



SELINUS UNIVERSITY
OF SCIENCES AND LITERATURE

**Genocide – A Well-Defined Concept or a
Shortcoming in International Law? An Analysis of
Genocide and Its Limitations, with Particular
Emphasis on the Al-Anfal Campaign in Iraq**

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A DISSERTATION

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Declaration

I do hereby attest that I am the sole author of this thesis and that its contents are only the result of the readings and research I have done.

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Student's signature

Abstract

This research examines the limitations of international law in addressing politicide and genocide, focusing on the Al-Anfal campaign against the Kurdish population in Iraq. Specifically, it investigates why the United States opted not to recognize the Al-Anfal campaign as genocide, addressing the research question: *How does the ambiguities surrounding the definition of genocide affect international law and how states react towards conflicts?* The study begins by analyzing the definitions of "genocide" and "politicide" to shed light on the nuanced categorization of such conflicts within international legal frameworks. By exploring the political dynamics between the United States and Iraq during the Iranian Revolution, this thesis reveals how geopolitical interests influenced the U.S. position, particularly in the context of its alliance with Iraq against Iran. The United States' alignment with Saddam Hussein's regime, driven by regional strategic interests, contributed to its framing of the Al-Anfal atrocities as a political conflict rather than an act of genocide. This research highlights the vulnerabilities within international law that allow powerful states to circumvent legal classifications of genocide when political motivations supersede humanitarian imperatives, raising broader implications for accountability in international law regarding crimes against humanity.

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Finally, I dedicate this work to all those striving to advance the principles of justice, equality, and human dignity that are foundational to international law. It is my hope that this dissertation, in its own small way, contributes to the ongoing pursuit of these ideals.

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Chapter 1: Introduction

1.1 Theme

The term "genocide" is widely recognized in the international community (Cooper, 2008), often associated with historical atrocities, such as the Nazi-led extermination of Jews during World War II (Jones, 2011) and the mass killings in Rwanda (Shaw, 2015). Despite the term's prevalence, disagreements remain among states over the classification of certain events as genocide; the Al-Anfal campaign in Iraq is a notable example (Harff, 2003; Middle East Watch, 1993; Kaveh, 2014). In 1988, the Iraqi army launched an offensive against Kurdish populations in northern Iraq, resulting in widespread death and destruction of villages, a series of events now known as the Al-Anfal Campaign. However, whether this campaign constitutes genocide remains a subject of contention among scholars and states, which presents a significant area of interest.

My academic interest lies in studying conflicts and the responses of the international community, a focus that has shaped my studies across all my degrees in political science. During my bachelor's degree, I dedicated my thesis to analyzing the Rwandan genocide, which afforded me valuable insights into the roles of international and non-governmental organizations in responding to genocidal crimes. This experience deepened my interest in the concept of genocide and motivated me to explore more complex cases where international consensus on genocide classification is absent, enabling a nuanced examination of the dynamics of conflict and international accountability.

With a strong interest in the concept of genocide, I chose to focus my master's thesis on the Al-Anfal Campaign in Iraq while completing my Master's degree in Peace and Conflict Transformation (Abid, 2019). The Al-Anfal campaign presented a compelling case study, given its limited international recognition compared to events like the Rwandan genocide. Researching this case provided an opportunity to contribute to scholarly understanding of the conflict, and it was here that I began to engage with the complexities surrounding both genocide

and politicide. Although one might assume the Genocide Convention provides a clear juridical framework similar to national laws, this is not the case. Analyzing the Al-Anfal Campaign introduced me to politicide as a phenomenon, revealing a new array of theories and perspectives within international law and human rights.

Building on this foundation, I have chosen to further pursue this compelling area of research for my PhD thesis. This dissertation is an expansion of my master's thesis, in which I conducted an analysis of the Al-Anfal Campaign to illustrate how international law influences state actions. However, this doctoral research approaches international law from a distinct perspective. Here, I will conduct an in-depth examination of how the language and framing of the Genocide Convention shape state responses and, ultimately, impact the protection and enforcement of human rights. By investigating the interpretative and operational implications of the Genocide Convention's language, this study aims to illuminate the constraints and possibilities it creates for state intervention and accountability in cases of mass atrocity.

1.2 Research Questions

My PhD thesis aims to examine the concept of genocide, including its definition, its role within international law, and its practical application. The thesis will highlight areas where the concept falls short, such as in relation to political groups, where the term "politicide" becomes relevant. Based on the objectives of this research, I have formulated the following primary research question for the dissertation:

How does the ambiguities surrounding the definition of genocide affect international law and how states react towards conflicts?

The research question serves as the guiding thread throughout the thesis, connecting each chapter and leading the analysis from beginning to end. However, to explore and thoroughly address this question, I have also formulated the following sub-questions:

To what extent does the ambiguities surrounding the definition of genocide enable governments to manipulate the term for their own political objectives?

In what ways did the U.S. utilize the concept of genocide to further its own interests in the context of Saddam Hussein's attacks on the Kurds during the Al-Anfal campaign?

Throughout the thesis, "USA" and "U.S." will be used interchangeably to refer to the United States, while the Al-Anfal campaign may also be referred to simply as "Anfal" or "Al-Anfal".

1.3 Genocide

The definition of genocide has evolved over time, with its foundational concept introduced by scholar Raphael Lemkin, who defined it as a planned and systematic destruction aimed at a racial, religious, national, or ethnic group. Lemkin described genocide as an attempt to dismantle the cultural or physical existence of such groups (Jonassohn & Chalk, 1987, p. 7; Lemkin, 1944). He proposed a three-part typology to characterize different forms of genocide, outlining that early instances, particularly those from the Middle Ages, were focused on the physical destruction of groups or nations. The second type of genocide, according to Lemkin, involved targeting the cultural foundations of a population without inflicting physical harm. The third, a "hybrid" form exemplified by the Nazi regime, combined ancient and modern elements of genocide by selectively exterminating some groups while forcibly assimilating others through ethnocide. Lemkin's typology allows for a nuanced understanding of various categories of genocide. However, Lemkin did not foresee the emergence of genocides within the internal dynamics of modern states, where in the 20th century, some states turned violence inward, targeting specific groups within their own populations (Jonassohn & Chalk, 1987, p. 8; Lemkin, 1944).

Following Lemkin's foundational work, Vahakn Dadrian expanded on these ideas, identifying five distinct types of genocide:

(1) cultural genocide, in which assimilation is the perpetrator's aim; (2) latent genocide, which is the result of activities with unintended consequences, such as civilian deaths during bombing raids or the accidental spread of disease during an invasion; (3) retributive genocide, designed to punish a segment of a minority which challenges a dominant group; (4) utilitarian genocide, using mass killing to obtain control of economic resources; and (5) optimal genocide, characterized by the slaughter of members of a group to achieve its total obliteration, as in the Armenian and Jewish holocausts (Jonassohn & Chalk, 1987, p. 9).

One of the leading scholars contributing to the study of genocide, particularly regarding motivations and processes, is Leo Kuper (Jonassohn & Chalk, 1987, p. 9). Kuper identifies three primary motivations behind genocide: "(1) genocides designed to resolve religious, racial, and ethnic differences; (2) genocides intended to terrorize a people conquered by a colonizing empire; and (3) genocides perpetrated to enforce or fulfill a political ideology" (Jonassohn & Chalk, 1987, p. 10).

Kuper expressed particular concern over the rise of genocides in modern times, as these events increasingly occur within the borders of nation-states, often in those with diverse, plural populations. He identifies two types of groups that are excluded from the United Nations' (UN) formal definition of genocide: victims of mass political violence and populations targeted due to their economic status. Kuper argues that historical cases of mass political violence might have been classified as genocide if political groups were included under UN protection (Jonassohn & Chalk, 1987, p. 10). His analysis highlights a gap in the UN Convention's scope, leaving certain vulnerable groups without international protection.

The Al-Anfal campaign exemplifies this issue. While some states, including the U.S., regard the campaign as a political conflict – thus viewing it as politicide – others align with Kuper's stance, perceiving Al-Anfal as a form of mass political violence that should fall under the Genocide Convention.

This discrepancy underscores the challenge of applying the genocide definition, as the UN framework does not include the targeting of economic or political groups, complicating efforts to classify the Al-Anfal campaign definitively. Currently, the UN defines genocide in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) (Ishay, 2008; Jonassohn & Chalk, 1987, p. 11). To clarify, it is helpful to reference the most widely accepted definition of genocide found “in the 1948 United Nations Convention on Genocide” (Jonassohn & Chalk, 1987, p. 11), which states the following:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group (Jonassohn & Chalk, 1987, p. 11).

When the Genocide Convention was being drafted in the 1940s, the atrocities of the Holocaust heavily influenced the framework's development. The Holocaust targeted groups based on ethnic, national, and religious characteristics, and the architects of the Convention focused on creating protections for similar groups. However, during negotiations, debates arose around including political and social groups, which were ultimately excluded from the Convention (Fein, 1993b; Schabas, 2009).

The exclusion of political groups was largely a result of a compromise to secure ratification by the United States and the Soviet Union. Both powers feared that including political groups could lead to accusations of genocide against them for their internal policies. The Soviet Union, for instance, had forcibly deported various political and ethnic groups during and after World War II, while the U.S. was concerned about potential accusations regarding its treatment of African Americans (Fein, 1993b; Schabas, 2009).

Many states emerging from colonial rule or totalitarian regimes also opposed the inclusion of political groups, as they wished to avoid legal repercussions for internal conflicts. As a result, the final version of the Convention limited protections to groups defined by immutable characteristics (such as race or ethnicity) rather than by political affiliations, which are considered fluid and changeable (Fein, 1993b; Schabas, 2009).

This limitation has been criticized by scholars, such as Kuper (1981) and Harff (2003) who argue that political motivations often drive mass violence, making the exclusion of political groups a serious oversight in the Convention's scope.

1.4 Politicide

As instances of state-led violence targeting political groups emerged, so did the term *politicide* to describe the systematic elimination of groups based on their political alignment or perceived opposition to the state. Barbara Harff and Ted Robert Gurr were key figures in defining *politicide* during the 1980s as an academic concept, identifying patterns of violence that resembled genocide but lacked ethnic, racial, or religious dimensions. Unlike *genocide*, however, *politicide* has never been codified into international law, reflecting states' reluctance to criminalize acts that might expose them to prosecution for targeting political opponents (Fein, 1993a; Harff & Gurr, 1988; Power, 2002).

Harff and Gurr's research identified that politicide shares significant features with genocide, such as the intent to destroy a group, yet is distinguished by the political or ideological basis of

the victim group. Although politicide lacks formal recognition in international legal frameworks, its importance in the study of state-led violence has grown, especially as political purges and repressive actions against political groups have become central to understanding human rights abuses. The absence of a legal framework for politicide allows states to commit acts of violence against political groups with greater impunity, as there is no explicit mandate to prosecute such actions under the Genocide Convention (Fein, 1993a; Harff & Gurr, 1988; Power, 2002).

In contrast to genocide, politicide refers to the targeting of groups based on their political resistance to a regime. When examining the Al-Anfal campaign in Iraq, often regarded as a genocide against the Kurds, the distinction between genocide and politicide becomes evident. While many Kurds were indeed victims of severe violence, records indicate that numerous Kurds also served in the Iraqi military, worked within the government, and were members of President Saddam Hussein's ruling Baath Party. This suggests that not all Kurds were targeted indiscriminately; rather, those who were attacked had likely supported or been involved with the Patriotic Union of Kurdistan (PUK) or the Kurdish Democratic Party (KDP). From this standpoint, Al-Anfal could be seen as an instance of politicide (Harff, 2003, p. 58).

Politicide is thus often viewed as a measure to maintain governmental stability by eliminating individuals or groups deemed a threat. In cases of politicide, those targeted are labeled as "subversives" by the government, as their opposition is perceived as destabilizing (Uzonyi, 2016, p. 319). Aguila (2006, as cited in Uzonyi, 2016, p. 319) points out that the rationale for categorizing groups as subversive in politicide is often ambiguous; when a government perceives a group as a threat, it may attack the group as a whole without distinguishing specific enemies. It's therefore described:

Domestic unrest should increase the government's willingness to use politicide to keep non-militarized unrest from leading to violent challenges to the regime. In response to unrest, the government may engage in violence designed to keep the population confused and unable to coordinate resistance to the government's attacks. In this

manner, the government is able to stop unrest from developing into civil war by preventing the formation of organized resistance groups through terrorizing cross-cutting segments of the civilian population with mass killings (Uzonyi, 2016, p. 319).

1.5 Responsibility to Protect

The *Responsibility to Protect* (R2P) is an international doctrine developed to address mass atrocity crimes, asserting that the state holds primary responsibility for protecting its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. When a state is unwilling or unable to do so, the international community is authorized to intervene through diplomatic, humanitarian, or military means to safeguard vulnerable populations (Bellamy, 2009; Evans, 2008). R2P was formally endorsed by all United Nations member states in the 2005 World Summit Outcome Document, marking a shift from traditional sovereignty to a conditional concept that prioritizes human protection. Critics, however, argue that R2P's effectiveness is limited by inconsistent application and the influence of political interests, which can hinder timely intervention (Bellamy, 2010; Thakur, 2011). Despite these challenges, R2P remains a framework for rethinking state sovereignty in the context of human rights protections (Weiss, 2007).

The Responsibility to Protect (R2P) doctrine is particularly relevant to genocide due to its foundational emphasis on preventing and responding to mass atrocity crimes, including genocide. Genocide, defined by the 1948 Genocide Convention as acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, is considered one of the gravest violations of human rights and international law. R2P was developed in response to failures by the international community to prevent genocides in cases like Rwanda and Srebrenica, where state sovereignty impeded intervention, allowing large-scale atrocities to proceed unchecked (Bellamy, 2009; Evans, 2008).

The doctrine asserts that when a state fails to protect its population from genocide, due to incapacity or willful neglect, the responsibility shifts to the broader international community.

This shift marks a critical development in international norms, underscoring that sovereignty is not a shield for impunity but a conditional privilege dependent on a state's adherence to protecting its people. R2P aims to provide a legal and ethical framework that enables timely and decisive action to prevent or halt genocide, thus addressing historical gaps in international law that have previously constrained responses to such crimes (Thakur, 2011; Weiss, 2007).

This focus on genocide makes R2P crucial for both prevention and intervention, as it attempts to balance state sovereignty with the imperative of protecting human rights on a global scale.

1.6 Structure and Organization of the Thesis

After the introduction chapter, the structure of the thesis will be viewed as the following:

Chapter 2 presents the research methodology, detailing the research approach and providing a comprehensive overview of the thesis's data material, including a description of the data collection process.

Chapter 3 present a comprehensive analysis based on the data collected, structured to address the core research questions of the thesis. Through a critical examination of the data, the chapter aims to shed light on key patterns and insights, providing a nuanced understanding of the subject matter while drawing connections to existing literature and scholarly debates.

Chapter 4 is dedicated to an in-depth discussion of the findings derived from the analysis. This chapter critically examines the results within the context of the research questions.

Chapter 5 provides a comprehensive summary and conclusion of the thesis. This chapter synthesizes the key findings from each section, linking them back to the research questions and objectives outlined at the outset.

Chapter 2: Methodology

2.1 Introduction

In my PhD thesis, I have chosen a qualitative methodology to gather the necessary data and insights for my research. A critical aspect of conducting research is ensuring that the information obtained is both valid and reliable, allowing for a clear alignment between the data collected, the research questions, and real-world contexts. This chapter of my thesis will focus on the selected methodological approach and its application to my study.

2.2 Literature Review

In the initial stages of data collection, key methodological decisions were necessary, specifically regarding whether to adopt a quantitative or qualitative approach. Given that my research focuses on understanding differing viewpoints and definitions, a qualitative approach was most suitable. This approach allows for in-depth analysis, enabling a closer examination of the factors influencing the U.S. stance on the Al-Anfal conflict (Bryman, 2012; Thagaard, 2013). Qualitative research offers multiple avenues, including interviews and literature reviews. For my study, a literature review was the most appropriate method, as it involves gathering, analyzing, and comparing existing literature to address a research question (Hart, 1998; Jesson et al., 2011). Thus, I opted for a literature-based study drawing from published articles, books, and other relevant documents.

Using a literature review as a research method provides the opportunity to analyze a wide range of publications, facilitating comparison and deeper analysis of information (Hart, 1998; Hart, 2018; Støren, 2013). Evaluating the strengths and limitations of this method was essential to determine its potential in addressing the research question, thereby simplifying the research process. While searching for relevant articles, I initially faced challenges in finding data directly addressing the rationale behind the U.S. classification of the Al-Anfal campaign as a politicide. However, I was able to access valuable data showing how states interpret the Genocide Convention differently, revealing varied understandings of the term.

2.3 Data Collection Process

Effective data collection requires a clear understanding of search processes and reliable information sources. In selecting a search engine, it was essential to choose one known for credibility and reliability. Among the available options, I selected “Oria” and “Google Scholar” as my primary tools. Oria is a database and search engine used among students in Norwegian universities. To refine my search in Oria, I used specific keywords, such as “Al-Anfal AND genocide” and “Al-Anfal AND politicide,” where the use of “AND” in capital letters enabled the search engine to locate literature encompassing both terms. Language did not limit my search, allowing me to locate relevant Norwegian publications by using the term “folkemord i Irak,” translated as “genocide in Iraq”. This strategy allowed me to access sources discussing Al-Anfal and definitions of both politicide and genocide. After gathering this information, I evaluated each source’s validity and reliability, cross-referencing with other research articles to ensure accuracy and relevance.

Given that an integral part of this thesis focuses on the Genocide Convention and its provisions, I also employed search terms such as «Genocide», «Genocide Convention», and «Genocide AND International Law».

I also employed “Google Scholar”, which yielded numerous additional articles. While Google Scholar provided extensive resources, some came from less familiar sources, prompting me to scrutinize each article for reliability. This involved comparing them against other reputable sources. Keywords used in both Oria and Google Scholar included:

- *«Genocide»*
- *«Genocide Convention»*
- *«Genocide AND International Law»*
- *Genocide AND politicide*
- *Politicide*
- *“The Anfal campaign”*

- *Anfal AND genocide*
- *Al-Anfal AND genocide*
- *Anfal AND politicide*
- *Iraq AND genocide*
- *Iraq AND politicide*
- *Iraq AND genocide AND politicide*
- *Al-Anfal AND USA*
- *Folkemord i Irak*

By gathering and reviewing various articles and books, I gained access to references utilized by scholars in their research, which, in turn, provided pathways to additional literature on for example Al-Anfal and the U.S. perspective on the conflict. This process enriched my exploration of differing opinions and insights regarding the research questions, offering a more comprehensive understanding of the perspectives of the U.S., the Iraqi regime, and the Kurdish population.

In Oria, I prioritized peer-reviewed articles, as they ensure high-quality academic standards for my data sources. Additionally, assessing the credibility of a source can often be inferred from the reputation of the publisher (Booth et al., 2016; Dalland & Trygstad, 2012). After selecting high-quality literature, I thoroughly reviewed the references within these books and articles, identifying relevant information that could further support my research.

2.4 Data Material

Based on my search process, I selected the following literature as the primary data material for this study:

Author	Title	Type of literature	Content
Baser & Toivanen (2017)	The politics of genocide recognition: Kurdish nation-building and commemoration in the post-Saddam era	Article, published in Journal of Genocide Research	It examines the rationale behind the recognition of Al-Anfal as genocide and explores the mechanisms through which genocide recognition is established.
Bruinessen (1992)	Agha, Shaikh and State. The Social and Political Structures of Kurdistan	Book, published by Zed Books	This book served as an introductory resource on Kurdistan and the Kurdish people.
Bruinessen (1994)	Genocide in Kurdistan?: The Suppression of the Dersim Rebellion in Turkey (1937-38) and the Chemical War Against the Iraqi Kurds (1988)	Book chapter in Andreopoulos' "Genocide: Conceptual and Historical Dimensions", published by University of Pennsylvania Press	An analysis of how to categorize the Al-Anfal campaign by examining the intent of the Iraqi regime.
Callahan (1997)	Unwinnable Wars: American Power and Ethnic Conflict	Book, publish by Hill and Wang	Explores the limitations of U.S. interventions in ethnic conflicts, arguing that such engagements are often ineffective due to the complex,

			deep-rooted nature of ethnic tensions and the strategic and ethical challenges these conflicts pose.
Fein (1993a)	Accounting for Genocide After 1945: Theories and Some Findings	Article, published by International Journal on Group Rights	Analyzes the sociological and theoretical frameworks for understanding genocide, exploring the factors that contribute to mass violence and the implications for international law and policy in addressing these atrocities.
Fein (1993b)	Genocide: A Sociological Perspective	Book, published by SAGE Publications	Fein introduces the concept of “implicated victims” and explores how political factors often obscure the acknowledgment of genocidal intent.
Harff (2003)	No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955	Article, published by The American Political Science Review	Provides definitions of genocide and politicide, and applies the Al-Anfal campaign as a case study of politicide.

