. Victim participation

Even before justice mechanisms have been established, victims and survivors of sexual violence often participate in advocacy and awareness-raising regarding the need for justice, which may include addressing government officials, legislators, and international organizations. Too often, victims of sexual violence are asked to share their deeply personal and painful personal experiences to these groups. Much less frequent are opportunities to address the dynamics of the conflict, the experiences of their families and communities, or to share their knowledge and insights regarding the domestic reforms, policy actions, and justice avenues needed. When they do speak on these issues, their views are often ignored or not acted upon. For years, Yazidi, Rohingya, and Uyghur women have publicly spoken about the atrocities, including acts of sexual violence, that they were subjected to, but have seen little tangible response from policymakers with respect to their requests for action. In addition, the repeated sharing of these personal experiences can be re-traumatizing and harmful for survivors. Policymakers should ensure that survivor testimony is solicited in a trauma-sensitive manner and should not seek out the details of personal experiences with acts of violence unless there is a real and compelling need for this type of information. Policymakers should also ensure that the views of victims and survivors are treated seriously, are given appropriate weight during policy decision-making, and are representative of the affected communities.

Once a justice mechanism has been established or seized, victims, survivors, and affected communities can engage with these mechanisms by participating in the proceedings as witnesses or directly when permitted by the relevant rules of procedure as well as by engaging in outreach and information programs conducted by the mechanism.

At the International Criminal Court, survivors can participate in the proceedings with the assistance of legal counsel, can be witnesses, and are also engaged through outreach activities by the ICC's Registry. The difference between the various organs of the Court is not always evident, which has led to some victims and survivors feeling confused and not listened to, particularly when they are asked to repeat information that they have already provided to a different section of the Court.

At the International Court of Justice, victims and survivors do not have participatory rights, including the right to make submissions or to have access to confidential submissions by the parties to a case. They are reliant on mainly nongovernmental organizations and legal advocacy organizations for information regarding the Court's operations and procedures. In the *Gambia v. Myanmar* case, the ICJ has signalled an awareness to this issue, but any meaningful change to the lack of participatory rights of victims and survivors would require the Court to make changes to its procedures.

Finally, both the ICJ and ICC are physically located in The Hague in the Netherlands. The geographic distance of these courts from the victim and survivor populations can contribute to misunderstandings regarding these courts' operations and a feeling that these justice mechanisms are not accessible.

States should use their positions as UN member states or ICC State parties to advocate for meaningful victim participation in international justice mechanisms and ensure that adequate funding is provided.

### C. Redress and reparation for the harm suffered

Many survivors continue to live with unaddressed physical and psychological harms from the violations that they suffered. To the extent possible, victims and survivors should receive assistance to address these physical and psychological harms before they engage with justice mechanisms. Services can be provided by a range of actors, including governments, NGOs, and humanitarian aid organizations. While this form of assistance is not reparations for the harms that survivors have suffered, it can provide tangible improvements to their daily lives and can be provided in a more timely manner than court-ordered reparations.

However, for many victims and survivors of sexual violence, reparations are an important part of what justice means. Given the extraordinary degree of harm these victims have suffered, expectation management is important. First, international justice processes take many years to conclude, which needs to be properly conveyed to victims and survivors. Second, not all desired forms of repair will necessarily be included in an eventual reparations order. For example, many Rohingya, who are currently living in Bangladeshi refugee camps, want above all to be able to return to their homes in Myanmar and live in dignity and with full respect of their fundamental human rights. These types of systemic reforms require State action to be implemented and are better addressed within the context of the ICJ than as a potential reparation arising from an individual criminal conviction at the ICC. Finally, because systemic reforms and legislative changes require State action, implementation can be stalled and delayed by the State subject to the reparations order. This is even more so the case outside the context of court-ordered reparations. Domestic legislative changes in Iraq requested by the Yazidis have taken years and are still not implemented. States and individual legislators can provide assistance in this regard by including these domestic reforms and legislative changes in their foreign policy positions.

## V. CHALLENGES IN STATE POLICY RESPONSES TO GENOCIDE

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Although 152 States are signatories to the Genocide Convention, it is not clear how these States are fulfilling their obligations to prevent and punish genocide — even in the face of clear evidence of a serious risk of genocide or that genocide is in fact occurring. This final section examines the effectiveness of State “determinations” of genocide, issues surrounding policy responses to prevent and halt genocide, and discusses the potential benefits of creating dedicated prevention structures within governments.

