It Can Happen Here:
Assessing the Risk of Genocide in the US (02/24/17)

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Executive Summary

Could a long, slow attrition of civil and human rights bring our country again to the point where genocide – at home or abroad – stands justified as sound political, social, national, and economic strategy? If so, could we recognize the warning signs in that process and have the collective resolve to resist and mitigate them? *The purpose of this paper is to offer a sober real-time analysis of those warning signs and assess the degree of risk for genocide in the US.*

It would be the epitome of American exceptionalism to believe that we, alone among nations in the world, are immune to genocide. Every country in the world, including the US, is at risk of genocide. Countries simply differ in

their degree of risk. The US, over its history, certainly has developed some important foundations, structures, policies, and a unique brand of checks and balances (both within government as well as civil society) that mitigate much of the risk of genocide. Through the norm of the responsibility to protect, we have affirmed a global commitment to protect our population from genocide and other mass atrocity crimes. We would be naïve, though, to believe that we have, or could ever have, mitigated all the risk of genocide. It would be a disingenuous and dangerous denial of our history to believe that our past, present, or future somehow shelters us from the risk of genocide.

Using a comprehensive and data-driven set of risk factors that help us understand the preconditions for a genocidal society, this paper focuses on the proximate and immediate pressure of risk factors related to governance and social fragmentation as impacted by, and reflected in, the emergence of a new presidential administration in the US. *This paper argues that recent political transitions in governance, combined with an escalation in long-term social* *fragmentation trends, have increased our risk for genocide in the US.* Were we noticing these same signs of poor governance and social fragmentation in a Latin American, African, or Eastern European country, the risk of warning would be clear and alarms would be raised by a range of governmental and non-governmental actors. We cannot let the false comfort of believing it cannot happen here stop us from raising those same alarms for our country.

Genocide is an extremely rare event. But, while it does not happen often, it does happen. And, when it happens, it is the culmination of a long process that did not appear without warning. Rather, there were signs and symptoms along a predictable, but not inexorable, path. Those signs and symptoms – the risk factors discussed in this paper – are what we must attend to if we have any hopes of preventing genocide at home or abroad. In that light, the paper concludes with suggestions for preventive measures that can be proactively applied – by policymakers, academics, lawyers, civil society (including the media, social movements, NGOs, and diaspora communities), and individual citizens –

to mitigate the risks posted by governance and social fragmentation factors.

Introduction

In 1935, American author Sinclair Lewis wrote a semi-satirical political novel, *It Can't Happen Here*, which follows the improbable rise of a charismatic populist presidential candidate, Berzelius ("Buzz") Windrip. As essayist Beverly Gage describes: "Windrip sells himself as the champion of 'Forgotten Men,' determined to bring dignity and prosperity back to America's white working class. Windrip loves big, passionate rallies and rails against the 'lies' of the mainstream press. His supporters embrace this message, lashing out against the 'highbrow intellectuality' of editors and professors and policy elites. With Windrip's encouragement, they also take out their frustrations on blacks and Jews."[1] After his election as president, Windrip takes complete control of the government and imposes totalitarian rule. Selling more than 300,000 copies in its 1935 release, Lewis' book has returned to the 2017 bestseller lists "as an analogy for the Age of Trump" and a warning about the slippery erosion of democracy into fascism, dictatorship, and authoritarianism.[2]

Can Lewis' novel become reality? Can it happen here? And could it happen to the degree that a long, slow attrition of civil and human rights brings our country again to the point where genocide – at home or abroad – stands justified as sound political, social, national, and economic strategy? If so, could we recognize the warning signs in that process and have the collective resolve to resist and mitigate them? *The purpose of this paper is to offer a sober real-time analysis of those warning signs and assess the degree of risk for genocide in the US.* Some of these warning signs, or risk factors, are social inequities that have been decades in the making and show signs of exacerbation in the current social and political climate. Others are governance issues more closely tied to the ascendancy of Donald Trump to the White House. Together, the long-term social trends and the more immediate political transitions can give us a clear picture of the potential for genocide in the US, either at home or abroad.

The paper begins with a review of definitions and historical background, proceeds to a data-driven analysis of risk factors and where the US finds itself at the beginning of 2017, and concludes with a discussion of how we might best respond to these risks.

Definitions and Historical Background

The United Nations Convention on the Prevention and Punishment of the Crime of Genocide (commonly known as the Genocide Convention) was adopted at the Palais de Chaillot in Paris on December 9, 1948. The Genocide Convention includes 19 concise articles. It is Article II, however, that is the central defining article of the Convention: "In the present Convention, genocide means 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, or (e) forcibly transferring children of the group to another group."

While the word "genocide" was not coined until its 1944 appearance in Raphael Lemkin's *Axis Rule in Occupied Europe*, its practice, as Jean-Paul Sartre has written, "is as old as humanity."[3] It is clear that genocide cannot be confined to one culture, place, or time in modern history. Even the most restrictive of definitions estimates that at least 60 million men, women, and children were victims of genocide and mass killing in the past century alone.[4] On the upper end, political scientist Rudolph Rummel argues that close to 170 million civilians were done to death in the twentieth century.[5] Unfortunately, the first decades of the twenty-first century have brought little light to the darkness. In recent years, civilians have found themselves under attack in Chechnya, the Democratic Republic of Congo, Kenya, Ethiopia, Cote d'Ivoire, Kyrgyzstan, Bahrain, Somalia, Yemen, Afghanistan, Nigeria, Zimbabwe, China, the Philippines, Colombia, Macedonia, Pakistan, Libya, North Korea, Ukraine, Tajikistan, and an increasingly wide swath territory controlled by the Islamic

State of Iraq and the Levant (also known as ISIS). Of particular and immediate concern are escalating mass atrocity situations in South Sudan, Sudan, Burma, Syria, the Central African Republic, and Burundi.