Harff & Gurr (1988)	Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945	Article, published by International Studies Quarterly	The article contributes to introduction of the concept of "politicide" and distinguishes it from genocide, discussing the implications for legal accountability.
Hiltermann (1994)	Bureaucracy of Repression: The Iraqi Government in Its Own Words	Report, published by Human Rights Watch	Includes official government documents pertaining to the campaign.
Hiltermann (2007)	A Poisonous Affair: America, Iraq, and the Gassing of Halabja	Book, published by Cambridge University Press	Enhanced the understanding of American involvement and responses during the Al-Anfal campaign.
Hiltermann (2008)	The 1988 Anfal Campaign in Iraqi Kurdistan	Article, published by Online Encyclopedia of Mass Violence	An overview of the Al-Anfal campaign.
Johns (n.d.)	The Crimes of Saddam Hussein: 1988 The Anfal Campaign	Article, published by Frontline	The article provides a summary of the campaign.
Kaveh (2014)	Folkemord i Kurdistan – et eksempel på politicid?	Book chapter in Hagtvet, Brandal & Thorsen's «Folkemordenes svarte bok»,	A critical analysis of the Al-Anfal campaign, with a particular focus on the debate regarding

		published by Universitetsforlaget.	its classification as politicide.
Kelly (2005)	The Tricky Nature of Proving Genocide against Saddam Hussein before the Iraqi Special Tribunal	Article, published by Cornell International Law Journal	An examination of the challenges associated with categorizing the Al-Anfal campaign as a genocide and the subsequent sentencing of Saddam Hussein.
Kuper (1981)	Genocide: Its Political Use in the Twentieth Century	Book, published by Yale University Press	Kuper explores how genocidal intent can be masked by political justifications, offering insights into why the Convention's lack of clarity on intent is problematic.
McDowall (2000)	A Modern History of the Kurds	Book, published by I.B. Tauris	A comprehensive examination of Kurdish history
Middle East Watch (1993)	Genocide in Iraq: The Anfal Campaign Against the Kurds.	Report, published by Human Rights Watch.	Discusses the campaign's timeline and the escalating conflict between the Iraqi regime and the Kurds. Drawing on extensive research, the book classifies

			Al-Anfal as genocide.
Montgomery (2001)	The Iraqi Secret Police Files: A Documentary Record of the Anfal Genocide	Article, published by Archivaria.	It is relevant due to its exploration of the connection between the Al-Anfal campaign and the Iran-Iraq War.
Oliver (2006)	Saddam co-defendants deny Anfal genocide	News article, published by The Guardian	A news article reporting on the trial proceedings following the fall of Iraqi President Saddam Hussein.
Power (2002)	“A Problem from Hell”: America and the Age of Genocide.	Book, published by Harper Perennial	Examines various examples of genocide, with particular attention to the Al-Anfal campaign in Iraq.
Rieff (2003)	A Bed for the Night: Humanitarianism in Crisis	Book, published by Simon and Schuster	Critically examines the limitations and moral complexities of modern humanitarianism, arguing that political interests and selective intervention often undermine the effectiveness and ethical foundations

			of humanitarian efforts.
Saeedpour (1992)	Establishing State Motives for Genocide: Iraq and the Kurds.	Book chapter, published in Genocide Watch.	Details the human rights violations inflicted upon the Kurdish population by the Iraqi government.
Schabas (2009)	Genocide in International Law: The Crime of Crimes	Book, published by Cambridge University Press	Provides comprehensive analysis and critique of the Genocide Convention, including discussions on intent and interpretation challenges.
Scheffer (2006)	Genocide and Atrocity Crimes	An article, published in Genocide Studies and Prevention: An International Journal	Examines the legal definitions and implications of genocide and other atrocity crimes, discussing the challenges of prosecution and the necessity for international accountability in preventing such crimes against humanity.

Shaw (2015)	What Is Genocide?	Book, published by Polity Press	Explores the ICC's role in prosecuting genocide, war crimes, and crimes against humanity, highlighting its potential to deter future atrocities and promote accountability.
Trahan (2009)	A Critical Guide to the Iraqi High Tribunal's ANFAL judgment: Genocide against the Kurds.	An article, published in Michigan Journal of International Law.	This article critically analyzes the legal convictions resulting from the Al-Anfal campaign.
Tripp (2007)	A History of Iraq	Book, published by Cambridge University Press	A foundational exploration of Iraq's historical context.
UNPO & the Kurdish Regional Government (n.d.)	The Kurdish Genocide: Achieving Justice through EU Recognition	Paper, published by EU	UNPO & the Kurdish Regional Government petition the European Union to formally recognize the Al-Anfal campaign as an act of genocide against the Kurdish people.

2.5 Triangulation

Given that the literature study involves cross-comparing relevant data to answer the research questions, it has been essential to apply measures for evaluating the validity and reliability of various sources. This method allows me to analyze documents in conjunction with the authors' backgrounds and perspectives. For example, a researcher with a Kurdish background may be more inclined to view the campaign as genocide, while scholars from other backgrounds might hold differing opinions (Dalland & Trygstad, 2012).

Thus, the primary focus of this thesis is to examine the reasons behind the ambiguities surrounding the definition of genocide, and U.S. position and its decision not to recognize the Al-Anfal campaign as genocide. With diverse opinions, motivations, and perspectives influencing these decisions, triangulation offers a structured approach to gather and assess reliable sources, enabling consistency in answering the research questions (Bryman, 2012).

This thesis employs triangulation – analyzing various scholars' perspectives regarding why the U.S. views the Al-Anfal conflict differently from other Western states. As a methodological tool, triangulation involves multiple methods to validate and cross-check data reliability. In this study, it involves gathering and comparing diverse sources (Bryman, 2012, p. 392). This method allows the examination of recurring scholarly opinions and the identification of divergent viewpoints. Where researchers' interpretations differ, it becomes essential to consider the reliability and backgrounds of each source. If any source demonstrates overt personal biases, it may indicate a lack of objectivity and therefore be excluded. In addition to filtering out unreliable sources, triangulation enriches the analysis by allowing for a deeper understanding of the field through the comparative analysis of different opinions, perspectives, and documents.

2.6 Juridical Framework

My PhD thesis examines the interplay between international law, human rights, and specifically the Al-Anfal campaign in relation to the U.S. political stance on whether the campaign

constitutes politicide or genocide. Consequently, I will reference the "Convention on the Prevention and Punishment of the Crime of Genocide," adopted on December 9, 1948, commonly known as the "Genocide Convention" (Genocide Convention, 1948). The Convention and its provisions form the foundation of the majority of sources and will be frequently cited throughout the analysis and discussion. However, the Convention itself is not considered part of the data set for this study; thus, it will not be included in the dataset in Chapter 2.4. This decision is based on the understanding that the Convention serves primarily as a legal document defining genocide and does not directly address the research questions posed in this study.

2.7 Methodological Reflection

The reliability of this thesis is closely linked to its overall credibility and the consistent application of methodology (Thagaard, 2013, p. 201). Validity, on the other hand, pertains to the researcher's interpretations and how accurately they reflect the research context (Thagaard, 2013, p. 204). The selected data materials consist of a curated body of literature intended to thoroughly address the main research question and supplementary questions. While additional relevant sources may exist, the primary criterion for data adequacy in this thesis is the ability to sufficiently answer the research question. The chosen literature has undergone rigorous quality assurance, an essential step in literature-based research. These measures ensure both the reliability and validity of the thesis, with interpretations grounded in the literature and conclusions that are directly supported by it.

Chapter 3: Analysis

3.1 Introduction

In this chapter, I undertake an analysis of the data gathered throughout the searching process. The chapter opens with a general overview of the definition of genocide, proceeding to an in-depth examination of the Al-Anfal campaign and the inherent weaknesses and ambiguities within the concept of genocide. The Al-Anfal campaign is presented first to illustrate the complexities surrounding genocide and politicide, establishing a contextual foundation before exploring specific limitations and interpretative challenges within the Genocide Convention. This approach seeks to establish a systematic foundation for examining the diverse dimensions of the Convention and its impact on international law.

3.2 Theoretical Perspectives on the Definition of Genocide

Several scholars have criticized the limited scope of the Genocide Convention, arguing that it fails to address the complex motivations behind mass violence. By focusing on static categories, the Convention overlooks the fluid and multifaceted nature of identity in modern conflicts. Sociologist Helen Fein (1993b) has argued that the Genocide Convention's focus on specific identity groups overlooks how political motives often drive mass violence. Fein's concept of "implicated victims" describes individuals who become targets not because of their inherent identity but due to the state's perception of them as threats. This concept highlights how the narrow genocide definition fails to protect individuals who are victimized for political reasons, despite their suffering being comparable to that of ethnic or religious groups targeted in genocides (Fein, 1993b).

Political scientists Barbara Harff and Ted Gurr coined the term politicide to describe systematic violence aimed at eliminating political groups. Harff argues that politicide is as destructive as genocide, yet it remains unaddressed by international law due to the Genocide Convention's limitations. This distinction between genocide and politicide allows states to evade

accountability for politically motivated mass violence, undermining the Convention's intent to prevent all forms of systematic human rights abuses (Harff, 2003).

Schabas, an expert on genocide law, has advocated for an expanded definition of genocide that includes political groups. Schabas argues that the current definition reflects outdated assumptions about identity and violence, which limit the Convention's applicability in modern conflicts. He suggests that broadening the genocide definition would create a more inclusive and effective legal framework for addressing mass violence in contemporary society (Schabas, 2009).

These theoretical perspectives underscore the need for a more comprehensive understanding of genocide that includes political motivations and recognizes the fluid nature of group identity (Schabas, 2009).

3.2.1 The Consequences of Exclusion for International Law

The exclusion of political and social groups from the Genocide Convention has practical consequences for prosecuting and preventing acts of mass violence. Many acts of state-led violence target political or social groups to suppress dissent or eliminate opposition, yet these acts cannot be prosecuted under the current framework as genocide (Fein 1993b; Kuper, 1981; Schabas, 2009).

The Soviet Union's purges under Stalin targeted various political and social groups, including members of the Communist Party who were deemed "enemies of the state". Similarly, Mao's Cultural Revolution involved the persecution of "bourgeois" and politically deviant groups, leading to millions of deaths. In both cases, the state-sponsored campaigns aimed at eliminating internal political threats, yet these actions do not meet the genocide criteria because they targeted political rather than racial or ethnic groups (Fein, 1993b; Harff, 2003; Kuper, 1981).

Similarly, Fein (1993b), Kuper (1981) and Harff (2003) mentions Indonesia's Anti-Communist Purge (1965-1966). In Indonesia, state forces targeted suspected communists and sympathizers, leading to the deaths of hundreds of thousands. These individuals were not identified by ethnicity, nationality, or religion, but by political affiliation, which falls outside the Genocide Convention's scope. Because the violence did not meet the strict genocide criteria, the perpetrators avoided prosecution for genocide (Fein, 1993b; Harff, 2003; Kuper, 1981).

This exclusion not only limits the scope of the Genocide Convention but also sends a message that politically motivated mass violence is more permissible under international law than violence against ethnically or religiously defined groups (Fein 1993b; Kuper, 1981; Schabas, 2009). The Genocide Convention's exclusion of political and social groups has weakened international law by allowing states to engage in politically motivated violence with minimal legal repercussions. This limitation affects both the prevention and punishment of mass violence, as states exploit these gaps to pursue their political agendas. The Genocide Convention was intended as a deterrent against state-led violence, yet the limited scope reduces its effectiveness. Knowing that politically motivated violence does not qualify as genocide, states can pursue policies aimed at eliminating political opponents without fearing international intervention or prosecution (Fein, 1993b; Kuper, 1981; Schabas, 2009; Harff, 2003).

The narrow definition also complicates international efforts to hold states accountable. For instance, cases of violence against political opponents are often dismissed as internal conflicts or counter-insurgency measures, even when they involve large-scale atrocities. This loophole allows states to justify their actions as necessary for national security, as seen in Turkey's actions against Kurdish populations (Bruinessen, 1994; Kuper, 1981).

The ICC's reliance on the Genocide Convention's definition limits its ability to prosecute acts that target political groups. This limitation restricts the ICC's effectiveness in promoting global justice and reduces its ability to address diverse forms of state violence. These consequences illustrate how the Genocide Convention's narrow scope undermines the goal of comprehensive

human rights protection, as it enables states to evade accountability for politically motivated mass violence (Harff, 2003; Schabas, 2009; Scheffer, 2006).

3.3 The Al-Anfal Campaign: Historical context

In defining genocide, we observe certain limitations within the Genocide Convention, particularly regarding politically motivated mass killings. Such events are often challenging to classify as genocide, especially when they involve a group resisting and defending their territory against the state's ideology. In response to such resistance, states typically engage in counterinsurgency efforts. This is where the term "politicide" becomes relevant, referring to cases in which the state seeks to eliminate a resisting group by any means necessary (Harff, 2003, p. 58; Kaveh, 2014, p. 191).

An example of this dynamic can be seen in the actions of the Iraqi regime under Saddam Hussein and the Baath Party. In 1988, they launched the Al-Anfal campaign against Kurdish populations in northern Iraq, undertaking military operations aimed at eliminating all remaining Kurds in the region. In this chapter, I will analyze data related to the Al-Anfal campaign and examine the U.S. stance, beginning with a historical background on the Kurds in Iraq.

3.3.1 Kurds in Iraq

To clarify, Kurdistan refers to the traditional homeland of the Kurdish people, located across the borders of Iraq, Iran, Syria, and Turkey. The geographic location of the Kurds has played a decisive role in the historical events of this region (Kaveh, 2014, p. 192; McDowall, 2000). Bruinessen notes, "The inaccessibility of Kurdistan and the fierce warring capacities of its inhabitants have always made it a natural frontier of the empires that emerged around it" (Bruinessen, 1992, p. 13).

Throughout Kurdish history, major powers, such as the Persian Empire and later the Ottoman Empire, dominated these areas, with the Kurds often serving as a buffer between empires.

Following a prolonged border conflict, the Treaty of Zuhab (1514-1638) established the modern boundaries between Turkey and Iran (Kaveh, 2014, p. 192; McDowall, 2000, pp. 25-26).

Historically, the Kurds organized themselves into tribal federations and principalities, the last of which were dissolved by the Ottomans between 1800 and 1900 (Bruinessen, 1992, p. 176; Kaveh, 2014, p. 192). These principalities operated as independent political units, forming alliances against common enemies and sometimes engaging in inter-tribal conflicts over political ideologies and interests. This fragmentation contributed to the division of Kurds across Iraq, Turkey, and Syria following the collapse of the Ottoman Empire after World War I and the establishment of territorial borders (Kaveh, 2014, p. 192).

The possibility of an independent Kurdish state was later referenced in the Treaty of Sèvres in 1920, which stated the following:

If within one year from the coming into force of the present Treaty the Kurdish peoples within the areas defined in Article 62 shall address themselves to the Council of the League of Nations in such a manner as to show that a majority of the population of these areas desires independence from Turkey, and if the Council then considers that these peoples are capable of such independence and recommends that it should be granted to them, Turkey hereby agrees to execute such a recommendation, and to renounce all rights and title over these areas (Sèvres-agreement article 64, articles 62-64, mentioned in Kaveh, 2014, p. 192).

The 1920 Treaty of Sèvres ultimately failed, largely due to internal disagreements and weak cooperation among the Kurds. Another key factor was the colonial policies of the major powers and their newly established relations with the Turkish state (Kaveh, 2014, p. 192; McDowall, 2000).

3.3.2 The Kurdish Situation in Iraq from 1932 to 1980

Following the historical context of the Kurdish population and the influence of the Ottoman and Persian empires, it is clear that the Ottoman Empire, having lost alongside the Central Powers in World War I, was forced to cede substantial territory. After Turkey's war of independence, which marked its victory over Western powers, Turkey declared its independence in 1923, while provinces like Baghdad, Basra, and Mosul became mandates of Great Britain (Bruinessen, 1992, p. 275; Kaveh, 2014, p. 193).

Once these Iraqi provinces fell under British mandate, there was uncertainty about Britain's intentions in the region and the ultimate location of boundaries. Although Britain initially considered establishing an independent Kurdish government, this was never realized. Turkey, meanwhile, made territorial claims on these areas until a 1926 agreement was signed between Turkey, the new Iraqi state, and Great Britain (Bruinessen, 1992, p. 275; Kaveh, 2014, p. 193).

After the agreement, Britain's interest in Kurdish areas intensified, particularly following the discovery of oil in Kirkuk and Mosul. Some scholars attribute this increased interest to the oil reserves, while others, like David McDowall, argue that Britain's primary aim was either to establish an independent Kurdish state in the north or incorporate the Kurds into a larger state structure with Shia and Sunni Arabs in the south (Kaveh, 2014, p. 193; McDowall, 2000, p. 135).

The lack of unity among the Kurds and the strategic interests of great powers led to the incorporation of Kurdish territories into Iraq, which became a kingdom in 1932. This arrangement proved unstable, as Kurdish tribes repeatedly revolted against the government, notably under leaders like Shaikh Mahmud. Similarly, Shia Arabs in the south expressed dissatisfaction and rebelled against the Iraqi government (Kaveh, 2014, p. 193).

Iraq remained politically unstable, with numerous coups and attempts at takeover between 1941 and 1968. In 1968, Ahmed Hassan al-Bakr took power after a coup, followed by Saddam

Hussein, initially as vice president of the Baath Party, who assumed full control in 1979 (Kaveh, 2014, p. 193; Tripp, 2007). During negotiations with the Kurds in 1970, the government promised local autonomy and cultural rights, but these promises were never fully realized (Bruinessen, 1992, p. 28; Kaveh, 2014, p. 193; McDowall, 2000; Middle East Watch, 1993, p. 5). The Kurds often used negotiations when the government was willing but resorted to rebellion whenever promises went unfulfilled – a pattern also seen in neighbouring countries with Kurdish populations (Kaveh, 2014, p. 193).

The conflict escalated in 1974, primarily due to the government's failure to honor the 1970 autonomy agreement. The Kurdish Democratic Party (KDP) led a movement supported financially and militarily by the U.S. and Iran (Kaveh, 2014, p. 193; McDowall, 2000). This led to the 1975 Algiers Agreement between Iraq and Iran, which partitioned the Shatt al-Arab river between them (Kaveh, 2014, p. 193).

The Algiers Agreement stipulated that Iran would end its support for the Kurdish movement in Iraq, leading to the collapse of the Kurdish movement and allowing Iraq to assert control over the Kurdish regions. The Baath Party then launched Arabization policies aimed at altering the demographic makeup of Kurdistan, forcibly relocating Kurds from the north to the south and incentivizing Arab resettlement in the north. Villages like Nineveh, Duhok, and Diyala were destroyed, and displaced Kurds were placed in controlled camps (Kaveh, 2014, pp. 193-194).

A critical component of the Algiers Agreement was border security, leading Iraq to destroy villages within a 30-kilometer radius of the border and relocate the population. Thousands of Kurds were deported in the summer of 1978. The Iraqi regime established collective villages, known as "Mujamma'at," near major roads or cities, tightly controlled by the Iraqi army. These measures closely resembled those later implemented in the Al-Anfal campaign of the 1980s (Kaveh, 2014, p. 194).

The Algiers Agreement created a temporary status quo among Iraq, the U.S., and Iran. However, this balance was disrupted by the 1979 Islamic Revolution in Iran, which ended Iran's alliance with the U.S. and the West, as the Ayatollahs replaced the Shah. Saddam Hussein saw the revolution as an opportunity to reclaim control over the Shatt al-Arab, previously ceded to Iran. This desire ultimately ignited the Iran-Iraq War (1980–1988), resulting in substantial casualties, with an estimated 500,000 Iranian and 250,000 Iraqi lives lost (Hiltermann, 1994; Kaveh, 2014, p. 194).

The Iran-Iraq War required significant Iraqi resources, reducing military presence in Iraqi Kurdistan and enabling the Kurdish Peshmerga guerrillas to resume resistance (Kaveh, 2014, p. 194). As with previous conflicts, the Kurds served as a buffer, this time with support from post-revolutionary Iran. Following the Kurdish defeat in 1975, Jalal Talibani established the Patriotic Union of Kurdistan (PUK). By 1987, the PUK and the KDP had formed an alliance with Iran, called the Kurdistan National Front, preparing for further resistance (Kaveh, 2014, p. 194; McDowall, 2000, p. 351).

