

**Sexual and Reproductive Violence as Genocide and the Prevention of Genocide in
Contemporary Asia: The Cases of the Rohingya and the Uyghurs**

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Abstract

Building on feminist international legal scholarship, this dissertation begins from the observation that international law has long been shaped by male-centric frameworks that marginalize women's experiences and treat harms associated with women as peripheral to human suffering. It argues that this gendered framing has also distorted how genocide is legally understood and recognized. Although Article II of the Genocide Convention identifies five genocidal acts without formally ranking their severity, legal and political recognition of genocide has often privileged killing over non-lethal forms of group destruction, despite their devastating and often gendered effects.

To address these omissions, this dissertation introduces the concept of genocidal patriarchy: a specific genocidal logic that weaponizes women in the destruction of the group. Women become central to genocidal violence not because they are reducible to their bodies or reproductive roles, but because patriarchal orders make their position within the group socially and politically consequential.

The dissertation further examines the triple vulnerabilities borne by women in genocide: their exposure to external state violence as members of protected groups; their vulnerability within patriarchal social orders that attach group meaning to women; and their marginalization within international legal frameworks that continue to privilege male-centered experiences of harm. These intersecting vulnerabilities help explain why women may be central to the logic of genocidal destruction while remaining only partially visible within the legal frameworks designed to prevent and punish genocide.

Through the cases of the Rohingya in Myanmar and the Uyghurs in China, this dissertation examines how genocidal patriarchy manifests in contemporary atrocity contexts. These cases show how different forms of gendered violence and governance may converge within broader patterns of genocide. The dissertation calls for a rethinking of genocide law that attends not only to killing, but also to gendered forms of violence that attack the group as such.

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Chapter 1. Introduction: Gendered Invisibility and Evidentiary Hierarchy in Genocide Law

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1.1 Statement of the General Problem

This section defines the general problem that structures this dissertation: the persistent gap between the formal scope of genocide law and the gendered realities of group destruction. It clarifies why sexual and reproductive violence, although legally encompassed within the Genocide Convention, continues to be under-theorized and under-recognized in mainstream legal analysis. It also maps the key dimensions of this problem—conceptual, evidentiary, and institutional—as the analytical foundation for the chapters that follow.

1.1.1 How serious is the international community about preventing and punishing genocide?

The genocides in Rwanda and Srebrenica during the 1990s serve as stark reminders that the international community failed to respond in time to uphold the post-Holocaust promise of “never again.”¹ Although this phrase continues to be invoked rhetorically in the aftermath of every atrocity, it often functions more as a symbolic gesture than a call to action. When mass violence unfolds, international actors frequently hesitate to acknowledge it as genocide—let alone to recognize the warning signs in advance and intervene preventively.

The military-led “clearance operations” against the Rohingya population in Myanmar in 2017 displaced hundreds of thousands and destroyed entire villages, triggering widespread condemnation and concern from the international community.² Similarly, the mass internment of Uyghurs and other ethnic minorities in so-called “Vocational Education and Training Centres” in China has drawn significant global attention.³ Despite these established events, many states have remained silent regarding the abundantly reported atrocities committed against the Rohingya and Uyghurs groups. More troublingly, several countries have issued formal statements endorsing China’s narrative, explicitly rejecting the characterization of its actions as genocide against the Uyghur population.⁴

This divergence in state responses raises a critical question: What threshold must be reached before the international community can collectively recognize the actions of China and Myanmar as constituting genocide or, at least, the serious risk of it?

1.1.2 How is the legal “threshold” of genocide determined?

The Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) was adopted by the United Nations (UN) General Assembly in 1948, following the atrocities of the Holocaust and the tireless advocacy of Polish-Jewish jurist Raphael Lemkin.⁵

¹ Charles Cater & David M. Malone, *The Genesis of R2P: Kofi Annan’s Intervention Dilemma*, in *The Oxford Handbook of The Responsibility to Protect* 116 (Alex J. Bellamy & Tim Dunne eds., Oxford Univ. Press 2016).

² U.N. Human Rights Council, *Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, ¶ 59, U.N. Doc. A/HRC/42/CRP.5 (2019).

³ See Office of the U.N. High Comm’r for Human Rights, *OHCHR Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China* (Aug. 31, 2022).

⁴ Algeria, Antigua and Barbuda, Bahrain, Belarus, Benin, Bolivia, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, China, Comoros, Congo, Cuba, Djibouti, Dominica, DPRK, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Grenada, Guinea, Guinea-Bissau, Iran, Iraq, Kiribati, Kyrgyzstan, Lao PDR, Lebanon, Libya, Mali, Mauritania, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Palestine, Papua New Guinea, Russian Federation, Sao Tome and Principe, Saudi Arabia, Serbia, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sri Lanka, Sudan, Suriname, Syria, Tajikistan, Togo, Turkmenistan, UAE, Uganda, Vanuatu, Venezuela, Yemen, Zambia, Zimbabwe. *Joint Statement Delivered by Cuba on Behalf of 69 Countries at the 50th Session of the Human Rights Council* (June 14, 2022), Permanent Mission of the People’s Republic of China to the United Nations Office at Geneva, https://geneva.china-mission.gov.cn/eng/dbdt/202206/t20220616_10703983.htm

