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Figure 4.1 The Vijecnica in Sarajevo, Bosnia and Herzegovina, 2008.
Source: Donna-Lee Friese.
During the attack on Sarajevo between 1992 and 1995, approximately 12,000 occupants of the city were killed, and about 50,000 were injured. The city was relentlessly bombarded from the surrounding hills over four long years: as the Bosnian Serb military commander Ratko Mladić said, "They can't sleep, so we drive them out of their minds." This is the staggering way in which the citizens of Sarajevo had to live, and die; it is also, as Cornelia Sorabji suggests, the legacy of the lives of these people. Part of this legacy includes the intended destruction of memory and culture, typified in the obliteration of the Vijecnica (the Serbo-Croatian name for the Sarajevo city hall). This chapter details the assault on the Vijecnica, and explores whether this and similar acts of cultural desecration are linked to intentional group harm and thus merit a framing of genocide. To this end, I explore the concept of "cultural genocide" as it evolved in the thinking and writings of Raphael Lemkin, inventor of the concept of genocide; how it figured in the framing of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) of 1948; and what significance it has held in prosecutions in the recent era of ad hoc tribunals, notably that for the former Yugoslavia.

András Riedlmayer – who testified in July 2003 as an expert witness at the trial of Slobodan Milošević – points out that the history of a country is revealed in its buildings. In the case of Sarajevo, the proximity of churches to synagogues and mosques demonstrates powerfully the city's history of cultural heritage and religious tolerance, and reflects the multicultural life of its citizens.
The Vijećnička was built in 1896 during the Austro-Hungarian rule over Sarajevo. It was purposely designed by the Viennese architect, Karl Wittek, to stand "near the first Islamic religious structures built in the fifteenth century." After the Second World War, the Vijećnička became the national library of Bosnia and Herzegovina, housing works from destroyed libraries from the First World War, including Croatian, Russian colonial, and German libraries. It later incorporated works from the Muslim, Croatian, and Serbian cultural societies. In 1949, it came to house the archives and holdings of the library of the University of Sarajevo, reflecting Sarajevo's culturally and intellectually diverse society.

The Vijećnička was specifically and repeatedly attacked on August 25–27, 1992. No other buildings in the vicinity were targeted on those nights, and the only other areas to be hit were the streets surrounding the building – a tactic to ensure that the fire department could not gain access to quench the flames. The intent to destroy the cultural landscape was explicit. The burning of the Vijećnička was possibly the "largest single incident of deliberate book-burning in modern history." The attack came from Serbian forces in the surrounding hills of Sarajevo, using incendiary shells and targeting the domed roof, so that the inferno flared in the skies for days. Kemal Bakarić, the former chief librarian from the National Museum of Bosnia and Herzegovina, wrote: "Catching a page you could feel its heat, and for a moment read a fragment of text in a strange kind of black and grey negative, until, as the heat dissipated, the page melted to dust in your hand."

The Vijećnička "contained three million items including rare books and manuscripts, maps, recordings and one million volumes ... [depicting] the languages of ... Bosnia." Some archives were irreplaceable, such as "625 Bosnian periodicals" dating from the nineteenth century, and precious incunabula. Ninety percent of the 1.5 to 2 million items in the archives and holdings were destroyed, including 6,000 rare manuscripts and the only copy of the library’s catalogue. In addition, the assault destroyed irreplaceable death, birth and marriage records that documented individuals’ heritage, history, and lineage. According to one witness, prior to the attack, staff at the Vijećnička had repeatedly requested unused atomic bomb shelters to store the library’s treasures, but the authorities ignored their petitions.

Of course, the Vijećnička was not the only building or archive destroyed during the siege. Many mosques, libraries, cultural buildings, Jewish and Muslim cemeteries and monuments of worship were deliberately obliterated in acts of fanatical nationalism. The Oriental Institute, said to house “the largest collection of Islamic, Jewish and Ottoman documents in southeastern Europe,” was also desecrated, as were the Bosnian National Museum and National Archives of Herzegovina, the Academy of Music, the library at the University of Mostar, the National Gallery, and 1,000 mosques all over Bosnia and Herzegovina, in an attempt to “annihilate all Islamic cultural institutions.”

Significance of the destruction

The metaphor of book burning resonated deeply with the people of Sarajevo. One of the many firefighters to risk his life trying to save the library commented that he was putting his life in danger because "they are burning a part of me." For others, the act
THE DESTRUCTION OF SARAJEVO'S VIJEČNICA

of cultural destruction, but in particular book burning, aims at the annihilation of group identification, or to "erase our remembrance of who we are."18 What is clear is that many Sarajevans intimately experienced a catalyptic rupture of their groups’ tangible and intangible cultural legacy. As James Raven writes, "Libraries can be national, institutional or familial treasures in which the guardianship offered by the library is a crucial feature."19 In this respect, libraries, which includes their holdings and their communal, intellectual, and spatial arenas, are linked to groups’ identity. The burning of the volumes and the destruction of the physical space are more than Stephen Schwartz’s description of "an act of vandalism."20