It would be the epitome of American exceptionalism to believe that we, alone among nations in the world, are immune to genocide. Every country in the world, including the US, is at risk of genocide. Countries simply differ in their degree of risk. As an analogy, every person in the world is at risk of heart disease, we just each differ, at various times in our life, in the degree of risk. Similarly, the lives of countries vary in their degree of risk for genocide over time. This paper offers a snapshot of where we are in the life of the US, in early 2017, in terms of risk for committing genocide, either as domestic or foreign policy, in response to a perceived threat.

The possibility of the US descending such a path is certainly not without precedent, despite the deceit, and conceit, often fostered by our national narratives. In truth, we are a country, as Martin Luther King Jr. asserted over half a century ago, "born

in genocide."[6] The Doctrine of Discovery legitimized the colonization of lands outside Europe on the premise that the lands were "unoccupied" if Christians were not present. After the founding of America, federal and state policies of civilization, Americanization, and cultural assimilation were conjoined with policies of forced removal and physical destruction of indigenous peoples who refused to give up their land or their way of life. In 1807, Thomas Jefferson warned of the impending devastation: " ...if ever we are constrained to lift the hatchet against any tribe we will never lay it down til that tribe is exterminated, or driven beyond the Mississippi...in war they will kill some of us; but we will destroy all of them."[7] Indeed, the extermination of physical life – article (a) in the Genocide Convention – was so pervasive that, by 1891, Native Americans had been suppressed and destroyed to the point that they no longer mattered in American policy and practice.[8]

Native American traditions, languages, and cultures also were obliterated. Scholars and activists have applied article (e) of the Genocide Convention ("forcibly transferring

children of the group to another group") to US assimilationist policies and practices of forced transferal of Native Americans to residential boarding schools. More than 100,000 Native Americans were forcibly transferred to such schools, designed to "kill the Indian, and save the man." There were still 60,000 Native children enrolled in boarding schools as their era was coming to a close in 1973.[9] In these schools, tribal identities were erased and "yielded a trauma of shame, fear, and anger that has passed from generation to generation fueling the alcohol and drug abuse and domestic violence that continues to plague Indian country."[10]

To the genocide of an indigenous population, US history also adds the importation and enslavement of an African population, the legacy of which still scars the African-American community to such a degree that victims find an appropriate framing in the term "genocide." In 1951, the Civil Rights Congress published a 238-page petition titled *We Charge Genocide: The Crime of Government Against the Negro People*.[11] The petition opens, following the title page, with an undated full-page photograph of the lynching of "two

young Negro men" in Columbus, Mississippi – Dooley Morton and Bret Moore. The photograph is titled "The Face of Genocide." Two pages later, there is a reproduction of Articles II and III of the Genocide Convention. The petitioners – including such notables as W.E.B. Du Bois, William Patterson, and Paul Robeson – argued "that the oppressed Negro citizens of the United States, segregated, discriminated against and long the target of violence, suffer from genocide as the result of the consistent, conscious, unified policies of every branch of government."[12] The petition "scrupulously kept within the purview of the Convention on the Prevention and Punishment of the Crime of Genocide" with voluminous documentation of atrocities, beginning in 1945, tied specifically to Articles II and III of the Convention itself.[13] In the words of their closing summary: "Thus it was easy for your petitioners to offer abundant proof of the crime. It is everywhere in American life." The petition concludes by asking "that the General Assembly of the United Nations find and declare by resolution that the Government of the United States is guilty of the crime of Genocide against

the Negro People of the United States and that it further demand that the government of the United States stop and prevent the crime of genocide."[14] Given the strength of US influence (particularly in the person of Eleanor Roosevelt, first chairperson of the UN Human Rights Commission, who dismissed the petition as "ridiculous"), the General Assembly of the UN never gave serious consideration to its adoption.[15]

Today, however, the petition – and its use of the term "genocide" – still resonates. "We Charge Genocide" is the name of a grassroots, intergenerational effort to center the voices and experiences of the young people most targeted by police violence in Chicago, Illinois. The organization, whose title pays intentional homage to the petition, aims to confront the targeted repression, harassment, and brutality disproportionately faced by low-income people and young people of color.

The racial charges of genocide against the US also have appeared in foreign policy discussions. In 1967, for instance, Jean-Paul Sartre, in his famous essay, "On Genocide," argued that US actions in Vietnam were directly culpable in terms of Article II of the Genocide Convention.[16] For Sartre, genocidal intent was implicit in the facts of US activities in Vietnam. Echoing the arguments in *We Charge Genocide*, Sartre even suggested that American policymakers tolerated atrocities against the Vietnamese because similar practices were tolerated against American blacks.[17] In late 1967, Bertrand Russell's International War Crimes Tribunal, of which Sartre was executive president, unanimously declared the US guilty of the crime of genocide in Vietnam. More recently, in 2009, *The International Initiative to Prosecute US Genocide in Iraq* filed legal challenges against four US presidents, and four UK prime ministers, for the intended destruction of Iraq from 1990 to the present.[18] While those legal challenges were unsuccessful, they are illustrative of the ways in which some parts of the world view the destructive neo-colonialism of some aspects of US foreign policy.

So, the historical answer to "Can it happen here?" is a resounding "It has happened here and, therefore, yes, it can happen here again." It would be a disingenuous and dangerous denial of

our history to believe that our past, present, or future somehow shelters us from the risk of committing genocide – at home or abroad – to advance our political, social, national, or economic interests.