### A. Genocide Determinations

In recent years, there has been a movement to encourage governments to make official “determinations” that genocide is occurring in various situations and conflicts. The perceived value in these determinations is that they can raise public and political awareness and mobilize policy responses, as well as the intrinsic value associated with properly “naming” what is occurring. For many victims, acknowledgement that the violations that they have suffered constitute genocide is important and carries significant symbolic and emotional value on its own. On the other hand, the lengthy process required to make such determinations can result in other potential policy actions being delayed.

A report prepared for the U.S. Holocaust Memorial Museum examined the genocide determination practice of the U.S. government.<sup>xxix</sup> The report concluded that the determination process was notably *ad hoc*, without statutory or policy guidance on what circumstances trigger the determination process, and no prescribed policy actions stemming from a positive determination. The report also suggested that it is difficult to identify a causal connection between a genocide determination and increased policy actions or amelioration of the situation at issue.

Additionally, genocide determinations are complicated for States because they are carrying out a legal analysis without being a judicial body. In response to this issue, the United Kingdom has proposed legislation that would require a domestic court to make a genocide determination.

States should exercise caution before further bureaucratizing a genocide determination process. While there is a strong moral rationale to declaring a situation a genocide when the evidence suggests that is the reality of the situation, prescribing policy responses risks further politicizing the process, resulting in determinations being dictated by whether or not a particular policy response is desired, as opposed to on the merits of whether genocide is occurring. Instead, States should reorient their focus and time toward strengthening their atrocity and genocide prevention toolkits.

#### B. Policy responses to prevent and halt genocide

Following from the above discussion, it is important to stress that genocide determinations are not, by definition, a measure to prevent genocide, as these determinations address whether genocide *is* occurring, and tend not to address whether there is a serious risk of genocide occurring. However, it should be noted that Belgium did make a “serious risk” determination with respect to the Uyghurs. The foreword to the Holocaust Memorial Museum’s report powerfully underscores this point:

“This research also offers an important warning: calling or not calling a situation a genocide cannot be a substitute for preventive and responsive action. Ultimately, this is the US Holocaust Memorial Museum’s central aim in commissioning this report: to prompt considered and concerted action in the face of mass atrocities. When the risk of genocide arises or grave crimes are already underway, senior leaders in the US government should consider a playbook of actions, including actions to amplify the voices of victims and show solidarity with them; actions to protect at-risk communities; actions to address the context that is driving mass atrocities; actions to deter potential perpetrators; and actions to facilitate accountability for those responsible. This study highlights that there is always something more that we can collectively do to prevent, respond to, and punish genocide and related mass atrocities.”<sup>xxx</sup>

Atrocity and genocide prevention and response tools available to States include sanctions, travel bans, import and export restrictions, and immigration protections for vulnerable populations. With respect to sanctions, some States only impose UN Security Council-mandated sanctions under their Chapter VII authority, whereas other States have domestic sanctions laws that can be imposed absent Security Council action. The United States and the United Kingdom both have domestic sanctions regimes, sometimes referred to as a “Magnitsky-style” sanction regime. Australia is currently considering legislating a stronger domestic sanctions regime.

States should utilize all of the tools at their disposal in order to prevent and halt genocide. Unfortunately, political and economic considerations often play an outsized role in whether prevention tools are used or not. For example, while Australia has been fairly active in response to the Uyghur situation, there has been no actions taken with respect to the Tigray situation.

Finally, as discussed throughout this report, States should ensure that their prevention and response tools include gender considerations.

#### C. Structural issues relevant to atrocity prevention and response

There is tremendous diversity across governments in terms of how atrocity prevention duties are structured. Some governments have appointed atrocity prevention “focal points,” who do not necessarily have assigned staff, while others, such as the United States, have dedicated offices, boards, or inter-agency task forces that are tasked with prioritizing atrocity prevention. Ultimately, structural issues are less relevant than ensuring that atrocity prevention recommendations are able to influence policy decisions regarding funding and project support being made in other sections of government and that sufficient staff and resources are dedicated to atrocity prevention work.

## VI. CONCLUSION

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States, as the primary actors under international law, hold the primary responsibility to prevent and punish genocide. Yet, more than 75 years after the horrors of the Holocaust, governments still struggle to transform the solemn pledge of “never again” into concrete, meaningful action. Governments continue to miss the warning signs that a situation is at risk of devolving into a genocide, genocides continue to take place, and justice remains elusive for victims and survivors. As the New Lines’ Conference on Gender and Genocide in the 21<sup>st</sup> Century explored over two days, recognizing the gendered aspects of genocide is a critical to improving and strengthening State prevention tools, ensuring that policy responses are effective in halting ongoing genocides, and delivering meaningful justice to survivors — a justice that acknowledges the full scope of the methods and means used to carry out the genocide and recognizes all of the victims.