⁵ G.A. Res. 260 (III) A, Convention on the Prevention and Punishment of the Crime of Genocide (Dec. 9, 1948), Please see Annex I for the full text of the Convention; see also *The Oxford Handbook of Genocide Studies* 22 (Donald Bloxham & A. Dirk Moses eds., Oxford Univ. Press 2010); Katherine Goldsmith, *The Issue of Intent in the Genocide Convention and Its Effect on the Prevention and Punishment of the Crime of Genocide: Toward a*

Article 1 of the Genocide Convention stipulates the essential obligation of states parties as follows: “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”⁶

Article 2 of the Genocide Convention defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”⁷

The determination of whether an act constitutes genocide should be based on the criteria set forth in Article 2 of the Genocide Convention. In cases where the treaty language is ambiguous, interpretation should be guided by Articles 31 to 33 of the Vienna Convention on the Law of Treaties.⁸ In practice, however, this is not the case. Disproportionate emphasis is often placed on the number of deaths, despite the fact that the Genocide Convention does not assign any hierarchical order to the acts listed in Article 2(a) to (e).⁹ Such an approach represents a deviation from the the object and purpose of the Genocide Convention, “to prevent and punish genocide.”¹⁰ This emphasis reflects a male-centered perspective that tends to foreground men’s experiences (notably killings), while overlooking other forms of group destruction, such as sexual violence and reproductive control, which disproportionately affect women.¹¹ The resulting reduction of “genocide” to killings – especially in popular understanding and discourse¹², but not only – is both inaccurate and untenable as a matter of law and fails to grasp the full nature of the crime.

Knowledge-Based Approach, 5 *Genocide Stud. & Prevention* 239 (2010).

⁶ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277 (entered into force Jan. 12, 1951).

⁷ *Id.*

⁸ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331 (entered into force Jan. 27, 1980), https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁹ The prevailing male-centred discourse in the context of genocide, often recognizes genocide only when it results in mass fatalities. Elisa von Joeden-Forgey, Gender and the Future of Genocide Studies and Prevention, 7 *Genocide Stud. & Prevention* 89, 90 (2012); William A. Schabas, *Genocide In International Law: The Crime of Crimes* 11 (Cambridge Univ. Press 2009). In the *Gambia v. Myanmar* proceedings, William Schabas’s position reflects a reassessment of the significance of death tolls in determining the existence of genocide. Jason Warick, Canadian Lawyer William Schabas Bows Out of Genocide Case Against Myanmar, CBC News (Dec. 6, 2019), <https://www.cbc.ca/news/world/schabas-myanmar-hague-1.5395370>.

¹⁰ Genocide Convention art. I.

¹¹ For example, scholarship on the Holocaust and genocide during the 1980s tended to focus on male experiences, often excluding or minimizing the distinct experiences of women. von Joeden-Forgey, *supra* note 9, at 89, 90, 94; Global Justice Center, *Beyond Killing: Gender, Genocide and Obligations under International Law* 21 (2018), <https://www.globaljusticecenter.net>.

¹² See, e.g., the highly reputable and normally scrupulously accurate The Economist’s mistaken explanation, What Is

1.1.3 Beyond Body Counts: Gendered Violence in Genocide Determination

In cases of genocide, men of combat age are often subjected to direct killing, while women, children, and the elderly may face other forms of violence, such as sexual violence and torture.¹³ Survivors who are not killed are frequently perceived as witnesses rather than as victims of genocide.¹⁴ However, genocide is not defined by a single act; it encompasses multiple dimensions as described in the Article 2 of the Genocide Convention. Within a systematic plan, members of a targeted group may experience different forms of genocidal violence, all contributing to the destruction of the group.

Focusing solely on the dead risks obscuring the full scope of the genocidal process. In fact, diverse forms of violence—including those not immediately lethal—are integral expressions of genocide. One important point to consider is this: if the objective of genocide is to destroy a group, why are individuals of different genders subjected to different forms of violence? Why are uniform methods not applied equally across all members of the group? As Elisa von Joeden-Forgey observed, one distinctive characteristic of genocide is its focus on targeting the elements that bind a group together, employing various forms of violence to achieve the ultimate goal of destroying the group.¹⁵

According to the UN Security Council, women and girls are disproportionately subjected to sexual violence.¹⁶ However, their experiences are historically overlooked.¹⁷ Sexual violence against women is a pervasive feature of genocide.¹⁸ In some cases, it results in the immediate death of the victim; in others, women are killed following the assault. Some die later from complications arising from the violence, while others are described in the literature as being “allowed” to survive, often bearing long-term physical and psychological trauma.¹⁹

Genocide?, *The Economist* (Jan. 22, 2021), <https://www.economist.com/the-economist-explains/2021/01/22/what-is-genocide>

¹³ von Joeden-Forgey, *supra* note 9 at 90.