The library’s volumes also vividly exemplified the multi-ethnic coexistence at the heart of many Sarajevans’ collective identity. They were, as Riedlmaier points out, proof of the “historical roots” of Muslims, Catholics, and Jews in Bosnia and Herzegovina.21 A witness to the inferno, the intrepid journalist Robert Fisk, wrote: "Sifting through the ashes, I found a scorched filing cabinet entirely filled with reference cards to books in Esperanto. Could there have been a more moving indication, among the embers, of Sarajevo’s desire to speak across frontiers?"22

Among the holdings destroyed by the Serbs were many precious and rare Serbian texts. As Riedlmaier argues, the short-term aim of the destruction of tangible and intangible cultural elements was part of a campaign of intimidation. But it also reflected a complex kind of self-destruction.23 In attempting to erase the ethnic memory of the Catholic, Muslim, and Jewish populations, the Serbs crippled their own Bosnian heritage, destroying the Serbian literature that filled the high shelves of the library. Sanja Zgonjanin argues that the Serbs committed "cultural suicide" by destroying part of their own culture, an "ironic" aspect of the assault.24 But there was a logic to this: the narrative of multicultural intricacies contradicted the rhetoric of extreme nationalism proclaimed by the perpetrators. Destroying it was a kind of confirmation of the allegedly "age-old" ethnic hatreds to which the perpetrators subscribed.25 A similar strategy prevailed in the Serb destruction of churches, mosques, and bridges.26 For Schwartz, it was not the history of Muslims in Bosnia and Herzegovina that the Serbs targeted, but rather the proof of coexistence: the "evidence that Serbs had once held property alongside Muslims."27 The Vičnica housed works that dated back to the Ottoman and Habsburg eras, verifying that "its inhabitants of whatever background [were] able not simply to live next to but also with each other."28 In mid-1993, the director of the library stated that the Bosnian Serb Forces "knew that if they wanted to destroy this multi-ethnic society, they would have to destroy the library."29

Additionally, as the University of Sarajevo library, the Vičnica was loved for more than its tangible qualities, including the building and its contents. As Ferida Duniković explains: "This was the place to exchange opinions . . . where everything began for me as a poet."30 The Vičnica was a meeting ground for intellectuals, promoting a sense of cultural community that forms the core of a group. As historians from Bosnia and Herzegovina have written, destroying such archives demonstrates a "murder of memory" that encompasses not only the collective ethnic memory and heritage of a group, but also its intellectual life.31

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CULTURAL DESTRUCTION: LEGAL PRECEDENTS

Although the protection of such intangible qualities has a short history, the international legal safeguard of tangible cultural heritage dates back to the 1800s. There are no distinct laws that specifically mandate prosecution for destroying archives and libraries, but a range of codes and conventions do exist for the protection of such property. The 1863 Lieber Code, adopted in the United States during the Civil War, was arguably the first law explicitly to protect cultural institutions. Others included the 1874 Brussels Declaration, the 1992 UNESCO Memory of the World Programme, which aimed "at preservation and dissemination of valuable archive holdings and library collections worldwide," and the 1977 Protocols added to the 1949 Geneva Conventions, prohibiting hostility toward the spiritual and cultural heritage of people. None of the international declarations and conventions has, however, proved to be effective in prosecuting the perpetrators of such acts of destruction.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict is considered the key legal document protecting cultural property in an armed conflict, due to its broad inclusion of cultural objects and its recognition of internationalism. Prosecution, however, is rare: as Zgonjanin notes, after the destruction of cultural property, many communities focus on rebuilding efforts rather than pursuing perpetrators. It is likely that this convention was born from the destruction of cultural property during the Holocaust, and it may have also arisen from heated discussions in the United Nations, outlined below, regarding cultural destruction in the lead-up to the ratification of the Genocide Convention.

It is worth noting that an individual was first prosecuted for mass confiscation of cultural property and destruction of cultural heritage in the Nuremberg trials. The Nuremberg Tribunal's reference to "attacks and appropriation of cultural property" did not, however, treat attacks on cultural property as singular or atypical, or linked to an intent to destroy a human collectivity. As such, the "destruction and appropriation of property" is considered a war crime, but legally speaking, not a crime of genocide per the Genocide Convention. Present as an advisor to the United States Chief Prosecutor at the court of the International Military Tribunal at Nuremberg, however, was Raphael Lemkin, inventor of the concept of genocide. And for Lemkin, such acts of cultural destruction had long been central to his evolving understanding of crimes of "vandalism" and "barbarity," climaxing in the concept of "genocide" which he had first unveiled a year before the Nuremberg trials began, and which would become the basis for an international convention only four years later.