Though many focus only on immediate mass killings, gendered non-lethal acts continue to harm victims for years and even generations later and can lead to the long-term destruction of the protected group as a whole. The harm caused by genocide cannot be overstated: it devastates individuals, families, communities, and entire societies and many of the harms caused are simply irreparable. Ultimately it is the harms of the crime of genocide that demonstrate why it is so important for States and governments to carry out a gendered analysis of genocide: in order to, above all, prevent the crime of genocide from occurring in the first place.

## VII. RECOMMENDATIONS FOR STATES

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### Gender representation and competence

- Ensure better gender representation throughout government positions and international institutions, including judicial mechanisms, at all levels and particularly within decision-making spaces.
- Take gender representation into account in terms of staffing decisions and when considering nominations and appointments to international bodies, particularly international justice mechanisms.
- Require gender competency for staff and appointed officials.
- Ensure that staff are provided with adequate gender training and education.
- Ensure that international organizations and judicial mechanisms have the needed funding for such trainings when reviewing and/or approving budgets.

### Atrocity crime and genocide prevention

- Undertake a substantive review of national atrocity risk frameworks and toolkits in order to ensure that they appropriately take into account gender-based crimes and contain risk factors and indicators that are capable of capturing the gendered aspects of atrocity crimes.
- As a member State, encourage the relevant United Nations bodies and offices to undertake a substantive review of their atrocity risk frameworks and toolkits in order to ensure that they appropriately take into account gender-based crimes and contain risk factors and indicators that are capable of capturing the gendered aspects of atrocity crimes.
- Exercise caution before further bureaucratizing a genocide determination process and reorient toward strengthening domestic atrocity and genocide prevention toolkits.
- Utilize all available tools for atrocity and genocide prevention and response, including sanctions, travel bans, import and export restrictions, and immigration protections for vulnerable populations.
- Ensure that prevention and response tools include gender considerations.
- Ensure that atrocity prevention recommendations are able to influence policy decisions regarding funding and project support being made in other sections of government and that sufficient staff and resources are dedicated to atrocity prevention work.

### Interactions with victims and survivors

- Provide financial support to organizations that provide assistance to victims and survivors.



- Ensure that survivor testimony is solicited in a trauma-sensitive manner and avoid seeking out the details of personal experiences with acts of violence unless there is a real and compelling need for this type of information.
- Ensure that the views of victims and survivors are treated seriously, are given appropriate weight during policy decision-making, and are representative of the affected communities.

#### International justice mechanisms and measures

- Support non-judicial transitional justice measures focused on addressing societal stigma and discrimination faced by survivors of sexual violence, including activities focused on acknowledging the violations suffered and the harms caused by sexual violence.
- Advocate and provide support for transitional justice measures to be victim-centered at the design and implementation stages.
- Advocate and ensure adequate funding for gender- and trauma-specific trainings at the investigation stage that focus on best practices in terms of interview techniques, evidence gathering, and support service provision when appropriate.
- Advocate and ensure adequate funding for outreach activities to victims and survivors that are accessible and reach the affected communities where they are located.
- Advocate for meaningful victim participation in international justice mechanisms and ensure that adequate funding is provided.
- Include survivor-requested and/or court-ordered reparations related to domestic institutional reforms and legislative changes in foreign policy positions and advocate for their swift implementation with the concerned State governments.

<sup>i</sup> This report uses “XUAR” and not the CCP-designated term “Xinjiang” to refer to the region of China that is the Uyghur people’s homeland. *See*, for further information on this issue, Report, Uyghur Human Rights Project, *Under the Gavel: Evidence of Uyghur-owned Property Seized and Sold Online*, 24 September 2021, fn. 8, available at: [https://uhrp.org/wp-content/uploads/2021/09/Under-the-Gavel\\_2021-09-24.pdf](https://uhrp.org/wp-content/uploads/2021/09/Under-the-Gavel_2021-09-24.pdf).

<sup>ii</sup> This report uses the country name of “Myanmar,” but recognizes sensitivities around this issue. In 1989, the military government officially changed the country’s name from “Burma” to “Myanmar.” While the United Nations and most governments have recognized this name change, others, such as the United States government, as well as some Rohingya advocacy organizations, have continued to use “Burma.” *See* Associated Press, “Myanmar, Burma and why the different names matter,” 2 February 2021, available at: <https://apnews.com/article/myanmar-burma-different-names-explained-8af64e33cf89c565b074e9c9cbe22b72>; Fact Sheet, U.S. Department of State, “U.S. Relations with Burma,” 3 June 2021, noting that: “The United States government continues to use the name ‘Burma.’” Available at: <https://www.state.gov/u-s-relations-with-burma/>.