¹⁴ Erin Farrell Rosenberg, *Gender and Genocide in the 21st Century: How Understanding Gender Can Improve Genocide Prevention and Response 2* (Newlines Inst. 2021).

¹⁵ von Joeden-Forgey, *supra* note 9 at 90.

¹⁶ S.C. Res. 2467 (Apr. 23, 2019).

¹⁷ Hilary Charlesworth, Christine Chinkin & Shelley Wright, *Feminist Approaches to International Law*, 85 *Am. J. Int'l L.* 613, 625 (1991).

¹⁸ von Joeden-Forgey, *supra* note 9 at 92.

¹⁹ *Id.*, at 90. Reliable estimates of suicide deaths following conflict-related or genocidal sexual violence remain difficult to establish, partly because sexual violence is underreported, suicide mortality is often separately recorded, and survivors' deaths may not be linked back to the original assault. The available literature nevertheless supports treating suicide risk, suicidal ideation, and self-harm thoughts as part of the long-term psychological harm associated with sexual violence. See Pramila Patten, Special Representative of the Secretary-General on Sexual Violence in Conflict, Remarks at the International Day for the Elimination of Sexual Violence in Conflict: “Breaking the Cycle, Healing the Scars: Addressing the Intergenerational Effects of Conflict-Related Sexual Violence” 2 (June 19, 2025); Emily R. Dworkin, Christopher R. DeCou & Skye Fitzpatrick, Associations Between Sexual Assault and Suicidal Thoughts and Behavior: A Meta-Analysis, 14 *Psychol. Trauma: Theory, Res., & Pol'y* 1208, 1208–11 (2022); Elisa Rubini et al., Negative Consequences of Conflict-Related Sexual Violence on Survivors: A Systematic Review of Qualitative Evidence, 22 *Int'l J. Equity Health* 227 (2023); Mahlet A. Woldetsadik, Grace Acan & Okwir Isaac Odiya, The Enduring Consequences of Conflict-Related Sexual Violence: A Qualitative Study of Women Survivors in Northern Uganda, 16 *Conflict & Health* 16 (2022); Wendy Rubanzana et al., Exposure to Genocide and Risk of Suicide in Rwanda: A Population-Based Case-Control Study, 69 *J. Epidemiol. & Cmty. Health* 117, 117–22 (2015); medica mondiale & Medica Zenica, “We Are Still Alive”: Research on the Long-Term Consequences of War Rape and Coping

This raises a critical question: if the victims are ultimately to be killed, why are they subjected to sexual violence beforehand? Why do perpetrators choose to inflict sexual violence on women prior to execution, rather than carrying out immediate killings? Moreover, the fact that some victims are “allowed” to survive suggests that, from the perpetrators’ perspective, the complete elimination of female victims is not always necessary. Instead, the act of committing sexual violence is seen as more important than the victims’ death, or the occurrence of sexual violence itself may suffice to fulfill the perpetrators’ objectives. This pattern suggests that sexual violence against women in genocidal contexts may carry specific symbolic and strategic significance for both the targeted group and the perpetrators.²⁰

1.1.4 What Role Does Gender Play in Genocide?

Building on Erin Rosenberg’s analysis of gender as a constitutive lens through which perpetrators structure group identity and modes of destruction, it becomes evident that gender is a critical dimension in genocide studies, offering insight into how perpetrators perceive and construct the identity of victimized groups. As von Joeden-Forgey argues, gender lies at the very heart of genocide research.²¹

A gendered analysis of genocide clarifies how gender shapes the organization, meaning, and effects of genocidal violence. This focus addresses a historical gap in research and law. Since women are disproportionately affected by sexual violence, centering their experiences reveals essential dimensions of how gender functions in genocidal processes.²² When we examine documented patterns of victimization across genocidal contexts, it becomes clear that genocide is deeply gendered in nature.²³

Strategies of Survivors in Bosnia and Herzegovina 70–71 (2014).

²⁰ This argument should be read against feminist and empirical scholarship showing that conflict-related sexual violence is connected to, rather than detached from, pre-existing patterns of gender inequality and everyday sexual violence. Everyday rape is itself produced through social meanings that attach sexual access, shame, honour, purity, family status, and community belonging to women’s bodies. In genocidal contexts, perpetrators may draw upon these same meanings, using sexual violence not only to injure individual women but also to communicate domination, contaminate social belonging, and damage the targeted group through the gendered values already attached to women. See Mary Caprioli, *Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict*, 49 *Int’l Stud. Q.* 161 (2005); Dara Kay Cohen, *Explaining Rape During Civil War: Cross-National Evidence (1980–2009)*, 107 *Am. Pol. Sci. Rev.* 461 (2013); Elisabeth Jean Wood, *Variation in Sexual Violence During War*, 34 *Pol. & Soc’y* 307 (2006); Carlo Koos, *What Do We Know About Sexual Violence in Armed Conflicts? Recent Empirical Progress and Remaining Gaps in Peace and Conflict Research* 13 (GIGA Working Paper No. 275, 2015).

