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Hauser Globalization Colloquium Fall 2009:
Interdisciplinary Approaches to International Law

Professor Ryan Goodman
Furman Hall 212
Wednesdays 2:00 pm-3:50 pm
(unless otherwise noted)

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Schedule of Sessions (subject to modification)

September 2 -   Professor Andrew Guzman, Boalt Hall, University of Berkeley
                  (co-author: Prof. Jody Freeman, Harvard Law School)
                  Topic: "Climate Change and U.S. Interests"
                  Discussants: Profs. Richard Stewart, NYU, and Ryan Goodman, NYU
September 16 - Professor Beth Simmons, Harvard University & NYU Straus Institute
                  (co-author Prof. Allison Danner, Vanderbilt Univ. School of Law)
                  Topic: "Credible Commitments and the International Criminal Court"
                  Discussants: Profs. Jose Alvarez, NYU, and Ryan Goodman, NYU
September 30 - Professor Oona Hathaway, Yale Law School
                  Topic: "Presidential Power over International Law: Restoring the Balance"
                  Discussants: Profs. Stephen Holmes, NYU, and Ryan Goodman, NYU
October 7 -   Professors Eyal Benvenisti, Tel Aviv University Faculty of Law; NYU, and
                  George Downs, NYU
                  Topic: "Will National Court Cooperation Promote Global Accountability?
                  The Judicial Review of International Organizations"
                  Discussants: Profs. Beth Simmons, Harvard Univ. & NYU Straus Institute, and
                  Ryan Goodman, NYU
<u>Friday</u>, October 16 - Professor Gary Bass, Princeton University *(FH 214, 2-3:50 PM)*
                  Topic: "Freedom's Battle: The Origins of Humanitarian Intervention"
                  Discussants: Profs. David Golove, NYU, and Ryan Goodman, NYU
October 21 -   Professor Kathryn Sikkink, University of Minnesota
                  (co-author: Hunjoon Kim, Univ. of Minnesota)
                  Topic: "Explaining the Deterrence Effect of Human Rights Prosecutions"
                  Discussants: Profs. Philip Alston, NYU, and Ryan Goodman, NYU
October 28 -   Professor Paul Slovic, University of Oregon
                  Topic: "Can International Law Stop Genocide When Our Moral Intuitions
                  Fail Us?"
                  Discussants: Discussants: Dr. Bruce Jones, NYU and Ryan Goodman, NYU
<u>Friday</u>, November 13 - Professor James Morrow, University of Michigan *(FH 214, 2-3:50 PM)*
                  Topic: "The Laws of War as an International Institution"
                  Discussants: Profs. Matthew Evangelista, Cornell Univ., Nina Tannenwald,
                  Brown Univ., and Ryan Goodman, NYU
November 18 - Professor Robert Keohane, Princeton University
                  co-authors: Profs. Allen Buchanan, Duke Univ., and Tony Cole, Univ. of
                  Warwick
                  Topic: "Justice in the Diffusion of Innovation."
                  Discussants: Profs. Robert Howse, NYU, and Ryan Goodman, NYU

Can International Law Stop Genocide When Our Moral Intuitions Fail Us?

Paul Slovic[*]

> To avoid further disasters, we need political restraint on a world scale. But politics is not the whole story. We have experienced the result of technology in the service of the destructive side of human psychology. Something needs to be done about this fatal combination. The means for expressing cruelty and carrying out mass killing have been fully developed. It is too late to stop the technology. It is to the psychology that we should now turn.
>
> Jonathan Glover, *Humanity,* 2001, p. 144

1 Introduction

"If I look at the mass I will never act. If I look at one, I will." This statement, uttered by Mother Teresa, captures a powerful and deeply unsettling insight into human nature: Most people are caring and will exert great effort to rescue "the one" whose needy plight comes to their attention. But these same people often become numbly indifferent to the plight of "the one" who is part of a much greater problem. Why does this occur? The answer to this question will help us answer a related question: Why do good people and their governments ignore mass murder and genocide?

There is no simple answer to this question. It is not because we are insensitive to the suffering of our fellow human beings—witness the extraordinary efforts we expend to rescue a person in distress. It is not because we only care about identifiable victims, of similar skin color, who live near us: witness the outpouring of aid to victims of the December 2004 tsunami in South Asia. We cannot simply blame our political leaders. Although President Bush was quite unresponsive to the murder of hundreds of thousands

of people in Darfur, it was President Clinton who ignored Rwanda, and President Roosevelt who did little to stop the Holocaust. Behind every president who ignored mass murder were millions of citizens whose indifference allowed them to get away with it. And it is not only fear of losing American lives in battle that necessarily deters us from acting. We have not even taken quite safe steps that could save many lives, such as bombing the radio stations in Rwanda that were coordinating the slaughter of 800,000 people in 100 days, or supporting the forces of the African Union in Darfur, or just raising our powerful American voices in a threatening shout—*Stop that killing!*—as opposed to turning away in silence.

Every episode of mass murder is distinct and raises unique social, economic, military, and political obstacles to intervention. We therefore recognize that geopolitics, domestic politics, or failures of individual leadership have been important factors in particular episodes. But the repetitiveness of such atrocities, ignored by powerful people and nations, and by the general public, calls for explanations that may reflect some fundamental deficiency in our humanity—a deficiency not in our intentions, but in our very hardware. And a deficiency that, once identified, might possibly be overcome.

One fundamental mechanism that may play a role in many, if not all, episodes of mass-murder neglect involves the capacity to experience *affect,* the positive and negative feelings that combine with reasoned analysis to guide our judgments, decisions, and actions. Research shows that the statistics of mass murder or genocide, no matter how large the numbers, fail to convey the true meaning of such atrocities. The numbers fail to spark emotion or feeling and thus fail to motivate action. Genocide in Darfur is real, but we do not "feel" that reality. We examine below ways that we might make genocide "feel real" and motivate appropriate interventions.

Ultimately, however, we conclude that we cannot only depend on our intuitive feelings about these atrocities but, in addition, we must create and commit ourselves to institutional, legal, and political responses based upon reasoned analysis of our moral obligations to stop the mass annihilation of innocent people.

2 The Lessons of Genocide

Dubinsky (2005, p. 112) reports a news story from *The Gazette* (Montreal, 29 April 1992, p. A8):

> On April 28, 1994: the Associated Press (AP) bureau in Nairobi received a frantic call from

a man in Kigali who described horrific scenes of concerted slaughter that had been unfolding in the Rwandan capital "every day, everywhere" for three weeks. "I saw people hacked to death, even babies, month-old babies. . . . Anybody who tried to flee was killed in the streets, and people who were hiding were found and massacred."

Dubinsky (2005, p. 113) further notes that:

The caller's story was dispatched on the AP newswire for the planet to read, and complemented an OXFAM statement from the same day declaring that the slaughter—the toll of which had already reached 200,000— "amounts to genocide." The following day, U.N. Secretary General Boutros Boutros-Ghali acknowledged the massacres and requested that the Security Council deploy a significant force, a week after the council had reduced the number of U.N. peacekeepers in Rwanda from 2,500 to 270.

Yet the killings continued for another two and a half months. By mid-July, when the government was finally routed by exiled Tutsi rebels and the slaughter had been quelled, 800,000 were dead, and reinforcements from the United Nations were only just arriving.

In his review of the book *Conspiracy to Murder: The Rwandan Genocide* (Melvern, 2004), Dubinsky (2005, p. 113) draws an ominous lesson from what happened in Rwanda:

Despite its morally unambiguous heinousness, despite overwhelming evidence of its occurrence (for example, two days into the Rwandan carnage, the US Defense Intelligence Agency possessed satellite photos showing sprawling massacre sites), and despite the relative ease with which it could have been abated (the U.N. commander in Rwanda felt a modest 5,500 reinforcements, had they arrived promptly, could have saved tens of thousands of lives)—despite all this, the world ignored genocide.