<sup>iii</sup> UN General Assembly, Resolution 260/III, 9 December 1948, entered into force 12 January 1951, 78 U.N.T.S. 277.

<sup>iv</sup> While this report refers to gender roles in relation to men and women, societal perceptions about nonbinary and LGBTQ+ individuals, including perceived transgressions of societal gender norms, is a growing and important aspect to a gendered analysis of how and why crimes are perpetrated.

<sup>v</sup> Sareta Ashraph, Global Justice Center, *Beyond Killing: Gender, Genocide, and Obligations Under International Law*, December 2018, p. 2. Available at: <https://globaljusticecenter.net/files/Gender-and-Genocide-Whitepaper-FINAL.pdf>.

<sup>vi</sup> Genocide Convention, art. I. Article III sets out that not only are those who commit genocide punishable, but also those who conspire to commit genocide, incite genocide, attempt to commit genocide, or are complicit in the commission of genocide.

<sup>vii</sup> *See* International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Preliminary Objections, Judgment, 11 July 1996 (1996 *Bosnia* Judgment), para. 31.

<sup>viii</sup> *See* International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 26 February 2007, para. 87 (2007 *Bosnia* Judgment).

<sup>ix</sup> Genocide Convention, art. II.

<sup>x</sup> 2007 *Bosnia* Judgment, para. 344, endorsing the jurisprudence on this issue from the International Criminal Tribunal for the former Yugoslavia (ICTY). *See*, for a further discussion on the meaning of “biological destruction,” Beth Van Schaack, Just Security, “Genocide against the Uyghurs: Legal Grounds for the United States’ Bipartisan Genocide Determination,” 27 January 2021, available at: <https://www.justsecurity.org/74388/genocide-against-the-uyghurs-legal-grounds-for-the-united-states-bipartisan-genocide-determination/>.

<sup>xi</sup> The International Court of Justice has held that “the intent must be to destroy at least a substantial part of the particular group.” 2007 *Bosnia* Judgment, para. 198, noting that this is also the consistent jurisprudence of the ICTY and International Criminal Tribunal for Rwanda (ICTR).

<sup>xii</sup> *See*, for more information, New Lines Institute for Strategy and Policy, “The Uyghur Genocide: An Examination of China’s Breaches of the 1948 Genocide Convention,” 8 March 2021.

<sup>xiii</sup> Human Rights Watch, “‘Break Their Lineage, Break Their Roots’: China’s Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims,” 19 April 2021, available at: <https://www.hrw.org/report/2021/04/19/break-their-lineage-break-their-roots/chinas-crimes-against-humanity-targeting>.

<sup>xiv</sup> Adrian Zenz, Central Asian Survey, “‘End the Dominance of the Uyghur Ethnic Group’: An Analysis of Beijing’s Population Optimization Strategy in Southern Xinjiang,” 8 June 2021.

<sup>xv</sup> *Ibid.*

<sup>xvi</sup> *Ibid.* *See also* Adrian Zenz and Erin Rosenberg, Foreign Policy, “Beijing Plans a Slow Genocide in Xinjiang,” 8 June 2021, available at: <https://foreignpolicy.com/2021/06/08/genocide-population-xinjiang-uyghurs/>.

<sup>xvii</sup> “Detailed findings of the Independent International Fact-Finding Mission on Myanmar,” A/HRC/42/CRP.5, September 2019, para. 220 (“2019 FFM report”). Available at: [https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/20190916/A\\_HRC\\_42\\_CRP.5.docx](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/20190916/A_HRC_42_CRP.5.docx).

<sup>xviii</sup> 2019 FFM Report, para. 224.

<sup>xix</sup> Press release, United Nations Security Council, “ISIL/Da’esh Committed Genocide of Yazidi, War Crimes against Unarmed Cadets, Military Personnel in Iraq, Investigative Team Head Tells Security Council,” 10 May 2021, available at: <https://www.un.org/press/en/2021/sc14514.doc.htm>.

<sup>xx</sup> *See* Euronews, “German IS bride jailed in one of world’s first trials for war crimes against Yazidis,” 25 October 2021, available at: <https://www.euronews.com/2021/10/25/german-is-bride-jailed-in-one-of-world-s-first-trials-for-war-crimes-against-yazidis>.