LEMKIN AND THE CONCEPT OF GENOCIDAL CULTURAL DESTRUCTION

From an early age, Lemkin was outraged by the "colossal paradox" that while domestic law punished attempts to destroy individuals, there was no equivalent legislation to outlaw the destruction of human groups. Influenced by historical case studies of genocide and those that occurred during his lifetime (such as the Armenian genocide and the attempted obliteration of the Assyrians in Iraq in 1933), Lemkin was further energized to establish an international treaty against group destruction when Hitler
became Chancellor of Germany in January 1933. Lemkin submitted a draft law to the Fifth International Conference for the Unification of Penal Law in Madrid in 1933 that detailed two distinct actions: "Acts of Barbarity and Acts of Vandalism." The first described bodily harm to a specific group, while the second Lemkin described as the "malicious destruction of works of art and culture." This demonstrates that Lemkin's early thoughts on genocide were concerned with the cultural destruction of groups as an essential component of genocide. However, as the majority of Lemkin's work has remained unpublished, little is known about his subsequent thinking, which evolved into his concept of genocide. This chapter uses Lemkin's archival papers to demonstrate that genocidal cultural destruction remained a vital component of his thinking, both before and after the adoption of the 1948 Genocide Convention. Indeed, until the end of his life in 1959— including eleven long years after the convention's adoption—Lemkin continued to advocate the importance of cultural destruction as an integral element of genocide.

According to Zgonjanin, the purpose of all cultural destruction is "to erase ethnic, religious, and cultural memories and therefore to undermine or eliminate groups' identities and existence." For Lemkin, however, not all cases of cultural destruction could be deemed genocidal. The intention to obliterate a particular group's culture was only genocidal when its aim was "to erase ethnic, religious, and cultural memories and therefore to undermine or eliminate groups' identities and existence." Lemkin noted (precisely when is uncertain, given that many of his archival papers are undated) that "cultural genocide is the most important part of the Convention," because it underpinned the intentionality of serious bodily, mental, or biological harm to a group outlawed in Article II of the Genocide Convention. For Lemkin, intentional and forceful religious conversions, as well as the transfer of children banned by Article II (e) of the convention, in particular, amounted to genocide of group culture.

He wrote: "Cultural genocide need not necessarily involve the substitution of new culture traits ... but may maliciously undermine the victim group to render its members more defenseless in the face of physical destruction." Again, Lemkin inserts the word "maliciously" to underscore the purposeful nature of the crime.

In his later years, Lemkin clearly distinguished between "the gradual changes a culture may undergo"— what he called "cultural diffusion" (or assimilation of culture) — and cultural genocidal destruction, a point also raised by the objectors to the addition of cultural groups, in the Genocide Convention at the cultural genocide debate at the United Nations in 1948 (examined further below). Embracing the notion of assimilated cultures, Lemkin argued that without such diffusion, "the culture becomes static." Even though some cultures may disappear through such an assimilation process, cultural diffusion clearly, for Lemkin, did not equate to genocide; it was rather "relatively gradual and spontaneous." This cultural assimilation contrasted with absorptions of culture that were abrupt, and in Lemkin's words "implie[d] complete and violent change." This mode, which consisted of calculated attacks on culture and memory, is what Lemkin described as "surgical operations on cultures and deliberate assassination of civilizations," tantamount to genocide. It was, above all, the "pre-mediated goal" of the perpetrators which linked the concept of cultural genocide to genocidal intent.

Lemkin relied on the disciplines of sociology and, in particular, anthropology to explain and understand the significance of cultural genocidal destruction. The mingling
of cultures in close proximity was, for him, a sign of hope for civilization. He called both for respect for cultural relativity, and for tolerance of the universal values of basic human rights. His handwritten notes suggest that this hope for worldwide acceptance of cultural diversity and universality is possibly contradictory and therefore problematic.

As we will see in detail below, however, while vestiges of his emphasis on cultural genocide are evident in the Genocide Convention, Lemkin failed to persuade the drafters of the convention explicitly to incorporate cultural destruction as a form of genocide. Long after the convention was ratified, however, he was still appealing fervently for culture as a component of genocide to be understood as an essential element of the crime. In a mid-1950s interview for Italian radio, Lemkin declared:

Genocide is a very atrocious crime. It destroys nations, races and religious groups and deprives the world of [original contributions of the particular peoples. World culture is like a concerto to which every nation contributes through its own culture, bringing in its own tone and cultural aroma. Genocide has followed the history of mankind like an ominous shadow. It has destroyed lives and cultures, it has brutalized so many times entire generations, it has deprived the world of sensitivities and human love. Now the United Nations has decided to do away with this shadow and to secure the international world for life and culture.

There are two aspects to Lemkin's arguments concerning cultural genocide. One is that cultural destruction can be an intrinsic element of genocide through its connection to the sociological aspect of the crime. The other is that the outlawing of genocide is essential for the preservation of humanity's cultural element. He wrote in 1957 that genocide "has caused irretrievable losses because culture by its very nature can be neither restored nor duplicated." As Nicholas Adams observes in relation to the cultural sites across Bosnia and Herzegovina, for example, the destruction was predominantly targeted toward "the places where people gather to live out their collective life." As Lemkin understood, there is no "collective life" when tangible and intangible aspects of a group's culture are decimated.