3.3.3 Prohibited Zones

Towards the end of the Iran-Iraq War, Iraq's Baath Party launched a comprehensive campaign targeting all Kurdish residents in northern Iraq. Known as Al-Anfal, this military campaign drew its name from a Quranic chapter that describes fighting those deemed infidels. The choice of this term illustrates how the Baath Party perceived the Kurdish population. In this context, the Quranic chapter describes the acquisition of assets from infidels following their defeat. The Iraqi regime used this verse as propaganda, labeling Kurds as infidels to secure full support from the Arab population, effectively justifying the use of extreme measures, including chemical weapons. During the campaign, Kurdish residents were detained, villages were destroyed, and many Kurds were relocated to specific gathering sites where some were later executed and buried in mass graves (Kaveh, 2014, pp. 194-195; Middle East Watch, 1993, p. 13; Power, 2002, p. 172).

The Iraqi regime claimed their actions were intended to prevent northern villages from becoming recruitment hubs for Peshmerga forces. This rationale underpinned the destruction of approximately 4,049 villages. The non-governmental organization Middle East Watch estimated that around 100,000 people went missing during Al-Anfal (Kaveh, 2014, pp. 194-195; Middle East Watch, 1993, p. 13).

The campaign began in 1987 when Saddam Hussein appointed his cousin, Ali Hassan Abd al-Majid al-Tikriti – later infamously known as “Chemical Ali” – as governor of the northern Iraqi province, a region primarily inhabited by Kurds along with minority groups like Assyrian Christians and Yazidis (Kaveh, 2014, p. 195; Middle East Watch, 1993). According to Middle East Watch, Kurds referred to Hussein’s cousin as “Ali Anfal,” dubbing him “the overlord of the Kurdish genocide” (Middle East Watch, 1993, p. 3). With full authority over local government agencies, al-Majid issued orders in the summer of 1987 designating Kurdish-inhabited areas as prohibited zones (Kaveh, 2014, p. 195). The regulations stated, “Within their jurisdiction, the armed forces must kill any human being or animal present within these areas. They are totally prohibited” (Hiltermann, 1994, p. 68, cited in Kaveh, 2014, p. 195).

Al-Majid later escalated these orders, instructing the military to conduct indiscriminate attacks using air and artillery to “kill the largest number of persons present [in] those prohibited areas” (Hiltermann, 1994, p. 72, cited in Kaveh, 2014, p. 195). Additional directives mandated the capture of any individual found in these villages; those detained were interrogated by intelligence services and, if aged between 15 and 70, executed following questioning. These orders laid the groundwork for the military operations that defined the Al-Anfal campaign (Hiltermann, 1994, p. 73; Kaveh, 2014, p. 195).

3.4 Timeline of the Campaign

According to Kaveh (2014, p. 195) and Power (2002, p. 172), the Al-Anfal campaign was executed in eight distinct phases, each following a similar pattern. The most aggressive phase involved the Iraqi regime's use of chemical weapons and air strikes against Peshmerga fighters,

comprising members of both the Patriotic Union of Kurdistan (PUK) and the Kurdish Democratic Party (KDP), as well as civilians. Following these attacks, Iraqi forces, with the assistance of the “Jash” – a term Kurds use to describe fellow Kurds who collaborated with the Iraqi government and were perceived as traitors – surrounded the areas (Kaveh, 2014, pp. 195-196; Power, 2002, p. 202). The term “Jash”, which translates to "little donkey," officially referred to the National Defense Battalions. During Al-Anfal, the role of the “Jash” was complex: while they aided the regime in detaining and deporting Kurds, they also reportedly saved lives and provided weapon supplies to the Peshmerga (Kaveh, 2014, p. 196; McDowall, 2000).

Additionally, the demolition of settlements continued as individuals were detained and transported to designated "modern villages" for Kurds, as described by the regime (Kaveh, 2014, p. 196; Middle East Watch, 1993, p. 38). Phases I to VII of Al-Anfal specifically targeted areas along the Iranian border, controlled predominantly by the PUK. The eighth phase focused on the northern regions along the Turkish border, which were heavily influenced by the KDP. These phases highlight the distinct stages within the Al-Anfal campaign (Kaveh, 2014, p. 196).

3.4.1 The First Al-Anfal (February 23 – March 19, 1988)

The initial phase of the Al-Anfal campaign began on February 23, targeting the PUK headquarters located in Bergalou and Sergalou, which were bombarded with conventional weapons (Middle East Watch, 1993, p. 10). This phase also included the infamous gas attack on Halabja, which attracted significant international media attention (Kaveh, 2014, p. 196; Middle East Watch, 1993, p. 10). Although the U.S. vetoed the UN’s attempt to condemn Iraq for Al-Anfal, Dave Johns argues that the Halabja attack should be considered a separate incident, occurring outside the designated Al-Anfal operational areas. According to Johns, Halabja could be classified as a crime against humanity, distinct from the Al-Anfal campaign (Johns, n.d., last paragraph).

Estimates suggest that between 4,000 and 7,000 individuals were killed in Halabja, though Middle East Watch estimates the number closer to 3,000 (Kaveh, 2014, p. 196; Middle East

Watch, 1993, p. 27). Both Johns (n.d.) and Kaveh (2014) argue that the Halabja attack was not officially part of Al-Anfal, which primarily targeted rural areas of Kurdistan. Despite Peshmerga forces experiencing chemical attacks in 1987, the Halabja attack had a significant demoralizing effect, viewed as collective punishment against civilians. This was not an isolated incident, as the regime reportedly conducted over 40 chemical attacks during the campaign (Kaveh, 2014, p. 196; Middle East Watch, 1993).

Hiltermann suggests that chemical weapons were effectively used to deter Iranian forces and remove Kurdish guerrillas from rural areas. He explains that in 1988, the PUK, accustomed to chemical attacks, received equipment such as gas masks from Iran, which further supports the theory of cooperation between the PUK and Iran (Hiltermann, 2008, p. 5). Al-Anfal tactics specifically targeted those allied with “the enemy” Iran, focusing on the PUK, while Kurdish civilians were forcibly relocated to designated camps (Hiltermann, 2008, p. 6).

3.4.2 The Second Al-Anfal (March 22 – April 1, 1988)

The second phase of Al-Anfal, from March 22 to April 1, 1988, was shorter than the first. This phase concentrated on the Qara Dagħ region, beginning with airstrikes on Seyw Senan village on March 22, followed by attacks on Dukan the next day. Ground forces entered the area later that evening, causing a large number of civilians to flee. Unlike later phases, this stage lacked systematic military control over civilians fleeing the conflict. Some civilians sought refuge in Suleimania or nearby villages along major highways, which proved advantageous (Kaveh, 2014, pp. 196-197; Middle East Watch, 1993, p. 118). Many who reached Suleimania, especially women and children, managed to survive, while those who fled to areas such as the Germiyan region, disappeared without a trace (Kaveh, 2014, p. 197).

3.4.3 The Third Al-Anfal (April 7 – April 20, 1988)

In this phase, the campaign targeted the Germiyan region, a less favorable area for guerrilla warfare compared to Qara Dagħ and the Jafati valley, previous sites of military operations. Despite this disadvantage, Kurdish resistance was well-organized and strongly supported by the

local population, as Germiyan was central to the PUK's heartland (Kaveh, 2014, p. 197). One survivor from Kani Qader recounted how the nature of oppression shifted as the regime demonstrated its power by surrounding Germiyan with military forces, signaling to civilians that local support would no longer suffice and that resistance was futile (Kaveh, 2014, p. 197).

The army remained in the region until they had arrested individuals involved in resisting or attacking Iraqi forces. The remaining civilians were forcibly relocated to designated gathering sites, where their personal information was recorded, and men were separated from their families (Kaveh, 2014, p. 197; Middle East Watch, 1993, p. 152). Some civilians even voluntarily moved to these sites for various reasons, including fear of being penalized for residing in restricted areas, a naively optimistic view that this would not differ from past conflicts, and the desire to avoid the terror and destruction inflicted by the regime (Kaveh, 2014, p. 197; Middle East Watch, 1993, p. 154).

A significant factor in civilians surrendering to the Iraqi regime was the promise of amnesty, a tool frequently used by the regime, albeit one often broken (Kaveh, 2014, p. 197; Middle East Watch, 1993). In Germiyan, unlike other phases, most of those killed were males aged 15-70, although children and women were also killed, particularly in the southern parts. The reasons behind the killing of non-combatants are complex; one explanation may be the intensity of Kurdish resistance in the region (Kaveh, 2014, pp. 197-198; Middle East Watch, 1993, p. 121).

The regime's actions could be interpreted as retaliation against civilians suspected of supporting Peshmerga forces. This perceived involvement may explain the systematic killing of over 10,000 individuals in southern Germiyan (Kaveh, 2014, p. 198; Middle East Watch, 1993, p. 170).

3.4.4 The Fourth Al-Anfal (May 3 – May 8, 1988)

The fourth phase, conducted between May 3 and May 8, 1988, focused on the Little Zab region. The regime intensified its operations here, likely due to Iran's recent capture of the Al-Faw

peninsula (Kaveh, 2014, p. 198; Middle East Watch, 1993, p. 171). This phase included chemical attacks on the villages of Askar and Goktapa, despite reports of substantial resistance from the Peshmerga. The Iraqi army eventually regained control of the area, leaving widespread destruction in its wake, and dispersing civilians who had fled during the assault (Kaveh, 2014, p. 198; Middle East Watch, 1993, p. 177).

3.4.5 The Fifth to Seventh Al-Anfal (May 15 – August 26, 1988)

The fifth through seventh phases took place between May 15 and August 26, 1988, targeting mountainous areas around Rawanduz and Shaqlawa. These operations pushed the PUK out of its traditional strongholds, diminishing its influence. The fifth phase began in the sparsely populated Balisan valleys (Kaveh, 2014, p. 198; Middle East Watch, 1993, p. 193).

During this phase, the army's primary objective was not to relocate civilians but to push the Peshmerga northward and reestablish control over the area. It was noted that when the army began operations, the area was largely deserted – likely due to previous events, including a chemical attack in the autumn of 1987, which may have led residents to flee. Furthermore, the regime had already displaced the Kurdish population from the region prior to the 1980s (Kaveh, 2014, p. 198; Middle East Watch, 1993, p. 194).

With Peshmerga forces now well-supplied, they were better positioned and less concerned with the safety of civilians in the territory, unlike previous phases of Al-Anfal. The Peshmerga's fortified resistance created significant challenges for the Iraqi army, which required two attempts to regain control. These operations were therefore divided into the sixth and seventh phases of Al-Anfal (Kaveh, 2014, pp. 198-199). The political and military strategies employed by the regime from the fifth to seventh phases mirrored earlier stages, with similar tactics such as relocating Kurds to temporary holding sites, mobilizing military vehicles to Kirkuk, and conducting arrests (Kaveh, 2014, pp. 198-199; Middle East Watch, 1993, p. 200).

What set these phases apart was Saddam Hussein's direct involvement in the military operations once victory seemed within reach. During the last three months of these operations, a pivotal development occurred: Iranian President Ali Khamenei informed the United Nations of Iran's willingness to accept a previous resolution that could end the war, contrary to the agreement between the KDP and PUK. This deal stipulated that neither side would cease hostilities against the Iraqi regime without mutual consent (Kaveh, 2014, p. 199; Middle East Watch, 1993).

3.4.6 The Eighth Al-Anfal (August 25 – September 6, 1988)

With the timeline of Al-Anfal phases established, the final phase, known as Al-Anfal VIII, took place between August 25 and September 6, 1988, following the truce agreement between Iraq and Iran (Hiltermann, 1994; Kaveh, 2014, p. 199). The regime did not assign a specific name to this phase, instead calling it the "final Al-Anfal". This last operation was concentrated in the Badinan region in northern Iraq, near the Turkish border. With the conclusion of the Iran-Iraq War, the regime redeployed the army to conduct the final Al-Anfal, though they encountered difficulties in regaining territorial control (Kaveh, 2014, p. 199). An Iraqi army general provided the following account of the challenges faced during these military operations:

The land is generally hilly with a hard terrain in its northern and eastern parts which lie parallel to the border line of Iraq and Turkey [...] This area has many rivers and valleys which run from the north and east towards the south and west, forming the streams. The movement of the forces and machinery is greatly hindered by the series of mountains, high knolls, valleys and other obstacles (Middle East Watch, 1993, p. 262, mentioned in Kaveh, 2014, p. 199).

Here, the final phase of Al-Anfal differed from previous stages, as local tribes in certain areas were given the opportunity to sign peace agreements, pledging to prevent Peshmerga forces from entering their villages. Through these agreements, many villages were spared from destruction. However, this did not extend to areas under KDP control, where over 5,000 armed Peshmerga were stationed. Kaveh (2014) notes that al-Majid deployed more than 200,000 troops to Badinan, coordinating simultaneous attacks across different locations, resulting in a

significant refugee crisis. Similar to the aftermath of the Halabja attack, this wave of refugees garnered international media attention, particularly as Peshmerga soldiers abandoned their posts. One Peshmerga soldier described the situation as follows (Kaveh, 2014, pp. 199-200; Middle East Watch, 1993, p. 276):

I could not find any of my fellow *peshmerga*. They had all gone to help their relatives, and the chemical weapons had created a lot of fear among the people. We did not know how to fight them. We knew how to fight tanks, how to chase a military caravan until we ambushed it, and how to escape aerial bombardements. But we did not know how to fight chemicals (Middle East Watch, 1993, p. 276).

This account reveals that the Peshmerga's response mirrored the KDP's decision to cease resistance against the Iraqi army, realizing that continued defiance would be futile if the army resorted to chemical weapons. Many refugees who managed to cross into Turkey shared their experiences with journalists, recounting how those unable to reach the border were killed by the army, in methods consistent with previous Al-Anfal operations. Despite numerous mass executions during Al-Anfal Phase VIII, Middle East Watch was unable to locate any survivors who could provide firsthand accounts (Kaveh, 2014, p. 200; Middle East Watch, 1993). In contrast, Al-Anfal III had around six survivors who recounted their experiences. One of these survivors, interviewed by Middle East Watch, stated:

We received orders to kill all *peshmerga*, even those who surrendered [...] Even civilian farmers were regarded as *peshmerga* if they were working within a prohibited area. All men in the prohibited areas, aged from 15-60 [sic], were to be considered saboteurs and killed (Middle East Watch, 1993, p. 283, mentioned in Kaveh, 2014, p. 200).

There was, therefore, no direct order to kill individuals on the spot. Nevertheless, such killings did take place, as evidenced by the executions in the villages of Margeti and Koreme (Kaveh, 2014, p. 200).

3.5 Human Rights Violations in Iraq

Significant disagreements exist between the United States and other nations concerning the Al-Anfal campaign, with Middle East Watch (1993) documenting the human rights abuses committed during the campaign as follows: “mass summary executions and mass disappearance of many tens of thousands of non-combatants, including large numbers of women and children, and sometimes the entire population of villages” (Middle East Watch, 1993, p. 4).

One source of contention for other nations was the U.S. position, given that the decision to target and execute civilians constituted a clear violation of human rights. The first major violation involved the mass execution of innocent civilians who had no political involvement or connection to Iran, resulting in widespread loss of life among non-combatants (Middle East Watch, 1993, p. 4). In particular, entire villages were targeted indiscriminately. Another severe violation was “the widespread use of chemical weapons, including mustard gas and the nerve agent GB, or Sarin, against the town of Halabja as well as dozens of Kurdish villages, killing many thousands of people, mainly women and children” (Middle East Watch, 1993, p. 4). This reckless deployment of chemical weapons resulted in the deaths of thousands of Kurds, including many women and children, making it evident that chemical weapons were used with intentions beyond mere self-defense (Middle East Watch, 1993, p. 4).

Middle East Watch (1993) further identified additional human rights violations, including:

forced displacement of hundreds of thousands of villagers upon the demolition of their homes, their release from jail or return from exile; these civilians were trucked into areas of Kurdistan far from their homes and dumped there by the army with only minimal governmental compensation or none at all for their destroyed property, or any provision for relief, housing, clothing or food, and forbidden to return to their villages of origin on pain of death. In these conditions, many died within a year of their forced displacement (Middle East Watch, 1993, p. 5).

These events demonstrate clear human rights violations by the Iraqi government against Kurds in the northern region. However, evidence proving that the army targeted all Kurds is limited. A closer examination of the conflict reveals that the Al-Anfal campaign was triggered by Kurdish support for Iran during the Iran-Iraq War, which led to heightened fears and a violent response from Saddam Hussein's regime. Hussein's approach was not one of peace but of intimidation and targeted violence against those involved. Given the political nature of the conflict, categorizing it strictly as genocide is challenging. Despite widespread human rights abuses and civilian deaths, the actions of the Iraqi government warrant accountability for these violations. However, no evidence has been found indicating that the Baath Party or Saddam Hussein ordered the extermination of all Kurds, as some Kurds held positions within the government and Iraqi military at that time. This points to the conflict aligning more closely with politicide than genocide (Kaveh, 2014; Middle East Watch, 1993).

Saeedpour (1992) further argues that the chemical attacks on Kurds were acts of retribution by the Iraqi regime for Kurdish cooperation with Iran during the war. On September 9, 1988, The Washington Times quoted Amnesty International's London headquarters, stating:

The mass killings are part of a systematic and deliberate policy by the Iraqi government to eliminate large number of Kurds . . . as a punishment for their imputed political sympathies and in retaliation for the activities of opposition Kurdish forces (Saeedpour, 1992, p. 60).

Through this perspective, Saeedpour (1992) suggests that the gas attacks of autumn 1988 cannot merely be viewed as reactions to Kurdish resistance or their alliance with Iran during the Iran-Iraq War. Instead, she interprets these attacks as part of a broader plan by the Iraqi government to permanently remove Kurdish populations for strategic and economic reasons. Saeedpour emphasizes the importance of examining the geographic patterns of these attacks to understand the state's actions. A report from the Senate Foreign Relations Committee noted that the chemical weapon attacks coincided with areas delineated in a Kurdish Library map. This overlap hints at the Iraqi government's primary motives for targeting these regions. Areas such

as Zakho, Dihuk, and Amadiya – key due to their proximity to two major highways to Turkey and Syria and the Iraq-Turkey oil pipeline – were of strategic importance. This reliance on resources and geographic connections may have been a significant factor in the government’s use of chemical attacks against the Kurds (Saeedpour, 1992, pp. 60-61). Like other scholars, Saeedpour acknowledges the severe human rights abuses against the Kurds, citing an Amnesty International report that details “the abduction of three hundred children and youths from the city of Sulaimania by the authorities in an effort to force their relatives in the Kurdish resistance to surrender” (Saeedpour, 1992, p. 64).

Roger Baldwin, of the International League for Human Rights, addressed UN Secretary-General Kurt Waldheim, stating, “The enclosed information evidences executions, instances of torture, mass detentions and the deportation of tens of thousands of Kurdish people in an apparent effort to destroy the Kurdish ethnic group” (Saeedpour, 1992, p. 68). This statement highlights the Iraqi regime’s violation of the Genocide Convention and international protocols prohibiting the use of weapons like poison gas (Saeedpour, 1992, p. 69).

3.6 Motivations Behind the Campaign

Following the U.S. invasion of Iraq in 2003 and the capture of Saddam Hussein (Tripp, 2007), Hussein faced trial, during which he was questioned about Al-Anfal and required to justify his and the Baath Party’s actions (Oliver, 2006). During his trial, Saddam’s co-defendants testified before the Iraqi court, claiming that the Iraqi army’s operations targeted Kurdish rebels and Iranian forces aligned against the Iraqi regime. One Anfal commander testified that their focus was solely on organized and armed opponents, while civilians were not targets. Sabir al-Douri, former director of military intelligence, argued that their goal was to clear northern Iraq of Iranian troops and relocate civilians from the Anfal region to safety (Oliver, 2006, paragraphs 4-6).

The Al-Anfal campaign did not diverge from the Baath regime’s ongoing efforts to alter the northern region’s demographics, a policy initiated after the 1968 coup. Prior to the conflict, the

Baath Party began to Arabize resource-rich areas like Khanaqin and Kirkuk, forcibly relocating many Kurds to southern Iraq in 1974 (Bruinessen, 1994, p. 159; Kaveh, 2014, p. 200). This demographic strategy facilitated the resettlement of Iraqi Arabs in the north, effectively reshaping the region. In the late 1970s, the regime introduced “border cleansing” measures. Such policies of demographic homogenization are not unique to Iraq; other states with Kurdish populations, such as Turkey, implemented similar strategies. Following World War I, Turkey forcibly relocated Kurds from its eastern regions, often motivated by economic and nationalist interests, including the erasure of Kurdish language and culture (Kaveh, 2014, p. 200).