<sup>xxi</sup> International Criminal Tribunal for Rwanda, Trial Judgement, ICTR-96-4-T, 2 September 1998 (“*Akayesu* Trial Judgment”).

<sup>xxii</sup> *Akayesu* Trial Judgment, paras 731, 732.

<sup>xxiii</sup> 2007 *Bosnia* Judgment, para. 431.

<sup>xxiv</sup> 1996 *Bosnia* Judgment, para. 31.

<sup>xxv</sup> It should be noted that the United States has a different understanding of the obligation to prevent genocide, which is that it “believe[s] that each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” See Wes Rist, American Society of International Law, “Implementing the Genocide Convention at the Domestic Level: The Elie Wiesel Genocide and Atrocity Prevention Act 2018,” 8 October 2019, Volume 23, Issue 8.

<sup>xxvi</sup> United Nations Office for the Prevention of Genocide and Responsibility to Protect, 2014, *available at*:

[https://www.un.org/en/genocideprevention/documents/about-us/Doc.3\\_Framework%20of%20Analysis%20for%20Atrocity%20Crimes\\_EN.pdf](https://www.un.org/en/genocideprevention/documents/about-us/Doc.3_Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf).

<sup>xxvii</sup> As discussed by several panelists during the conference, the situation in Afghanistan also highlights this concern. In Afghanistan, the Taliban’s immediate and open violations of Afghan women’s human rights, including banning them from working and attending school as well as evidence of forced marriages and physical and sexual assaults, was not treated as an indicator of the likelihood that the Taliban would similarly violate the rights of other minority and vulnerable groups. Even following clear evidence of widespread gender-based human rights violations, the international community continued to isolate these acts from the broader situation, failing to link them to the risk of violations against, for example, the Hazara minority community.

<sup>xxviii</sup> CNN, “‘Practically this has been a genocide’: Doctors say rape is being used as a weapon of war in Ethiopia’s conflict”, 22 March 2021, *available at*: <https://www.cnn.com/2021/03/19/africa/ethiopia-tigray-rape-investigation-cmd-intl/index.html>.

<sup>xxix</sup> Todd Buchwald, Adam Keith, “By Any Other Name: How, When, and Why the US Government Has Made Genocide Determinations”, March 2019, *available at*: [https://www.ushmm.org/m/pdfs/Todd\\_Buchwald\\_Report\\_031819.pdf](https://www.ushmm.org/m/pdfs/Todd_Buchwald_Report_031819.pdf).

<sup>xxx</sup> *Ibid.*, Anna Cave, pp. v-vi.

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## Gender and Genocide in the 21st Century Conference

### Expert panelist bios

#### **Emily Prey (host)**

Emily Prey is a Senior Analyst for Special Initiatives at the New Lines Institute. Prior to joining the New Lines Institute, Prey served as Project Manager of the Financial Integration in Displacement Initiative of the International Rescue Committee at Tufts University. She has also worked with the United Nations International Children's Emergency Fund (UNICEF) and several global NGOs. Prey is a child protection and gender specialist with several years of experience working in international development settings and has lived in Southeast Asia, East Africa, and the Middle East. Her areas of research include child marriage, human trafficking, and transitional justice. Prey is a co-author of the independent expert report, "The Uyghur Genocide: An Examination of China's Breaches of the 1948 Genocide Convention." She obtained her master's in Law and Diplomacy from The Fletcher School at Tufts University and her bachelor's in History from Williams College.

#### **Akila Radhakrishnan**

Akila Radhakrishnan is the President of the Global Justice Center, where she leads its work to achieve gender equality and human rights. In her time at GJC, Akila has led the development of groundbreaking legal work on both abortion access in conflict and the role that gender plays in genocide. Akila is a globally-recognized voice on issues of reproductive rights, gender-based violence, and justice and accountability. Her unique expertise as a feminist international lawyer is sought by policymakers, academics, media, and grassroots actors around the world. She has briefed the United Nations Security Council and the United Kingdom and European parliaments, and regularly advises governments and multilateral institutions on issues of gender equality and human rights. Akila's expert analysis can also be seen across popular media, including in The New York Times, The Washington Post, BBC, The Atlantic, Foreign Policy, CNN, and more. Prior to the Global Justice Center, she worked at the International Criminal Tribunal for the former Yugoslavia, DPK Consulting, and Drinker, Biddle & Reath, LLP. Akila received her J.D. with a concentration in international law from the University of California, Hastings and holds a B.A. in Political Science and Art History from the University of California, Davis. She is a term member of the Council on Foreign Relations, serves on the Board of Directors of Reprieve US, is a member of the Oxford Group of Practitioners on Fact-Finding and Accountability, and an expert on the International Bar Association Human Rights Law Committee.