In the lead-up to the adoption of the Genocide Convention by the United Nations, Lemkin frantically attempted to convince delegates that the inclusion of the cultural component of genocide had a preventative aspect to it. In a September 1948 letter to the Chairman of the Genocide Committee, James Rosenberg, Lemkin pointed to the Venezuelan delegate's argument that cultural destruction could act as a prelude to intended physical destruction. Lemkin highlighted the examples of the "mass destruction of synagogues by Hitler in 1938 ... and the mass destruction of the Christian Armenian Churches prior to the extermination of a million Armenians." He wrote: "Burning books is not the same as burning bodies, but when one intervenes in time against mass destruction of churches and books one arrives just in time to prevent the burning of bodies." By October 1948, the delegates had voted and voiced their final opinions on the inclusion of cultural destruction in a convention on genocide. Lemkin's arguments regarding cultural destruction as a preventative tool for physical destruction were unrealized, but his understanding of the correlation between cultural destruction and intended physical and biological destruction remains pertinent.
Civilization. He called for worldwide acceptance and therefore emphasized on cultural genocide to persuade the drafters of the convention to include cultural genocide as a form of genocide, appealing fervently for its preservation.

World has its own culture, allowed the history of cultures, it has brutalized its shadow and to secure human rights and religious groups particular peoples. World through its own culture, followed the history of cultures, it has brutalized its shadow and to secure.

Sarajevo's Višegrad

Cultural destruction and the UN Genocide Convention

Why and how did the concept of cultural genocidal destruction, which was central to the earliest framings of the Genocide Convention, come to be excluded from that same legal instrument? The following brief account analyzes the reasons for and against the exclusion of cultural destruction as an act enumerated in the convention.

The Genocide Convention was the product of two separate drafts, evaluated and combined by different committees. Illuminating debates on the issue of cultural destruction occurred between April and May 1948 on the second draft, in the Ad Hoc Committee on Genocide, which defined cultural genocide (covered in Article III) as:

- any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of national or racial origin or religious belief, such as:
  1. prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;
  2. destroying, or preventing the use of, libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

Representatives of seven nation-states decided upon the fate of cultural destruction as an element of genocide in this Assembly: the United States, the USSR, Lebanon, China, France, Poland, and Venezuela. Despite the objections from some nation-states, the Assembly decided on April 5, 1948, by six votes to one, to retain the concept of cultural destruction.

Later, in October 1948, the Assembly deliberated for three hours over the inclusion of Article III in the convention. During the discussions, Sardar Bahadur Khan from Pakistan reasoned that the cultural destruction of a group could not be separated from physical or biological destruction; and, further, that the defining characteristics of a group were embedded in the crime's cultural composition and expression:

Cultural genocide represented the end, whereas physical genocide was merely the means. The chief motive of genocide was blind rage to destroy the ideas, the values and the very soul of a national, racial or religious group, rather than its physical existence.

However, some delegates maintained that including cultural genocidal destruction in the convention might restrict the number of countries willing to ratify it. Accordingly, Khan suggested that sub-paragraph 1 of Article III should be deleted, as such a provision broadened the concept of genocide; but he declared that sub-paragraph 2 was essential, “otherwise, the convention would only partially achieve its aim.” Responding to complaints that the definition of cultural genocide was equivocal and ambiguous, Venezuelan member Pérez Perolo, the Syrian delegate Tarazi, José Correa from Ecuador, and Wahid Rafaat from Egypt also agreed that Article III should be made less vague in order to win support from the delegates.
One of the more rigorous arguments was that of Iranian delegate Djalal Abdoh. He asked whether, under the convention, all cultures should be preserved, even barbaric ones. How would a government “determine the concrete elements of a group’s religion and culture?” The Union of South Africa questioned the tolerance of, for instance, cannibalism. 66

Sture Petren of Sweden stated that the protection of cultural destruction belonged with an instrument on minority rights, and asked whether “the fact that Sweden had converted the Lapps to Christianity might not lay her open to the accusation that she had committed an act of cultural genocide.” 67 Against cultural genocide as a minority rights issue, Khan and Tsien Tai from China reasoned that if cultural destruction were included only in the Universal Declaration of Human Rights (as the Canadian and Indian delegates proposed), the Genocide Convention would be reduced to a rhetorical statement, rather than a foundation for international jurisprudence; it would therefore lack moral authority. 68 Alexander Morozov from the USSR offered a similar argument with a different theoretical underpinning; the right to life, security, and liberty enshrined in the Universal Declaration of Human Rights “might be interpreted as ensuring … protection against any act of physical genocide; yet no one disputed the need for a convention on physical genocide.” 69 Likewise, some delegates opposed to the inclusion of cultural genocide maintained that there was no need for an international legal document on genocide, as provisions for such crimes were already enacted in national or domestic legislation. 70 Perozo, however, contended that many civilized nation-states penalized most of the acts specified in the draft convention. 71