Risk Assessment

In 2016, I published a book, *Confronting Evil: Engaging Our Responsibility to Prevent Genocide* (Oxford University Press), in which I reviewed the most commonly cited risk factors from the most widely utilized early warning systems, with a focus on those factors especially relevant for assessing countries' risks for onsets of mass violence, some cases of which could evolve into genocide.[19] Lists of risk factors are constantly evolving in empirical rigor and complexity. The United Nation's Framework of Analysis for Atrocity Crimes, for instance, takes a multi-layered approach of outlining risk factors common to all atrocity crimes as well as risk factors specific to each of the atrocity crimes of genocide, war crimes, and crimes against humanity. My review, mined from a wide range of multidisciplinary research, combines the strengths of various systems to give us a

comprehensive and data-driven list of twenty risk factors that help us understand the preconditions for a genocidal society. This empirical research is buttressed by my fieldwork in conflict and post-conflict settings, including Germany, Israel, Northern Ireland, the former Yugoslavia, Rwanda, Uganda, Tanzania, Argentina, Chile, Colombia, and Guatemala.

For ease of illustration, I have grouped these risk factors into four broad categories – *governance*, *conflict history*, *economic conditions*, and *social fragmentation* (see Table 1). We should note, however, that many of these risk factors are cross-cutting and intersecting issues, not easily confined to one discrete category. The erosive effects of state and public sector corruption, for instance, have deep and interrelated governance, economic, and social impacts. Moreover, no single risk factor should be taken as causal or, even, predominant in their contributing importance; rather, they should be contextually understood – in conjunction with the presence of other risk factors – as somehow associated with increasing the probability of genocide.

Table 1

Categories of Risk Factors for Violent or Genocidal Conflict

Governance

      Regime Type
      State Legitimacy Deficit
      Weakness of State Structures
      Identity-Based Polar Factionalism
      Systematic State-Led Discrimination

Conflict History

      History of Identity-Related Tension
      Prior Genocides or Politicides
      Past Cultural Trauma
      Legacy of Vengeance or Group Grievance
      Record of Serious Violations of International Human Rights and Laws

Economic Conditions

      Low Level of Economic Development
      Economic Discrimination
      Lack of Macroeconomic Stability
      Economic Deterioration
      Growth of Informal Economies and Black Markets

Social Fragmentation

      Identity-Based Social Divisions
      Demographic Pressures
      Unequal Access to Basic Goods and Services
      Gender Inequalities
      Political Instability

There are certainly important risk issues to be considered related to the ways in which US *conflict history* is remembered, taught, processed and understood (particularly our national amnesia related to genocides we have committed and enabled around the globe) and *economic conditions* (particularly group-based economic discrimination), but these risk factors are born from longer-term and slower moving structures, measures, society-wide conditions, and processes that put states at risk for genocide. Of focus in this paper are the more proximate and immediate pressure of risk factors related to *governance* and *social fragmentation* as impacted by, and reflected in, the emergence of a new presidential administration in the US.

Governance. Governance refers, broadly, to the ways in which authority in a country is exercised. How are governments selected, monitored, and replaced? What is the capacity of the government to develop and implement sound policies? To what degree do the citizens respect the state and 1947the institutions that govern them?[20] Nearly all early warning systems include various traits of governance as risk factors for genocide.

In terms of *regime type*, a diverse set of research suggests that states with a lower degree of democratization are at greater risk for the onset of violent conflict or genocide. Why? Generally, it stems from the fact that states with a lower degree of democratization have fewer institutional constraints on executive power and state security, effectively leaving power holders unaccountable for their decision-making, policies and behaviors. As genocide scholar Barbara Harff argues: "Democratic and quasi-democratic regimes have institutional checks on executive power that constrain elites from carrying out deadly attacks on citizens...the democratic norms of most contemporary societies favor the protection of minority rights and the inclusion of political opponents."[21] In regimes with a lower degree of democratization, the institutional constraints on power holders are compromised by the lack of an independent and impartial judiciary, media, or police. National civil society, as well as international civil society, is muzzled and there is limited cooperation of the regime with international and regional human rights mechanisms.[22] Restrictions on freedom of speech, expression, association, or assembly for the country's citizens lead

to a loss of political space and voice for opposition.

Amid a global democratic recession, a pattern of incidents related to the intelligence community, media, and judiciary raise concern about the degree of democratization in the US. Even before assuming office, president-elect Trump called into question the professionalism of the US intelligence community over unsubstantiated claims that he was caught in a compromising position in Russia. "I think it was disgraceful, disgraceful that the intelligence agencies allowed any information that turned out to be so false and fake out. I think it's a disgrace, and I say that ... that's something that Nazi Germany would have done and did do," Trump told a news conference in New York.[23]

On inauguration day, at least six journalists were charged with felony rioting after they were arrested while covering the violent anti-Trump protests in Washington (as of this writing, charges against four have been dropped).[24] The Committee to Protect Journalists expressed concern about "the sharp deterioration of press freedom in the US," noting that, during his campaign, Trump had "obstructed major news organization, vilified the press and attacked

journalists by name with unrelenting hostility."[25] After Trump's January 11, 2017 attacks on CNN's Jim Acosta, saying his organization was "terrible" and "fake news," Trump drew praise from Turkish President Recep Tayyip Erdogan for putting the reporter "in his place." Since an attempted coup against him last July, Erdogan has jailed at least 144 journalists and closed more than 160 media outlets.[26] While in office, the Trump administration has continued to attack the independent media as "dishonest" and peddlers of "fake news." In his first press conference as president, it was widely reported that Trump "filled the room with paid staffers who clapped and cheered as he blasted members of the media."[27] Most disconcertingly, in an interview with the Christian Broadcasting Network, Trump referred to the media as "the opposition party." This statement directly reinforced chief White House strategist Stephen Bannon's repeated characterizations of the media as "the opposition party" who should "keep its mouth shut."[28]

The judiciary has not escaped similar wrath from the Trump administration. In early February 2017, Judge James Robart, a George W. Bush-appointed judge, temporarily blocked President Trump's

executive order to ban citizens of seven predominately Muslim countries – Iraq, Syria, Iran, Libya, Somalia, Sudan and Yemen – from entering the US for 90 days, all refugees for 120 days, and indefinitely stopping the flow of refugees from Syria. The following day, in yet another early morning tweet, President Trump attacked the "so-called judge" whose decision, in Trump's mind, "takes law-enforcement away from our country, is ridiculous and will be overturned!" The following week, a federal appeals court declined to block Robart's ruling that suspended the ban. While Trump's immediate Twitter reaction was strong – "SEE YOU IN COURT, THE SECURITY OF OUR NATION IS AT STAKE!" – as of this writing, it appears that Trump has decided not to challenge the ruling in the Supreme Court but, rather, will reintroduce a reworked executive order. In the meantime, he still chips at the foundation of the judiciary with tweets declaring "our legal system is broken" and "dangerous."