#### **Professor Valerie Oosterveld (moderator)**

Valerie Oosterveld is a full Professor at the Faculty of Law, University of Western Ontario. Her research and publications focus on gender issues within international criminal law, including the interpretation of sexual and gender-based crimes by international criminal courts and tribunals. She is a member of the Canadian Partnership for International Justice and the Royal Society of Canada's College of New Scholars, Artists and Scientists. She is the Associate Director of Western's Centre for Transitional Justice and Post-Conflict Reconstruction. Before joining the Faculty of Law, Valerie served in the Legal Affairs Bureau of Canada's Department of Foreign Affairs and International Trade. In this role, she provided legal advice on international criminal accountability for genocide, crimes against humanity and war crimes, especially with respect to the International Criminal Court (ICC), the International Criminal Tribunals for the former Yugoslavia and Rwanda, and the Special Court for Sierra Leone. She served on the Canadian delegation to various ICC-related negotiations, including the Assembly of States Parties. In 1998, she was a member of the Canadian delegation to UN Diplomatic Conference of Plenipotentiaries on the Establishment of an ICC. She holds B.Soc.Sc. (Ottawa), LL.B. (Toronto), LL.M. (Columbia) and J.S.D. (Columbia) degrees.

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**Baroness Helena Kennedy QC**

Baroness Helena Kennedy QC is one of Britain's most distinguished lawyers. She has spent her professional life giving voice to those who have least power within the system, championing civil liberties and promoting human rights. She has conducted many prominent cases of terrorism, official secrets and homicide. She is the founding force behind the establishment of the Bonavero Institute of Human Rights at the University of Oxford. In 1997, she was elevated to the House of Lords where she is a Labour peer. She has published two books on how the justice system is failing women, and has written and broadcasted on many issues over the years. Currently, she has taken on the role of Director to the International Bar Association's Human Rights Institute. She directs the Institute's work upholding the rule of law and human rights globally.

**Dr. Tetsushi Ogata**

Dr. Tetsushi Ogata is a visiting assistant professor of peace and conflict studies at Soka University of America. Prior to that, he was a lecturer in peace and conflict studies at the University of California, Berkeley, and the director of George Mason University's Genocide Prevention Program. As a conflict resolution practitioner, he has facilitated the launch of national committees for genocide prevention in member states of the International Conference on the Great Lakes Region in Africa; collaborated with the European governments to advance their policies on genocide prevention through organization of the Genocide Prevention Advisory Network; and helped launch the Global Action Against Mass Atrocity Crimes, a global network of atrocity prevention focal points around the world. Dr. Ogata serves as a facilitator of the U.S. West Coast Strait Talk symposium.

**Djaouida Siaci**

Djaouida Siaci is an international lawyer specializing in international litigation and arbitration, and cross-border criminal investigation with a focus on the Middle East and North Africa (MENA) region. As part of her pro bono work, Djaouida has been engaged in efforts to pursue international justice and accountability on behalf of victims of human rights violations and mass atrocities, including the Rohingya Muslim ethnic-minority. She is the founder and vice-president of the Rohingya Support Group (RSG). Djaouida holds a Master of Laws from Harvard Law School; a postgraduate degree in Public International Law and Law of International Organizations from the University of Paris, Sorbonne; and a law degree from the University of Algiers, Faculty of Law. Djaouida is a member of the New York, Washington, D.C. and North Carolina state bars. She currently practices law in North Carolina.

**Grant Shubin (moderator)**

Grant Shubin is the Legal Director of the Global Justice Center where he leads GJC's programs on achieving gender equality through the rule of law. His work focuses on bringing feminist legal interpretations to ensure justice for sexual and gender-based violence and access to sexual and reproductive health and rights. His work includes advising governments, diplomats, civil servants, experts, and other stakeholders on legal and policy compliance with human rights laws and norms. His writing has been published in the opinion sections of the New York Times, Washington Post, Newsweek, as well as in Just Security, Ms. Magazine, and Women Under Siege. Prior to his time at GJC, he was a staff attorney at a legal services organization offering pro bono representation for low-income members of San Francisco's most marginalized communities. He graduated from University of California Hastings College of the Law in May 2013.