The strict policies in Turkey were largely a response to fears that Kurdish tribes might align with Russian forces, paralleling Iraq’s response to Kurdish cooperation with Iran during the Gulf War. Like Iraq’s Arabization campaign, Turkey’s policies had an economic motive, as the semi-nomadic Kurdish population in Turkey needed to be settled for tax purposes. Additionally, there were nationalist agendas aimed at eradicating Kurdish language and culture through forced assimilation (Kaveh, 2014, p. 201).

Unlike Turkey, the Al-Anfal campaign was not aimed at assimilation or the erasure of Kurdish culture; rather, it focused on the targeted destruction of villages (Kaveh, 2014, p. 201). In Turkey, Kurdish ethnicity and territoriality were intertwined, leading to the view that Kurdish territorial presence had to be dismantled. Iraq’s regime adopted a similar approach, deporting and Arabizing Kurds from the north. While resource concerns were significant for Iraq, particularly due to oil, the campaign’s primary motivation was the state’s security concerns in the 1970s, which shifted during the Iran-Iraq conflict. Although the Gulf War significantly influenced the Al-Anfal campaign’s Arabization policies, it would be a mistake to overemphasize the war’s impact. The final phase in Badinan occurred after the war and may have been driven by Kurdish sympathy for Iran, viewed as a “fifth column” by Iraq (Kaveh, 2014, p. 201).

Kelly (2005) speculated that Saddam Hussein would defend the Halabja attack as a military action against Iranians and Iranian-aligned Kurds occupying Iraqi territory. Hussein would

likely argue that the gassing targeted “enemies” attempting to seize Iraqi land, framing it as a legitimate action aimed at securing territory. Kelly also anticipated that Hussein would claim no intent to harm civilians, characterizing the campaign as counterinsurgency and territorial reclamation (Kelly, 2005, p. 1008).

It is crucial to recognize that Saddam Hussein wielded absolute authority in Iraq, seeing the removal of KDP and PUK opposition as a means to gain control over strategic, oil-rich areas (Kaveh, 2014, p. 201). David Callahan identified three factors indicative of impending ethnic conflict: “a history of state repression of an ethnic minority [...], a history of violence among ethnic groups, and the existence of ethnic pockets within newly independent states” (Callahan, 1997, pp. 53-54, cited in Kaveh, 2014, p. 201).

The first factor, historical state repression, is evident in the Al-Anfal campaign, with the conflict between the Iraqi regime and Kurds marked by an asymmetric power dynamic and consistent oppression regardless of ruling actors. The second factor, inter-ethnic violence, was present in Iraq but not to the same extent as in Rwanda or the former Yugoslavia. The campaign was primarily state-directed against the Kurds rather than between ethnic groups. The third factor, the instability of minority groups within new states, further aligns with Callahan’s theory (Kaveh, 2014, pp. 201-202).

The Iraqi regime faced challenges integrating Kurds from the outset, compounded by the weak construction of the Iraqi state (Kaveh, 2014, pp. 201-202). Callahan’s framework aligns with Fein’s argument that oppression and ethnic discrimination signal the potential for genocide. Fein introduces the concept of “implicated victims,” relevant to this context (Kaveh, 2014, p. 202; Power, 2002, p. 191). She argues that many genocide victims are civilians uninvolved in political activities. In such scenarios, decisions by leaders of a national movement can be exploited by perpetrators as justification for violent retaliation. Samantha Power expands on this, noting the double vulnerability of the Kurds, describing the situation as follows:

Unlike the Jews of 1930s Europe, who posed no military or even political threat to the territorial integrity of Poland and Germany (given their isolation or assimilation in much of Europe), the Kurds wanted out – out of Hussein’s smothering grasp and, in their private confessions, out of his country entirely (Power, 2002, p. 191).

It was well-known that the Kurds aspired for independence and autonomy, and it was President Saddam Hussein who initiated discussions on this topic, leading to an agreement. This agreement was not reached without purpose; analyzing the context of that period reveals that the Baath regime had recently seized power through a coup and was unprepared for another war. Thus, avoiding conflict with the Kurdish population was essential to prevent any threat to the regime’s stability (Kaveh, 2014, p. 202).

3.7 U.S. Assistance

The support from the United States and Europe was a critical factor enabling Saddam Hussein to carry out his policies. At this time, the U.S. was aware of Iraq’s use of chemical weapons against Iranian forces as early as 1983 (Kaveh, 2014, p. 202). This is evident from a statement by the U.S. State Department, acknowledging that "Iraq has acquired a CW [Chemical Weapons] production capacity, primarily from Western firms, including possibly a U.S. foreign subsidiary" (Kelly, 2008, p. 128, cited in Kaveh, 2014, p. 202).

This raises questions about the U.S. response, or lack thereof, to Iraq's use of chemical weapons. The U.S. priority was preventing an Iranian victory, which the Baath regime understood. This made the regime confident that chemical weapon attacks would not provoke American intervention, especially given that the international community aligned with the U.S. stance. This lack of repercussions allowed Iraq to deploy chemical weapons without fear of punishment. The contradictions in U.S. foreign policy became particularly evident after Iraq’s 1990 invasion of Kuwait, which led to international humanitarian concerns and a no-fly zone to protect Kurds. Meanwhile, the U.S. continued to sell arms to Iraq’s neighbour Turkey, enabling Turkey to combat its Kurdish population. Al-Majid’s infamous declaration captures

the regime's attitude: "I will kill them all with chemical weapons! Who is going to say anything? The international community? Fuck them!" (Middle East Watch, 1993, p. 349).

For the U.S. and European nations, Iraqi use of chemical weapons was deemed an acceptable price to pay to prevent an Iranian victory. Despite the U.S.'s long-standing opposition to genocide – such as in the cases of the Holocaust and the Armenian genocide – it ultimately supported Saddam Hussein during Al-Anfal. The U.S. provided Iraq with \$210 million in credits for purchasing American agricultural products, such as corn from Iowa. When Iran raised concerns about Iraq's use of chemical weapons at the UN Security Council, the U.S. blocked these efforts (Kaveh, 2014, p. 203; Power, 2002).

With American backing, international attention on Iraqi attacks, including the Halabja incident, quickly faded, and the U.S. continued to support Saddam Hussein. The U.S. dismissed the Iraqi-Kurdish conflict as an internal matter, while Iraq and Turkey lobbied the U.S. to limit its support for the Kurds. Other major powers, including France and the Soviet Union, also feared an Iranian victory (Kaveh, 2014, p. 203; McDowall, 2000, p. 350; Power, 2002).

3.8 Neglecting Iraq's Chemical Weapons Deployment?

U.S. neutrality had strategic motivations rooted in concern over revolutionary Iran (Power, 2002, p. 176). Hiltermann (2007) argues that while the U.S. was officially neutral in the Iran-Iraq War, it tacitly supported Iraq to counter a mutual threat: Iran. Though American support seemed one-sided, favoring Iraq, the U.S. maintained the appearance of neutrality to the world (Hiltermann, 2007, pp. 40-46).

The U.S. feared that a loss by Saddam Hussein could place Iraq's oil reserves under Ayatollah Khomeini's control and spread radical Islam, destabilizing relationships with Gulf emirates and Saudi Arabia. These factors explain why the U.S. supported Iraq during Al-Anfal; they needed Hussein to counter Iran. The U.S. extended agricultural credits to Iraq, reaching \$500 million annually, as Iraq's poor credit ratings barred them from conventional loans. Iraq also gained

access to U.S. import and export credits, and removed from the list of countries supporting terrorism after expelling the Abu Nidal group. This cooperation restored U.S.-Iraq diplomatic relations in 1984, severed since the 1967 Arab-Israeli conflict. Although U.S. officials were aware of Saddam Hussein's widespread use of torture and executions, they prioritized an Iraqi victory over an Iranian one (Power, 2002, pp. 176-177).

Over time, the U.S. recognized the potential risks posed by both Iraq and Iran, which were amassing weapons and fostering ideologies hostile to U.S. interests. Nevertheless, the U.S. allowed both sides to weaken each other, reasoning that an Iraqi victory would not significantly benefit American interests. Power (2002, p. 177) notes that the U.S. withheld full support for Iraq, fearing that Iran's defeat could grant Saddam Hussein dominance over the Gulf. This led the U.S. to alter its strategy, stepping back from the conflict between Khomeini and Hussein (Power, 2002, p. 177). As U.S.-Iraq diplomatic relations solidified, the Kurds lost favor in Baghdad's eyes. In 1982, the Iraqi government intensified its campaign against Kurdish territories, expanding resettlement policies inland from the borders. This targeted Kurds living outside major towns or away from main roads; those who remained faced service cuts and trade bans without compensation (Power, 2002, p. 177).

Power describes the Kurds as political opportunists, capitalizing on conflict with Iran to strengthen their position. Their plight worsened when Barzani-aligned Kurdish forces assisted Iranian troops in capturing the Iraqi border town of Haj Omran. In retaliation, the Iraqi army killed over 8,000 members of the Barzani clan, including approximately 315 children (Power, 2002, p. 177). Saddam Hussein openly justified these actions, stating, "They betrayed the country and they betrayed the covenant, and we meted out a stern punishment to them and they went to hell" (Power, 2002, p. 178). Despite Kurdish appeals to the U.S. and its allies, there was no protest. Power (2002) explains:

The American tendency to write off the region was so pronounced that the United States did not even complain when Hussein acquired between 2,000 and 4,000 tons of deadly chemical agents and began experimenting with the gasses against the Iranians.

Policymakers responded as if the ayatollah had removed the Iranian people (and especially Iranian soldiers) from the universe of moral and legal obligation (Power, 2002, p. 178).

This stance persisted until chemical weapons were deployed against Iran, resulting in approximately 50,000 Iranian casualties, including deaths and injuries, leading to significant psychological terror and the retreat of many well-equipped soldiers. Both the U.S. State Department and Congress initially overlooked the chemical attacks, and it wasn't until 1983 that reports on these weapons reached Secretary of State George Shultz (Power, 2002, p. 178). In 1984, a State Department spokesman issued a so-called condemnation, framing the conflict as dual-sided and stating, "While condemning Iraq's resort to chemical weapons, [...] the United States also calls on the government of Iran to accept the good offices offered by a number of countries and international organizations to put an end to the bloodshed" (Power, 2002, p. 178).

One American intelligence analyst remarked on March 7, 1984, that a firm stance against Iraq's chemical weapon use could strain U.S.-Iraq relations. Consequently, Washington's national security advisers, alongside West Germany (which profited from selling chemical agents), resisted efforts to establish an international treaty banning the use, transfer, and production of chemical weapons. The U.S. justified its restrained response by viewing chemical weapons as Iraq's "weapon of last resort deployed only after more traditional Iraqi defences were flattened" (Power, 2002, p. 179). Although Iraq was the first to use chemical weapons, these operations were seen as defensive actions meant to repel Iranian offensives, rather than efforts to seize territory. In response to reports on Iraq's chemical weapon use, the U.S. called for further investigation. Power explains that:

On several occasions the UN dispatched fact-finding teams, which verified that the Iraqis had used mustard and tabun gas. But policymakers greeted their reports with an insistence that both sides were guilty. Once Hussein saw he would not be sanctioned for

using these weapons against Iran, the Iraqi dictator knew he was on to something (Power, 2002, p. 179).

3.9 Recognition

3.9.1 The Al-Anfal Campaign: A Case of Politicide?

It is evident that the Iran-Iraq War significantly influenced the Al-Anfal campaign. Middle East Watch states, "The logic of the Anfal [...] cannot be divorced [...] from the Iran-Iraq war" (Middle East Watch, 1993, p. xiii). Montgomery (2001) shares this perspective, citing Middle East Watch in his assertion, that the Al-Anfal campaign was directly linked to the conflict between Iraq and Iran (Montgomery, 2001, p. 76). Middle East Watch (1993) also notes that the Kurds, specifically the PUK and KDP, cooperated with Iran, receiving support in their resistance against the Iraqi regime. This alliance exemplifies an insurgency, but Middle East Watch argues that while the Iraqi regime had the right to counter insurgents, "the central government went much further than was required to restore its authority through legitimate military action" (Middle East Watch, 1993, pp. xiii-xiv), ultimately committing genocide and crimes against humanity (Middle East Watch, 1993, p. xiv).

Harff (2003) further discusses the concepts of politicide and genocide, stating:

the promotion, execution, and/or implied consent of sustained policies by governing elites or their agents – or, in the case of civil war, either of the contending authorities – that are intended to destroy, in whole or part, a communal, political, or politicized ethnic group. In genocides the victimized groups are defined by their perpetrators primarily in terms of their communal characteristics. In politicides, in contrast, groups are defined primarily in terms of their political opposition to the regime and dominant groups. (Harff, 2003, p. 58).

According to Harff's (2003) definitions, Kaveh (2014) argues that Saddam Hussein and his regime viewed the Kurds as a politicized ethnic group. This is evidenced by al-Majid's directives and the bureaucratic handling of Al-Anfal's targets. Harff's definition of politicide is particularly relevant here, as it characterizes conflicts and repression where the state perceives the victims as a political group (Harff, 2003; Kaveh, 2014, p. 204). Kaveh (2014) contends that the military operations fall under politicide, as the regime specifically targeted those active in opposition, aiming to eradicate both the population and their villages to instill fear and prevent future dissent (Kaveh, 2014, p. 204).

Al-Anfal is complex when evaluated under the Genocide Convention, given the highly politicized nature of Kurdish ethnicity and their opposition to Saddam Hussein. Since the regime categorized Kurds not by ethnicity but by political or geographical affiliation, classifying Al-Anfal as genocide within the Convention's framework is challenging. Perspectives on the Kurdish conflict vary (Kaveh, 2014, p. 204), with Hiltermann offering an alternative interpretation:

In order to fight the rebels, most of rural Kurdistan was declared "prohibited", and the villages in these areas were marked for destruction regardless of the question whether the inhabitants actively participated in the insurgency or in any other way offered support to the rebels. (Hiltermann, 1994, p. 41).

Hiltermann's arguments, while compelling, are based on his interpretation of the Genocide Convention, as Kaveh (2014) points out. When comparing this interpretation to the events of the Al-Anfal campaign, it becomes evident that while Al-Anfal aimed to destroy part or all of a group, the Convention's definition makes it challenging to label it as genocide in this context (Kaveh, 2014, p. 204). Assailants aren't the only ones who evade accountability through designations such as politicide, which are absent from the Genocide Convention; this extends to third-party states, which often cite sovereignty over internal affairs to avoid responsibility. In this case, the United States provided direct support to Saddam Hussein's regime without

fearing repercussions, as it could deflect responsibility by invoking Iraqi sovereignty (Kaveh, 2014, p. 204).

Kaveh (2014) further argues that a state may view violent reactions as legitimate when groups challenge its territorial demands, as in the case of the Kurds in Iraq. Consequently, some contend that genocide or massacre within a state's borders is "an integral part of its sovereignty" (Kuper, 1981, p. 161, cited in Kaveh, 2014, p. 204). The UN has reinforced this notion by prohibiting "any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country" (Callahan, 1997, p. 25, cited in Kaveh, 2014, p. 204).

Thus, the Genocide Convention alone does not always suffice in explaining mass killings, particularly when analyzing a state's motivations for such actions (Kaveh, 2014, pp. 204-205). Martin van Bruinessen notes: "As long as nonintervention in any country's «internal affairs» remains a sacrosanct principle without further qualification, attempts to revise the definition of the term genocide are, I am afraid, bound to remain a futile intellectual exercise" (Bruinessen, 1994, p. 142).

While Saddam Hussein's conduct was intentional and led to mass killings of Kurds in the 1980s, the weaknesses of the Genocide Convention – particularly when applying genocide as a legal term – complicate categorization of the conflict. Here, the Iraqi regime benefits by defining the mass killings as politicide, framing them as a political conflict between the regime and the Kurds. From the regime's perspective, its actions may be seen as counterinsurgency measures to maintain stability, thereby justifying its use of force to suppress rebellion (Kaveh, 2014, p. 205).

3.9.2 Importance of Recognition

The U.S.'s role in supporting Iraq's efforts to counter Iran heavily influenced its view of the Iraqi-Kurdish conflict, framing it as an internal issue within Iraq's sovereign domain. Given the

U.S. strategy to contain Iran's revolutionary influence, it viewed the Kurds, who aligned with Iran, through a similar lens (Kaveh, 2014; Power, 2002).

This approach paints the conflict as a political issue, with Saddam Hussein and his regime reacting to Kurdish collaboration with Iran by attacking Kurdish villages. The next question is why the EU's recognition of the conflict as genocide is important. Unlike the U.S., the EU was not as directly involved, making it important for the EU to recognize the campaign as genocide to honor those who perished in Al-Anfal. Such recognition could bring justice to those killed, displaced, or injured by the campaign (Kaveh, 2014; Power, 2002).

Several countries, including the UK, Norway, and Sweden, have recognized the conflict as genocide (Baser & Toivanen, 2017, p. 405). Through recognition, UNPO and the Kurdish Regional Government see an opportunity to foster reconciliation, the rule of law, and peace within Iraq. Acknowledging the atrocities committed by the Iraqi regime would also highlight the failures of the international community to protect the Kurdish population and uphold their rights, as no international pressure was exerted during or after the atrocities to prevent further violations (Kurdish UK Representation, London, cited in UNPO & the Kurdish Regional Government, n.d., p. 7). Struan Stevenson, Chair of the European Parliament's Delegation, expressed that recognizing the campaign as genocide is crucial because "*In current Iraq, under the rule of Prime Minister Maliki, the danger of a genocide happening again is present and therefore it is even more important now to keep the remembrance of Halabja alive*" (Kurdish UK Representation, London, cited in UNPO & the Kurdish Regional Government, n.d., p. 7).

Stevenson's statement underscores that recognition is not only about compensating and supporting the Kurds affected by the campaign but also about preventing future crimes, particularly amid post-Saddam interethnic tensions. UNPO & the Kurdish Regional Government advocate for EU recognition to promote stability and support democratization, as such recognition could prevent further genocides in the region. The EU's role could be instrumental in fostering unity among Iraq's citizens and advancing democratization, ultimately

establishing a society where human rights and the rule of law are trusted pillars (UNPO & the Kurdish Regional Government, n.d., p. 7).

Beyond justice for past trauma, EU recognition could help heal the deep mistrust between Kurds and Arabs, offering an avenue for social reconstruction and reconciliation in Iraq (UNPO & the Kurdish Regional Government, n.d., p. 7).

3.9.3 Justifications for Recognizing Al-Anfal as Genocide

Notably, the Iraqi High Court recognized the Halabja attack as genocide after the formation of the new government following the Baath regime's fall (Trahan, 2009; UNPO & the Kurdish Regional Government, p. 5). This recognition led to the death sentence of al-Majid for his role in authorizing chemical attacks on Halabja. Under international law, genocide is defined as violent acts committed with intent to destroy, in whole or in part, an ethnic or religious group, including:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its Physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group (BBC, 2007, mentioned in UNPO & the Kurdish Regional Government, p. 5).

Comparing these points to the events of Al-Anfal reveals that the operations specifically targeted Iraqi Kurds, an identifiable ethnic group, who became victims of the Baath regime's Arabization campaign. This campaign led to the destruction of numerous villages and the execution of many individuals. From the Kurdish perspective, their cooperation with Iran is interpreted differently; they view the northern region as their homeland, Kurdistan, primarily inhabited by Kurds. They argue that Iraq's conflict with the Kurds is fundamentally about exerting control over the Kurdish region – a perspective at odds with Iraq's, as the Kurdish rebels already held local control (UNPO & the Kurdish Regional Government, n.d., p. 5).

Evidence of the regime's intent to commit what can be viewed as genocide is highlighted in a Human Rights Watch report (UNPO & the Kurdish Regional Government, n.d., p. 6), which outlines at least three reasons for the Baath regime's use of chemical weapons, including:

- To attack base camps and concentrations of Kurdish people, including Kurdish rebels;
- To inflict exemplary collective punishment on civilians for their support for Kurdish rebels. [...]
- To spread terror amongst the civilian population as a whole, flushing villagers out of their homes to facilitate their capture, relocation and killing (UNPO & the Kurdish Regional Government, n.d., p. 6).