At issue is the threat to democratization, and the closing of civic space, posed by such statements. These attacks, coming from the highest office in the land, delegitimize the judiciary and, by politicizing it, compromise its degree of independence and impartiality. Columnist Dean Obeidallah sees the danger posed by such compromise: "An independent federal judiciary is our last, best hope at preventing Trump from violating the US Constitution and illegally grabbing power. And Trump has to understand that, hence his attempt to undermine it. The President truly appears to be leading a master class in transforming the United States into a dictatorship."[29]

Such compromises to the degree of democratization in the US lead to a second risk factor – *state legitimacy deficit*. This risk factor reflects to the degree to which the state is perceived by its citizens to be a legitimate actor representative of the people as a whole. Is there respect for the constitution, the national authorities, and representatives of the government? How transparent and accountable are state institutions and processes? Are there strong oversight mechanisms for the state? Is the state perceived as criminal? Does the state have the confidence of its people? These are questions of state legitimacy and any perceived deficit in that legitimacy can leave a governance system at risk.

Christopher Browning, a leading Holocaust scholar, argues that the risk we did not see coming in Trump's rise to power was the tyranny of the minority. As he

writes: "Our democracy is based on majority rule tempered by minority rights. I had always assumed that the major threat to our democracy, if one arrived, would come through a 'tyranny of the majority' that cast aside or subverted the constitutional protections of the minority. What we have seen between 2010 and 2016, however, is not the emergence of a tyranny of the majority, but an increasingly irreversible capture of our elected institutions by a focused and uninhibited minority."[30]

Indeed, as reflected in Hillary Clinton's substantial victory in the popular vote (nearly 3 million votes), rule through electoral majority is not the reality of the current US political climate. And that causes many in our country to question whether the Trump administration is a legitimate actor representative of the people as a whole. In response, Trump, and his administration, have insisted on citing "massive voter fraud" as the reason for his loss in the popular vote. As recently as February 12, 2017, Stephen Miller, a White House senior policy advisor, continued to assert that thousands of Massachusetts residents were bussed into New Hampshire, my home state, to vote illegally in the presidential election.[31] There is no known

evidence of this specific event happening nor is there any known evidence for the more general Trump accusation that 3-5 million illegal immigrants voted in the presidential election.

Reflecting many of these concerns about a state legitimacy deficit, the 2016 edition of the annual Democracy Index from the Economist Intelligence Unit downgraded the US from a "full democracy" to a "flawed democracy," citing the further erosion of trust in American public institutions as a reason for the change. "Trust in political institutions is an essential component of well-functioning democracies," it stated, "yet surveys by Pew, Gallup and other polling agencies have confirmed that public confidence in government has slumped to historic lows in the U.S."[32] While the report indicated that these were long-term trends and not attributable to Donald Trump, it was equally clear in describing how he has benefitted from them. Upon entering office, Americans were less confident in Trump's abilities to perform presidential duties than they were in his predecessors and his first month in office has only deepened the lack of public confidence, respect, and trust in the US government.[33]

The checks related to genocide risk within the government, or within institutions funded by the government, are also being compromised to a degree that threatens state legitimacy. The Atrocities Prevention Board (APB), a mechanism that involves senior officials from 10 agencies and offices across government, was created to support more attentive monitoring and response to potential atrocity risks. While focused almost exclusively on foreign risks, its presence at least kept the notion of risk and mass atrocities on the State Department's agenda. The APB's dissolution under the Trump White House is a near-certainty. The US Institute of Peace and the US Holocaust Memorial Museum, both heavily dependent on federal funding, find their voices of critique or resistance to the US government largely conceded to the necessity of continued funding. So, their alerts likely will continue to focus on risks abroad rather than at home.

For states that have a legitimacy deficit, we often see the manifestation in rallies, peaceful demonstrations, mass protests against state authority or policies, uprisings, or even riots. The Women's March of January 21, 2017, a counterinauguration of sorts, brought hundreds of thousands of protestors to DC as well as hundreds of thousands more in cities across the US. Just over a week later, spontaneous massive protests against Trump's Muslim ban erupted at airports around the country. On February 10, the newly-minted education secretary, Betsy DeVos, was even temporarily blocked from entering a DC middle school by a small group of protestors. While President Trump may perversely welcome such protests as confirmation of his apocalyptic vision of the current state of the country which he feels tasked to save, researchers Monty Marshall and Benjamin Cole remind us: "Mass protest should not be viewed as an exercise in democracy, but, rather, as a signal that the political process, whether democratic or autocratic, is failing to adequately recognize the levels of discontent and dissent and properly address an important and valued issue in public policy."[34]

Weakness of state structures ask to what degree the state can provide basic public services and answer people's needs? How effective are state structures – hospitals, schools, police departments, courts systems, sanitation, public transportation, etc.? Does the state enforce contracts and property rights? To what

degree does the state follow the rule of law? Can the state protect its citizens or do crime and violence threaten to overrun the state? All these indicate the relative strength or weakness of state structures and, as state structures weaken, the risk of violent or genocidal conflict increases.

The degree to which the state follows the rule of law is a clear indicator of the relative strength or weakness of its state structures. While often used, the "rule of law" is a difficult term to define. For the UN, the rule of law is understood as "…a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."[35] States in which the rule of law is compromised often have rising numbers of political arrests, illegal detentions, voter intimidation, torture, and forced relocation or exile – all of which involve denial of due process consistent with international norms and practices.