**Sareta Ashraph**

Sareta Ashraph, Senior Legal Advisor, is an international expert on gender and genocide. An international lawyer, Sareta joins the CJA team as Senior Legal Advisor, with extensive experience at international tribunals and serving on international commissions of inquiry. From May 2012 to November 2016, Sareta was the Chief Analyst on the UN's Commission of Inquiry on Syria, where she



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led the Commission's investigation and reporting on crimes against the Yazidis. Most recently, she served as the Senior Analyst on the United Nations Investigative Team (UNITAD), which was established by the UN Security Council to seek accountability for international crimes committed by ISIS. She is currently a Visiting Scholar with the Oxford Institute for Ethics, Law and Armed Conflict at the University of Oxford, and was previously a Visiting Fellow at the London School of Economics Middle East Centre, the Global Practitioner-in-Residence at Stanford Law School, and the Wasserstein Fellow at Harvard Law School.

### **Dr. Ewelina Ochab**

Dr. Ewelina U. Ochab is a human rights advocate, author and co-founder of the Coalition for Genocide Response. Ochab works on the topic of genocide, with specific focus on the persecution of ethnic and religious minorities around the world, with main projects including the Daesh genocide in Syria and Iraq, Boko Haram atrocities in West Africa, the situation of the Rohingya Muslims in Myanmar and of the Uyghurs in China. Ochab has written over 30 reports for the UN (including Universal Periodic Review reports) and has made oral and written submissions at the Human Rights Council, the UN Forum on Minority Issues, PACE and other international and regional fora. Ochab authored the initiative and proposal to establish the UN International Day Commemorating Victims and Survivors of Religious Persecution. The initiative has led to the establishment of the UN International Day Commemorating the Victims of Acts of Violence Based on Religion or Belief on August 22. Follow her on Twitter @EwelinaUO

### **Erin Farrell Rosenberg**

Erin Farrell Rosenberg is a licensed attorney in Indiana, specializing in international criminal law (ICL), reparations, and genocide prevention. She spent a decade working in ICL, beginning at the International Criminal Tribunal for the former Yugoslavia at the pre-trial stage of the Prosecutor v. Ratko Mladic case. She then moved to the International Criminal Court (ICC), first in the Appeals Chamber where she worked on the ICC's first judgment on reparations in the Lubanga case. She then continued her focus on reparations by leading the legal work at the ICC Trust Fund for Victims. In this role, she designed the Court's first reparations beneficiary eligibility screening systems, conducted harm assessments and victim consultations for purposes of reparations design and implementation planning, and oversaw the implementation of the first reparations to beneficiaries in the ICC's history. She spent extensive time in the field working directly with victims of atrocity crimes in the Democratic Republic of the Congo, Central African Republic, and Mali. Upon returning to the United States, she served as the Senior Advisor for the Center for the Prevention of Genocide at the U.S. Holocaust Memorial Museum, where she led the Center's legal work on the situations in Myanmar (Burma) and XUAR, China (Uyghurs). Ms Farrell Rosenberg currently works as a legal consultant, advising NGOs and victim groups on legal and policy issues related to atrocity crimes and conflict situations. In this role, she has published numerous reports, legal analyses, and policy papers, as well as participated in public panels, seminars and events, related to the Rohingya, the Uyghurs, the International Court of Justice, the ICC, and other international justice mechanisms. Ms Farrell Rosenberg is a Visiting Scholar at the Urban Morgan Institute for Human Rights, adjunct professor at the University of Cincinnati School of Law, and a member of the Editorial Committee of the Journal of International Criminal Justice (JICJ) and the ABA Working Group on Crimes Against Humanity. She earned her J.D. from the University of Cincinnati School of Law and a B.A. in African-American and African Diasporic Studies, French, and Linguistics from Indiana University.

### **Razia Sultana**

Razia Sultana (@AdvRaziaSultana) is a lawyer, human rights activist and Chairperson of the RW Welfare Society, a grassroots organization based in Bangladesh working to prevent human trafficking and to support refugee women. Her work focuses on trauma, mass rape, and trafficking of Rohingya girls and women. Born in Myanmar but raised in neighboring Bangladesh, Razia has been a courageous

advocate for Rohingya rights and works with some of the hundreds of thousands of Rohingya refugees in refugee camps in the Cox's Bazar region of Bangladesh. In 2018, she published two ground-breaking reports: "Witness to Horror" in 2017, and "Rape by Command: Sexual violence as a weapon against the Rohingya," exposing the widespread and systematic use of sexual violence by the Myanmar army as a weapon against the Rohingya in Rakhine state. She is a senior researcher with Kaladan Press Network, an independent and non-profit Rohingya news agency. She was awarded the U.S. State Department's 2019 Women of Courage Award and was a civil society Rohingya representative at the UN Security Council. In April 2018 Razia addressed the UN Security Council's Open Debate on Sexual Violence in Conflict on the Rohingya crisis.