²¹ von Joeden-Forgey, *supra* note 9 at 89; see Rosenberg, *supra* note 14.

²² A gendered analysis of genocide is not limited to women’s experiences. However, given that women constitute the majority of sexual violence victims during genocide, as well as in peacetime, their experiences must be foregrounded to better understand the nature and function of such violence in genocidal contexts. Just as earlier genocide studies centered predominantly on men’s experiences, a growing body of scholarship now seeks to recover the long-neglected narratives of women. This shift aims to present a fuller picture of genocide and its gendered dimensions, including the perpetrators’ intent and coordinated strategies. At the same time, a gendered analysis also encompasses assumptions about men and boys, including the ways sexual violence against men may operate through gendered meanings of humiliation, feminization, masculinity, sexuality, and social standing. See Jasbir K. Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Duke Univ. Press 2007).

²³ von Joeden-Forgey, *supra* note 9 at 89-91.

A central premise of this thesis is that gendered roles attributed to women in genocidal contexts are not natural or inherent, but socially and culturally constructed within particular group formations. Norms relating to reproduction, honour, sexuality, and familial responsibility do not reflect pre-political facts about women; they are produced through historical, religious, cultural, and legal processes that assign social meaning to women's bodies and social positions within the group.

These constructed gender roles are analytically significant not because they define women's intrinsic characteristics, but because they shape the social terrain upon which violence operates. In genocidal contexts, perpetrators do not invent these meanings *ex nihilo*. Rather, they draw upon, manipulate, and weaponize existing gender norms—whether their own, the victim group's, or a strategically hybridized understanding of both—in order to calibrate violence in ways that maximize social rupture, demographic disruption, and symbolic destruction.

The relevance of gender to genocide therefore lies not in any essentialized account of women's functions, but in the fact that socially constructed gender roles render certain forms of violence intelligible, effective, and devastating at the group level. Sexual violence, reproductive coercion, and attacks on women's bodily integrity operate within pre-existing normative frameworks that confer social meaning on women's bodies and conduct. It is the prior construction of these roles and their subsequent naturalization through social, cultural, and legal practices that renders them susceptible to strategic exploitation in projects of group destruction.

This study situates gender within the legal analysis of genocide as a mediating structure through which otherwise lawful or culturally embedded norms are rendered operational within genocidal processes: a set of socially produced meanings that shape the social terrain upon which group-directed violence is organized.²⁴ These meanings can be mobilized to intervene in the conditions through which groups reproduce themselves socially, culturally, and demographically.

Gender shapes how genocide is imagined, organized, and carried out because social meanings attached to gender are embedded in the organization of group life and can be weaponized to dismantle that life. These meanings are shaped through internal social relations as well as broader histories of law, nationalism, colonial governance, racialization, and sexual politics. Genocidal violence may therefore reinterpret, intensify, and exploit gendered roles through the political meanings attached to gender and sexuality.²⁵

²⁴ For example, gender hierarchy is frequently sustained not through coercion but through everyday practices that render it socially intelligible and morally acceptable. From childhood socialization and educational curricula to religious instruction and customary norms, women are often taught to value modesty, obedience, and self-sacrifice, while men are associated with authority, protection, and public agency. Because these norms are transmitted as tradition, morality, or cultural authenticity, they tend to be experienced as common sense rather than as structures of power. This normalization enables gendered expectations to operate as a shared cultural grammar that can later be mobilized for political purposes. See Comm. on the Elimination of Discrimination against Women, *General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19*, U.N. Doc. CEDAW/C/GC/35 (2017).

²⁵ This understanding of gender as socially and politically produced, rather than natural or inherent, should also be read alongside queer, postcolonial, and feminist critiques of the ways sexuality, race, nation, gender, and violence are co-constituted. These critiques help complicate any account that treats gendered roles as merely internal cultural norms, rather than as meanings shaped through broader histories of colonialism, nationalism, racialization, and

1.1.5 Identity, Recognition, and Perpetrator Classification

Genocide does not arise solely from material conflict or spontaneous hatred; it is preceded and enabled by processes through which particular groups are identified, classified, and rendered intelligible as targets of violence.²⁶ Central to this process is the construction of identity—not as a fixed or self-generated attribute, but as a relational and political phenomenon shaped through recognition, misrecognition, and denial.²⁷

Identity is constituted through social relations of recognition. As theorized in critical social thought, individuals and groups develop a sense of self not only through internal self-understanding, but through external recognition by others.²⁸ Recognition functions as a social process through which individuals come to understand who they are, to whom they belong, and how they are positioned within a broader social order. Conversely, the denial or distortion of recognition inflicts harm not only at the level of social status, but at the level of identity itself, producing exclusion, stigmatization, and alienation.²⁹

In contexts of mass violence, recognition operates not merely as an interpersonal dynamic, but as a political technology.³⁰ States and dominant groups exercise power by defining who is recognized as a legitimate member of the political community and who is cast as alien, deviant, or threatening.³¹ Recognition thus becomes a mechanism of governance: it structures inclusion and exclusion, assigns social meaning to difference, and establishes hierarchies of belonging. Importantly, this process does not depend on the self-identification of those targeted. Even individuals who do not identify with a particular group may nonetheless be subjected to violence if they are classified as members of that group by those wielding power.³²

This logic is especially salient in genocidal contexts, where the perpetrator’s gaze—not the victim’s self-understanding—determines exposure to violence.³³ Genocide operates through acts

sexual politics. See Puar, *supra* note 22; Tara Atluri, *Āzādī: Sexual Politics and Postcolonial Worlds* (Demeter Press 2016).