Unfortunately, Rwanda is not an isolated incident of indifference to mass murder and genocide. In a deeply disturbing book titled *A Problem from Hell: America and the Age of Genocide,* journalist Samantha Power documents in meticulous detail many of the numerous genocides that occurred during the past century, beginning with the slaughter of two million Armenians by the Turks in 1915 (Power, 2003, see Table 1). In every instance, American response was inadequate. She concludes "No U.S. president has ever made genocide prevention a priority, and no U.S. president has ever suffered politically for his indifference to its occurrence. It is thus no coincidence that genocide rages on" (Power, 2003; p. xxi).

A second lesson to emerge from the study of genocide is that media news coverage is similarly inadequate. The past century has witnessed a remarkable transformation in the ability of the news media to learn about, and report on, world events. The vivid, dramatic coverage of the December 2004 tsunami in South Asia and the similarly intimate and exhaustive reporting of the destruction of lives and property by Hurricane Katrina in September 2005 demonstrate how thorough and powerful news coverage of humanitarian disasters can be. But the intense coverage of recent natural disasters stands in sharp contrast to the lack of reporting on the ongoing genocides in Darfur and other regions in Africa, in which hundreds of thousands of people have been murdered and millions forced to fell their burning villages and relocate in refugee camps. But, according to the Tyndall Report, which monitors American television coverage, ABC news allotted only 18 minutes on the Darfur genocide in its nightly newscasts in 2004, NBC only five minutes, and CBS only three minutes. Martha Stewart and Michael Jackson received vastly greater coverage, as did Natalee Holloway, the American girl missing in Aruba. With the exception of the relentless reporting by *New York Times* columnist Nicholas Kristof, the print media have done little better in covering Darfur.

Table 1. A Century of Genocide
Armenia (1915)
Ukraine (1932-1933)
Nazi Germany/Holocaust (World War II)
Bangladesh (1971)
Cambodia (1975-1979)
Countries in the former Yugoslavia (1990s)
Rwanda (1994)
Zimbabwe (2000)
Congo (Today)
Darfur (Today)
? (Tomorrow)

A third and even more disturbing lesson is that even when we have all the information that we should need, we still do not act. Power (2003) contends that U.S. government officials have known of the mass murders and genocides that took place during the past

century. She attempts to explain the failure to act on that knowledge as follows:

> . . . the atrocities that were known remained abstract and remote . . . Because the savagery of genocide so defies our everyday experience, many of us failed to *wrap our minds around it* . . . Bystanders were thus able to retreat to the "twilight between knowing and not knowing." (p. 505; italics added)

However, despite the failure of mainstream print and television media to give Darfur its due, the duration of the crisis, now in its seventh year, and the availability of new forms of communication have actually provided us with considerable information about what is happening there. Satellites beam images of burning villages to Google Earth (United States Holocaust Memorial Museum, 2008). Celebrities such as Mia Farrow and George Clooney visit Darfur and Chad and provide regular reports on their websites (www.miafarrow.org, www.notonourwatchproject.org). Eric Reeves publishes meticulously detailed and up-to-date reports about Darfur on his website (www.sudanreeves.org). Former Marine captain Brian Steidle returned from Darfur with hundreds of brutally explicit photographs of the atrocities. Convinced that, when such images were released to the public, troops would be sent in to stop the killing, he publicized his photographs through the news media, a book (Steidle & Wallace, 2007), a movie, congressional testimony, and hundreds of speaking engagements. There was little meaningful response; no serious movement for international intervention.

As Richard Just (2008) has observed,

> . . . we are awash in information about Darfur. Disturbing photos—now ubiquitous—of torture, death, and starvation are just the beginning of it. There are the regular dispatches of wire service reporters, the drumbeat of opinion columns, and the images beamed home by television cameras. There are more websites maintained by activists and human rights groups than anyone can count. And now there is something else, too: a substantial body of literature, academic and popular, about western Sudan (p. 36).

> All this gives Darfur a morbid sort of distinction. No genocide has ever been so thoroughly documented while it was taking place. . . . The sheer volume of historical, anthropological, and narrative detail available to the public about the genocide is staggering. . . . But the genocide continues. We document

what we do not stop. The truth does not set anybody free. (p. 36)

How could we have known so much and done so little? (p. 38)

One answer to this question, based on human psychology, will be presented below. Another answer, representing a fourth lesson, is that the laws and institutions designed to prevent and halt genocide and other forms of mass murder have failed to do so. The U.N. general assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948 in the hope that "never again" would there be such odious crimes against humanity as occurred during the Holocaust of World War II. Eventually some 140 states would ratify the Genocide Convention, yet it has never been invoked to prevent a potential attack or halt an ongoing massacre. That genocide continues to "rage on" is documented in a striking compilation by Barbara Harff (2003), who lists 36 serious civil conflicts that involved genocidal violence between 1955 and 2003, with a death toll in the tens of millions.

Darfur has shone a particularly harsh light on the Genocide Convention and what Eric Reeves has called "60 years of abject failure" (Reeves, 2008). A careful survey of atrocities there initiated by the U.S. State Department (Totten, 2006), led Secretary of State Colin Powell to conclude in September, 2004 that " . . . genocide has been committed in Darfur and that the Government of Sudan and the Janjaweed bear responsibility—and that genocide may still be occurring" (Powell, 2004, p. 4). But, rather than invoke the Genocide Convention to justify action, Powell concluded that " . . . no new action is dictated by this determination" (p. 5).

Shocked by Powell's easy sidestepping of obligations to act "in light of the most conspicuous evidence of ongoing genocide," Reeves (2004) observed that this " . . . may actually signal the end of the Genocide Convention as a tool of deterrence and prevention" (pp. 2-3).

Recognizing the need to remedy some of the ambiguities and loopholes in the Genocide Convention, a series of initiatives in Canada led to the development of an important report titled *The Responsibility to Protect* (International Commission on Intervention and State Sovereignty, 2001), which was endorsed by the U.N. World Summit in 2005. However, efforts by the United Nations to address the crisis in Darfur have repeatedly been thwarted by some permanent members of the Security Council who have vetoed or rendered impotent resolutions to halt the bloodshed and implement peacekeeping efforts.

3 Lessons from Psychology

In 1994, Roméo Dallaire, the commander of the tiny U.N. peacekeeping mission in Rwanda, was forced to watch helplessly as the slaughter he had foreseen and warned about began to unfold. Writing of this massive humanitarian disaster a decade later he encouraged scholars "to study this human tragedy and to contribute to our growing understanding of the genocide. If we do not understand what happened, how will we ever ensure it does not happen again?" (Dallaire, 2005, p. 548).

Researchers in psychology, economics, and a multidisciplinary field called behavioral decision theory have developed theories and findings that, in part, begin to explain the pervasive underresponse to genocide.

3.1 Affect, Attention, Information, and Meaning

The search to identify a fundamental mechanism in human psychology that causes us to ignore mass murder and genocide draws upon a theoretical framework that describes the importance of emotions and feelings in guiding decision making and behavior. Perhaps the most basic form of feeling is affect, the sense (not necessarily conscious) that something is good or bad. Positive and negative feelings occur rapidly and automatically—note how quickly to sense the feelings associated with the word "joy" or the word "hate." A large research literature in psychology documents the importance of affect in conveying meaning upon information and motivating behavior (Barrett & Salovey, 2002; Clark & Fiske, 1982; Forgas, 2000; Le Doux, 1996; Mowrer, 1960; Tomkins, 1962, 1963; Zajonc, 1980). Without affect, information lacks meaning and won't be used in judgment and decision making (Loewenstein, Weber, Hsee, & Welch, 2001; Slovic, Finucane, Peters, & MacGregor, 2002).