Most notable in regard to a compromise in the rule of law has been President Trump's ill-fated executive order temporarily banning refugees from seven predominately Muslim countries. While packaged to offer a veneer of religious neutrality by not mentioning any religious group by name, the order did, in fact, target Muslims. In so doing, a de facto Muslim ban qualifies as unconstitutional discrimination. Moreover, the order, as Judge Robart held, was based on absolutely no evidence that supported the security concerns cited by Trump as the reason for the exclusion of refugees from these specific countries. In blocking the entirety of the ban, Robart implied that there is no constitutional way to carry out Trump's unconstitutional executive order. Moreover, Trump's Muslim ban runs counter to international law and treaties the US has ratified (for instance, the UN Refugee Convention as well as the International Covenant on Civil and Political Rights), "some provisions of which have been incorporated into US law and cited as binding by the US Supreme

Court."[36]   The Trump administration's authoritarian response to the rulings, articulated by senior policy advisor Stephen Miller, is chillingly dismissive of the rule of law: "Our opponents, the media and the whole world will soon see as we begin to take further actions, that the powers of the President to protect our country are very substantial and will not be questioned."[37]

Administrative approval of torture and denial of due process are other threats to the rule of law.   While military and academic experts have been clear on the very limited intelligence benefits to be gained from torture, President Trump is under the inexplicable impression that torture does work. "We're not playing on an even field," Trump said. "I want to do everything within the bounds of what you're allowed to do legally. But do I feel it works? Absolutely, I feel it works."[38]   To date, Trump's attempts to broaden US laws to allow torture, even suggesting a possible return of CIA "black site" prisons, have been rebutted – even by some of his Cabinet picks. In the words of Republican Senator John McCain: "The President can sign whatever executive orders he likes. But the law is the law. We are not bringing back torture in the United States of America."[39]

In his days as a senator, Jeff Sessions criticized strategies that "gave terrorism suspects the right to lawyers, the right to remain silent and the right to a speedy trial."[40] It is unclear, exactly, how Sessions will approach prosecution of terrorism suspects in his new role as attorney general. The specter raised, however, by Sessions' views on the treatment of terrorism suspects continue to nurture concerns about denial of due process consistent with international norms and practices. Ultimately, as David Frum, a former speechwriter for President George W. Bush, points out, "The United States may be a nation of laws, but the proper functioning of the law depends upon the competence and integrity of those charged with executing it."[41]

Elites and state institutions fragmented among identity lines – be they racial, ethnic, religious, class, clan, tribal, or political – often lead to a high level of contentiousness and *identity-based polar factionalism*. Marshall and Cole define factionalism as "polities with parochial or ethnic-based political factions that regularly compete for political influence in order to promote particularist agendas and favor group members to the detriment of common, secular, or cross-cutting

agendas."[42] Such factionalism can become so sharply oppositional and uncompromising that it becomes a winner-take-all approach to politics with "the transference of potentially negotiable material interests to emotively-charged and ultimately non-negotiable symbolic issues."[43] As Marshall and Cole conclude: "Polar factionalism tends to radicalize both anti-state and state factions and lead the political process toward greater levels of confrontation and greater depths of intransigence, placing it at the gateway to political instability and regime change."[44]

Identity-based polar factionalism is fueled by exclusionary and harmful ideologies, often nationalistic in intent and propagated by extremist rhetoric in politics, education, hate radio and media. These ideologies – rooted in the "us" and "them" binaries of the in-group bias – are based on the supremacy of a certain identity or on extremist versions of identity. While the US is rife with identity-based issues grounded in race, gender, ethnicity, class, etc., it is, the divisions based on political identities that currently are most salient. We have a historic rise in polar factionalism between Republicans and Democrats that, coupled with an increase in discipline within party ranks, leaves our elected officials very unlikely to deviate from their party lines.[45]

Columnist Sabrina Tavernise laments the rise of identity-based polar factionalism in the US: "The pattern often goes like this: one country. Two tribes. Conflicting visions for how government should be run. There is lots of shouting. Sometimes there is shooting. Now those same forces are tearing at my own country. Increasingly, Americans live in alternate worlds, with different laws of gravity, languages and truths. Politics is raw, more about who you are than what you believe. The ground is shifting in unsettling ways. Even democracy feels fragile. President Trump has brought out these contrasts, like colors in a photograph developing in a darkroom."[46]

Clearly, legitimate and effective governance is compromised by the rise of identity-based polar factionalism and the political exploitation of such differences. The military and judicial systems become more polarized and less representative of the population. Equal access to political activity and participative decision-making becomes more restricted. There is limited freedom of political expression, especially those voices proposing compromise.

Finally, *systematic state-led discrimination* against a minority group – including removal of civil liberties, restricting educational access, arbitrary detention or imprisonment, torture as state policy, large-scale illegal round-ups of civilians, the revocation of the right to citizenship, expropriation or destruction of property (including cultural religious and sacred sites), etc. – is a governance risk factor that weighs heavily as a concern for the protection of civilians. For some, such systematic discrimination represents the foundational cornerstones of risk that can escalate into genocide.[47] Indeed, the empirical support for systematic state-led discrimination as a potent risk factor is robust.