²⁶ Gregory H. Stanton, *The Ten Stages of Genocide*, Genocide Watch, <https://www.genocidewatch.com/tenstages>.

²⁷ Carola Lingaas, Conceptualizing the National Group for the Crime of Genocide: Is Law Able to Account for Identity Fault Lines? 49 *Nationalities Papers* 240, 241 (2021). However, the question of whether religion is a voluntary choice can be debated, as seen in the case of the Yazidis, an ethno-religious group. Inter-marriage with non-Yazidis is uncommon among them, as they consider only those whose parents are both Yazidis to be part of their community. See U.N. Human Rights Council, *They Came to Destroy: ISIS Crimes Against the Yazidis*, ¶¶ 19, 114, U.N. Doc. A/HRC/32/CRP.2 (2016).

²⁸ Nancy Fraser, Rethinking Recognition, 3 *New Left Rev.* 107, 109 (2000).

²⁹ *Id.*

³⁰ *Id.*

³¹ For instance, The Myanmar government’s systematic portrayal of the Rohingya as illegal immigrants or demographic threats has functioned to deny them citizenship, justify exclusionary policies, and normalize violence against them. Similarly, the Chinese government’s designation of Uyghurs as “terrorists” or “extremists” has provided the classificatory foundation for mass detention, surveillance, and coercive assimilation. In both cases, state-imposed identities precede and enable material violence by rendering targeted groups intelligible as threats rather than rights-bearing subjects. See A/HRC/42/CRP.5 (2019), *supra* note 2, at ¶¶ 3, 210; Newlines Inst., *The Uyghur Genocide: An Examination of China’s Breaches of the 1948 Genocide Convention* 16 (2021).

³² Barbara Harff, *No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955*, in *Genocide and Human Rights* 329, 331 (Mark Lattimer ed., Taylor & Francis 2017).

³³ Melanie O’Brien, Defining Genocide, 22 *J. Int’l Peacekeeping* 151, 159–60 (2018); See *Prosecutor v. Jelisić*,

of categorical attribution: individuals are targeted not because of who they claim to be, but because of how they are read, named, and positioned within a gendered, racialized, ethnic, religious, or national schema imposed by the perpetrator. Once a population is constructed as an alien or threatening collective, violence against its members becomes intelligible as defensive, necessary, or even virtuous.

Processes of othering often unfold through the imposition of stigmatizing narratives that portray the targeted group as dangerous, inferior, or illegitimate. Such narratives do more than justify exclusion; they actively reshape social reality by producing a normative majority that defines itself as the standard of legitimacy. Within this framework, assimilation is offered as a conditional and often illusory pathway to acceptance, requiring the erasure of difference and the abandonment of prior identity. Those who cannot—or are not permitted to—assimilate are rendered disposable.

Exclusion, in this sense, is not merely a byproduct of genocide; it is a constitutive step toward it. The political construction of a group as “other” enables subsequent measures of control, repression, and ultimately destruction. Dehumanizing language, legal exclusion, and administrative marginalization prepare the ground upon which physical violence can be enacted with reduced moral and legal resistance.

This account underscores a critical insight for genocide analysis: the destruction of a group begins long before the onset of mass killing. It begins with the construction of identity through misrecognition, the consolidation of hierarchical narratives of belonging, and the deployment of state power to fix populations within stigmatized categories. Understanding genocide therefore requires attention not only to acts of violence, but to the prior processes through which groups are made visible as targets of annihilation. Genocide is a crime directed against groups as such. Acts of violence are carried out against persons only insofar as they are identified by perpetrators as members of the targeted group.

This thesis does not seek to redefine genocide as a legal category, but to interrogate the evidentiary and interpretive practices through which genocidal intent is recognized, prioritized, or obscured—particularly where gendered and non-lethal forms of group destruction are concerned.

1.2 Why Genocide?

This section undertakes a one-time comparative clarification of genocide, crimes against humanity, and war crimes in order to justify the exclusive analytical focus of this thesis on genocide law. Having established this framework, the thesis does not return to a parallel analysis of atrocity crimes, but proceeds on the basis that genocide constitutes the governing legal regime for the analysis that follows.

The choice to adopt genocide—rather than war crimes or crimes against humanity—as the primary analytical framework is not grounded in moral hierarchy, but in the distinct legal structure

Case No. IT-95-10-T, Trial Judgment, ¶ 70 (Int’l Crim. Trib. for the Former Yugoslavia Dec. 14, 1999).

of genocide, particularly its group-oriented logic and its implications for state responsibility and prevention.