Affect plays a central role in what are known as "dual-process theories" of thinking. As Epstein (1994) has observed: "There is no dearth of evidence in every day life that people apprehend reality in two fundamentally different ways, one variously labeled intuitive, automatic, natural, non-verbal, narrative, and experiential, and the other analytical, deliberative, verbal, and rational" (p. 710).

Stanovich and West (2000) labeled these two modes of thinking *System 1* and *System 2*. One of the characteristics of *System 1*, the experiential or intuitive system, is its affective basis. Although analysis (*System 2*) is certainly important in many decision-making circumstances, reliance on affect and emotion is generally a quicker, easier, and more efficient way to navigate in a complex, uncertain and sometimes dangerous world. Many theorists have given affect a direct and primary role in motivating behavior.

Underlying the role of affect in the experiential system is the importance of images, to which positive or negative feelings become attached. Images in this system include not only visual images, important as these may be, but words, sounds, smells, memories, and products of our imagination.

Kahneman (2003) notes that one of the functions of System 2 is to monitor the quality of the intuitive impressions formed by System 1. Kahneman and Frederick (2002) suggest that this monitoring is typically rather lax and allows many intuitive judgments to be expressed in behavior, including some that are erroneous. This point has important implications that will be discussed later.

In addition to positive and negative affect, more nuanced feelings such as empathy, sympathy, compassion, and sadness have been found to be critical for motivating people to help others (Coke, Batson, & McDavis, 1978; Dickert & Slovic, 2009; Eisenberg & Miller, 1987). As Batson (1990) put it, ". . . considerable research suggests that we are more likely to help someone in need when we 'feel for' that person . . . " (p. 339).

A particularly important psychological insight comes from Haidt (2001, 2007; see also Van Berkum, Holleman, Nieuwland, Otten, & Jaap, 2009), who argues that moral intuitions (akin to System 1) precede moral judgments. Specifically, he asserts that

> " . . . moral intuition can be defined as the sudden appearance in consciousness of a moral judgment, including an affective valence (good-bad, like-dislike) without any conscious awareness of having gone through steps of searching, weighing evidence, or inferring a conclusion. Moral intuition is therefore . . . akin to aesthetic judgment. One sees or hears about a social event and one instantly feels approval or disapproval." (p. 818)

In other words, feelings associated with moral intuition usually dominate moral judgment, unless we make an effort to use judgment to critique and, if necessary, override intuition. Not that our moral intuitions aren't, in many cases, sophisticated and accurate. They are much like human visual perceptions in this regard, equipped with shortcuts that most of the time serve us well but occasionally lead us seriously astray (Kahneman, 2003). Indeed, like perception,

which is subject under certain conditions to visual illusions, our moral intuitions can be very misguided. We shall demonstrate this in the following sections and argue that, in particular, our intuitions fail us in the face of genocide and mass atrocities. This points to the need to create laws and institutions, designed to stimulate reasoned analysis, that can help us overcome the deficiencies in our ability to *feel* the need to act.

4 Affect, analysis, and the value of human lives

How *should* we value the saving of human lives? A System 2 answer would look to basic principles or fundamental values for guidance. For example, Article 1 of the United Nations Universal Declaration of Human Rights asserts that "All human beings are born free and equal in dignity and rights." We might infer from this the conclusion that every human life is of equal value. If so, the value of saving N lives is N times the value of saving one life, as represented by the linear function in Figure 1. An argument can also be made for judging large losses of life to be disproportionately more serious because they threaten the social fabric and viability of a group or community, as in genocide (see Figure 2). Debate can be had at the margins over whether governments have a duty to give more weight to the lives of their own people, but something approximating the equality of human lives is still fairly uncontroversial.
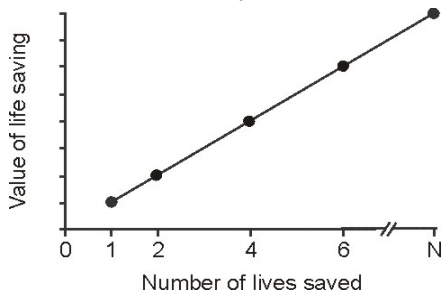
Figure 1. A normative model for valuing the saving of human lives. Every human life is of equal value.
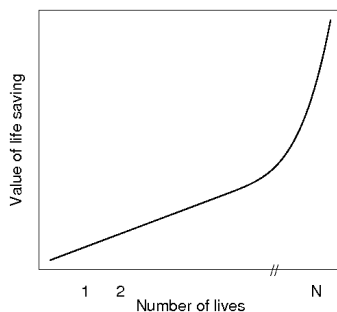
Figure 2. Another normative model: Large losses threaten the viability of the group or society.

How *do* we value human lives? Research provides evidence in support of two descriptive models linked to affect and intuitive, System 1 thinking that reflect values for lifesaving profoundly different from the normative models shown in Figures 1 and 2. Both of these descriptive models demonstrate responses that are insensitive to large losses of human life, consistent with apathy toward genocide.

4.1 The Psychophysical Model

Affect is a remarkable mechanism that enabled humans to survive the long course of evolution. Before there were sophisticated analytic tools such as probability theory, scientific risk assessment, and cost/benefit calculus, humans used their senses, honed by experience, to determine whether the animal lurking in the bushes was safe to approach or the murky water in the pond was safe to drink. Simply put, System 1 thinking evolved to protect individuals and their small family and community groups from present, visible, immediate dangers. This affective system did not evolve to help us respond to distant, mass murder. As a result, System 1 thinking responds to large-scale atrocities in ways that System 2 deliberation, if activated, finds reprehensible.

Fundamental qualities of human behavior are, of course, recognized by others besides scientists. American writer Annie Dillard cleverly demonstrates the limitation of our affective system as she seeks to help us understand the humanity of the Chinese nation: "There are 1,198,500,000 people alive now in China. To get a *feel* for what this *means,* simply take yourself—in all your singularity, importance, complexity, and love—and multiply by 1,198,500,000. See? Nothing to it" (Dillard, 1999, p. 47, italics added).

We quickly recognize that Dillard is joking when she asserts "nothing to it." We know, as she does, that we are incapable of *feeling* the humanity behind the number 1,198,500,000. The circuitry in our brain is not up to this task. This same incapacity is echoed by Nobel prize winning biochemist Albert Szent Gyorgi as he struggles to comprehend the possible consequences of nuclear war: "I am deeply moved if I see one man suffering and would risk my life for him. Then I talk impersonally about the possible pulverization of our big cities, with a hundred million dead. I am unable to multiply one man's suffering by a hundred million."

There is considerable evidence that our affective responses and the resulting value we place on saving human lives may follow the same sort of "psychophysical function" that characterizes our diminished sensitivity to a wide range of perceptual and cognitive entities—brightness, loudness,

5

heaviness, and money—as their underlying magnitudes increase.

What psychological principle lies behind this insensitivity? In the 19th century, E. H. Weber and Gustav Fechner discovered a fundamental psychophysical principle that describes how we perceive changes in our environment. They found that people's ability to detect changes in a physical stimulus rapidly decreases as the magnitude of the stimulus increases (Weber, 1834; Fechner, 1860). What is known today as "Weber's law" states that in order for a change in a stimulus to become *just noticeable,* a fixed percentage must be added. Thus, perceived difference is a relative matter. To a small stimulus, only a small amount must be added to be noticeable. To a large stimulus, a large amount must be added. Fechner proposed a logarithmic law to model this nonlinear growth of sensation. Numerous empirical studies by S. S. Stevens (1975) have demonstrated that the growth of sensory magnitude (ψ) is best fit by a power function of the stimulus magnitude ϕ,

$$\psi = k\phi^{\beta},$$

where the exponent β is typically less than one for measurements of phenomena such as loudness, brightness, and even the value of money (Galanter, 1962). For example, if the exponent is 0.5 as it is in some studies of perceived brightness, a light that is four times the intensity of another light will be judged only twice as bright.