Certain nation-states contended that a genocide convention equating cultural genocidal destruction (in other words, a “less hideous crime”) with intentional physical and biological destruction would broaden the interpretation of the crime and “might give rise to abuses by reason of the vagueness” of the concept. 72 Many states thus established a hierarchy of genocidal acts, asserting that physical and biological genocide were more heinous than cultural genocide, and that this lesser act should be confined to debates over minority rights – as if somehow the protection of minorities was an insignificant issue, and safeguarding the culture of majorities mattered little. 73 Ernest Gross from the United States described the concept of cultural genocidal destruction as excessively “far-reaching,” and similarly Georges Kaeckenbeek, representing Belgium, understood Article III to be an “indefinite extension” of genocide. 74 Bahadur Khan, however, insisted that this was an archetypal “western” response grounded in “materialistic philosophies” that accorded insufficient weight to spiritual values, 75 while Venezuela’s Perozo pointed out that the term “destruction” in the convention was not limited to physical destruction alone; extinguishing the traits or spirit of the group was another way to “deprive the group of its existence.” 76 Perozo also argued that those “less spectacular crimes” of genocide must not be disregarded, 77 while Ecuador’s Correa maintained that the outcome and consequences of cultural, physical, and biological genocidal destruction were indistinguishable. 78 Morozov of the USSR pointed to the recent Nuremberg verdicts, which had demonstrated that cultural destruction in Czechoslovakia, Luxembourg and Poland during the Nazi era constituted a form of destruction of particular groups. 79

Some members of the Committee equated cultural assimilation with cultural genocide, a point explicitly raised and distinguished by Lemkin (see above). 80 However, the Bel differenc...
the Belorussian Soviet Socialist Republic representative clarified, as Lemkin had, the difference between assimilation of cultures and the Genocide Convention's concern with "actions aiming at the destruction of the language, religion or culture of a group for reasons of national, racial or religious hatred."81 Gilberto Amado from Brazil, a longtime ally of Lemkin's, nevertheless queried the homogeneity issues of cultural assimilation, whereby a nation-state justifiably amalgamates cultures.82

Presaging the ICTY's legal opinion regarding cultural genocidal destruction in the 1990s (see below), and more recent arguments among scholars focusing on the prevention of genocide, Correa illuminated the concept of cultural genocidal destruction in relation to the prevention of physical and biological genocide:

If attacks against the culture of a group remained unpunished for the want of appropriate provisions in the convention, that would facilitate the perpetration of physical genocide, in which such attacks normally culminated. It should not be forgotten that the chief object of the convention was the prevention of genocide.83

Correa's arguments likewise reflected Lemkin's thoughts on the pertinence of cultural destruction, which perhaps made sense in light of their strong rapport.84 The Czechoslovakian representative referred to the cultural properties of a group as "its distinctive and permanent characteristics," a theory Lemkin also shared.85

Ultimately, cultural destruction was excluded as a crime under the Genocide Convention by a vote of 25 to 16, with four abstentions (see note 86 for the list of nation-states).86 Interestingly, the country where Lemkin lived for his first 39 years, Poland, voted to include cultural genocide, whereas his adopted country, the United States, voted against. Arguably, the votes demonstrate a general rejection of the concept by the western democracies, perhaps reflecting their fear that it would be used to assail them for their treatment of indigenous peoples. On the other hand, countries that had suffered from intentional cultural destruction alongside physical destruction came out strongly in favor of Article III's inclusion.87 The result was that cultural genocide virtually vanished from the international law of genocide, until its resurrection in a somewhat different guise in the 1990s. It is to this ambiguous reformulation of the concept that I now turn.

### CULTURAL DESTRUCTION AND GENOCIDAL INTENT

Despite the intense and thought-provoking debates in the United Nations in the 1940s, the destruction of culture as a crime of genocide has gone unrecognized. It has, however, been acknowledged by some scholars and other observers, spawning new words such as "urbicide" and "warchitecture"88 -- terms used, in particular, to describe the cultural destruction that took place in Bosnia and Herzegovina during the 1990s. Despite the absence of specific legal sanctions for "cultural genocide," cultural destruction did seep into legal framings and processes as well. As Riefflmaier notes:

There is a clear connection between the targeting of a given group for persecution or destruction ... and the systematic destruction of its heritage (based on the
association of that heritage with the targeted group). Judges ... have begun to recognize this link and have taken such evidence into consideration in their rulings on the gravest of charges.89