In early February 2017, Immigration and Customs Enforcement (ICE) stepped up actions to arrest targeted undocumented immigrants for deportation proceedings. While similar actions were taken under the Obama administration, ICE's recent roundups seem to have indiscriminately targeted a much wider scope of individuals. Sanctuary cities, stereotypically called "hotbeds of criminal activity" by Trump (despite data saying the opposite), feel particularly singled out by these dragnets.[48] In these targeted communities, trust – the

lifeline for effective delivery of policing and social services – is not being eroded, rather it is being dismantled with malice and it may take generations to restore. "The President wants to show off and it appears he has unleashed the Department of Homeland Security to kick-out large numbers of immigrants and anyone they encounter, without much oversight, review or due process," said Illinois Democratic Rep. Luis Gutierrez. "The goal of such policies is to inject fear into immigrant communities, frighten families and children, and drive immigrants farther underground. It damages public safety and the fabric of American communities while putting a burden on local social services and the foster-care system."[49]

At the UN General Assembly World Summit in September 2005 in New York – the largest-ever gathering of world leaders – the US joined more than 150 heads of state and government in unanimously adopting a concept known as the "responsibility to protect" (commonly referred to as R2P). In so doing, the US affirmed that "each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity." Moreover, the document continued, "the international

community, through the United Nations, also has the responsibility . . . to help to protect populations" from those same mass atrocities. [50] Systematic state-led discrimination against minority groups flies in the face of that state responsibility and further erodes US leadership in the international community to help protect other populations from mass atrocities. So, while the Trump administration seeks to prioritize refuge for Syrian Christians seeking protections from a state that cannot, or will not protect them, the administration – at the same time – is raising questions about its willingness to protect segments of its own population from the type of systematic state-led discrimination that is an undeniable part of the process that may lead to genocide.

Social Fragmentation

Social fragmentation can be defined "as a process in modern society by which different groups form parallel structures within society, which have little or no consistent interaction between them over the full spectrum of the social experience."[51] In the World Bank's view, "social fragmentation can permeate society, erupting, for example, as domestic violence in the household, rising crime and violence in the community, and massive corruption

and civil conflict at the state level."[52] Where social cohesion can unite a people and strengthen a society, social fragmentation splinters a people, reduces the resiliency of a society, and places it at increased risk for violent or genocidal conflict.

Identity-based social divisions – particularly when intertwined with differential access to power, wealth, status, and resources – are a considerable source of risk. Social identity matters deeply as a source of intergroup conflict. Social identity can be manipulated by power holders to create or deepen societal divisions and advance their own partisan interests. Individuals prioritize divisive subordinate identities rather than being closely connected to a larger, more unifying superordinate identity.

In the Trump administration, global citizenship now has taken a back seat to a prevailing nationalist sentiment. President Trump's inaugural address made clear his perception of the bleak cost of not putting America first: "For many decades, we've enriched foreign industry at the expense of American industry; subsidized the armies of other countries, while allowing for the very sad depletion of our military. We've defended other nations' borders while refusing to defend our own. And spent

trillions and trillions of dollars overseas while America's infrastructure has fallen into disrepair and decay. We've made other countries rich, while the wealth, strength and confidence of our country has dissipated over the horizon. One by one, the factories shuttered and left our shores, with not even a thought about the millions and millions of American workers that were left behind. The wealth of our middle class has been ripped from their homes and then redistributed all across the world... From this day forward, a new vision will govern our land. From this day forward, it's going to be only America first, America first."[53] "America First" separates us from, and prioritizes us over, the global community. Moreover, such nationalism can become a global threat if it undermines our commitment to international norms such as R2P and deprioritizes foreign aid to needy countries in terms of health, agriculture, banking, security, etc.

As genocide scholar Gregory Stanton has described, the rise of identity-based social divisions can be conceptualized in the stages of an escalatory process that begins with classification ("us and them") and continues through symbolization (giving names and symbols to the classification) and on to discrimination (a dominant group

denies rights of the powerless). The fourth stage in his process is dehumanization, or the denying of one group's humanity by the other group.[54] In this stage, identity-based social divisions are fueled by polarizing speech promoting hatred or inciting violence against a particular group. Such hate speech is especially potent when tolerated or encouraged by the state.

Throughout his candidacy, and even into the early days of his presidency, Trump has trumpeted a virulent anti-Muslim rhetoric. He has called for more surveillance of mosques, the creation of a registry or database system to track Muslims in the US, and has warned that radical Muslims are "trying to take over our children." A 2017 report by Amnesty International, drawing global parallels between developments in 2016 and Adolph Hitler's rise to power in the 1930s, singled out Trump for his "discriminatory, misogynist and xenophobic rhetoric."[55] Stanton's research has demonstrated that rhetoric matters in the escalatory process of creating identity-based social divisions. As Corey Saylor of the Council of American-Islamic Relations (CAIR) said: "Such divisive rhetoric contributes to a toxic environment in which some people take the law into their own hands and attack people

of institutions they perceive as Muslim."[56] Indeed, a 2017 report by CAIR found "the number of recorded incidents in which mosques were targeted jumped to 78 in 2015, the most since the body began tracking them in 2009. There were 20 and 22 such incidents in the previous two years, respectively. The incidents include verbal threats and physical attacks."[57]

Manipulating identity to sow, or exacerbate, social divisions reduces incentives for trust, cooperation, dialogue, and long-term social exposure. In an analysis of the 2016 US Republican primaries, for instance, psychologists Nour Kteily and Emilie Bruneau, found that the dehumanization of Mexican immigrants and Muslims was a unique and strong predictor of support for aggressive policies against those groups. In response, the researchers found that these dehumanized groups – Latinos and Muslims – were more likely to support violent as opposed to non-violent collective action and also less willing to assist counterterrorism efforts. So, the dehumanization of these minority groups by some Republican nominees and supporters actually helped – in a perverse self-fulfilling prophecy – to reinforce some of the original stereotypical perceptions held by the majority group members.[58]

Moreover, identity-based social divisions tend to grow more encompassing as threats to power increase. Today's bystanders can become tomorrow's victims. As Kenneth Roth, executive director of Human Rights Watch, has argued: "We should never underestimate the tendency of demagogues who sacrifice the rights of others in our name today to jettison our rights tomorrow when their real priority – retaining power – is in jeopardy."[59]