Remarkably, the way that numbers are represented mentally may also follow the psychophysical function. Dehaene (1997) describes a simple experiment in which people are asked to indicate which of two numbers is larger: 9 or 8? 2 or 1? Everyone gets the answers right, but it takes more time to identify 9 as larger than 8 than to indicate 2 is larger than 1. From experiments such as this Dehaene concludes that "Our brain represents quantities in a fashion not unlike the logarithmic scale on a slide rule, where equal space is allocated to the interval between 1 and 2, 2 and 4, or between 4 and 8" (p. 76). Numbers 8 and 9 thus seem closer together or more similar than 1 and 2.

Our cognitive and perceptual systems seem designed to sensitize us to small changes in our environment, possibly at the expense of making us less able to detect and respond to large changes. As the psychophysical research indicates, constant increases in the magnitude of a stimulus typically evoke smaller and smaller changes in response. Applying this principle to the valuing of human life suggests that a form of *psychophysical numbing* may result from our

inability to appreciate losses of life as they become larger (see Figure 3). The function in Figure 3 represents a value structure in which the importance of saving one life is great when it is the first, or only, life saved but diminishes marginally as the total number of lives saved increases. Thus, psychologically, the importance of saving one life is diminished against the background of a larger threat—we will likely not "feel" much difference, nor value the difference, between saving 87 lives and saving 88.
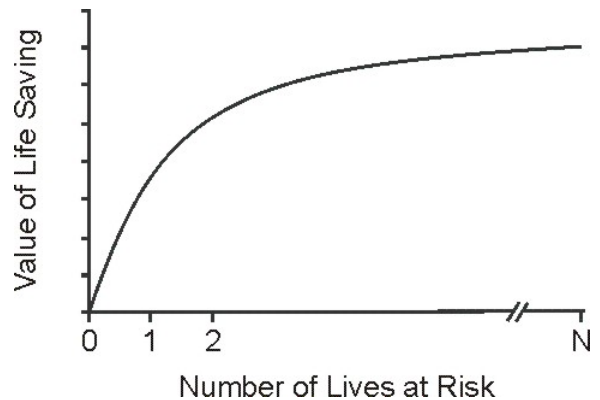

Figure 3. A psychophysical model describing how the saving of human lives may actually be valued.

Kahneman and Tversky (1979) have incorporated this psychophysical principle of decreasing sensitivity into prospect theory, a descriptive account of decision making under uncertainty. A major element of prospect theory is the value function, which relates subjective value to actual gains or losses. When applied to human lives, the value function implies that the subjective value of saving a specific number of lives is greater for a smaller tragedy than for a larger one.

Fetherstonhaugh, Slovic, Johnson, and Friedrich (1997) demonstrated this potential for diminished sensitivity to the value of life—i.e., "psychophysical numbing"—in the context of evaluating people's willingness to fund various lifesaving interventions. In a study involving a hypothetical grant funding agency, respondents were asked to indicate the number of lives a medical research institute would have to save to merit receipt of a $10 million grant. Nearly two-thirds of the respondents raised their minimum benefit requirements to warrant funding when there was a larger at-risk population, with a median value of 9,000 lives needing to be saved when 15,000 were at risk, compared to a median of 100,000 lives needing to be saved out of 290,000 at risk. By implication,

respondents saw saving 9,000 lives in the smaller population as more valuable than saving ten times as many lives in the larger population.

Other studies in the domain of life-saving interventions have documented similar psychophysical numbing or proportional reasoning effects (Baron, 1997; Bartels & Burnett, 2006; Fetherstonhaugh et al., 1997; Friedrich et al., 1999; Jenni & Loewenstein, 1997; Ubel, Baron, & Asch, 2001). For example, Fetherstonhaugh et al. (1997) also found that people were less willing to send aid that would save 4500 lives in Rwandan refugee camps as the size of the camps' at-risk population increased. Friedrich et al. (1999) found that people required more lives to be saved to justify mandatory antilock brakes on new cars when the alleged size of the at-risk pool (annual braking-related deaths) increased.

These diverse studies of lifesaving demonstrate that the *proportion* of lives saved often carries more weight than the *number* of lives saved when people evaluate interventions. Thus, extrapolating from Fetherstonhaugh et al., one would expect that, in separate evaluations, there would be more support for saving 80% of 100 lives at risk than for saving 20% of 1,000 lives at risk. This is consistent with an affective (System 1) account, in which the number of lives saved conveys little affect but the proportion saved carries much feeling: 80% is clearly "good" and 20% is "poor."

Slovic, Finucane, Peters, and MacGregor (2004), drawing upon the finding that proportions appear to convey more feeling than do numbers of lives, predicted (and found) that college students, in a between-groups design, would more strongly support an airport-safety measure expected to save 98% of 150 lives at risk than a measure expected to save 150 lives. Saving 150 lives is diffusely good, and therefore somewhat hard to evaluate, whereas saving 98% of something is clearly very good because it is so close to the upper bound on the percentage scale, and hence is highly weighted in the support judgment. Subsequent reduction of the percentage of 150 lives that would be saved to 95%, 90%, and 85% led to reduced support for the safety measure but each of these percentage conditions still garnered a higher mean level of support than did the Save 150 Lives Condition (Figure 4).
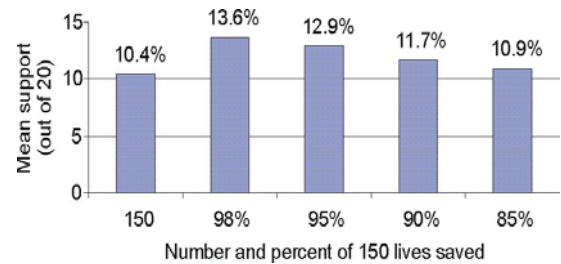

Figure 4. Airport safety study: Saving a percentage of 150 lives receives higher support ratings than does saving 150 lives. *Note.* Bars describe mean responses to the question, "How much would you support the proposed measure to purchase the new equipment?" The response scale ranged from 0 *(would not support at all)* to 20 *(very strong support;* Slovic et al., 2002).

This research on psychophysical numbing is important because it demonstrates that feelings necessary for motivating lifesaving actions are not congruent with the normative models in Figures 1 and 2. The nonlinearity displayed in Figure 3 is consistent with the disregard of incremental loss of life against a background of a large tragedy. However,it does not fully explain apathy toward genocide because it implies that the response to initial loss of life will be strong and maintained, albeit with diminished sensitivity, as the losses increase. Evidence for a second descriptive model, better suited to explain apathy toward genocide, follows.

5 Numbers and numbness: Images and feeling

Psychological theories and data confirm what keen observers of human behavior have long known. Numerical representations of human lives do not necessarily convey the importance of those lives. All too often the numbers represent dry statistics, "human beings with the tears dried off," that lack feeling and fail to motivate action (Slovic & Slovic, 2004).

How can we impart the feelings that are needed for rational action? Attempts to do this typically involve highlighting the images that lie beneath the numbers. For example, organizers of a rally designed to get Congress to do something about 38,000 deaths a year from handguns piled 38,000 pairs of shoes in a mound in front of the Capitol (Associated Press, 1994). Students at a middle school in Tennessee, struggling to comprehend the magnitude of the Holocaust, collected six million paper clips as a centerpiece for a memorial (Schroeder & Schroeder-Hildebrand, 2004). Flags were "planted" on the lawn of the University of Oregon campus to represent the

thousands of American and Iraqi war dead (see Figure 5).

Figure 5. Flags depicting American and Iraqi war dead.

When it comes to eliciting compassion, the identified individual victim, with a face and a name, has no peer. Psychological experiments demonstrate this clearly, but we all know it as well from personal experience and media coverage of heroic efforts to save individual lives. The world watched tensely as rescuers worked for several days to rescue 18-month-old Jessica McClure, who had fallen 22 feet into a narrow abandoned well shaft. Charities such as Save the Children have long recognized that it is better to endow a donor with a single, named child to support than to ask for contributions to the bigger cause.