These three objectives reinforce the theory that the events should be considered genocide.

3.9.4 Selective Application of the Genocide Definition by Powerful States

The selective recognition of genocide often serves the political interests of powerful states, such as the United States, which have historically chosen when and how to apply the term to avoid political repercussions. The inconsistency undermines the moral and legal authority of the Genocide Convention, leading to accusations of double standards in international law (Power, 2002). The United States' stance during the Al-Anfal campaign illustrates selective application.

While the campaign involved human rights violations recognized as genocidal by many NGOs and international observers, the U.S. refrained from labeling it as genocide to preserve its strategic alliance with Iraq in countering Iranian influence. By maintaining this alliance, the U.S. was able to further its political interests in the region, highlighting the moral compromises that can arise from selective interpretations. This inconsistency underscores the Genocide Convention's lack of enforceable obligations and demonstrates how its weaknesses allow powerful states to avoid uncomfortable political consequences (Hiltermann 2007; Middle East Watch 1993; Power 2002).

3.9.5 Politicide as a Tool for Regimes to Suppress Political Opposition

Politicide represents another challenge in the current framework of international law, where the intentional targeting of political groups is not internationally prosecutable. Politicide allows states to target political opposition without fear of repercussions under the Genocide Convention, which has become an effective tool for authoritarian regimes (Harff & Gurr, 1988; Harff, 2003). Turkey's actions against Kurdish populations in its southeastern regions illustrate how politicide can be used to suppress political dissent under the guise of anti-terrorism. Turkish authorities often justify such actions by labeling Kurdish groups as insurgents, despite accusations of indiscriminate violence against Kurdish civilians. By framing the conflict as a political and counter-insurgency issue, Turkey avoids accountability under international law, as politicide lacks formal prosecutable status. This case demonstrates how the absence of protections for political groups creates a legal void that states can exploit (Bruinessen, 1994).

3.9.6 Role of International Institutions and Limits of Enforcement

The inability of institutions like the International Criminal Court (ICC) and the United Nations Security Council to intervene in cases of politicide further exposes the weaknesses in international law. The ICC can only prosecute crimes classified as genocide, war crimes, or crimes against humanity, leaving politicide outside its jurisdiction. Furthermore, powerful states can influence the UN Security Council's decisions, often preventing timely action (Callahan, 1997; Power, 2002).

The 1994 Rwandan genocide saw delayed intervention due to political hesitations, which led to international inaction. Despite evidence of mass killings targeting the Tutsi ethnic group, the initial hesitation to label the situation as genocide delayed humanitarian and military interventions, illustrating how political calculations by powerful states can undermine timely responses. The case underscores the structural limitations within the UN and other bodies that hinder their ability to respond effectively, especially when political interests are at stake (Callahan, 1997; Power, 2002).

Moreover, the lack of definitional clarity limits the scope of what organizations can officially condemn. As seen with the ICC, which faces challenges in prosecuting crimes that fall outside the narrowly defined parameters of genocide, crimes against humanity, and war crimes, the inability to address politicide or other forms of mass violence weakens the organization's role as a global justice mechanism. This undermines the deterrent effect of international institutions, allowing perpetrators to exploit gaps in legal frameworks with relative impunity (Scheffer, 2006).

States often cite sovereignty and non-interference as reasons to avoid intervention, particularly when acknowledging an event as genocide would require action under the Genocide Convention. By emphasizing a state's internal jurisdiction over conflicts within its borders, influential countries can frame their inaction as respect for national sovereignty rather than reluctance to address crimes against humanity (Rieff, 2003).

3.10 Theoretical and Sociological Implications of Genocide and Politicide Weaknesses

Raphael Lemkin, a Polish-Jewish lawyer, first coined the term «genocide» in 1944, inspired by the Holocaust and other state-led atrocities targeting specific groups. His goal was to encapsulate a type of crime that aimed not only at individuals but at the eradication of an entire community based on ethnicity, nationality, race, or religion. Lemkin's advocacy was instrumental in the drafting of the 1948 Genocide Convention, which enshrined genocide in

international law and recognized it as a crime that demanded accountability on a global scale (Fein, 1993a; Harff & Gurr, 1988; Power, 2002).

However, the Genocide Convention's definition was limited to certain protected groups – namely national, ethnic, racial, and religious. *Political* groups were notably excluded due to opposition from several nations, including the Soviet Union and Latin American countries, who feared that including political groups could be used to interfere with internal state matters. The exclusion of politically-defined groups reflects early state concerns about sovereignty and intervention, effectively prioritizing state control over comprehensive human rights protections. This limitation continues to weaken the convention's efficacy in responding to modern instances of mass violence where political motives drive state action (Fein, 1993a; Harff & Gurr, 1988; Power, 2002).

The limitations in definitions also have broader sociological implications, particularly for marginalized and politically vulnerable populations. Sociologist Helen Fein's "implicated victims" theory suggests that state-led violence often targets individuals not directly involved in political conflicts but who are seen as symbolically threatening (Fein, 1993a). Fein (1993a) argues that the Genocide Convention's narrow scope overlooks civilians who fall victim to state violence simply because they are members of a group with perceived political affiliations. Similarly, Harff's analysis shows that ethnic minorities in politically contentious regions often experience violence under the pretext of security, complicating the distinction between political and ethnic motivations. For example, the Kurds in Iraq and Turkey are both ethnically distinct and politically active, allowing states to frame violence against them as necessary for political stability rather than ethnically motivated violence (Harff, 2003; Harff & Gurr, 1988).

3.11 Case Studies Highlighting Ambiguities in Genocide and Politicide

In reviewing the data material, several examples emerged highlighting the ambiguities surrounding the concepts of genocide and politicide. Power (2002), for instance, mentions the Khmer Rouge regime. Under Pol Pot's Khmer Rouge regime, mass killings were directed

against both ethnic groups (Cham Muslims, Vietnamese) and political or ideological groups (urban professionals, intellectuals). Although the regime's atrocities targeted ethnic minorities, a significant part of its violence was politically driven, aimed at eradicating ideological opposition. The Genocide Convention's limitations became apparent as the genocide charge only covered ethnic groups, excluding the political motivations behind many of the regime's actions. Consequently, international prosecution focused on the ethnic dimension, sidelining the political nature of the Khmer Rouge's purge and reflecting how the Genocide Convention's narrow definition limited comprehensive justice. The lack of recognition for politicide as a crime meant that this aspect of the Cambodian genocide was only partly addressed during the tribunal (Fein, 1993b; Power, 2002).

Saddam Hussein's Al-Anfal campaign in the 1980s targeted the Kurdish population, a group identified both ethnically and politically. The regime's justification was to quell Kurdish opposition, which aligned with Iran, Iraq's adversary in the Iran-Iraq War. While the campaign exhibited traits of genocide by targeting the Kurds as an ethnic group, it also carried strong political motivations. By interpreting the Kurds' political alliance with Iran as a threat to national security, the Baath regime effectively used both political and ethnic grounds to rationalize the campaign. The Genocide Convention's exclusion of political motivations led to debates on whether Al-Anfal constituted genocide or politicide, illustrating how the lack of clarity in these definitions complicates legal accountability and allows states to escape full culpability (Hiltermann, 2007; Middle East Watch, 1993; Power, 2002).

The absence of politicide from international legal frameworks is particularly troubling given the historical examples where regimes targeted political groups as part of their statecraft. Several notable cases illustrate the prevalence and severity of politicide. Stalin's Purges in the Soviet Union (1936–1938) targeted political dissidents, intellectuals, and perceived ideological threats within the Soviet Union. Although ethnic groups were also affected, many of the purges were motivated by political ideology. Because these purges were directed at political groups, they would not meet the Genocide Convention's narrow definition (Harff, 2003; Kuper, 1981).

These examples demonstrate the wide-reaching and deadly impact of politicide. By failing to recognize these actions as genocidal or equivalent to genocide, international law has enabled perpetrators to evade the unique stigma associated with genocide, thus weakening the deterrent power of international conventions.

3.12 Challenges to Accountability and Justice

The lack of a comprehensive definition for genocide and the absence of politicide within legal frameworks, create significant obstacles for accountability. For instance, while the Iraqi regime's actions during Al-Anfal met many criteria for genocide, the political nature of the conflict allowed the U.S. and other allies to avoid international condemnation. This gap in accountability reflects a broader failure of international law to address the complexities of state-perpetrated violence, particularly when political motives are involved (Middle East Watch, 1993; Power, 2002).

In section 3.12, *Challenges to Accountability and Justice*, we explore how weaknesses in the definitions of genocide and politicide complicate holding perpetrators accountable and achieving justice for victims. Ambiguities in international law allow for significant interpretive flexibility, which powerful states and actors can exploit to shield themselves or their allies from culpability. These definitional challenges impact not only the effectiveness of international courts but also the overall deterrent effect of international norms and laws on state-led atrocities (Scheffer, 2006).

The most significant challenge to accountability arises from vague definitions within the Genocide Convention. While the convention recognizes genocide as acts committed with the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group" (Genocide Convention, 1948, Article 2), it does not extend to political or social groups, often the primary targets of mass killings by authoritarian regimes. The exclusion of such groups leaves a critical gap in the law, where systematic atrocities can go unpunished under international genocide statutes simply due to the classification of the targeted population (Kuper, 1981; Power, 2002;

Schabas, 2009). As Harff (2003) discusses, the term “politicide” is proposed to cover politically motivated mass killings, but the absence of explicit legal recognition of politicide under international law weakens enforcement and leaves victims of such atrocities without a clear path to justice.

A prominent example of how definitional limitations hinder justice is the case of the Al-Anfal campaign in Iraq, where the U.S. and other allies resisted labeling the atrocities against the Kurdish population as genocide. Although Saddam Hussein’s regime conducted systematic campaigns against the Kurds, including mass killings, forced displacements, and chemical attacks, international actors refrained from using the term “genocide” largely due to the political implications that acknowledgment would have entailed. Middle East Watch highlights that despite the clear human rights abuses, the classification of the Al-Anfal as a "genocide" was avoided by influential actors such as the U.S., which supported Iraq politically and economically in its war against Iran (Middle East Watch, 1993).

Another key issue that arises from ambiguous legal frameworks is the inconsistency in international responses to atrocities. With the lack of clarity in terms like "genocide", states can selectively apply the label, often influenced by their political and strategic interests. This leads to a disparate approach where some genocides or mass atrocities are met with condemnation and intervention, while others are ignored or downplayed. For example, the 1994 Rwandan Genocide elicited international condemnation only after the atrocities became widely visible, whereas the U.S. continued to downplay the significance of events in Sudan’s Darfur region as genocide due to its political ties and regional interests (Power, 2002).

The limited scope of jurisdiction of the International Criminal Court (ICC) further exacerbates challenges to accountability. The ICC’s mandate is restricted to prosecuting acts that fit within established definitions under the Rome Statute, such as genocide, war crimes, and crimes against humanity. However, as Scheffer explains, the ICC often faces political pressure, and cases are influenced by the reluctance of powerful nations to support or fund investigations. This limits the ICC's ability to act independently, thereby reducing its effectiveness in cases

where “genocide” or “crimes against humanity” are contested or politically sensitive terms (Scheffer, 2006).

Lack of legal precedent also poses challenges, as international courts often lack sufficient jurisprudence on complex cases involving politically motivated violence. Without clear, consistent rulings to draw upon, courts may struggle to interpret and apply existing definitions of genocide or crimes against humanity. For instance, in the Srebrenica massacre ruling, the International Criminal Tribunal for the former Yugoslavia (ICTY) ruled that the targeted massacre of Bosniak men and boys constituted genocide. This case became precedent-setting, yet each tribunal must navigate differing political contexts, definitions, and interpretations on a case-by-case basis, which can make prosecutorial outcomes unpredictable and inconsistent (Power, 2002).

Finally, state sovereignty remains a significant barrier to enforcing international laws on genocide and politicide. While sovereignty is a foundational principle of international relations, it can serve as a defense mechanism for states accused of crimes against their populations, as illustrated by Kuper, who notes that authoritarian regimes frequently cite sovereignty to avoid international scrutiny or intervention. The principle of “non-intervention in domestic affairs” has historically been upheld by the United Nations, making it challenging for international actors to impose punitive measures or engage in intervention without the consent of the accused state (Kuper, 1981).

The implications of these challenges are profound. First, the deterrent effect of international law is severely undermined. If states and their leaders believe they can evade accountability through strategic interpretation or political alliances, they are less likely to adhere to international standards. Second, the victims of such atrocities are left without recourse or recognition, which can exacerbate cycles of violence and impede post-conflict reconciliation efforts. Finally, the inconsistent application of international justice diminishes the legitimacy of institutions like the ICC, fueling perceptions of bias or ineffectiveness in the global justice system (Power, 2002; Scheffer, 2006).

3.13 Proving Intent to Destroy: A High Legal Threshold

The requirement to prove specific intent, or *dolus specialis*, presents another critical weakness in the Genocide Convention's framework. To prosecute acts of genocide, international tribunals must establish that the perpetrator intended to annihilate a group "in whole or in part." Proving intent is notoriously difficult, particularly when states use coded language, indirect strategies, or third-party forces to carry out acts of mass violence. For example, in the Rwandan Genocide, leaders employed coded messages, such as referring to Tutsi civilians as "cockroaches", which were later used as evidence of intent. However, in cases where language is less explicit or dispersed through multiple actors, establishing a coordinated intent to destroy becomes challenging (Harff & Gurr, 1988; Power, 2002).

The Akayesu case at the International Criminal Tribunal for Rwanda (ICTR) marked the first instance in which a court defined and applied the concept of genocide. The ICTR was able to demonstrate intent based on explicit calls for violence and clear targeting of the Tutsi population. However, in cases where intent is subtler or masked behind claims of "counter-insurgency" (e.g., Turkey's actions against Kurdish populations), establishing genocidal intent is exceedingly difficult. As a result, states can argue that their actions are counter-terrorism or security measures rather than attempts to destroy a group (Schabas, 2009).

This stringent standard has weakened the Genocide Convention's enforceability by allowing states to shield themselves from accusations of genocide through ambiguity or by framing their actions as defensive rather than exterminative (Power, 2002; Schabas, 2009).

3.13.1 The Legal Challenge of Proving Intent

In legal terms, proving intent requires demonstrating that the perpetrators had a specific purpose in targeting a group. In genocide cases, this entails showing that they intended to destroy, in whole or in part, a particular group as defined by the Genocide Convention. However, this standard is notoriously difficult to meet, and legal experts frequently debate whether evidence

of systematic violence is sufficient to imply intent or if explicit statements are necessary (Fein, 1993a; Harff & Gurr, 1988).

Prosecutors face challenges in finding direct evidence of genocidal intent, such as statements or documents explicitly stating a goal of destruction. As a result, they often rely on circumstantial evidence, including patterns of violence, the scale of atrocities, and government policies that disproportionately affect specific groups. However, relying on circumstantial evidence can lead to subjective interpretations, as these actions can be portrayed as the result of political or military objectives rather than an intent to destroy a group (Fein, 1993a; Harff & Gurr, 1988).

In the prosecution of Rwandan genocide perpetrators, courts have used both direct and circumstantial evidence to establish intent. For example, hate propaganda and explicit incitements to violence against Tutsi by certain leaders, provided clear evidence of intent. However, in cases where explicit statements were absent, the scale and systematic nature of the killings were used to infer intent. While this approach was successful in many cases, it underscores the need for clearer guidelines on what constitutes intent (Power, 2002).

Defense teams in genocide trials often argue that mass violence was not intended to destroy a group but was instead part of broader military or political strategies. For instance, the defense might argue that the targeting of certain populations was incidental to a civil war or counterinsurgency. This argument exploits the lack of clarity in defining intent and has led to the acquittal or reduced sentencing of individuals accused of mass atrocities (Fein, 1993a, Harff & Gurr, 1988; Power, 2002).

3.13.2 Varying Interpretations of Intent Across International Tribunals

International tribunals, such as the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), have struggled to apply a consistent standard for proving intent. These cases reveal a lack of consensus on how to

interpret intent, resulting in judgments that sometimes appear contradictory (Power, 2002; Shabas, 2009).

The ICTY and ICTR took different approaches to establishing genocidal intent. The ICTR, dealing with the Rwandan genocide, frequently relied on explicit evidence, such as hate radio broadcasts, which directly called for the extermination of Tutsi. By contrast, the ICTY faced challenges in proving intent in cases involving Bosnian Muslims, where the violence was often framed as part of broader military objectives. The ICTY adopted a more cautious approach, requiring high standards of evidence to demonstrate intent, which some criticized as an overly narrow interpretation (Power, 2002; Shabas, 2009).

During the Bosnian War, the ICTY faced the complex task of distinguishing between acts of ethnic cleansing and genocide. In the case of Srebrenica, where over 8,000 Bosnian Muslims were killed, the ICTY ruled that the intent to destroy the group was evident based on the systematic nature of the killings. However, in other cases, the tribunal ruled that the actions, although brutal, lacked the specific intent to constitute genocide. This inconsistency highlights the challenge of applying a uniform standard for intent (Power, 2002; Shabas, 2009).

3.13.3 “In Whole or in Part” Ambiguity

The phrase “in whole or in part” in the Genocide Convention (1948) was included to allow prosecution of acts targeting significant portions of a group. However, the ambiguity of this language has led to interpretive challenges. The interpretation of “in part” has varied between international courts, leading to inconsistency in judgments. For instance, in *Bosnia v. Serbia* at the International Court of Justice, the court limited the finding of genocide to the Srebrenica massacre, ruling that acts elsewhere in Bosnia did not meet the threshold of “in part.” The ruling demonstrated the difficulty in applying this standard consistently, as other areas also experienced severe violence but were not recognized as genocide due to this clause’s ambiguity (Schabas, 2009).

The Genocide Convention's wording leaves room for varied interpretations of "in whole or in part" and what constitutes "intent to destroy." Scholars such as Martin Shaw argue that this ambiguity enables states to justify selective targeting within an ethnic group, claiming actions as suppression of insurgency rather than genocide. As such, the vague language of the Genocide Convention becomes a political tool for states seeking to avoid accountability (Shaw, 2015).

This flexibility in interpreting "in whole or in part" creates a loophole, allowing states to argue that they did not target a group comprehensively, thereby avoiding charges of genocide. This selective enforcement diminishes the Convention's overall effectiveness, as some acts of genocide are prosecuted while others go unpunished (Schabas, 2009).

For example, in cases of mass violence where only segments of a population are targeted, legal bodies often struggle to determine if these actions meet the threshold of "partial destruction" necessary to qualify as genocide. Legal scholars and courts have debated how much of a population must be destroyed to satisfy the "in part" requirement, which is crucial to establish the crime of genocide. Likewise, the International Criminal Tribunal for Rwanda (ICTR) has ruled that a "substantial part" of the group must be targeted, but the ambiguity surrounding "substantial" has left room for varied interpretations to «Destroy» (Schabas, 2009).

3.13.4 Political Influence and Selective Enforcement

Rieff discusses how the language used by officials can significantly impact the international response to atrocities. Often, states will use vague terms like "crisis" or "conflict" instead of "genocide" or "ethnic cleansing" to downplay the severity of violence. This choice of language can delay international pressure to intervene, as seen in the Rwandan genocide, where U.S. officials used terms like "acts of genocide" rather than acknowledging full genocide (Rieff, 2003).

Political dynamics significantly impact whether the term genocide is applied, often resulting in selective enforcement based on strategic interests. The United Nations and individual states

often avoid using the term “genocide” due to its political and legal implications. In the case of Iraq’s Al-Anfal campaign, the United States refrained from labeling it genocide, despite widespread recognition of genocidal acts against the Kurdish population. The U.S. valued its alliance with Iraq during the Iran-Iraq War, so it strategically avoided the genocide designation, allowing Iraq to continue its campaign without international interference (Hiltermann, 2007; Middle East Watch, 1993; Power, 2002). Conversely, in 2004, the U.S. labeled the violence in Darfur as genocide, partly due to political pressure and Sudan’s limited strategic importance. The disparity in responses illustrates how political considerations influence the application of genocide definitions, allowing states to support or ignore interventions based on their interests (Power, 2002; Rieff, 2003).

Political considerations have influenced U.S. responses in other regions as well, notably in Rwanda (1994) and Bosnia (1992–1995). In both cases, despite overwhelming evidence of ethnically motivated mass killings, the response was delayed, partially due to the lack of immediate strategic value these areas held for the U.S. and other Western powers. Similarly, the reluctance to act in Sudan during the Darfur conflict (2003–2005) underscores how the geopolitical value of a region and the potential political costs of intervention can shape responses to mass violence (Rieff, 2003).