Most notably, the relevance of the concept of cultural genocidal destruction moved to the fore with the advent of the two United Nations ad hoc tribunals for the former Yugoslavia and Rwanda.90 In a historic precedent, the International Criminal Tribunal for the former Yugoslavia (ICTY), prosecuted persons for the destruction of libraries, albeit not as a crime of genocide.91 The Trial Chamber understood, if not the significance of the destruction of the Vijećnica, then at the very least, the connection between “evidence of intent to destroy” and some acts of cultural desecration in the Bosnian region. This is emblematic of a broader understanding in contemporary international law referenced by John Quigley, who notes that international legal bodies have increasingly recognized that if any of the acts in Article II of the Genocide Convention is alleged, “the destruction of cultural objectives may provide evidence that such acts were done with intent to destroy the group.”92 In the 2004 case against Radislav Krstić (Chief of Staff of the Bosnian Serb Army), for example, the Trial Chamber of the ICTY pointed out:

that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group.93

CULTURAL DESTRUCTION AND GENOCIDAL INTENT: REEVALUATING THE VJEČNICA

There are numerous examples — indeed, thousands in recorded history — of acts of cultural destruction. More ancient instances include the Mongols’ sacking of Baghdad and its great libraries in 1258; the Spanish burning of the Aztec and Mayan codices after the Conquest; and the more general devastation of indigenous cultures and languages worldwide. A twentieth-century western example was the destruction of the Catholic University of Louvain in Belgium by German forces, first on August 25, 1914 (coincidentally, the same date as the burning of the Vijećnica in 1992),94 and again after its reconstruction, by the German army during the Second World War.95

In my view, however, not all such instances of cultural destruction can or should be considered genocidal. In the case of the Catholic University, for example, the Germans — unlike the Serbs in relation to the Bosniaks in 1992, and their destruction of the Vijećnica — were not perpetrating physical or biological genocide against Belgian Catholics. To take another example, the fire that caused the destruction of the Bucharest University Library during the revolution of December 198996 was not genocidal, because it was not linked to a campaign of intentional destruction of a designated group. It is this aspect — whether the act of cultural destruction bears a genocidal intent, whether...
of the targeted group as well as take into account the destruction of mosques and other cultural institutions. However, there is another aspect of the Vijećnica's destruction which renders the action even more complex and portentous.

Koljević was a highly cultivated man who, as an academic, actually capitalized on the scholarly offerings of the Vijećnica. He was, as Raymond Bonner points out, a "Shakespearean scholar who ... lectured at numerous American universities ... notably, Stanford and Berkeley," and was often chosen as a spokesperson for the Bosnian Serbian position due to his eloquent English and his apparent moderate ideology. According to a 1992 report, Koljević was one of the Balkans' most esteemed Shakespearean academics.

Why would this Professor of literature order and desire such destruction? According to Janine di Giovanni, Koljević was

"a scholar who loved books, who placed a high premium on intelligence, who believed that words could liberate a human being, [then] had raised his hand and one million books ... were burnt to a crisp. The library was a symbol of Sarajevo's multi-ethnic tradition - something that he had come to hate more than anything."

It was not the Austrian-Hungarian building per se that evoked this hatred, but as Matthew Battles points out, its contents, specifically its rare Ottoman collections. Not was it incongruous that a professor of literature should mastermind the bombing of books. The Minister of Health of the Republika Srpska told the Bosnian Serb Assembly in May 1992 that he was "for the destruction of Kosova Hospital so that the enemy has nowhere to go for medical help," and there are numerous examples in Rwanda, and
precedents in the Holocaust and in Cambodia, in which elites or intellectuals abused their knowledge and exploited their skills for genocidal purposes.

In a broader sense, given his commitment to the pursuit of knowledge, Koljević's action seems to have been self-destructive, both on a personal level and with regard to his ethnic community. Indeed, it is notable that Koljević finally killed himself, on January 16, 1995. Perhaps, then, the shelling of the Vijenica, with its Serbian treasures, was also an act of so-called "auto-genocide." This problematic term was coined by a French journalist, Jean Lacouture, in relation to Cambodians supposedly committing acts of self-destruction during the 1970s. Lacouture implied that the acts committed in Cambodia were not genocide: how can acts be considered as such when the perpetrators intend self-destruction? Although the term is riddled with conceptual difficulties, its finer points beg the question: what happens when a group intentionally attempts to destroy itself, its history and its culture? As established, Koljević's intentions to destroy all Sarajevans through the destruction of the library are arguably clear. However, is the crime still genocide when the perpetrators' intent is to destroy themselves? There is stipulation in the Genocide Convention which states that perpetrators cannot obliterate themselves. Surely, this is the existential difficulty (apart from the ethical component) of genocide: when the Nazis destroyed the German Jews, the Hutu annihilated the Tutsis, the Turks intentionally destroyed the Armenians, and the Khmer Rouge maimed and tortured the Cambodians, they were all destroying and transforming their societies and cultures. The perpetrators' illusion is that they believed they were somehow "cleaning" themselves as well.

CONCLUSION

In this chapter I began by describing the devastation of cultural destruction in the Bosnian genocide, with a focus on Sarajevo's most significant cultural monument, which symbolized the intellectual and multi-ethnic nature of the region. The core arguments focused on the problematic inclusion or exclusion of cultural destruction in the concept of genocide, and demonstrated that rather than being a relatively recent addition to scholarly arguments, the concept has historical precedents that date back to the discussions of the 1940s in the newly formed United Nations. Despite the vote to exclude the notion of culture from the Genocide Convention, Lemkin continued to argue for its place in the conceptual understanding of genocide long after the ratification of the Convention in 1951. By returning to his archival writings, scholars of genocide studies may appreciate the centrality of culture in Lemkin's thinking on genocide.