Even Adolf Eichmann, complicit in the murder of millions of Jews during the Holocaust, exhibited an emotional connection to one of his victims after being interrogated by the victim's son for hundreds of hours during his 1961 trial in Israel. When the interrogator, Captain Avner Less, reveals to Eichmann that his father had been deported to Auschwitz by Eichmann's headquarters, Eichmann cried out "But that's horrible, Herr Captain! That's horrible!" (von Lang, 1983, p. ix).

But the face need not even be human to motivate powerful intervention. A dog stranded aboard a tanker adrift in the Pacific was the subject of one of the most costly animal rescue efforts ever. Hearing this, columnist Nicholas Kristof (2007) recalled cynically that a single hawk, Pale Male, evicted from his nest in Manhattan, aroused more indignation than two million homeless Sudanese. He observed that what was needed to galvanize the American public and their leaders to respond to the genocide in Darfur was a suffering puppy with big eyes and floppy ears: "If President Bush and the global public alike are unmoved by the slaughter of hundreds of thousands of

fellow humans, maybe our last, best hope is that we can be galvanized by a puppy in distress."

6 The Collapse of Compassion

In recent years, vivid images of natural disasters in South Asia and the American Gulf Coast, and stories of individual victims there brought to us through relentless, courageous, and intimate news coverage certainly unleashed an outpouring of compassion and humanitarian aid from all over the world. Perhaps there is hope that vivid, personalized media coverage of genocide could motivate intervention.

Perhaps. Research demonstrates that people are much more willing to aid identified individuals than unidentified or statistical victims (Kogut & Ritov, 2005a; Schelling, 1968; Small & Loewenstein, 2003, 2005; Jenni & Loewenstein, 1997). But a cautionary note comes from a study by Small, Loewenstein, and Slovic (2007), who gave people leaving a psychological experiment the opportunity to contribute up to $5 of their earnings to Save the Children. In one condition respondents were asked to donate money to feed an identified victim, a seven-year-old African girl named Rokia. They contributed more than twice the amount given by a second group asked to donate to the same organization working to save millions of Africans from hunger (see Figure 6). A third group was asked to donate to Rokia, but was also shown the larger statistical problem (millions in need) shown to the second group. Unfortunately, coupling the statistical realities with Rokia's story significantly *reduced* the contributions to Rokia. It may be that the presence of statistics reduced the attention to Rokia essential for establishing the emotional connection necessary to motivate donations. Alternatively, recognition of the millions not being helped by one's donation may have produced negative affect that inhibited any response.
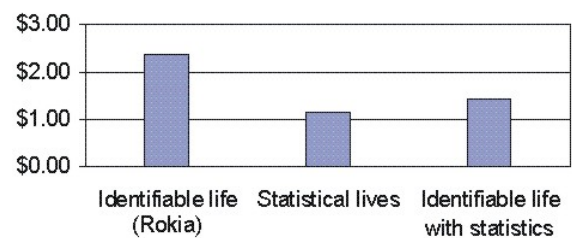

Figure 6. Mean donations. Reprinted from Small et al. (2006), Copyright (2006), with permission from Elsevier.

A follow-up experiment by Small et al. (2007) provided additional evidence for the importance of feelings. Before being given the opportunity to donate, participants were either primed to feel ("Describe your feelings when you hear the word 'baby,'" and similar items) or to do simple arithmetic calculations. Priming analytic thinking (calculation) reduced donations to the identifiable victim (Rokia) relative to the feeling prime. Yet the two primes had no distinct effect on statistical victims, which is symptomatic of the difficulty in generating feelings for such victims.

Writer Annie Dillard reads in her newspaper the headline "Head Spinning Numbers Cause Mind to Go Slack." She struggles to think straight about the great losses that the world ignores: "More than two million children die a year from diarrhea and eight hundred thousand from measles. Do we blink? Stalin starved seven million Ukrainians in one year, Pol Pot killed two million Cambodians . . . ." She writes of "compassion fatigue" and asks, "At what number do other individuals blur for me?" (Dillard, 1999, pp. 130–131).

An answer to Dillard's question is beginning to emerge from behavioral research. Studies by Hamilton and Sherman (1996) and Susskind, Maurer, Thakkar, Hamilton, and Sherman (1999) find that a single individual, unlike a group, is viewed as a psychologically coherent unit. This leads to more extensive processing of information and stronger impressions about individuals than about groups. Consistent with this, Kogut and Ritov (2005a,b) found that people tend to feel more distress and compassion when considering an identified single victim than when considering a group of victims, even if identified.

Specifically, Kogut and Ritov asked participants to contribute to a costly life-saving treatment needed by a sick child or a group of eight sick children. The target amount needed to save the child (children) was the same in both conditions. All contributions were actually donated to children in need of cancer treatment. In addition, participants rated their feelings of distress (feeling worried, upset, and sad) towards the sick child (children).

The mean contributions are shown in Figure 7. Contributions to the individuals in the group, as individuals, were far greater than were contributions to the entire group. Ratings of distress were also higher in the individual condition. Kogut and Ritov concluded that the greater donations to the single victim most likely stem from the stronger emotions evoked by such victims.
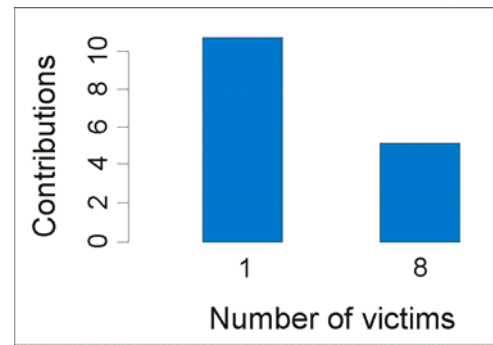

Figure 7. Mean contributions to individuals and their group. Reprinted from Kogut and Ritov (2005b), Copyright (2005), with permission from Elsevier.

Västfjäll, Peters, and Slovic (in preparation) decided to test whether the effect found by Kogut and Ritov would occur as well for donations to two starving children. Following the protocol designed by Small et al. (2007), they gave one group of Swedish students the opportunity to contribute their earnings from another experiment to Save the Children to aid Rokia, whose plight was described as in the study by Small et al. A second group was offered the opportunity to contribute their earnings to Save the Children to aid Moussa, a seven-year-old boy from Africa who was similarly described as in need of food aid. A third group was shown the vignettes and photos of Rokia and Moussa and was told that any donation would go to both of them, Rokia *and* Moussa. The donations were real and were sent to Save the Children. Participants also rated their feelings about donating on a 1 *(negative)* to 5 *(positive)* scale. Affect was found to be least positive in the combined condition and donations were smaller in that condition (see Figure 8). In the individual-child conditions, the size of the donation made was strongly correlated with rated feelings ($r = .52$ for Rokia; $r = .52$ for Moussa). However this correlation was much reduced ($r = .19$) in the combined condition.
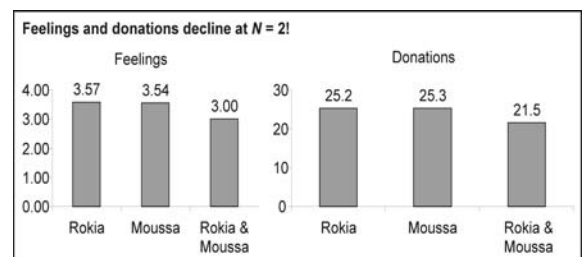

Figure 8. Mean affect ratings (left) and mean donations (right) for individuals and their combination (from Västfjäll et al., in preparation).