While the US is relatively insulated from the *demographic pressures* that destabilize many fragile societies, we are not immune to the risk arising from *unequal access to basic goods and services*. Particularly relevant to social fragmentation are horizontal social inequalities – issues of group-based unequal access to basic goods and services, including "health, education, water, sanitation, communications and infrastructure."[60] Having equal access to such basic goods and services is a common social expectation. For fragmented societies, however, this is an expectation often unmet as the ability to access these basic goods and services varies "within and across different social groups and geographic locations; rural communities and women and girls...are particularly vulnerable to being underserved."[61]

In the US, striking group-based disparities continue to be seen in income, education, health, and access to power. Economically, in 2014, the median adjusted income for black households was $43,300, compared to $71,300 for whites.[62] In education, a persistent achievement gap between whites and minority students extends along class lines as well. Nationally, high-poverty districts spend 15.6 percent less per student than low-poverty districts do.[63] Harvard Graduate School of Education Dean James E. Ryan says: "Our education system, traditionally thought of as the chief mechanism to address the opportunity gap, instead too often reflects and entrenches existing societal inequities."[64] Health inequality – including disparities in care and coverage – is also a deep part of American life, and threatening to become an even deeper divide with the repeal of the Affordable Care Act, particularly if there is no adequate replacement. One study, for instance, found that substandard care leads to 260 premature African-American deaths daily.[65] Finally, unequal access also extends to the halls of power. As Jonathan Kirshner writes: "…not only is contemporary American capitalism indifferent to its injustices, the system is, indeed, rigged. The

wealthy have access to power; our representatives are beholden to the special interests they are supposed to protect us from. It is a plain fact that our political system is compromised."[66] To be sure, these are long-term problems inherited, rather than created, by the Trump administration. To be equally sure, however, the Trump administration, as of this writing, has no clear domestic policies in mind with which to reduce the risk these problems impose on the US.

There is an increasingly widespread recognition among researchers of the role *gender inequalities* play as a risk factor in violent conflict. In one of the seminal studies, political scientist Mary Caprioli found that domestic gender inequality was correlated with a state's greater use of violent military solutions to resolve international disputes.[67] Looking more specifically at intrastate rather than international conflict, Erik Melander, deputy director of the Uppsala Conflict Data program in Sweden, also found that gender inequality was significantly predictive of higher levels of intrastate armed conflict (that is, civil war).[68] A 2009 OECD policy paper included unequal gender relations among its list of key structural risk factors for armed violence.[69] Two years later, the

Institute for Economics and Peace found a strong correlation between three separate measures of gender equality (in public, at work, and in private) and a general measure of state peacefulness (the Global Peace Index, or GPI). For each of the measures, as gender equality decreased, a country's ranking on the GPI decreased (particularly on the index's internal peace measure).[70] Focusing specifically on gender inequalities in family law and practice (including marriage, divorce, custody, inheritance, and other intimate family issues), international security expert Valerie Hudson and her colleagues discovered that levels of state peacefulness decreased as the level of inequities in family law and practice increased.[71]

In late 2015, the UN sent a delegation of human rights experts from Poland, the United Kingdom, and Costa Rica to the US to prepare a report on our country's overall treatment of women. The delegates were appalled by the gender inequalities they found in the US.[72] These inequalities remain no less apparent, and no less appalling, today. For instance, a 2017 report by the American Association of University Women found "women working full time in the United States typically were paid just 80 percent of what men were paid."[73] While the gender pay gap has narrowed since the 1970s, there has not been a significant annual change since 2007. At that glacial pace of change, the gender pay gap in the US – which is even worse for women of color – would not be erased until 2152. In more global issues, a 2016 study from Save the Children found the US ranks lower than Kazakhstan and Algeria (and just above Tunisia and Cuba) on gender equality, due to its low representation of women in parliament, high teenage pregnancy rates and an unconscionable record on maternal mortality (14 women died per 100,000 live births in the US in 2015, a similar number to Uruguay and Lebanon).[74] The US is one of only three countries in the world that does not guarantee women paid maternity leave and affordable child care remains so elusive as to prohibit many mothers from returning to the workplace in good time. Women's reproductive rights continue to be under attack with state lawmakers introducing almost 400 bills in 2015 alone to restrict women's access to abortion (47 of which became state law) and the Trump administration now poised to launch renewed efforts to overturn *Roe v. Wade*.[75] Finally, all these areas of gender inequality set, and reflect, a climate in which violence

against women is staggeringly high. Women are 11 times more likely to be killed by a gun in the United States than in other high income countries, and nearly two-thirds of those murders are perpetrated by an intimate partner.[76] As columnist Nicholas Kristof reminds us: "Husbands are incomparably more deadly in America than jihadist terrorists."[77] College and university campuses offer little sanctuary from gender-based violence as nearly one in four female undergraduates report experiencing sexual assault.[78]

Finally, social fragmentation is exacerbated in the face of *political instability*. Political instability intersects with many of the risk factors already discussed in the general category of governance. The governance category was concerned with the ways in which a state's structure and authority is exercised and how that might relate to risk of violent conflict or genocide. The risk factors in that category were fairly static elements that alert us to *where* violent conflict or genocide might be more likely. Our discussion of political instability, however, looks more closely at internal or external threats to a state's authority or legitimacy that can intensify social fragmentation. The fluid risk factors associated with political

instability – what political scientist Matthew Krain has term "openings in the political opportunity structure" – are a bridge from where to *when* violent conflict or genocide might be most likely.[79]

Political instability is heightened in the face of threats of internal, regional, or international armed conflict. While threats of armed conflict exacerbate political instability, their actualization leads to "periods characterized by a high incidence of violence, insecurity and the permissibility of acts that would not otherwise be acceptable." [80] As former Secretary of State John Kerry said in early 2017: "There's no longer an over there and an over here...there's just an everywhere."[81] Indeed, if the Trump administration eventually goads Iran, North Korea, or China into a war, it will only be a state versus state conflict for a short time. It will quickly transform into a regionalized, or even globalized, conflict. The saber-rattling rhetoric of Trump and Russian President Vladimir Putin even pushed the Bulletin of Atomic Scientists to move the symbolic Doomsday Clock to two-and-a-half minutes before midnight – the closest to midnight it has been at any time since the height of the Cold War. In the words of Thomas Pickering, an American diplomat who

served as George W. Bush's ambassador to the United Nations and Bill Clinton's ambassador to Russia, "Nuclear rhetoric is now loose and destabilizing. We are more than ever impressed that words matter, words count."[82]

Responding to Risk

Genocide is an extremely rare event. But, while it does not happen often, it does happen. And, when it happens, it is the culmination of a long process that did not appear without warning. Rather, there were signs and symptoms along a predictable, but not inexorable, path. Those signs and symptoms – the risk factors we have discussed in this paper – are what we must attend to if we have any hopes of preventing genocide at home or abroad.