1.2.1 Relationship and Distinctions between Genocide, War Crimes, and Crimes against Humanity

1.2.1.1 Definitions of Genocide, War Crimes, and Crimes Against Humanity

I. Genocide

The definition of genocide is outlined in Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) and has been incorporated into the statutes of international legal bodies, such as the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the Rome Statute of the International Criminal Court (ICC).³⁴

The definition is as follows:

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.³⁵

II. War Crimes

War crimes are codified primarily in the four Geneva Conventions of 1949 and their Additional Protocols, which form the core of international humanitarian law (IHL). These norms are further consolidated and systematized in Article 8 of the Rome Statute of the International Criminal Court, which enumerates serious violations of IHL giving rise to individual criminal responsibility.³⁶

Under this framework, war crimes encompass grave breaches of the Geneva Conventions committed in the context of international armed conflicts, as well as other serious violations of the laws and customs of war recognized under customary international law. Article 8 of the Rome Statute also extends criminalization to serious violations applicable in non-international armed conflicts, including acts prohibited under common Article 3 of the Geneva Conventions and other established norms governing such conflicts. Importantly, the Rome Statute expressly excludes

³⁴ Statute of the International Criminal Tribunal for the Former Yugoslavia art. 4, annexed to S.C. Res. 827 (May 25, 1993); Statute of the International Criminal Tribunal for Rwanda art. 2, annexed to S.C. Res. 955 (Nov. 8, 1994); Rome Statute of the International Criminal Court art. 6, July 17, 1998, 2187 U.N.T.S. 90 (entered into force July 1, 2002).

³⁵ Genocide Convention art. II.

³⁶ Unlike genocide and crimes against humanity, whose definitional elements are reproduced here to frame the subsequent analysis, the legal contours of war crimes are summarized rather than exhaustively restated, as this thesis does not undertake a doctrinal analysis of Article 8 of the Rome Statute.

situations of internal disturbances and tensions—such as riots or sporadic acts of violence—from the scope of war crimes, limiting its application to protracted armed conflicts involving organized armed groups or governmental authorities.³⁷

III. Crimes Against Humanity

As of now, there is no existing international treaty for crimes against humanity. Nonetheless, the International Law Commission commenced the drafting process for the Prevention and Punishment of Crimes Against Humanity in 2014, and this ongoing initiative continues to progress.³⁸ The current definition of crimes against humanity are stipulated at Article 7 (1) of the Rome Statute as:

Any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

The draft articles on Prevention and Punishment of Crimes Against Humanity also outlines the same definition.³⁹ Article 3 of the ICTR Statute and Article 5 of the ICTY Statute contained regulations that were similar but limited in scope.

³⁷ Rome Statute art. 8(2)(a)–(f).

³⁸ Codifying Draft Articles on Crimes against Humanity into International Convention Entirely in Hands of Member States, Senior Legal Officer Tells Sixth Committee, U.N. Press Release GA/L/3682 (Apr. 13, 2023), <https://press.un.org/en/2023/gal3682.doc.htm>.

³⁹ Int'l Law Comm'n, *Draft Articles on the Prevention and Punishment of Crimes Against Humanity* (2019), https://legal.un.org/ilc/texts/instruments/english/draft_articles/7_7_2019.pdf

1.2.1.2 The Differences of Genocide, War Crimes, and Crimes Against Humanity

I. The Temporal Applicability

A key distinguishing feature of war crimes, as compared to crimes against humanity and genocide, lies in their temporal nexus to armed conflict. As the term suggests, war crimes are specifically relevant during periods of armed conflict. Article 2 of the Geneva Conventions indicates the applicable time of the rules as follows: “the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.”⁴⁰ Even when only one party in the conflict is a High Contracting Party, these conventions still bind that contracting party.⁴¹ The crucial criterion for evaluating whether a war crime has occurred is the existence of a war; it is only within the context of armed conflict that the determination of a war crime becomes pertinent.

The prerequisite of constituting war crimes, the acts “must also have a nexus to an armed conflict and constitute one or more acts from an enumerated list of war crimes under international criminal law.”⁴² The nexus was illustrated by the International Criminal Tribunal for the former Yugoslavia (ICTY) as “ [the conflict] must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, decision to commit it, the manner in which it was committed or the purpose for which it was committed.”⁴³

Conversely, the definitions of crimes against humanity and genocide do not have specific temporal constraints. The Crimes against humanity involve a broad or systematic assault targeting any civilian population, undertaken with awareness of the attack. Genocide, on the other hand, involves genocidal acts committed with the intent to destroy wholly or partially a national, ethnic, racial, or religious group. Importantly, these two egregious offences can occur both in times of peace and during periods of war. The Genocide Convention further emphasizes that contracting parties should prevent and punish genocide, whether committed in times of peace or war.⁴⁴ “The phrases, ‘in time of war and in time of peace, was inserted by the Ad Hoc Committee in order to clarify that the Genocide Convention was not limited to acts committed during armed conflict.”⁴⁵

Hence, if an act aligns with the actions listed within the criteria for war crimes, crimes against humanity, or genocide, but there is no ongoing armed conflict, it would not qualify as a war crime. This is despite the fact that the behaviour is prohibited by the Geneva Conventions of 1949 and the Additional Protocols. In such instances, the committed act might be classified as crimes against humanity or genocide instead. The distinction between these two offences can be further delineated by considering the specific target of the perpetrators’ attacks.