As unsettling as is the valuation of life-saving portrayed by the psychophysical model, the studies just described suggest an even more disturbing psychological tendency. Our capacity to feel is limited. To the extent that valuation of life-saving depends on feelings driven by attention or imagery, it might follow the function shown in Figure 9, where the emotion or affective feeling is greatest at $N = 1$ but begins to decline at $N = 2$ and collapses at some higher value of N that becomes simply "a statistic." In other words, returning to Annie Dillard's worry about compassion fatigue, perhaps the "blurring" of individuals begins at two! Whereas Robert J. Lifton (1967) coined the term "psychic numbing" to describe the "turning off" of feeling that enabled rescue workers to function during the horrific aftermath of the Hiroshima bombing, Figure 9 depicts a form of numbing that is not beneficial. Rather, it leads to apathy and inaction, consistent with what is seen repeatedly in response to mass murder and genocide.
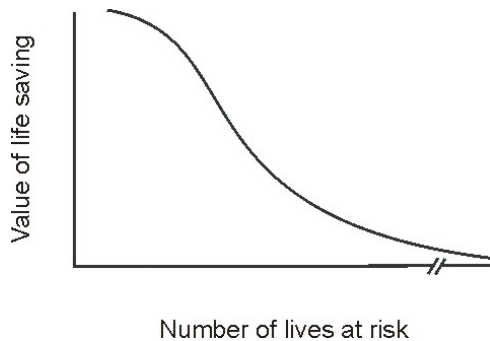

Figure 9. A model depicting psychic numbing—the collapse of compassion—when valuing the saving of lives.

7 The Failure of Moral Intuition

Thoughtful deliberation takes effort. Fortunately evolution has equipped us with sophisticated cognitive and perceptual mechanisms that can guide us through our daily lives efficiently, with minimal need for "deep thinking." We have referred to these mechanisms as System 1.

Consider, for example, how we deal with risk. Long before we had invented probability theory, risk assessment, and decision analysis, there was intuition, instinct, and gut feeling, honed by experience, to tell us whether an animal was safe to approach or the water was safe to drink. As life became more complex and humans gained more control over their environment, analytic ways of thinking, known as System 2, evolved to boost the rationality of our experiential reactions. We now look to toxicology and analytic chemistry to tell us whether the water is safe

to drink—not only to how it looks or tastes (Slovic et al., 2004).

As with risk, the natural and easy way to deal with moral issues is to rely on our System 1 intuitions: "How bad is it?" Well, how bad does it feel? We can also apply reason and logical analysis to determine right and wrong, as our legal system attempts to do. But moral intuition comes first and usually dominates moral judgment unless we make an effort to use judgment to critique and, if necessary, override our intuitive feelings (Haidt, 2001, 2007).

Unfortunately, moral intuition fails us in the face of genocide. As powerful as System 1 is, when infused with vivid experiential stimulation (witness the moral outrage triggered by the photos of abuse at the Abu Ghraib prison in Iraq), it has a darker side. We cannot rely on it. It depends upon attention and feelings that may be hard to arouse and sustain over time for large numbers of victims, not to speak of numbers as small as two. Left to its own devices, System 1 will likely favor individual victims and sensational stories that are closer to home and easier to imagine. It will be distracted by images that produce strong, though erroneous, feelings, like percentages as opposed to actual numbers. Our sizable capacity to care for others may also be overridden by more pressing personal interests. Compassion for others has been characterized by Batson, O'Quin, Fulz, Vanderplas, and Isen (1983) as "a fragile flower, easily crushed by self concern" (p. 718). Faced with genocide, we cannot rely on our moral intuitions alone to guide us to act properly.

Philosophers such as Peter Singer and Peter Unger, employing very different methods than psychologists, have come to much the same conclusions about the unreliability of moral intuitions (Singer, 2007; Unger, 1996). Unger, after leading his readers through 50 ingenious thought experiments, urges them and us to think harder to overcome the morally questionable appearances promoted by our intuitive responses. These intuitions, he argues, lead us to act in ways that are inconsistent with our true "Values," that is, the Values we would hold after more careful deliberation: "Folks' intuitive moral responses to specific cases derive from sources far removed from our Values and, so, they fail to reflect these Values, often even pointing in the opposite direction" (p. 11).

Greene (2007), drawing on data from psychology and neuroscience as well as philosophy, attempts to explain the problems with intuitions in terms of the morally irrelevant evolutionary factors that shaped these intuitions. Thus we say it is wrong to abandon a drowning child in a shallow pond but okay

to ignore the needs of millions of starving children abroad because the former pushes our emotional buttons while the latter do not. And this may be because we evolved in an environment in which we lived in small groups and developed immediate, emotionally based intuitive responses to the needs and transgressions of others. There was little or no interaction with faraway strangers.

8 Combatting genocide

Clearly there are serious political obstacles posing challenges to those who would consider intervention in genocide, and material risks as well. What we have tried to describe here are the additional psychological obstacles centered around the difficulties in wrapping our minds around genocide and forming the emotional connections to its victims that are necessary to motivate us to overcome these other obstacles.

8.1 Strengthen System 1: Focus on Individuals

Richard Just's question haunts us: "How can we have known so much and done so little?" Are we destined to stand numbly and do nothing as genocides and crimes against humanity rage on for another century? Can we overcome the psychological obstacles to action? There are no simple solutions. Despite the limitations of System 1 noted above, we should nevertheless attempt to bolster it, at the least so it can motivate support for efforts based on System 2. Such attempts should capitalize on the findings described earlier demonstrating that we care most about aiding individual people in need, even more so when we can attach a name and a face to them. Thus, one possibility is to infuse System 1 with powerful affective imagery such as that associated with Hurricane Katrina and the South Asian tsunami. This would require pressure on the media to report the slaughter of innocent people aggressively and vividly. Another way to engage our experiential system would be to bring people from Darfur into our communities and our homes to tell their stories.

Other strategies to bolster System 1 and overcome psychic numbing by highlighting harm to individuals include:

- In-country or in-region meetings

Special sessions of the U.N. Security Council regarding cases of genocide could be required to be held in the region where the events were taking place.

- Avoid numbing language

Terms such as "collateral damage" mask the barbarity of harm to civilian populations and should be used much more cautiously, if at all. Even the substantive law of genocide might be considered problematic as it conceptualizes genocide as a collective or group injury, rather than as harm to individuals. In this light, it is instructive to reflect on the characterization by Holocaust survivor Abel Hertzberg: "There were not six million Jews murdered: there was one murder, six million times."

- Victim empowerment

Victims should be empowered to trigger a range of institutional responses such as initiating international court proceedings or placing an issue on the agenda of an international political body.

- Alter reporting formats

Efforts by international organizations and NGOs to document genocide and other mass human rights violations typically focus on the scale of atrocities rather than on narratives or other information about the individuals who have been harmed. Statistics prevail over stories. A good example of this is the Darfur Atrocities Documentation Project (Totten, 2006), which compiled a database of over 10,000 eyewitnessed incidents but reported mostly the percentages of different types of abuses. While it is obviously necessary to document the scope of such atrocities, neglecting the stories of individuals certainly contributes to numbing. When civilian populations are harmed, reporting should describe harms to specific vulnerable groups, such as children, women, and the elderly. Arresting visual displays (such as that shown in Figure 5) and photographs of victims and atrocities should be included in the reporting and publicly distributed.

On this last point, Paul Farmer (2005) has written eloquently about the power of images, narratives, and first-person testimony to overcome our "failure of imagination" in contemplating the fate of distant, suffering people. Such documentation can, he asserts, render abstract struggles personal and help make human rights violations "real" to those unlikely to suffer them. But he is aware, as well, of the limitations of this information. He quotes Susan Sontag (2003), who cautions that "As one can become habituated to harm in real life, one can become habituated to the harm of certain images" (p. 82). Sparking emotion with testimony and photographs,

Farmer argues, is one thing; "linking them effectively, enduringly, to the broader project of promoting basic rights . . . is quite another" (p. 185). In short, he says, "serious social ills require in-depth analyses" (p. 185).