Furthermore, powerful states can leverage this ambiguity to justify selective intervention. For instance, by limiting their actions to cases explicitly defined as genocide, states can avoid intervening in complex conflicts that might not meet all legal criteria for genocide but still involve severe human rights abuses. This selectivity erodes the credibility of humanitarian intervention policies and leads to accusations of “humanitarian imperialism,” where interventions are perceived as being driven by strategic rather than ethical considerations (Rieff, 2003).

The role of political interests and selective enforcement becomes particularly evident when delving deeper into the analysis of how the U.S. approached the conflict. The Al-Anfal campaign, led by Saddam Hussein’s Iraqi government, aimed to crush Kurdish resistance in

Iraq's northern regions. This brutal campaign included chemical attacks, mass executions, and the razing of villages, resulting in over 100,000 Kurdish deaths and the displacement of thousands more. Human Rights Watch and other observers described it as systematic repression intended to eradicate Kurdish alignment with Iran, Iraq's adversary in the Iraq-Iran War. The campaign was symbolically named "Al-Anfal" after a Quranic chapter referring to the "spoils of war," framing Kurds as infidels and enemies within the state (Kaveh, 2014, pp. 194-195; Middle East Watch, 1993).

During this period, the United States maintained a complex relationship with Iraq, driven by its own strategic interests in the Middle East. The Cold War and the Iranian Islamic Revolution created a geopolitical environment where the U.S. sought to prevent Iran's influence from spreading. The Iran-Iraq War, lasting from 1980 to 1988, made Iraq an appealing counterweight to Iran, even though the U.S. was well aware of Saddam Hussein's repressive actions. Supporting Iraq indirectly and refraining from condemning its treatment of the Kurds became a U.S. strategy to counterbalance Iran, as the United States prioritized its regional influence over adherence to human rights commitments (Middle East Watch, 1993; Power, 2002).

Power (2002) contends that U.S. policymakers consciously avoided labeling Al-Anfal as genocide, as this would have obligated intervention under the Genocide Convention. The U.S., a signatory of the 1948 Convention, had a responsibility to prevent and punish genocide, yet acknowledging the events as such would have led to political and economic repercussions, disrupting its alliance with Iraq. By choosing not to recognize the campaign as genocide, the U.S. avoided taking action that might strain its diplomatic and strategic position with Iraq. This choice highlights the tension between treaty obligations and geopolitical calculations (Hiltermann, 2007; Kaveh, 2014; Power, 2002).

Several factors shaped the U.S. decision against labeling Al-Anfal as genocide. The restrictive definitions within the Genocide Convention, which includes protections for ethnic, religious, racial, and national groups but excludes political groups, created a convenient justification. Although the Kurds constituted an ethnic group, Iraq framed its actions as targeting Kurdish

political dissidents who cooperated with Iran. This emphasis on political motivation allowed the U.S. to characterize Al-Anfal as “politicide” or political repression rather than genocide, leveraging the Genocide Convention’s limitations to justify its inaction (Hiltermann, 2007; Kaveh, 2014; Power, 2002).

The decision against genocide recognition also reflected domestic political considerations. By recognizing Al-Anfal as genocide, the U.S. government would have faced domestic backlash for ignoring its legal obligations under the Convention. Additionally, such recognition could have sparked calls for military intervention or sanctions, intensifying public scrutiny of U.S. foreign policy. In a climate already concerned with the ethical responsibilities of the U.S. in other international conflicts, officially labeling Al-Anfal as genocide could have amplified criticisms of American inaction (Power, 2002).

Geopolitical considerations further motivated the U.S. approach. Iraq’s role as a counterbalance to Iran remained essential, even amid Saddam Hussein’s human rights abuses. Recognizing genocide in Iraq could have jeopardized this alliance and driven Iraq closer to the Soviet Union, a scenario the U.S. was determined to avoid in the context of the Cold War. Additionally, economic interests influenced U.S. policy. Iraq’s role as a significant buyer of U.S. agricultural products and the importance of regional oil stability made preserving relations with Iraq an attractive choice, despite knowledge of its atrocities (Kaveh, 2014; Middle East Watch, 1993; Power, 2002).

3.13.5 Proposed Reforms concerning «Intent»

Given the challenges of proving intent, scholars and policymakers have suggested several reforms to make the Genocide Convention more effective and to reduce the ambiguity surrounding intent. One approach would be to adopt a broader definition of intent that includes the foreseeable consequences of actions targeting specific groups. This reform would allow courts to consider patterns of violence and the structural impact of policies on group survival, making it easier to establish genocidal intent (Scheffer, 2006).

Some legal experts propose applying the concept of “reckless disregard” to genocide cases, where perpetrators can be held accountable if they knowingly implement policies that lead to group destruction, even if the explicit intent to destroy is not proven. This approach would address cases where intent is implied through actions rather than explicitly stated (Scheffer, 2006). Developing clearer standards for accepting circumstantial evidence as proof of intent would improve consistency in genocide prosecutions. Courts could establish guidelines for interpreting patterns of violence, government policies, and systematic targeting as indicators of intent, reducing the need for explicit evidence (Schabas, 2009; Scheffer, 2006).

3.14 The Call for Broader Definitions

The 1948 Genocide Convention defines genocide with a narrow focus on actions intended to destroy «in whole or in part, a national, ethnical, racial or religious group” (Genocide Convention, 1948, Article 2). This specific limitation has led to significant challenges in prosecuting cases that do not strictly fit these criteria. For example, conflicts that involve targeted mass killings based on political beliefs, economic conditions, or regional affiliations do not fall within the convention’s definition of genocide, even though they can result in the loss of thousands of lives. Barbara Harff explains that politically motivated killings – “politicides” – pose a serious challenge to justice as they lie outside the scope of the Genocide Convention (Harff, 2003). The Al-Anfal campaign in Iraq, which saw extensive violence against the Kurdish population, provides an example where the specific targeting based on perceived political alliances led some states, such as the United States, to view the events as a form of political repression rather than genocide (Middle East Watch, 1993). This case shows how restrictive definitions allow some mass atrocities to evade recognition under genocide laws, hence falling short in deterring similar actions in the future.

Power (2002) highlights that the limited definition of genocide hampers global responses to mass atrocities by restricting the terminology that invokes international intervention. Power argues that, when states or political factions commit mass killings against groups with whom they hold political or economic disagreements, there are few avenues in international law that hold perpetrators accountable for such acts. Consequently, the need to revise definitions in

international law emerges as essential to bridging the gap between acts of genocide and politicide, ensuring broader protections against all forms of targeted mass violence (Power, 2002).

3.14.1 Expanding Protected Groups and Recognizing Politicide

One proposed revision involves expanding the range of protected groups beyond the categories established in the Genocide Convention. This would include explicitly recognizing groups targeted for political affiliation, economic status, gender, and other criteria that reflect the complexities of contemporary conflicts (Harff, 2003; Kuper, 1981). Kuper emphasizes that the definition of genocide is overly restrictive and fails to address the political motives behind many cases of state-led mass killings. For instance, adding political groups under the protection of international law would cover mass killings that are currently labeled as politicides. Kuper's work suggests that the inclusion of such groups would align legal definitions with the realities of modern conflicts, where political identity is often a key factor in group targeting (Kuper, 1981).

Similarly, the International Criminal Court (ICC) could play a larger role in integrating expanded definitions, allowing the court to address a broader range of cases that fall outside the Genocide Convention's parameters. The ICC's mandate is limited to crimes explicitly defined in international treaties, which leaves significant gaps in accountability. Scheffer's perspective is that closing this loophole by allowing the ICC to address politicide and similar crimes would strengthen the framework of international justice and create stronger preventive measures against politically motivated violence (Scheffer, 2006).

3.14.2 Clarifying Intent to Prevent Legal Ambiguities

Another significant revision would involve clarifying the requirement of intent in the context of genocide and related crimes. The Genocide Convention requires proof of intent to destroy a protected group, which can be challenging to establish in court and can lead to lengthy legal proceedings or acquittals based on insufficient evidence. As David Scheffer observes, intent is

often difficult to prove because state actors may not openly declare their motives, instead disguising them in political rhetoric or security concerns. Revising the definition to incorporate a broader understanding of intent – potentially encompassing recklessness or implied intent – could simplify the legal process and strengthen prosecutions. This would better align legal standards with the realities of how state-led atrocities are planned and executed (Scheffer, 2006).

Additionally, clarifying intent could reduce the politicization of international law by establishing clearer standards that limit interpretative flexibility. When intent requirements are ambiguous, powerful states can argue that certain acts do not meet the threshold for genocide due to insufficient evidence of explicit intent, as seen in the case of the Al-Anfal campaign. By expanding the intent standard to include implied or constructive intent, international law would be better equipped to hold perpetrators accountable for large-scale violence, regardless of whether explicit documentation of intent is available (Scheffer, 2006).

Another weakness in the genocide definition is its reliance on proving "intent to destroy". As Power highlights, proving intent is an inherently difficult task that allows states to claim actions as defensive measures against subversion or insurrection rather than genocidal acts. In the case of Al-Anfal, the Iraqi regime justified its actions as counterinsurgency, using the political alliance between Kurds and Iran as a basis to deny genocidal intent. The requirement to prove intent thus provides states with a shield, allowing them to mask mass killings as actions necessary to national security (Power, 2002; Kaveh, 2014).

The lack of clarity regarding intent in the definition of genocide is a significant flaw that complicates the enforcement of the Genocide Convention and limits its effectiveness in holding perpetrators accountable (Power, 2002). The Convention requires that genocide be committed “with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group” (Genocide Convention, 1948), yet it does not clarify how intent should be determined or proven. This ambiguity creates significant challenges for prosecutors and courts and provides a

loophole for states or individuals accused of genocide to argue that their actions lack the requisite intent (Power, 2002; Schabas, 2009).

The concept of intent was included in the Genocide Convention as a necessary element to distinguish genocide from other forms of mass violence. During the drafting process in the late 1940s, diplomats and legal experts agreed that genocide should not only be defined by the outcome (e.g., mass deaths) but also by the perpetrator's goal to eradicate a group. This emphasis on intent was meant to ensure that genocide would be treated as a crime of the highest gravity, one targeting the very existence of certain groups. However, they did not foresee the complexity of proving such intent in court, especially in cases involving indirect methods of destruction or situations where intent is hidden behind political or military rhetoric (Fein, 1993a; Schabas, 2009).

The ambiguity surrounding intent was partially influenced by the political landscape at the time. Powerful states resisted any language that might allow their own actions or internal policies to be interpreted as genocidal. To avoid potential conflicts, the drafters kept the language vague, leaving the matter of interpreting intent to courts and tribunals. As a result, intent remains one of the most contentious and challenging aspects of genocide prosecution. The drafters did not specify whether intent should be inferred from objective circumstances (e.g., the scale of atrocities) or proven as a subjective state of mind. This lack of clarity has led to varying interpretations in international tribunals, complicating the prosecution of genocide cases (Schabas, 2009).

3.14.3 Scholarly Criticism and Theoretical Perspectives

Legal scholars have extensively criticized the Convention's ambiguity on intent, arguing that it creates unnecessary obstacles to justice. Scholars like William Schabas (2009), Samantha Power (2002), and Helen Fein (1993b) have discussed the challenges of proving intent and suggested reforms to make the Convention more effective.

William Schabas has argued that the intent requirement in genocide cases is overly restrictive, calling for a broader understanding of intent that includes not only explicit statements but also the foreseeable outcomes of policies targeting certain groups. Schabas suggests that actions leading to group destruction should be considered genocidal, even if they are motivated by political or military objectives (Schabas, 2009).

Helen Fein's concept of "implicated victims" highlights how groups often become targets based on perceived political threat rather than inherent identity. Fein argues that the ambiguity around intent allows states to portray mass violence as a political or military necessity, rather than a genocidal campaign, thus avoiding accountability. This perspective underscores the need for a more nuanced understanding of intent in cases of mass violence (Fein, 1993b).

Power, in her work *A Problem from Hell*, advocates for reforming the Genocide Convention to address the ambiguity surrounding intent. She argues that this ambiguity has enabled states to avoid responsibility by claiming that their actions lack genocidal intent, even when the outcomes are clearly destructive. Power calls for a re-evaluation of the Convention's language to ensure that intent can be established more easily in cases of systematic violence (Power, 2002).

3.14.4 The Role of Clearer Definitions in Facilitating International Intervention

Clearer and more inclusive definitions of genocide and politicide could also streamline international responses and intervention efforts. Under current definitions, intervention in cases of mass atrocities is often delayed due to debates over terminology and concerns about state sovereignty. For instance, the lack of a clear label in cases such as Rwanda in 1994 led to significant delays in international intervention. More explicit definitions could preempt such delays, providing a clear legal basis for intervention and reducing the risk of political manipulation (Power, 2002).

Expanding definitions could also help the United Nations and other international organizations implement preventive measures before mass atrocities escalate. This is because early identification and classification of conflicts as genocide or politicide could trigger specific diplomatic and military responses, as well as humanitarian assistance (Power, 2002; Middle East Watch, 1993). As Middle East Watch suggests, early intervention could mitigate the scale of atrocities and potentially prevent full-scale genocide or politicide from occurring. By removing legal and definitional ambiguities, international actors could work with a standardized framework that allows for more immediate responses, thus strengthening the international community's commitment to "Never Again" (Middle East Watch, 1993).

3.14.5 Revisiting Sovereignty and State Responsibility

The principle of state sovereignty remains a fundamental aspect of international relations, but it also complicates efforts to hold states accountable for mass atrocities within their borders. Kuper and Bruinessen both point out that the protection of sovereignty often impedes the enforcement of international law, as states may resist foreign intervention by claiming internal jurisdiction. Redefining genocide and politicide to recognize the international community's responsibility to protect (R2P) populations in cases of mass violence would represent a critical step toward prioritizing human rights over state sovereignty (Bruinessen, 1994; Kuper, 1981).

Moreover, such revisions would encourage states to adopt more proactive approaches in addressing early signs of political or ethnic violence. Scheffer argues that including politicide within the framework of international law would obligate states to take preventive measures against politically motivated mass killings, even if those actions occur within their borders. In this sense, revised definitions would reinforce the principle that sovereignty cannot shield perpetrators from accountability, and that the international community has a duty to intervene in the face of grave human rights violations (Scheffer, 2006).

As highlighted by Bruinessen, the international community's reliance on narrow definitions hinders effective responses to mass violence. Expanding the Genocide Convention to include politically motivated killings, or establishing a separate framework for politicide, could enhance

accountability. By addressing the definitional weaknesses in both genocide and politicide, the international community could more effectively prevent state-led violence against vulnerable populations (Bruinessen, 1994).

The existing definitions of genocide and politicide contain significant weaknesses that allow states to manipulate these terms to serve political interests. The limited scope of the Genocide Convention, coupled with the absence of legal recognition for politicide, leaves room for subjective interpretation, which powerful states exploit to justify inaction or support for allied regimes. The U.S. response to Iraq's Al-Anfal campaign exemplifies how these ambiguities facilitate selective application of human rights standards, ultimately undermining international accountability. Strengthening the legal definitions of genocide and politicide would be an essential step in closing these loopholes, ensuring that political interests do not overshadow the protection of human rights (Harff, 2003, Kuper, 1981; Power, 2002).

Chapter 4: Discussions

4.1 Introduction

This chapter will present critical discussions derived from the analysis, building on prior findings to integrate data and address the core research questions of this thesis.

4.2 Legal and Practical Ambiguities in the Genocide Convention

The terms "genocide" and "politicide" represent critical aspects of international law's approach to state-led violence. "Genocide" coined by Raphael Lemkin in 1944, intended to describe systematic, state-led efforts to annihilate groups defined by their national, ethnic, racial, or religious identities. The Genocide Convention of 1948 formalized genocide as acts committed with the intent to destroy, in whole or part, a national, ethnical, racial, or religious group. However, the definition notably omits politically motivated violence, creating a loophole that states can use to evade accountability for acts aimed at political or ideological groups (Genocide Convention, 1948; Harff, 2003).

The term "politicide" introduced by scholars Harff and Gurr, addresses these omissions by including the targeted elimination of groups perceived as political threats. Harff defines politicide as actions by a government to eliminate a group primarily due to its political stance, regardless of ethnic or racial identity. The gap between genocide and politicide definitions is significant in practice: while genocide is internationally prosecutable, politicide lacks such recognition, effectively enabling states to classify politically motivated violence as outside the scope of genocide (Harff, 2003; Harff & Gurr, 1988).

As previously mentioned, the Genocide Convention's exclusion of political groups reveals a central vulnerability: it creates a loophole that states can use to evade responsibility. The ambiguity around what constitutes "intent to destroy" also allows states considerable flexibility in framing their actions. For example, acts that lead to the destruction of a political or

ideological group can escape scrutiny as "genocide" since the victims are not targeted solely based on national, ethnic, racial, or religious identity (Kuper, 1981).

In the 1988 Al-Anfal campaign, the Iraqi Baath regime targeted Kurdish populations, framing them as insurgents aligned with Iran during the Iraq-Iran conflict. This labeling as insurgents made it possible for Iraq to claim that they were combating political rebellion rather than targeting an ethnic group. Although the campaign included mass killings, forced displacements, and use of chemical weapons, the Iraqi government argued that it was a counter-insurgency operation aimed at a political threat rather than an ethnic group. This allowed Iraq to avoid classification under the Genocide Convention and sidestep international condemnation, highlighting how exclusionary definitions limit the legal reach of international protections (Hiltermann, 2007; Middle East Watch, 1993; Power, 2002).

4.3 The U.S. and the Lack of Recognition of the Al-Anfal Campaign

Data from scholars throughout the thesis indicate that the Iraqi regime committed significant human rights violations against the Kurdish population, including mistreatment, execution, forced displacement, and imprisonment. These violations caused substantial harm to the Kurdish community. However, this does not necessarily mean the attacks specifically targeted the entire Kurdish population in northern Iraq. The conflict escalated when the Kurds allied with Iran during the Iran-Iraq War, leading the Iraqi regime to view them as traitors (Kaveh, 2014; Middle East Watch, 1993).

My analysis reveals that various states interpret the Al-Anfal campaign differently. Even among Western countries with shared values of democracy and human rights, perspectives on Iraq's campaign under the Baath regime diverge (Baser & Toivanen, 2017; UNPO & the Kurdish Regional Government, n.d.). Kaveh (2014) and Power (2002) argue that U.S. involvement in the Iran-Iraq conflict was driven by a desire to counter Iran's revolutionary influence. To this end, the U.S. politically and economically supported Iraq, keeping a political focus aimed at defeating Iran.

The U.S. viewed Iraq as an independent, sovereign state entitled to manage its internal affairs without foreign intervention. When Kurds in northern Iraq cooperated with Iran by allowing Iranian forces to cross into Iraqi territory, this was perceived by the Iraqi regime – and many Iraqis – as betrayal. For the Arab population, northern Iraq was an integral part of the nation, governed by the Iraqi government, and Kurdish cooperation with Iran rendered the Kurds enemies of the Iraqi state. In contrast, many Kurds viewed the northern region as Kurdistan, with a political faction, particularly the PUK and KDP, advocating for Kurdish autonomy and not viewing cooperation with Iran as betrayal (Kaveh, 2014).

To summarize, the literature offers two main interpretations of the U.S. stance. First, the U.S. might have declined to label the campaign as genocide because it considered it a political conflict. Based on Harff's (2003) framework, it is plausible to categorize the campaign as politicide. To the Baath regime, Kurds refusing to leave northern Iraq were insurgents and allies of Iran. Thus, Iraq sought to address what it saw as a political conflict by banning Kurds from the region rather than aiming to eliminate an ethnic group (Kaveh, 2014).

From this view, the conflict was politically motivated, with the Kurds cooperating with Iran in a bid for independence from Iraq. This political motivation underpins the conflict, with the Iraqi military targeting the northern region, where the alliance with Iran had taken root. As the regime depended on the northern area for resources like oil and access to a crucial highway facilitating trade with Turkey, the Iraqi government feared that Kurdish-Iranian cooperation would destabilize its control. This concern drove the regime's strategy to expel the Kurds, secure the region, and protect its borders (Kaveh, 2014; Saeedpour, 1992).

Moreover, combating the Peshmerga and Kurdish forces allied with Iran was challenging, as they operated within Kurdish civilian communities. Thus, the regime's strategy was to instill fear within the Kurdish population, forcing them to relocate to cities or camps along highways where the government could more easily control and isolate insurgent elements. However, this plan was not entirely effective, as many civilians were unwilling to leave their homes. The regime's failure to differentiate between insurgents and non-combatant civilians underscores its

negligence. Targeting entire areas indiscriminately, including the use of chemical weapons, reflects a reckless disregard for civilian lives. This shows a clear violation of human rights, impacting civilians who were displaced, interrogated, executed, or poisoned, as well as those who remained and suffered chemical attacks (Kaveh, 2014; Middle East Watch, 1993).