⁴⁰ Geneva Convention Relative to the Treatment of Prisoners of War art. 2(1), Aug. 12, 1949, 75 U.N.T.S. 135.

⁴¹ *Id.* art. 2(3).

⁴² U.N. Human Rights Council, *Sexual and Gender-Based Violence in Myanmar and the Gendered Impact of Its Ethnic Conflicts*, ¶ 42, U.N. Doc. A/HRC/42/CRP.4 (Sept. 2019); see *Prosecutor v. Kunarac*, Case No. IT-96-23 & IT-96-23/1-A, Judgment, ¶ 58 (Int’l Crim. Trib. for the Former Yugoslavia June 12, 2002).

⁴³ *Id.*

⁴⁴ Genocide Convention art. I.

⁴⁵ Matthew Lippman, *The Convention on the Prevention and Punishment of the Crime of Genocide: Fifty Years Later*, in *Genocide and Human Rights* 11, 49 (Mark Lattimer ed., 2007); See also U.N. Econ. & Soc. Council, Ad Hoc Comm. on Genocide, Summary Record of the 21st Meeting, 6th Sess., at 2, U.N. Doc. E/AC.25/SR.21 (1948).

II. The Protected Persons and Protected Groups

War crimes, crimes against humanity, and genocide collectively safeguard civilians from attacks by governmental authorities, de facto authorities, or organized armed groups. Nevertheless, these three offences establish distinct standards for the individuals entitled to protection. War crimes shield persons who are “not actively participating in hostilities, including members of armed forces who have disarmed, and individuals incapacitated by sickness, wounds, detention, or any other cause.”⁴⁶ War crimes protect civilians who are not involved in fighting or individuals who no longer have the capability to fight.

Crimes against humanity extend protection to “any civilian population,”⁴⁷ while genocide specifies protected groups as “a national, ethnical, racial, or religious group.”⁴⁸ Importantly, for an act to constitute a violation of crimes against humanity, the attack must be either widespread or systematic. Acts that are sporadic or opportunistic in nature do not qualify as crimes against humanity. Genocide may overlap factually with crimes against humanity, but it is not reducible to it: genocide is distinguished by the requirement that the prohibited acts be committed with the intent to destroy, in whole or in part, one of the Convention’s protected groups “as such.” In simpler terms, the perpetrator intends to “harm the group with which the individual is associated.”⁴⁹ Crimes against humanity and genocide both involve widespread and systematic atrocities against civilians. However, crimes against humanity entail widespread or systematic attacks directed against a civilian population, while genocide distinctly identifies specific subjects – a particular group of people – based on racial, ethnic, national, or religious reasons. “[T]he kind of harm suffered by individual victims of genocide, in virtue of their group membership, is not captured by other crimes.”⁵⁰ Importantly, the legal specificity of genocide does not turn on victims’ self-identification; rather, it turns on the perpetrator’s targeting of persons on the basis that they are regarded as members of the protected group, within a project directed against the group as such.

III. Responsibility of States

i. Treaty Obligation

The Geneva Conventions and their Additional Protocols offer explicit definitions of war crimes, with the Genocide Convention detailing criteria for identifying genocide. As per Article 26 of the Vienna Convention on the Law of Treaties (VCLT), treaties legally bind the involved parties, thereby giving rise to specific obligations.⁵¹ The State parties to the Geneva Conventions and their Additional Protocols, as well as the Genocide Convention, are obligated to conduct themselves

⁴⁶ Rome Statute art. 8 (c).

⁴⁷ Rome Statute art. 7 (1).

⁴⁸ Genocide Convention art. II.

⁴⁹ See Max van der Stoep (Special Rapporteur), *Report on the Situation of Human Rights in Iraq*, U.N. Doc. E/CN.4/1992/31 (Feb. 17, 1992) (describing the Iraqi Government’s repression of Iraqi civilians and Kurds and noting that the treatment of the Kurds must be considered in light of possible genocide: “When large-scale violations of human rights are inflicted on one or more communities of a State population, in addition to those violations which have been directed against the population of the country as a whole, the question inevitably arises whether a government has engaged in genocidal practices as defined in article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.”); Goldsmith, *supra* note 5, at 248.

⁵⁰ Claudia Card, *Genocide and Social Death*, 18 *Hypatia* 63, 68 (2003).

⁵¹ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331.

following the articles outlined in these treaties. The Prevention and Punishment of Crimes Against Humanity is still in the drafting stage; hence, there is no treaty obligation at present.