Further caveats about the use of atrocity images have been expressed by Zelizer (1998), who argues that the recycling of images, such as photos of starving children in refugee camps, bears eerie resemblance to photos from the Holocaust, which undermine their novelty and immediacy and can dull our responses.

Similarly, Richard Just (2008), reviewing the plethora of excellent books and movies on Darfur, observes that the horror they vividly depict should disgust us, but

> . . . one effect of the extraordinary amount of knowledge we have about Darfur is that these stories eventually run together and lose their power to shock. . . . repetition eventually numbs the moral imagination. It is a terrible thing to admit, but sometimes the more information we consume about Darfur, the less shocking each piece of new information seems. . . . Ignorance is not the only ally of indifference; sometimes knowledge, too, blunts the heart and the will" (p. xx)

8.2 Engage System 2

In sum, research in psychology, neuroscience, and philosophy, supported by common observation and the record of repeated failures to arouse citizens and leaders to halt the scourge of genocide, sends a strong and important message. Our moral intuitions fail us. They seduce us into calmly turning away from massive abuses of human beings, when we should be driven by outrage to act. This is no small weakness in our moral compass. Fortunately, we have evolved a second mechanism to address such problems, based on reason and moral argument, and we must focus now on engaging this mechanism, System 2, to strengthen international laws and political institutions in order to precommit states to respond to genocide. It is obvious that we need more muscle behind international obligations to intervene in and prevent genocides, whether one views our failures thus far as caused by psychology, power politics, or some combination of these and other factors.

We need to strengthen both laws and international institutions dealing with genocide. The United Nations is the institution that was created in part to deal with such issues, but structural problems built into its very charter have made it ineffective. Permanent members of the Security Council have veto

power that they have used repeatedly to block or render impotent attempts to halt ongoing genocides. This will be hard to remedy as reform or redesign of the United Nations requires the approval of these permanent members.

A thorough analysis of the strengths and weaknesses of the United Nations in preventing mass violence is provided by David Hamburg (2008), who is not optimistic about prospects for the near term. Recognizing the powerful constraints imposed on the UN's own efficacy in matters of peace and security, Hamburg examines the prospect that NATO, the European Union, the African Union, the Organization of American States, the Organization for Cooperation and Security in Europe, and the Association of Southeast Asian Nations might cooperate in military, diplomatic, and economic measures designed to counter genocide. He also notes the important role NGOs can play in pressuring national and international bodies to attend to conflict prevention and resolution. He proposes the establishment of two international centers for the prevention of genocide, with complementary functions; one in the United Nations and one in the European Union.

We shall not discuss the many thoughtful suggestions made by Hamburg, except to say that appreciation of the failure of moral intuition makes development of new institutional arrangements even more urgent and critical. For it may only be laws and institutions that can keep us on course, forcing us to pursue the hard measures needed to combat genocide when our attention strays and our feelings lull us into complacency.

8.3 Require Open Deliberation

That institutional reforms would be welcome is also not news. But it is unclear how optimistic we can hope to be about such efforts. After all, the failed Genocide Convention is itself a precommitment-based approach, and while this traditional approach should not be written off and attempts to strengthen it encouraged, at least some energy should be expended toward conceiving alternative solutions. In fact, the role of psychology in mediating our reactions to genocide may suggest the promise of one such supplemental remedy, one that, paradoxically, is actually quite modest on its face—a "less is more" approach to the international legal regime combating genocide.

As psychological research indicates, even when System 1's moral intuitions are distorted, human cognition can rely on the rational, deliberative mode of thinking characteristic of System 2. Where emotion

and affect let us down, we still can be spurred into action if we can trigger a deliberative process capable of weighing the costs and benefits of possible intervention options. One goal we should have, therefore, should be to promote deliberative, cost-benefit thinking about genocide. Of course, people will always disagree about when the costs of a particular intervention outweigh the benefits, but to the extent that psychic numbing plays a role in dissuading interventions to stop or ameliorate the effects of genocides, deliberation-forcing mechanisms in the law may play a role in countering that effect.

What this proposal suggests is that, rather than solely focusing on obligations to *act,* international and domestic law should also require actors to *deliberate* and *reason* about actions to take in response to genocide, thereby engaging the System 2 mode of human cognition that can overcome the numbing problem. This goal of promoting deliberation should be aimed at two distinct audiences, and it is analytically important to separate them. The first is the group of political leaders and policymakers at the front lines of government responsiveness, and unresponsiveness, to genocide. Policymakers are human beings working with the same cognitive raw material as the rest of us, and part of their response to genocide may well be the sort of psychic numbing a deliberation-forcing policy can ameliorate. But policymakers might also be meaningfully different – by self-selection or the imperatives of their jobs, they may be more inclined to think about reelection and geopolitics, and psychology might be a smaller part of their story. Even if this is the case, however, the most rational-choice based approaches to politics recognize that policymakers respond to constituent pressures. There is therefore a second group among whom we should strive to promote deliberation on responses to genocide: the general public.

Can legal institutions in fact promote deliberation, either among policymakers or among the general public? Although the law is typically conceived as being concerned with action and not deliberation, institutional designers have taken just such an approach in a number of areas of law and policy, seeking to promote better outcomes not just by regulating the end-result of the decision-making process but by regulating the process itself as well. One important example is the U.S. legal requirement that agencies produce "environmental impact statements" before taking actions that might have deleterious environmental effects. The National Environmental Policy Act, which requires these statements, is a self-consciously deliberation-forcing mechanism: the statute does not itself bar agency action that would harm the environment; it simply requires that these effects be considered. And while NEPA's success in actually altering outcomes has been debated, advocates for the environment have at least taken it seriously enough to vigorously enforce its requirements in court, even absent a guarantee that the ultimate policy decision will be affected.

A more broadly applicable example from U.S. administrative law is the requirement that cost-benefit analysis (CBA) be performed in the course of deciding to regulate or not regulate. While CBA was initially considered a means for achieving deregulatory results, recent developments in the administrative state have illustrated CBA's potential for promoting the consideration of beneficial regulations (Hahn & Sunstein 2002, p. 1521-22). Applied without a deregulatory bias, this policy might be viewed as a deliberation-forcing rule to insure the government does not fail to consider potential welfare-promoting actions. The US Congress has also chosen to enforce the important American legal principle of federalism through a deliberation-forcing mechanism, requiring that legislation imposing so-called "unfunded mandates" on state and local governments be accompanied by reports detailing the costs of these mandates. (Unfunded Mandate Reform Act of 1995: Pub. L. No. 104-4). And the US Supreme Court has occasionally applied the principle of "structural due process" to require that certain controversial governmental decisions be taken only after full consideration by the President and the Congress. (*Hampton v. Mow Sun Wong*, 426 U.S. 88, 1976) Finally, to mention an example from outside the U.S. legal system, the South African Constitutional Court, in the landmark *Doctors for Life International* case, enforced a constitutional provision requiring participatory democracy by ordering the legislature to hold public hearings and debates (2006 (12) BCLR 1399). All of these examples demonstrate a concern with the quality of deliberation given to controversial government decisions, and manifest an expectation that improved deliberation can result in improved decisions, even without mandating what the final decision itself must be.

These examples indicate that pursuing a deliberation-forcing approach to anti-genocide efforts would not be unprecedented as a supplemental legal tool designed to overcome the cognitive obstacles in the way of interventions. At the international level, an additional protocol to the genocide convention could compel states to respond to genocide by producing a detailed action plan, factoring in the likely costs and benefits of different types of intervention. At regular intervals, states could be required to justify failure to

act based on an updated assessment of costs and benefits. And the treaty could require public presentation of these findings before both international and domestic audiences, potentially mandating high-visibility strategies such as televised addresses to the nation.