### **Naomi Kikoler (moderator)**

Naomi Kikoler is the director of the Simon-Skjoldt Center for the Prevention of Genocide. As the Center's deputy director she led Center's policy engagement with the United States government and work on Bearing Witness countries, including undertaking the documentation of the commission of genocide by ISIS. Previously she developed and implemented the Global Centre for the Responsibility to Protect's work on populations at risk and efforts to advance R2P globally and led the Centre's advocacy, including targeting the United Nations Security Council. Prior to joining the Global Centre for the Responsibility to Protect in 2008, she worked on national security and refugee law and policy for Amnesty International Canada. She has also worked for the UN Office of the Special Advisor on the Prevention of Genocide, the Office of the Prosecutor at the UN International Criminal Tribunal for Rwanda, and the Brookings-Bern Project on Internal Displacement at the Brookings Institution, and she worked as an election monitor in Kenya with the Carter Center. She has been an adjunct professor at the New School University and is the author of numerous publications, including the U.S. Holocaust Memorial Museum's 2015 report, "Our Generation is Gone: The Islamic States Targeting of Minorities in Ninewa," the 2013 Nexus Fund series on the emerging powers and mass atrocity prevention, and the 2011 report "Risk Factors and Legal Norms Associated with Genocide Prevention" for the UN Office on the Prevention of Genocide and the Jacob Blaustein Institute. She is a graduate of McGill University's Faculty of Law, Oxford University, where her master's thesis was on the Rwandan genocide, and the University of Toronto. She is a board member of the Canadian Centre for the Responsibility to Protect, the Free Yezidi Foundation, is a Fellow at the Montreal Institute for Genocide and Human Rights Studies, and was called to the Bar of Upper Canada.

### **Adam Keith**

Adam Keith is a former career civil servant with the U.S. Department of State. He worked for the Office of Global Criminal Justice from 2014 to 2017 and as a director on the National Security Council staff from 2013 to 2014, developing, coordinating, and implementing policy on international justice, human rights, and conflict and atrocity prevention. He held other positions at the State Department from 2007 to 2013, including in the bureaus for African and Near Eastern affairs. Since leaving the federal government, he has consulted for Human Rights First, the U.S. Holocaust Memorial Museum, and the Open Society Foundations. He is the co-author of a U.S. Holocaust Memorial Museum study on the U.S. government's practice in making genocide determinations. He has a master's degree from Princeton University's School of Public and International Affairs and a bachelor's degree from Rice University, and he was a Fulbright fellow in Ghana.

### **Dr. Melanie O'Brien**

Dr. Melanie O'Brien is Associate Professor in International Law at the University of Western Australia, an award-winning teacher of International Humanitarian Law, Public International Law, and Legal Research. Her research examines the connection between human rights and the genocide process; and sexual and gender-based crimes against women in atrocities. Melanie is President of the International Association of Genocide Scholars (IAGS) and co-convened the 2017 IAGS conference at University of Queensland. Her work on forced marriage and human trafficking has been cited by the International




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Criminal Court and the Ongwen defense, and she has been an expert panelist on genocide prevention for the UN Office of the High Commissioner for Human Rights.


### **Professor John Packer**

John Packer is Director of the Human Rights Research and Education Centre and Neuberger-Jesin Professor of International Conflict Resolution in the Faculty of Law at the University of Ottawa. He previously taught at the Fletcher School (Tufts University, USA) and the University of Essex (UK), held Fellowships at Cambridge and Harvard Universities, and has lectured at academic and professional institutions around the world. Over his 30-year career, he was an inter-governmental official for 20 years (UNHCR, ILO, OHCHR, UNDP, OSCE) and has advised numerous governments, communities and other actors in over fifty countries. As a UN staff member in the early 1990s, he investigated serious violations of human rights in Iraq, Afghanistan and Burma/Myanmar. From 1995 to 2004, he was Senior Legal Adviser then the first Director of the Office of the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe (OSCE) active mainly across Central and Eastern Europe and the former Soviet Union. In 2012-2014, he was the Constitutions and Process Design Expert on the UN's Standby Team of Mediation Experts and continues to advise UNDP and other IGOs and NGOs in a number of situations. The focus of his research and practice is at the intersection of human rights (including minority rights) and security, notably conflict prevention and quiet diplomacy, international mediation, transitional arrangements, and institutional developments at domestic and multilateral levels. He has investigated, testified, advocated regarding and published on genocide and genocidal situations.

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