While we have advanced far in our understanding of the factors that put a society at risk for genocide, we are reminded that no single risk factor exists in a vacuum. Indeed, "all other things being equal" is not an applicable phrase for understanding the intricacies of how risk factors interrelate. Each individual case is a unique and complex outcome of multi-causal, multidimensional, and mutually reinforcing interactions of deeply enmeshed risk factors. It is pointless to reduce those

multifaceted interactions to a single risk index score. While genocide rarely takes place in the absence of these risk factors, there certainly are many cases where a significant number of risk factors exist but where genocide does not occur (for instance, in Cote d'Ivoire). The more risk factors for genocidal conflict that are present, however, the greater the chance that accelerating factors may escalate a crisis situation, or that a triggering event could actually lead to the onset of mass violence – unless we take action to modify those risk factors that can be modified.

As I mentioned at the outset, every country in the world is at risk for genocide – countries simply differ in their degree of risk. The US, over its history, certainly has developed some important foundations, structures, policies, and a unique brand of checks and balances (both within government as well as civil society) that mitigate much of the risk of genocide. We have a separation of powers within the federal government and a clear, if not contentious, division of responsibilities between that government and state governments. Through the norm of the responsibility to protect, we have affirmed a global commitment to protect our population from genocide and other mass

executive power and state security – including an independent, impartial, and inclusive judiciary, media, police, and military – are important democratic safeguards against the onset of violent conflict and genocide.

- Governance systems can be structured to increase the legitimacy with which the state is viewed by its people, as well as by the international community. Building citizens' robust acceptance of the state's "right to rule" means addressing issues related to process legitimacy (observance of agreed or customary rules of procedure) as well as output legitimacy (perceptions about state performance and the provision of services).[85]

- The rule of law should be central to state functioning and compliant with international norms and practices. The mobilization of an engaged, active, and resilient civil society – a vital

interface of accountability between the people and the government – is of utmost importance, particularly when plugged into international networks.[86]

- The political elite of governance systems can be inclusive and representative of the multiplicity and plurality of overlapping identities in its population – racial, ethnic, religious, class, clan, tribe, or political. While political mobilization along identity lines is not inherently violence-provoking, it should be managed in constructive ways that reduce susceptibility to identity-based polar factionalism and ensure equal access to political activity and participative decision-making at all levels of the political structure. The state should be defined with no reference to a dominant social identity (including religious identity).

- Finally, respect for fundamental human rights can be institutionalized throughout all segments of a society. The state should be intentional about nondiscriminatory policies and practices protecting all minority groups within its territory. Central to this is a reinforcement of the US commitment to R2P as a "standard for how governments should treat their own people."[87]

From a *social fragmentation* perspective, there are several preventive implications for promoting the deep intrinsic and instrumental value of social cohesion:

- We have a responsibility to constructively manage diverse social identities in ways that lead to a more inclusive superordinate social identity of "us" rather than the more divisive subordinate social identities that leave antagonistic clusters of "thems." In a pluralistic society, this civic nationalism is accomplished not by mere superficial contact but by deep engagement and appreciation of the "other" through cross-cutting relations in education, sports, religion, cultural programs, and physical integration in housing, schools, and work.[88]

- State and civilian authorities can redress horizontal social inequalities by providing equal access to basic goods and services across all social identity groups. The normative assumption of equal access to health, education, water, sanitation, communications, and infrastructure should be realized across policy and practice.

- We should remain diligent about increasing participation by women in decision-making and

dialogue. As Oxfam summarizes: "'Gender' is not the optional extra which we simply can't manage in fragile contexts, because we have more urgent things to do. Tackling gender inequality *must* be heart and centre of fragility programming, to both secure women's rights *and* promote peace and stability in such contexts."[89]

- Finally, threats of internal, regional, or international armed conflict can be mitigated by stable governance and economic conditions, as well as cooperation with international and regional human rights laws and treaties – including a commitment to the responsibility to help protect populations from mass atrocities as articulated in the global norm of R2P

Conclusion

Daron Acemoglu is a Turkish-born American economist of Armenian origin. A professor at MIT, he is among the ten most cited economists in the world. In a 2017 piece advocating for the role of civil society, Acemoglu wrote: "We have to keep reminding ourselves that we do not live in normal times, that the future of our much cherished institutions depends not on others but on ourselves, and that we are all individually responsible for our institutions. If we lose them to a would-be strongman, we have only ourselves to blame. We are the last defense."[90]

Indeed, we are the last defense. The country which we have become is not the one for which we must settle nor is it the one to which we must acclimatize as "normal." We can be the answer to our own prayers. Each of us has responsibility for the country that we have made and, playing the role of active citizen in the best sense, each of us have our own unique points of leverage to leave an indelible positive impression in the making of a more inclusive, fair, and just society. Together, we can commit to taking the collective action necessary to protect and sustain our democratic values, rather than buckling in to fear and insularity. As President Obama

reminded us just days before leaving office, "change only happens when ordinary people get involved, and they get engaged, and they come together to demand it."[91] To not do so, and to take our democracy for granted by resting in the erroneous comfort that "it can't happen here," is only to invite the fulfillment of our darkest nightmares.

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