A clear strength of this approach is its palatable nature: for states concerned about preserving their sovereignty and keeping options open, there is comparatively little to fear from an obligation to deliberate and explain. The benefits of the "less-is-more" approach are particularly strong in this regard. In the area of international law, where the means of ensuring compliance are always more or less an issue, a regime that features apparently low-cost obligations could be more easily swallowed by states concerned with sovereignty, and compliance should be correspondingly better.

But while compliance should be more attainable, beneficial results are still quite possible. Forcing deliberation in security establishments and in the top levels of government will force decision makers to confront the costs and benefits of certain types of interventions. Moreover, by forcing the government to present its case and to justify its failure to respond, deliberation will also be forced at the popular level, making it more likely that people will in turn pressure their leaders to take action. In fact, as Kip Viscusi (2000) demonstrates, an interesting effect of cost-benefit analysis is that people are often outraged when actors use cost-benefit analysis to make decisions that cost human lives. Imagine the outrage if the hidden cost-benefit assessments justifying inaction in Rwanda had been made public. Romeo Dallaire (2005) recounts the following deliberation regarding the value of a Rwandan life:

> As to the value of the 800,000 lives in the balance book of Washington, during those last weeks we received a shocking call from an American staffer, whose name I have long forgotten. He was engaged in some sort of planning exercise and wanted to know how many Rwandans had died, how many were refugees, and how many were internally-displaced. He told me that his estimates indicated that it would take the deaths of 85,000 Rwandans to justify the risking of the life of one American soldier. It was macabre, to say the least. (pp. 322-323)

Thus, some degree of System 1 outrage, together with System 2 deliberation, can be achieved at the popular level through the public reporting requirements of a deliberation-forcing regime, and this in turn may help pressure governments to take action.

While there would obviously need to be latitude in terms of how such obligations to deliberate would be implemented across jurisdictions, in the U.S. a conceivable paradigm would be the enactment of a statute analogous to the National Environmental Protection Act (NEPA). If the institutions of administration and judicial review can accommodate a requirement to prepare reports detailing the environmental costs of government action, it should also be able to accommodate a requirement to prepare reports detailing the human costs of government inaction in the face of genocide and other grave human rights abuses. Following the NEPA model furthers two important goals. It would provide for judicial review, thus providing a mechanism for forcing deliberation by government actors. It would also cast public light on the issue of genocide and the government's response to it. Consider as an example the recent Supreme Court decision in *Massachusetts v. EPA*, not a NEPA case but one in which the government was told not that it *had* to act to stop climate change, but simply that it had the *authority* to do so. Though the case did not result in any concrete action, it did help draw national attention to the government's failure to address global warming, demonstrating that even a proc0.eduralist court opinion can have important deliberat.ive affects in the polity at large.

On the other hand, the NEPA model would avoid the problem of compelling direct action, which in the security sphere would be unfeasible. A statute forcing deliberation on responses to genocide in this manner, while revolutionary in some respects, could be within the realm of political possibility and would also provide some hope for activating beneficial deliberative processes on the part of both government actors and society at large. Indeed, even absent action at the international level, domestic pressure groups concerned with responses to genocide could persuade lawmakers eager to be seen as taking some action to install this sort of deliberative mechanism.

There are, of course, weaknesses to this deliberation-forcing approach, whether implemented internationally or domestically. The most serious concern is that this will place the focus of the international community on producing "yet another" committee report, at best being of no consequence and at worst providing a means for foot-dragging and delay while ongoing atrocities continue. These concerns are real, and it bears repeating that the deliberation-forcing proposal is a supplemental one, designed to add to the current requirements to take

action on genocide and not to replace them with a weaker commitment.

In designing the deliberation-forcing regime, it will be necessary to ensure that the mechanisms are closely calibrated to the goal of genuinely activating System 2 processes so as to overcome the psychic numbing of mass tragedies. Adding another report by an emissary of the Secretary-General would not serve this purpose; rather, the reporting requirements would have to involve states themselves, and would have to specify levels of engagement at both the elite decisionmaking level (e.g., requiring the participation of the security establishment) and the popular level (e.g., requiring, like the participatory democracy provision of the South African Constitution, public hearing and debate designed to reach the entire polity). Moreover, the U.N. Security Council should consider creating a "Genocide Committee" to monitor and receive state reports and to ensure that state reports are timely and do not constitute foot-dragging. Such a committee would be analogous to the "1540 Committee" established to monitor and coordinate national non-proliferation efforts.

At the domestic level, the availability of some sort of judicial review, as in NEPA, could arguably speed matters, and given the comparative need for speed in addressing genocide, provision for some sort of expedited review in domestic law would be appropriate. Ultimately, a deliberation-forcing approach to the genocide regime should take seriously the worry that another round of reporting will be unhelpful or even pernicious. But given the stakes and our current failure to adequately respond to genocide, designing a regime that takes these concerns seriously while also seeking ways to promote reasoned deliberation about responses to genocide could be beneficial.

8.4 The Responsibility to Protect Individuals

Somewhat more ambitious than requiring deliberation would be a revision of the genocide convention sensitive to the realities of mass murder in the 21st Century.

Specifically, the genocide convention needs to be refocused around the principle of protecting individuals, regardless of race, ethnicity, or any other collective categorizations. This is consistent with the psychological account of psychic numbing that demonstrates the preeminence of the individual over the collective. It is also consistent with the changing nature of conflict. The genocide convention was designed to prevent the holocaust from happening again. That conflict was between a nation state and a

stable, defined religious/ethnic group, the Jews. In today's world, perpetrators of mass violence are often subnational militias and their victims are not racially or ethnically pure. Coupled with the fact that the genocide convention requires proof of *intent* to destroy a defined collective (very hard to demonstrate), the genocide convention becomes impossible to implement. Nations can thus wiggle out of their obligation to act, and they invariably do so (Hong, 2008).

An important attempt to repair the deficiencies of the genocide convention was initiated in 2005, when the U.N. General Assembly endorsed the concept of "Responsibility to Protect" (R2P). According to this doctrine, states are entrusted with the responsibility to protect the security of their citizens. But if they should fail to exercise this responsibility, the principle of nonintervention yields to the "responsibility to protect."

Although many governments responded positively to this new norm, none of the key provisions in the report of the International Commission of Intervention and State Sovereignty (ICISS) have been adopted and implemented (Wheeler, 2005).

9 Conclusion

Drawing upon behavioral research and common observation, we argue here that we cannot depend only upon our moral intuitions to motivate us to take proper action against genocide and mass abuse of human rights. This places the burden of response squarely upon moral argument and international law. The genocide convention was supposed to meet this need but it has not been effective. It is time to reexamine this failure in light of the psychological deficiencies described here and design legal and institutional mechanisms that will compel us to respond to genocide with a degree of intensity that is commensurate with the high value we place on individual human lives.

More fundamentally, understanding and appreciating how psychic numbing disables our moral intuitions highlights the importance of long-term efforts that emphasize prevention strategies over reactive strategies (Hamburg, 2008). Prevention strategies engage a potential crisis before the number of casualties is so large that numbing sets in. Moreover, prevention is in many ways easier and less costly and less dangerous than intervention. This strategy recommends a range of policy options including more vigorous international intervention (including humanitarian aid) in situations likely to

generate wide-scale atrocities (e.g., civil wars, military coups, etc.).

Central to this strategy are efforts to develop what Hamburg (2008) calls "pillars of prevention":

> These are structures of human relations, good governance, constraints on aggressive behavior, the movement toward worldwide protection of human rights and individual dignity through democratic institutions, construction of equitable socioeconomic development, widespread application of conflict resolution concepts and techniques, . . . efforts to restrain the availability and use of highly lethal weapons—and, . . . development of a global movement to use such knowledge to educate children, youth, political leaders, and indeed, all humanity to learn to live together in peace through mutual benefit from informed cooperation. (p. 265)

The stakes are high. Failure to overcome psychic numbing may condemn us to witness another century of genocide and mass abuses of innocent people as in the previous century.

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