Secondly, the U.S. decision not to recognize Al-Anfal as a “genocide” appears to have been a calculated choice aimed at preserving its alliance with Iraq. Labeling it as genocide would have necessitated sanctions against Iraq, which would risk undermining U.S.-Iraq relations and potentially weakening the Iraqi regime – an outcome that could enable an Iranian victory, counter to U.S. strategic interests. Supporting Iraq, therefore, aligned with U.S. objectives, and without a strong international consensus on designating the campaign as genocide, the U.S. had the latitude to reject such recognition (Hiltermann, 2007; Kaveh, 2014; Power, 2002).

In response to perceived Kurdish collaboration with Iran, the Iraqi regime pursued Arabization strategies in the northern region, displacing Kurds into cities and controlled zones to prevent alliances with Iran. Their attacks primarily targeted villages tied to Kurdish tribes suspected of collaborating with Iran, rather than indiscriminately targeting all Kurds. Had the campaign aimed to eradicate the entire Kurdish population, it would more clearly align with the definition of genocide; however, only those considered “traitors” were targeted, while others were relocated further south. Notably, many Kurds actively served within the Iraqi government and military, participating in operations against those regarded as collaborators. This supports the view that the campaign was focused on punishing perceived betrayal rather than annihilating an ethnic group in whole or part (Harff, 2003; Kaveh, 2014).

Although the regime warned civilians to avoid specific northern areas, their use of chemical weapons demonstrated extreme recklessness, resulting in substantial civilian casualties. These actions constitute a grave crime against Iraqi citizens, but do not, under the Genocide Convention’s criteria, clearly qualify as genocide (Hiltermann, 1994; Kaveh, 2014).

The limited scope of targeting – focusing on those Kurds seen as allies of Iran, rather than all Kurds – complicates classification of the campaign as genocide. Many Kurds continued to work within the government or military, while others willingly relocated to other cities. The U.S., prioritizing opposition to the Iranian revolution, found in Iraq a strategic ally with a shared interest in countering Iran. This diplomatic alignment led the U.S. to provide Iraq with credits for resource purchases, and Kurds' resistance to Iraq's strategic goals ultimately became an obstacle. From the outset, the U.S. perspective on Al-Anfal was grounded in political considerations, seeing the campaign as a politically motivated operation. This perspective significantly influenced the U.S. decision to reject classifying the campaign as genocide (Kaveh, 2014; Power, 2002).

Kaveh (2014) further argues that classifying the Al-Anfal campaign as genocide is challenging, as the Iraqi regime viewed northern Kurds as insurgents. The campaign targeted Kurds who remained in northern Iraq, without targeting the broader Kurdish population throughout the country, which aligns with the U.S. view of Al-Anfal as a politicide. In contrast, Kurds contend that the conflict should be recognized as genocide, as Saddam Hussein's actions specifically targeted a group within the Kurdish population, meeting one of the Genocide Convention's criteria. They also argue that the regime's use of chemical weapons to kill and intimidate represents a crime against humanity, emphasizing that justice will not be served until those responsible are held accountable (Middle East Watch, 1993; UNPO & the Kurdish Regional Government, n.d.).

4.4 A Weak Definition?

Since Western states were not directly involved in the Iraq-Iran conflict under Saddam Hussein's regime, their perspectives on the situation differed from that of the United States. Viewing the conflict through a lens focused on citizen welfare, justice, and democratization, many European countries agreed to recognize the campaign as genocide. This stance was not solely intended to address Kurdish grievances but also to uphold human rights and reinforce the credibility of the international community. Divergent views exist on the Baath regime's actions and whether they targeted Kurds as an ethnic group. Several factors suggest the campaign may have been a

politicide rather than a genocide, influencing the U.S. to avoid labeling it as such. The U.S. position was shaped significantly by its strategic involvement in supporting Iraq to counter Iran, backing Iraq diplomatically to limit international intervention and allow Iraq to operate without impediments (Baser & Toivanen, 2017; UNPO & the Kurdish Regional Government, n.d.).

Conversely, countries like Norway rely on evidence from non-governmental organizations, which document human rights abuses by the Iraqi regime, including chemical attacks that killed Kurdish civilians uninvolved in the conflict. Due to varied interpretations of "genocide", states apply the term differently, leading to international discord. Although the Genocide Convention outlines specific violations, categorizing each conflict – especially those politically rather than ethnically motivated – remains challenging. Given the scale of Iraqi regime actions that resulted in substantial Kurdish casualties, Norway considers these events genocidal against the Kurdish population (Baser & Toivanen, 2017; Kaveh, 2014; Middle East Watch, 1993).

The Genocide Convention's limited definition is noteworthy, as it allows states flexibility in interpretation. Kaveh (2014) also highlights this limitation, explaining how states classify conflicts based on subjective perspectives. The debate over Al-Anfal illustrates the difficulty in categorizing it definitively as genocide or politicide, raising questions about whether a clearer definition in the convention could foster a consistent international standard for identifying and classifying conflicts under the Genocide Convention.

4.5 Implications of Definitional Weaknesses in International Law

The terms “genocide” and “politicide” form the basis for understanding crimes of large-scale, state-led violence, yet they lack precise and universally accepted definitions. The term «genocide» came into use with the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (1948) to classify acts that target specific groups. However, the Genocide Convention's omission of politically-defined groups creates a gap that “politicide” – though present in academic discourse – has yet to fill in international law. Politicide refers to the targeted killing of groups based on political opposition rather than immutable characteristics like ethnicity or religion. The ambiguous application of these terms

has permitted states to manipulate definitions for political ends, limiting justice and accountability (Harff, 2003; Harff & Gurr, 1988; Kaveh, 2014).

The ambiguity surrounding intent weakens the preventive power of the Genocide Convention. If intent cannot be easily proven, states may feel emboldened to engage in acts of mass violence without fear of international intervention. Moreover, this ambiguity often leads to delays in recognizing genocide, as states hesitate to intervene in conflicts where genocidal intent is unclear. In cases like Darfur, the ambiguity in proving intent contributed to international reluctance to label the violence as genocide. By the time intent could be sufficiently established, a significant number of lives had already been lost. This hesitation shows how the ambiguity surrounding intent weakens the Convention's preventive role (Rieff, 2003; Schabas, 2009; Scheffer, 2006; Shaw, 2015).

The weaknesses in the definitions of genocide and politicide have significant implications for international law and human rights. When states manipulate these definitions, they undermine the enforcement of international justice and contribute to a culture of impunity (Fein, 1993a; Harff & Gurr, 1988; Power, 2002). As Kaveh (2014) argues, the politicization of these terms enables regimes to carry out large-scale violence while circumventing accountability under the guise of maintaining political order. The failure to adequately address politicide in international law further compounds this issue, leaving political dissidents and minority groups vulnerable to unchecked state violence (Harff, 2003; Kuper, 1981).

As highlighted in the analysis, the ambiguities and definitional limitations in international law regarding terms like "genocide" and "politicide" have profound implications for the enforcement of justice, accountability, and the prevention of mass atrocities. When international law lacks precise definitions, states gain latitude in interpreting or disregarding these terms, often using this flexibility to serve their strategic interests rather than uphold universal human rights principles (Kaveh, 2014; Rieff, 2003). This chapter explores how these definitional weaknesses in international law affect justice, state sovereignty, and the effectiveness of humanitarian intervention, focusing on implications for accountability, the protection of

vulnerable populations, and the international community's ability to respond effectively to crises.

A fundamental purpose of international law is to ensure accountability and prevent impunity for grave human rights violations. However, the ambiguity in defining genocide and politicide undercuts efforts to bring perpetrators to justice. The Genocide Convention (1948) obligates signatory states to prevent and punish genocide, yet the application of this responsibility becomes difficult when states interpret terms selectively. This limitation has been evident in multiple cases, where powerful states either obstruct investigations or delay recognizing crimes as genocide to protect political alliances or interests (Power, 2002). For instance, in the U.S. handling of the Al-Anfal campaign, where political interest shaped non-recognition, the lack of formal genocide designation delayed and obstructed justice for the Kurdish victims (Kaveh, 2014).

The lack of clarity in legal definitions weakens international tribunals, like the International Criminal Court (ICC), by creating loopholes that defendants can exploit. In cases such as the Rwandan Genocide or the Bosnian Genocide, establishing intent became a central issue, leading to delays and sometimes limiting the scope of convictions (Schabas, 2009; Scheffer, 2006).

Definitional weaknesses also bolster state sovereignty claims, allowing countries to avoid external scrutiny of their domestic policies. In cases where a state engages in politicide – targeting political or ideological opponents rather than an ethnic or national group – the lack of an explicit international framework criminalizing politicide enables these actions to be framed as internal conflicts, which fall outside the scope of international intervention (Harff, 2003). This creates a legal and moral paradox: the international community is often constrained in intervening in politicide cases unless they qualify as genocide, which weakens the doctrine of “Responsibility to Protect” (R2P) and diminishes protections for political groups targeted by their own governments (Bellamy, 2009; Evans, 2008; Kuper, 1981).

4.6 The Language of Genocide in the Genocide Convention

The Genocide Convention, formally the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), was the first international treaty that addressed genocide as a distinct crime. However, several ambiguities arise from its language, particularly in Article 2, which define genocidal acts and outline punishable offenses. For instance, Article 2's phrase, "intent to destroy, in whole or in part, a national, ethnical, racial or religious group" (Genocide Convention, 1948) contains terms that have remained under dispute.

The term "intent" in the Genocide Convention implies a specific mental state that is difficult to prove, especially when the evidence primarily involves circumstantial actions rather than direct orders. Unlike other crimes, where intent can be inferred from conduct alone, genocide requires a clear intent to destroy a group as such. This requirement, often referred to as "specific intent," means prosecutors must demonstrate that the perpetrators acted with the explicit aim of destroying the group. Many argue that this standard sets an unreasonably high burden of proof, creating legal room for states or individuals to deny genocidal motives by attributing actions to other political or military goals (Fein, 1993a; Harff & Gurr, 1988; Power, 2002).

The term "politicide," though conceptually similar to genocide, has no formal legal recognition under the Genocide Convention or other major international treaties. Politicide typically refers to the systematic killing of individuals due to their political beliefs or affiliations, rather than their membership in a specific ethnic, racial, national, or religious group. This lack of legal acknowledgment creates a gap in accountability, as those who commit mass killings targeting political groups can avoid genocide charges. Political motives are frequently used as justifications for violent acts, often complicating the issue further by framing the violence as a necessary act of state defense (Harff, 2003; Power, 2002).

One of the most critical ambiguities is the exclusion of political groups from the protected categories in the Genocide Convention. The drafters of the Convention chose to omit political groups, fearing that such inclusion could be used to accuse governments of genocide against

political opponents during civil conflicts. However, this exclusion has allowed oppressive regimes to target political groups without the risk of facing genocide charges, even when such acts are genocidal in scope (Fein, 1993b; Schabas, 2009). For instance, Harff (2003) argues that politicide poses a risk similar to genocide, yet the lack of clear legal language leaves many such atrocities unpunished in international courts.

Ambiguous legal language allows for flexible interpretations that states often exploit for political gain. In cases of genocide and politicide, states with economic or political interests in the accused country might avoid labeling the violence as genocide to maintain diplomatic relationships or prevent military intervention. Conversely, countries with adversarial interests may interpret actions as genocidal to justify intervention. The U.S. stance on the Al-Anfal campaign, for example, exemplifies how state interests shape the interpretation of ambiguous terms. By avoiding the term "genocide," the U.S. was able to continue its support of Iraq during the conflict with Iran (Hiltermann, 2007; Kaveh, 2014; Rieff, 2003).

As discussed, the lack of clarity in defining intent within the Genocide Convention remains a significant barrier to justice and accountability. This ambiguity not only complicates the prosecution of genocide cases but also weakens the Convention's preventive power. Without clearer guidelines on what constitutes intent, states can exploit this ambiguity to avoid accountability for acts of mass violence. Addressing this weakness through legal reform would strengthen the Genocide Convention, providing a more robust framework for protecting vulnerable groups and promoting international justice (Scheffer, 2006; Schabas, 2009).

4.7 Limited Scope of Protected Groups

One primary critique of the Genocide Convention is its limited scope, as it excludes groups targeted for political reasons. Scholars like Harff argue that political groups, often targeted for their resistance to state ideologies, are no less vulnerable to systematic violence than ethnic or religious groups (Harff, 2003). This exclusion means that politically motivated mass killings,

such as those in Al-Anfal, are excluded from genocide classifications, even when targeting a specific ethnic group with political motivations (Harff, 2003; Power, 2002).

To examine the limited scope of protected groups within the Genocide Convention in depth, we must analyze the historical reasons behind the Convention's narrow focus, the practical limitations it imposes on legal accountability, and its implications for international law. By limiting protections to specific types of groups, the Genocide Convention allows states to target unprotected groups with impunity, enabling politically motivated acts of mass violence to evade international prosecution. This limitation has critical consequences for human rights enforcement and weakens the deterrent power of international law (Kuper, 1981; Rieff, 2003).

The Genocide Convention (1948) defines genocide as acts committed with intent to destroy, in whole or in part, groups identified by national, ethnic, racial, or religious characteristics. This selection of groups reflects post-World War II political sensitivities and the specific historical context in which the Convention was developed (Fein, 1993b; Schabas, 2009). However, this narrow scope excludes political, social, and economic groups, leaving individuals targeted for political or ideological reasons unprotected under international law (Kuper, 1981). Scholars like Fein (1993a) and Harff (2003) argue that the exclusion of political and social groups reflects the reluctance of states to fully commit to human rights protections, as doing so could constrain their sovereignty in cases involving internal political conflicts.

By focusing on specific types of groups, the Genocide Convention has allowed states to selectively enforce genocide laws, often driven by political interests rather than humanitarian considerations. Labeling a conflict as genocide brings international attention and potential intervention, yet states often avoid using this term to describe violence against political or ideological groups (Rieff, 2003). For instance, in the case of the Darfur conflict, the U.S. labeled the violence as genocide partly because it involved racial and ethnic targeting. Conversely, politically motivated violence, such as Iraq's Al-Anfal campaign, was not labeled genocide by many states due to its association with political insurgency. The selective use of genocide recognition illustrates how states apply the term to suit their political agendas rather than as an

adherence to consistent standards and an objective response to human rights violations (Power, 2002; Rieff, 2003).

4.8 Politicide as an Overlooked Category

The ambiguities in the legal language surrounding the definitions of genocide and politicide are a crucial concern in international law, often resulting in inconsistent interpretations and applications that can serve the strategic interests of states. This issue is particularly evident within the Genocide Convention and related legal frameworks, where vague terminology and the lack of universally accepted definitions create room for selective enforcement (Scheffer, 2006).

While genocide has an established legal definition, politicide remains largely unrecognized in international law. This absence allows states to dismiss politically motivated mass killings as "internal matters". As Kuper (1981) notes, politicide often reflects efforts to maintain regime stability by targeting groups based on their perceived political threat rather than their ethnic identity. Iraq's Al-Anfal campaign provides an example where the Baath regime targeted Kurdish areas for their cooperation with Iran, labeling Kurds as political threats rather than as an ethnic group to be eradicated (Kaveh, 2014).

Without legal recognition, politicide provides a grey area that regimes exploit to evade accusations of human rights violations. As Harff (2003) suggests, the absence of an international definition for politicide results in a gap within global human rights protections, leaving many populations vulnerable to state-led violence justified as political security measures.

Politicide as a category is often overlooked in international law and policy discussions, despite its clear relevance in cases of mass violence aimed at specific political or ideological groups. While genocide has been defined and codified, politicide lacks formal recognition in international law, which creates significant gaps in both accountability and justice (Harff &

Gurr, 1988). This section examines how the absence of politicide from legal frameworks limits the international community's capacity to respond to politically motivated mass killings.

Politicide refers to the targeted killing or repression of individuals based on their political beliefs, affiliations, or perceived threats to a ruling power. Harff, one of the leading scholars in this area, defines politicide as the eradication of a group's civil and political rights, frequently culminating in the physical elimination of its members due to their perceived threat to political authority. The key difference between genocide and politicide is the motivation behind the acts: while genocide targets groups based on ethnicity, nationality, religion, or race, politicide targets groups for their political identity or ideological stance (Harff, 2003).

Harff's definition is critical because it frames politicide as a distinct form of systematic violence that, unlike genocide, is motivated by political concerns rather than ethnic or religious prejudice. Despite its significance, politicide is notably absent from the Genocide Convention and most international human rights treaties. This absence leaves the international community ill-equipped to respond to violence aimed at political groups, as most frameworks primarily focus on genocide, war crimes, and crimes against humanity, which do not adequately cover the specific dynamics of politically motivated killings (Harff, 2003).

The exclusion of politicide from the Genocide Convention's protected groups has led to a notable gap in legal mechanisms for prosecuting politically motivated mass killings. The Genocide Convention was designed with a narrow focus on ethnic, national, racial, and religious groups, largely due to concerns over the political ramifications of including political groups. During the drafting process, the Soviet Union, in particular, opposed the inclusion of political groups, arguing that it would interfere with a state's right to suppress internal dissent. This political compromise led to a convention that leaves out politically motivated violence, effectively exempting regimes from accountability when they target groups based on ideology or political affiliation (Kuper, 1981; Schabas, 2009).

This gap in legal frameworks allows regimes to carry out politicide without fear of being prosecuted for genocide. For example, under international law, mass killings of political opponents, intellectuals, or activists do not meet the legal criteria for genocide, even if the violence is systematic and extensive. This oversight has enabled numerous states to conduct large-scale political repression, knowing that international law has limited means to address their actions (Harff, 2003; Scheffer, 2006).

4.9 The Consequences of Ignoring Politicide

The failure to formally recognize politicide in international law has far-reaching consequences. Because politicide lacks legal recognition, regimes that engage in political repression and mass killings can avoid being held accountable under genocide statutes. This impunity is a severe hindrance to justice, as victims of political violence are often left without recourse, and perpetrators may remain in power unchallenged (Harff, 2003; Power, 2002).

International mechanisms, such as the International Criminal Court (ICC), are limited in their ability to intervene in cases of politicide. The ICC's mandate to prosecute crimes of genocide does not cover politicide, which leaves the court without jurisdiction in many cases of politically motivated violence. This gap in enforcement allows politically motivated mass killings to continue without international intervention or accountability (Callahan, 1997; Schabas, 2009; Scheffer, 2006).

Based on this, it could be argued that ignoring politicide sends a message that politically motivated killings are less severe than ethnically motivated ones. This creates a hierarchy of suffering that undermines the universality of human rights, suggesting that political affiliation is not as significant as ethnic identity in protecting individuals from mass violence. Without clear frameworks for politicide, international actors have greater latitude to selectively intervene in conflicts based on strategic interests. For example, if violence targets a political group that opposes a regime allied with powerful states, international actors may choose not to intervene, citing the lack of genocide as a rationale (Harff, 2003; Kuper, 1981).

The lack of recognition for politicide allows states to use politically motivated violence while avoiding international consequences. This manipulation is evident in cases where governments frame mass violence as necessary state security measures rather than acts of genocide. By framing actions as a response to political threats, states avoid triggering genocide conventions and related international responsibilities. For example, during the Al-Anfal campaign, Iraq targeted Kurdish groups, some of which were politically aligned with Iran. By labeling them as political insurgents, Iraq minimized international condemnation under the guise of internal political stability. The United States, with its interests in opposing Iran, similarly avoided labeling these actions as genocide to maintain its political alliances (Kaveh, 2014; Middle East Watch, 1993; Power, 2002).

There is an increasing call among scholars and human rights advocates to include politicide in international legal frameworks. Expanding the Genocide Convention to cover politically motivated mass killings would address the current gap in protections and provide a clearer basis for intervention in cases of politicide. Scholars such as Harff, argue that politicide should be formally acknowledged to ensure that all forms of targeted violence are treated with equal severity (Harff, 2003). The recognition of politicide as a distinct category would close loopholes in international law and strengthen the ability of international bodies to respond to mass violence (Scheffer, 2006). It would also prevent states from using political motivations as a defense against charges of genocide, thus reinforcing the accountability of regimes that commit such acts (Kuper, 1981).