As I have argued, not all forms of cultural destruction are genocidal. However, when there is a link, the aspect of the intent underlying the crime must be closely analyzed. The case of Koljević highlights the fact that the destruction of certain cultural institutions can be a sign of an intention to destroy a particular group, physically, biologically, and psychologically; and that cultural destruction is in some instances not equivalent to genocide, but is inherent within genocide, regardless of the so-called "self-destructive" arguments of "auto-genocide".

It is heartening that despite the exclusion of explicit mention of cultural destruction in the Genocide Convention, the ICTY came to recognize that cultural destruction may...


provide a clue to intentional physical, biological, or mental group harm, thus illuminating the preventive aspect of the crime. Although the concept of cultural destruction has historically been linked to war crimes and crimes against humanity, the perpetrators' deliberate destruction of the "Vijećnica," with the concomitant intent of physical and biological destruction of an out-group, shows that in some cases, and this case in particular, cultural destruction is fundamental to the core acts of genocide. As international criminal law is beginning to absorb Lemkin's understanding of the crime, it is time to return to Lemkin's nuanced concepts in order to deepen, rather than broaden, our understanding of genocide.

NOTES

1 A shorter version of this chapter was presented at the International Association of Genocide Scholars conference at George Mason University, Washington, DC, in 2009. Many thanks to my colleagues who presented with me on this panel on cultural genocidal destruction: Peter Balakian, Jutta Lindert, and Armen Marsoobian. I also express gratitude to various members of the audience for their helpful comments and especially to Adam Jones and Pam Maclean for their insightful readings and comments.


9 Riedlmayer, "From the Ashes," p. 111.


3 million volumes. See Robert Dunia, “Archives and Cultural Memory Under First
 Destruction and the Post-war Nationalist Transformation,” presentation to the 15th
 The National Library of Bosnia and Herzegovina Is Being Ruined by Politics,” The
 Bookseller (August 24, 2007), p. 16.

15 Elma Sofić, Sarajevo Days, Sarajevo Nights, trans. Nadia Conić (Toronto, ON: Key Points
16 Žeço and Tomljanović, “The National and University Library,” p. 296; Bollag,
“Rebuilding Bosnia’s Library,” p. A35; and Riedlmayer, “From the Ashes,“ p. 28.

According to Riedlmayer, the Oriental Institute lost 5,263 volumes in “Arabic, Persian,
Hebrew and adasmijski (Bosnian Slavic written in Arabic script),” among many other
manuscripts from the Ottoman era. See Riedlmayer in Matthew Battles, Library Is
Unquiet History (York: W.W. Norton & Company), pp. 187–188.

17 Kenan Sličić, quoted in Riedlmayer, “Crimes of War,” p. 112.
18 Bakir Iev, “The Libraries of Sarajevo.”
19 James Raven, “Introduction: The Resonance of Loss,” in James Raven, ed., Lost Library:
The Destruction of Great Book Collections since Antiquity (Basingstoke: Palgrave Macmillan

Moreover, books became a symbol of destruction and survival during the siege of Sarajevo.
When the Serbs cut off water, food supplies, and fuel, burning books was often the only
means that Sarajevans had to cook food. See Stephen Schwartz, “Beyond ‘Ancient

21 Riedlmayer, “Libraries Are Not for Burning.”
23 Riedlmayer, “Libraries Are Not for Burning.”
25 Riedlmayer, quoted in Battles, Library, p. 189.
26 Roger Boyes, “This is Cultural Genocide,” The Times, August 28, 1992, p. 12.
28 Jeffrey Spurr, quoted in Battles, Library, p. 188.
30 Ferida Duraković, quoted in Christopher Merrill, “Burning of Library Mounds
31 Bollag, “Rebuilding Bosnia’s Library,” p. A37 and Hans van der Hoeven, in Zgonjanin
33 The Lieber Code, formally entitled “Instructions for the Government of Armies of the
United States in the Field,” states in Section II, Article 35 that,
Classical works of art, libraries, scientific collections, or precious instruments, such as
astronomical telescopes, as well as hospitals, must be secured against all avoidable injury
even when they are contained in fortified places whilst besieged or bombarded.

See International Committee of the Red Cross (ICRC), http://www.icrc.org/ihl.nsf/
FULL/110?OpenDocument
34 The Brussels Declaration (formally known as the “Project of an International Declaration
Concerning the Laws and Customs of War”) comprises laws and customs of war initiated
by Russia. Article 8 states:

The property of municipalities, that of institutions dedicated to religion, charity
education, the arts and sciences even when State property, shall be treated as private
property. All seizure or destruction of, or willful damage to, institutions of this character,
historic monuments, works of art and science should be made the subject of legal
proceedings by the competent authorities.