The U.S. response to Al-Anfal highlights how the ambiguity in genocide and politicide definitions allows states to shape their interpretations to align with their political interests. During the Al-Anfal campaign, the U.S. focused on its broader strategic goal of containing Iran, disregarding evidence of genocide against the Kurds. According to Hiltermann, the U.S. prioritized diplomatic ties with Iraq, viewing the Baath regime as a crucial ally against Iranian expansion. By framing Al-Anfal as a politicide, the U.S. could justify its support for Iraq without violating international norms regarding genocide (Hiltermann, 2007; Power, 2002).

The U.S. decision to avoid labeling the campaign as genocide has had significant implications for international law. By setting a precedent for selective recognition of genocide, the U.S. introduced a model whereby states interpret international law through a political lens, weakening the Genocide Convention's authority (Power, 2002). The case underscores the limitations of the Convention's narrow definition, which excludes groups that fall outside of ethnic or racial categories, thereby facilitating justifications for states to overlook or minimize politically motivated mass violence. In the case of Al-Anfal, the Iraqi government portrayed its actions as a political necessity to quell dissent, which allowed the U.S. to frame the campaign as political repression rather than genocide. This response underscores the need for an expanded or amended genocide framework to cover politically motivated violence and prevent selective interpretation (Harff, 2003; Kaveh, 2014).

The ethical and humanitarian consequences of the U.S. decision were profound. The U.S.'s reluctance to classify the events as genocide contributed to the lack of timely intervention, enabling the Iraqi government to continue its campaign without consequence. This passivity led to thousands of additional deaths and the widespread displacement of Kurdish communities. Furthermore, the refusal to acknowledge the atrocities as genocide affected Kurdish perceptions of justice and recognition. Denying genocide not only dismisses the group's collective trauma but also marginalizes Kurdish narratives, exacerbating distrust between Kurds and both the Iraqi state and U.S. government (Power, 2002).

By setting a dangerous precedent, the U.S. response to Al-Anfal has likely emboldened other regimes to engage in politically motivated violence without fear of international accountability. Based on the analysis presented in Chapter 3, it is reasonable to contend that the U.S. response to the Al-Anfal campaign may have indirectly encouraged other regimes to perpetrate politically motivated violence with reduced concern for international accountability (Power, 2002).

With the narrow scope of the Genocide Convention allowing states to evade legal consequences, scholars such as Harff, argue that the term "genocide" must evolve to encompass

politically motivated mass violence. Including political groups explicitly would prevent governments from framing their actions in ways that shield them from genocide accusations (Harff, 2003).

This case highlights the urgent need for reform in international law. Harff advocate for an expanded definition of genocide or the establishment of a new legal category for “politicide,” ensuring that politically motivated violence receives equal condemnation and accountability as genocide. Without these reforms, loopholes in international law will continue to allow powerful nations to selectively interpret and apply standards, evading responsibility in situations like the U.S. response to Al-Anfal (Harff, 2003).

The U.S. failure to label the Al-Anfal campaign as genocide exemplifies how states manipulate ambiguous legal definitions to serve their interests, avoiding accountability while preserving strategic alliances. This not only undermines the integrity of international law but signals to other regimes that they may similarly disregard human rights without facing international repercussions. An expanded framework that encompasses political violence would prevent states from bypassing accountability and strengthen international protections against mass violence (Power, 2002; Scheffer, 2006).

The U.S. approach illustrates how states prioritize strategic alliances over ethical considerations when defining conflicts. Despite reports from organizations like Middle East Watch, which documented systematic killings and destruction of Kurdish villages, the U.S. characterized the violence as a response to Kurdish political alignment with Iran, thus downplaying genocidal elements (Kaveh, 2014; Middle East Watch, 1993). This stance underscores how political interests influence the application of genocide and politicide definitions (Rieff, 2003).

In discussing the role of political interests in defining conflict, a nuanced look at the ways political interests influence the classification of conflicts is essential for understanding inconsistencies in how international actors respond to cases of large-scale violence. In this

section we have seen how states, especially those with significant geopolitical influence, apply labels such as "genocide" or "politicide" selectively, depending on how the classification aligns with their political or economic objectives. This will be examined in greater depth in the following section.

4.10 Influence of Political Interests on Conflict Definitions

The classification of a conflict as genocide or politicide carries profound implications in international law, as it often obligates states to intervene or take certain actions under the Genocide Convention and other legal frameworks. However, because of the high stakes, states often prioritize political interests over objective classifications when deciding whether to apply these labels. As such, even in situations where violence meets the technical criteria for genocide, the term may be avoided or downplayed if the responsible state holds strategic importance (Kaveh, 2014; Power, 2002).

A central example of political interests at play is the U.S. reluctance to recognize the Al-Anfal campaign in Iraq as genocide. Throughout the 1980s, the U.S. was involved in efforts to curb Iran's regional influence, viewing Iraq as a valuable counterbalance to Iranian power. Despite evidence of systematic attacks against Kurdish populations by Saddam Hussein's regime, which would seem to satisfy genocide criteria, the U.S. did not label these actions as such (Kaveh, 2014; Middle East Watch, 1993; Power, 2002). Power (2002) notes that U.S. officials often sought ways to avoid categorizing the violence in ways that might necessitate a stronger response, especially since labeling it as genocide would risk imposing sanctions and ending cooperation with Iraq.

The role of political interests in defining conflict highlights limitations within international law, especially when dealing with state-led violence. The Genocide Convention, for example, provides guidelines that should, in theory, compel action against genocide. Yet, when states wield political influence, these obligations can be circumvented, as seen with the U.S. support for Iraq in the 1980s (Power, 2002). Scholars like Harff (2003) and Fein (1993b) argue that the

selective application of genocide and politicide definitions undermines the Convention's intent, creating a framework where accountability becomes secondary to political expediency.

The U.S. engagement in Iraq offers a stark example of how interests can overshadow moral and legal obligations. As documented by Middle East Watch, while there was clear evidence of targeted mass violence against Kurds, the U.S. prioritized its anti-Iranian policy. Instead of pushing for accountability, it continued military and economic support for Iraq, helping shield it from international condemnation and intervention (Middle East Watch, 1993).

The ability of political interests to shape conflict definitions weakens the authority of international law, allowing powerful states to evade accountability. For smaller or less influential countries, however, accusations of genocide or politicide may bring swift international sanctions and intervention, further illustrating an inconsistency rooted in global power dynamics. The use of politicide as a less specific term, which focuses on politically motivated mass killings rather than ethnic or national identities, has made it easier for states to justify inaction, as seen in the U.S. stance on Al-Anfal (Harff, 2003; Power, 2002; Scheffer, 2006).

This selective enforcement not only diminishes the credibility of international law but also sets a dangerous precedent where states may expect impunity if they possess enough geopolitical leverage. In response, scholars such as Kuper and Power advocate for a more universally applied and enforceable genocide definition, where political considerations do not determine legal accountability. Without such reforms, the risk remains that definitions of mass violence will continue to serve political interests over justice and human rights (Kuper, 1981; Power, 2002).

In conclusion, the selective application of genocide and politicide definitions in response to political interests undermines international efforts to prevent and address mass violence. While international law aims to provide a basis for accountability, the influence of state interests

means that responses to mass violence remain inconsistent. The U.S. non-recognition of the Al-Anfal campaign as genocide exemplifies this challenge, illustrating how political priorities can ultimately take precedence over moral and legal obligations. For a robust international legal framework, addressing these biases is essential to ensure that responses to genocide and politicide remain consistent, impartial, and focused on preventing future atrocities (Power, 2002).

4.11 Inhibiting the Development of International Norms

Definitional limitations not only affect current responses to crises but also hinder the long-term development of international norms and legal standards. The inability to establish clear, universally accepted definitions of genocide and politicide leaves these terms open to reinterpretation with each conflict. This dynamic prevents the establishment of legal precedents that would standardize responses to mass atrocities, contributing to inconsistent application of international laws and eroding the foundation for future intervention (Kuper, 1981).

Drawing on the analysis presented in Chapter 3, as well as the prior discussions in Chapter 4, it can be argued that this lack of standardization also could prevent the international community from forming a coherent, coordinated response to new crises. In cases where the international community cannot agree on a legal framework, conflicting definitions of targeted violence result in fragmented and ineffective intervention strategies. This undermines both the authority of international institutions and the willingness of states to participate in multilateral responses, leaving room for unilateral actions that may lack legitimacy or effectiveness (Power, 2002).

The vagueness of genocide and politicide definitions creates opportunities for political actors to manipulate human rights discourse for their own purposes. According to Power, states have been known to selectively label conflicts as genocide or politicide depending on their strategic interests, using human rights language to justify intervention or avoid responsibility. For instance, while the U.S. and its allies have intervened in cases they recognize as genocide, such as Kosovo, they have downplayed similar atrocities in regions with less strategic value, like Darfur, where official recognition was slow and limited (Power, 2002).

The ambiguity in defining genocide and politicide further reduces the effectiveness of international organizations tasked with monitoring and intervening in crises. Organizations like the United Nations and the ICC rely on consistent legal definitions to execute their mandates; when these definitions are fluid, it compromises their ability to act decisively. The UN's struggle to intervene in the Rwandan Genocide is a stark example of how political interests and definitional ambiguities hindered action, with catastrophic consequences for the Tutsi population (Hiltermann, 2007; Power, 2002).

Ultimately, this dissertation asserts that the definitional weaknesses of genocide and politicide undermine the advancement of universal human rights, as they prevent the consistent application of international legal standards across different contexts. When powerful states selectively interpret these terms, it reflects a hierarchy of human rights, where the rights of some groups are prioritized over others based on political interests rather than shared principles of human dignity and justice. This selective application erodes the universality of human rights and discourages states from fully committing to international human rights treaties, reducing their overall effectiveness.

The inconsistency in responses to different crises also undermines the moral authority of international human rights advocates. When the international community fails to act uniformly, as it did in the cases of Bosnia and Darfur, it sends a message that human rights protections are contingent upon political considerations, not on the fundamental principles of international law. This erosion of moral authority reduces the efficacy of international advocacy efforts, making it easier for states to ignore or dismiss calls for accountability in future conflicts (Rieff, 2003; Power, 2002).

5 Conclusion

5.1 The Al-Anfal Campaign

This thesis aims to compile relevant sources to explore why the United States did not recognize Al-Anfal as genocide. Many countries differ on whether the Kurds' treatment under the Baath regime meets this classification. Analysis of the data suggests that one primary reason for the U.S. stance was its involvement in the conflict, as its priority was to counter the Iranian revolution, necessitating support for Saddam Hussein and the Baath regime. The U.S. saw a strategic imperative in bolstering the Baath regime to prevent an Iranian victory, perceiving Iran as a greater threat than Iraq. Economic support in the form of industrial credit further demonstrated the strong alliance that developed between the U.S. and Saddam Hussein.

The Baath regime exploited this alliance, recognizing the U.S. reliance on Iraq to counterbalance Iran, and thus used its position to shield itself from international scrutiny while retaliating against Kurds who were aiding Iran's incursions. Research indicates that Iraqi military actions primarily targeted Kurds involved with or supporting Iran rather than the entire Kurdish population, suggesting the campaign was a politically motivated conflict rather than an ethnically driven genocide. This perspective aligns with the American view, classifying the conflict as politicide rather than genocide.

The ambiguous language of the Genocide Convention further complicates uniform interpretation, leading to diverse perspectives across states. Future research could benefit from a deeper examination of how terms like "genocide" and "politicide" are interpreted and applied by various nations.

5.2 The Need for Updated Definitions and Standards

The definitional weaknesses surrounding genocide and politicide carry far-reaching implications for international law, state behavior, and the protection of vulnerable populations.

These ambiguities allow states to selectively interpret human rights obligations, often prioritizing national interests over international responsibilities. Consequently, the lack of clear, enforceable definitions hinders accountability, weakens the protective function of international law, and compromises the advancement of universal human rights. Addressing these weaknesses requires a concerted effort to establish more precise legal definitions and ensure that international laws are applied consistently, free from political manipulation, to uphold the principles of justice and human dignity.

The weaknesses in the definitions underscore the need for an updated and expanded framework. A revision of the Genocide Convention to include protections for political groups and clarify the distinction between genocide and politicide would significantly strengthen international law's deterrent effect. Based on the findings from the analysis and discussions, I present the following recommendations:

Recommendation 1: Revising the Genocide Convention

Expanding the Genocide Convention to include politically motivated violence would close the legal gap, ensuring that states cannot evade accountability by reclassifying violence as politicide.

Recommendation 2: Enhanced ICC Jurisdiction

Granting the ICC jurisdiction over politicide would create an enforceable mechanism to prosecute state-led violence against political groups.

Recommendation 3: Strengthened UN Enforcement

Reforms to reduce the influence of political interests within the UN, particularly the Security Council, would improve timely responses to emerging crises.

Expanding the Genocide Convention's scope to include politically motivated violence would close critical gaps, preventing states from exploiting definitional ambiguities. By addressing these weaknesses, international law could create a more comprehensive framework that holds states accountable for all forms of mass violence, ultimately enhancing the Genocide Convention's deterrent effect and its role in promoting global justice.

Sources

Abid, I. K. (2019). *The Al-Anfal Campaign; Genocide or Politicide? A literature study about the basis for the US standpoint towards the Al-Anfal campaign* [Master's thesis]. UiT The Arctic University of Norway.

Baser, B. & Toivanen, M. (2017). The politics of genocide recognition: Kurdish nation-building and commemoration in the post-Saddam era. *Journal of Genocide Research*, 19(3), 404-426. <https://doi.org/10.1080/14623528.2017.1338644>

Bellamy, A. J. (2009). *Responsibility to Protect: The Global Effort to End Mass Atrocities*. Polity Press.

Bellamy, A. J. (2010). The Responsibility to Protect—Five Years On. *Ethics & International Affairs*, 24(2), 143–169.

Booth, W. C., Colomb, G. G., Williams, J. M., Bizup, J & Fitzgerald, W. T. (2016). *The Craft of Research* (4th Edition). University of Chicago Press.

Bruinessen, M. V. (1992). *Agha, Shaikh and State: The Social and Political Structures of Kurdistan*. Zed Books.

Bruinessen, M. V. (1994). Genocide in Kurdistan?: The Suppression of the Dersim Rebellion in Turkey (1937-38) and the Chemical War Against the Iraqi Kurds (1988). In G. J. Andreopoulos (Ed.), *Genocide: Conceptual and Historical Dimensions* (pp. 141-170). University of Pennsylvania Press.

Bryman, A. (2012). *Social Research Methods* (4th Edition). Oxford University Press.

Callahan, D. (1997). *Unwinnable Wars: American Power and Ethnic Conflict*. Hill and Wang.

Cooper, J. (2008). *Raphael Lemkin and the Struggle for the Genocide Convention*. Palgrave Macmillan.

Dalland, O. & Trygstad, H. (2012). Kilder og kildekritikk. In O. Dalland (Ed.), *Metode og oppgaveskriving for studenter* (5th Edition, pp. 63-81). Gyldendal Akademisk.

Evans, G. (2008). *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*. Brookings Institution Press.

Fein, H. (1993a). Accounting for Genocide After 1945: Theories and Some Findings. *International Journal on Group Rights*, 1(2), 79-106.

Fein, H. (1993b). *Genocide: A Sociological Perspective*. SAGE Publications.

Genocide Convention. (1948). *The UNs Convention on the Prevention and Punishment of the Crime of Genocide: Adopted by the United Nations on 9 December 1948*. Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx>

Harff, B. (2003). No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955. *The American Political Science Review*, 97(1), 57-73. <https://doi.org/10.1017/S0003055403000522>

Harff, B., & Gurr, T. R. (1988). Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945. *International Studies Quarterly*, 32(3), 359-371.

Hart, C. (1998). *Doing a Literature Review: Releasing the Social Science Research Imagination*. Sage Publications.

Hart, C. (2018). *Doing a Literature Review: Releasing the Research Imagination* (2nd Edition). Sage Publications.

Hiltermann, J. R. (1994). *Bureaucracy of Repression: The Iraqi Government in Its Own Words*. Human Rights Watch.

Hiltermann, J. R. (2007). *A Poisonous Affair: America, Iraq, and the Gassing of Halabja*. Cambridge University Press.

Hiltermann, J. R. (2008). The 1988 Anfal Campaign in Iraqi Kurdistan. In J. Semelin (Ed.), *Online Encyclopedia of Mass Violence*. Retrieved from:
<http://faculty.washington.edu/goldberg/The-1988-Anfal-Campaign-in-Iraqi-Kurdistan.pdf>

Ishay, M. R. (2008). *The History of Human Rights: From Ancient Times to the Globalization Era* (2nd Edition). University of California Press.

Jesson, J. K., Matheson, L. & Lacey, F. M. (2011). *Doing Your Literature Review: traditional and systematic techniques*. Sage Publications.

Johns, D. (n.d.). The Crimes of Saddam Hussein: 1988 The Anfal Campaign. *Frontline*. Retrieved from: <http://mrdivis.yolasite.com/resources/Anfal%20reading.pdf>

Jonassohn, K. & Chalk, F. (1987). A Typology of Genocide and Some Implications for the Human Rights Agenda. In I. Wallimann & M. N. Dobkowski (Eds.), *Genocide and the Modern Age. Etiology and Case Studies of Mass Death* (pp. 3-20). Greenwood Press.

Jones, A. (2011). *Genocide: A Comprehensive Introduction* (2nd Edition). Routledge.

Kaveh, C. (2014). Folkemord i Kurdistan – et eksempel på politicide? In B. Hagtvet, N. Brandal & D. E. Thorsen (Eds.), *Folkemordenes svarte bok* (2nd Edition, pp. 191-205). Universitetsforlaget.

Kelly, M. J. (2005). The Tricky Nature of Proving Genocide against Saddam Hussein before the Iraqi Special Tribunal. *Cornell International Law Journal*, 38(3), 983-1012.

Kuper, L. (1981). *Genocide: Its Political Use in the Twentieth Century*. Yale University Press.

Lemkin, R. (1944). *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*. Carnegie Endowment for International Peace Division of International Law.

McDowall, D. (2000). *A Modern History of the Kurds*. I.B. Tauris.

Middle East Watch. (1993). *Genocide in Iraq: The Anfal Campaign Against the Kurds*. Human Rights Watch.

Montgomery, B. P. (2001). The Iraqi Secret Police Files: A Documentary Record of the Anfal Genocide. *Archivaria*, 52, 69-99.

Oliver, M. (2006, 22. August). Saddam co-defendants deny Anfal genocide. *The Guardian*.
<https://www.theguardian.com/world/2006/aug/22/iraq.markoliver>

Power, S. (2002). *“A Problem from Hell”: America and the Age of Genocide*. Harper Perennial.

Rieff, D. (2003). *A Bed for the Night: Humanitarianism in Crisis*. Simon and Schuster.

Saeedpour, V. B. (1992). Establishing State Motives for Genocide: Iraq and the Kurds. In H. Fein (Ed.), *Genocide Watch* (pp. 59-69). Yale University Press.

Schabas, W. A. (2009). *Genocide in International Law: The Crime of Crimes*. Cambridge University Press.

Scheffer, D. (2006) Genocide and Atrocity Crimes. *Genocide Studies and Prevention: An International Journal*, 1(3), Article 3. Available at:
<https://digitalcommons.usf.edu/gsp/vol1/iss3/3>

Shaw, M. (2015). *What Is Genocide?* (2nd Edition). Polity Press.

Støren, I. (2013). *Bare søk! : Praktisk veiledning i å gjennomføre en litteraturstudie*. Cappelen Damm Akademisk.

Thagaard, T. (2013). *Systematikk og innlevelse: En innføring i kvalitativ metode* (4th Edition). Fagbokforlaget.

Thakur, R. (2011). *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics*. Routledge.

Trahan, J. (2009). A Critical Guide to the Iraqi High Tribunal's Anfal Judgment: Genocide against the Kurds. *Michigan Journal of International Law*, 30(2), 305-408. Retrieved from: <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1122&context=mjil>

Tripp, C. (2007). *A History of Iraq* (3rd Edition). Cambridge University Press.

UNPO & the Kurdish Regional Government. (n.d.). *The Kurdish Genocide: Achieving Justice through EU Recognition*. Retrieved from: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/d-iq/dv/03_kurdishgenocidesofanfalandhalabja_/03_kurdishgenocidesofanfalandhalabja_en.pdf

Uzonyi, G. (2016). Domestic Unrest, Genocide and Politicide. *Political Studies Association*, 64(2), 315-334. <https://doi.org/10.1111/1467-9248.12181>

Weiss, T. G. (2007). *Humanitarian Intervention: Ideas in Action*. Polity Press.