37 For an overview of the number of libraries and museums destroyed during the Second World War and the Holocaust throughout Europe, but in Poland in particular, see Raven, "Introduction," pp. 1–40.

38 See Maass, "Cultural Property," p. 112.


43 Ibid.

44 Raphael Lemkin, "Explanatory Note on Cultural Genocide," American Jewish Historical Society, Raphael Lemkin Collection, call P154, Box 6, Folder 5, "Notes and Drafts, Misc. n.d."


49 Raphael Lemkin in "Interview on the Genocide Convention for Italy," New York Public Library, Raphael Lemkin Papers, Reel 1, Box 1, Folder 2, "General Correspondence, 1954–1959."


57 Nicholas Adams notes the axiomatic point that people are more important than buildings, “but the survival of architecture and urban life are important to the survival of people.” Adams, cited in Coward, “Community as Heterogeneous Ensemble,” p. 32.


60 John Maktos (the United States), Platon Morozov (the USSR), Karim Azkoul (Lebanon), Lin Mousheng (China), Pierre Ordonneau (France), Aleksander Rudzinski (Poland), Victor Pérez Perozo (Venezuela). See United Nations Economic and Social Council, “Report of the Committee,” p. 5.

61 Ibid., p. 18.


64 See reports from delegates Federispel from Denmark, Goytisolo from Egypt, Perez Perozo from Peru and de Boe from the Netherlands. United Nations General Assembly, “Eighthy-Third Meeting,” pp. 198, 202 and 203.


66 Ibid., pp. 201, 202.

67 Ibid., p. 197.

68 Ibid., pp. 194, 198, 199, and 201.

69 Ibid., p. 205.


71 Ibid., p. 196.

72 Ibid., p. 194. See reports from the delegates from Egypt, Iran and the Netherlands, pp. 195, 200, and 203.

73 The United States, for instance, declared that genocide “should be confined to those barbarous acts directed against individuals which form the basic concept of public opinion on this subject . . . [cultural genocide] should appropriately be dealt with in connection with the protection of minorities.” United Nations Economic and Social Council, “Report of the Committee,” p. 18.


75 Ibid., p. 194.

76 Ibid., p. 196.

77 Ibid., p. 195.

78 Ibid., p. 203.

79 Ibid., p. 205.

80 Ibid., p. 194.


82 Ibid., p. 197. In his autobiography, Lemkin alludes to a good relationship with Ambassador Amado who wrote that Lemkin is a "generous fanatic but we like his ideas and we will support him." See Raphael Lemkin, “Totally Unofficial,” New York Public Library, Raphael Lemkin Papers, Reel 2, Box 1, Folder 38, “Autobiography: Summaries and Outlines.”

84 After the adoption of the Genocide Convention by the United Nations in 1948, Lemkin lobbied for ratification, but before 1950, had support from only three continents, but not South America. Lemkin turned to his friend from Ecuador who helped speed the process. See Raphael Lemkin, "Totally Unofficial," New York Public Library, Raphael Lemkin Papers, reel 2, box 1, folder 38, "Autobiography: Summaries and Outlines."


86 Those in favor of the exclusion of cultural destruction comprised: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Dominican Republic, France, Greece, India, Iran, Liberia, Luxembourg, the Netherlands, New Zealand, Norway, Panama, Peru, Siam, Sweden, Turkey, Union of South Africa, United Kingdom, and the United States. Those against the exclusion were: Belorussian Soviet Socialist Republic, China, Czechoslovakia, Ecuador, Egypt, Ethiopia, Lebanon, Mexico, Pakistan, the Philippines, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, the USSR, and Yugoslavia. Thirteen delegates were absent and four nation-states—Afghanistan, Argentina, Cuba, and Venezuela—abstained. See United Nations General Assembly, "Eighty-Third Meeting," p. 206.

87 The delegate from the Byelorussian Soviet Socialist Republic stated that "his country, and others...had suffered from such persecutions, which were aimed at the destruction of cultural institutions and which had always accompanied acts of physical genocide." See United Nations General Assembly, "Eighty-Third Meeting," p. 202.


90 The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).


96 Raven, "Introduction," p. 5.

97 Bartles, Library, p. 188.

98 Nikola Koljiveč, in Donia, Sarajevo, p. 288.

99 Also speaking in April 1992, Koljiveč is reported to have said: "Work on the map should begin in Sarajevo...Sarajevo should be portioned, and then we would go further. We think that this would be the best step toward peace in Bosnia and Herzegovina." See Koljiveč in Charles Sudetic, "Intense Fighting in Sarajevo Threatens U.S. Aid Flights," The New York Times, April 18, 1992, p. 14.

100 Battles, Library, p. 187.


102 The report was written before the destruction of the Vijecnica. See John F. Burns, "Another Hope Is Dashed in Sarajevo, as Serbs Shatter Airport Truce," The New York Times, June 27, 1992, p. 15.


104 Battles, Library, p. 186.
105 Dragan Kalinić quoted in Donia, Sarajevo, p. 315.