The Genocide Convention stated, “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”⁵² The Geneva Conventions affirm that state parties are obligated to protect wounded and sick soldiers on land and at sea during times of war, as well as prisoners of war and civilians, including those in occupied territories.⁵³ If state parties engage in genocide, or if they fail to prevent or punish it, or commit war crimes as outlined in the Geneva Conventions, they violate their treaty obligations.

ii. Jus Cogens

Jus cogens is defined as “a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”⁵⁴ Consequently, obligations with the status of jus cogens “reflect and protect fundamental values of the international community, are hierarchically superior to other rules of international law and are universally applicable.”⁵⁵ The ICJ confirmed that “*jus cogens* obligations would have *erga omnes* effect,”⁵⁶ “which means all States can be held to have a legal interest in their protection.”⁵⁷ This applies even when a State “is not directly injured [...] whether before the ICJ or in some other setting.”⁵⁸

Genocide, crimes against humanity, and basic rules of international humanitarian law are included in a non-exhaustive list of norms that the International Law Commission “has previously referred to as having the status” of peremptory norms of general international law (*jus cogens*).⁵⁹ No State opposed the status of genocide, crimes against humanity, and basic rules of international humanitarian law during the first reading adoption discussion.⁶⁰ This signifies that genocide, crimes against humanity, and basic rules of international humanitarian law represent fundamental values of the international community. Regardless of whether a state is a party to the Genocide Convention or the Geneva Conventions, and in the absence of a specific international treaty regulating crimes against humanity, the entire international community shares the same obligation to refrain from committing and to prevent and punish violations of these jus cogens. These peremptory prohibitions are also frequently invoked in support of broader enforcement and accountability claims, including—subject to doctrinal conditions and continuing debates—

⁵² Genocide Convention art. I.

⁵³ See Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field arts. 12–16, Aug. 12, 1949, 75 U.N.T.S. 31; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea arts. 12–18, Aug. 12, 1949, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War arts. 13–16, Aug. 12, 1949.

⁵⁴ Draft Conclusion 2 (adopted on first reading), Int’l Law Comm’n, *Fifth Report on Peremptory Norms of General International Law (Jus Cogens)*, ¶¶ 15–16, U.N. Doc. A/CN.4/747 (Jan. 24, 2022) (Dire Tladi (Special Rapporteur)).

⁵⁵ *Id.* ¶¶ 16–22.

⁵⁶ Erika de Wet, Jus Cogens and Obligations Erga Omnes, in *The Oxford Handbook of International Human Rights Law* 541, 547 (Dinah Shelton ed., 2013); see also *Barcelona Traction, Light & Power Co. (Belg. v. Spain)*, Judgment, 1970 I.C.J. 3, 32 ¶ 33.

⁵⁷ *Id.*

⁵⁸ Marko Milanovic, State Responsibility for Genocide, 17 *Eur. J. Int’l L.* 553, 564 (2006).

⁵⁹ Annex to Draft Conclusion 23, U.N. Doc. A/CN.4/747, *supra* note 54.

⁶⁰ *Id.* at 66–69.

assertions of universal jurisdiction over certain international crimes.⁶¹ The universal jurisdiction is related to the responsibility of individuals; it will be discussed later.

iii. Responsibility to Protect (R2P)

In addition to treaty obligations and the jus cogens status of the prohibition of genocide, the R2P framework articulates a political commitment that States have a responsibility to protect populations from genocide and other atrocity crimes. In 2005, member States at the UN World Summit unanimously adopted the concept of R2P as “[e]ach individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it.”⁶² These obligations are “firmly embedded in pre-existing, treaty-based and customary international law,” not created by R2P.⁶³ The UN Security Council has affirmed R2P since adopting Resolution 1674 (2006).⁶⁴ The UN is ready to initiate collective action “through the Security Council, in accordance with the UN Charter” in cases where the governing authority “manifestly” fails to shield its population from the specified atrocities.⁶⁵

Following the R2P concept, states jointly bear the responsibility to safeguard their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Should a state fall short in fulfilling this duty, the international community is obligated to aid the state in enhancing its capacity. If, despite assistance, the state remains unable or unwilling to protect its people, the international community must respond promptly and decisively, involving “concrete and immediate actions.”⁶⁶

iv. Jurisdiction of the International Court of Justice

Concerning state responsibility, if a State commits an international wrongful act involving an action or omission “attributable to the State under international law” and “constitutes a breach of an international obligation of the State,”⁶⁷ the State incurs international responsibility. The subject of state responsibility is the State itself, not an individual. In other word, the actor capable of committing an international wrongful act is a State.

In international law, the International Court of Justice (ICJ) adjudicates disputes between States, explicitly stating that “only states may be parties in cases before the Court.”⁶⁸ The Court’s jurisdiction is contingent upon state consent, which may be expressed through compromissory clauses, optional clause declarations, or special agreements; while UN membership makes a State party to the ICJ Statute, it does not, without more, establish jurisdiction in a particular dispute.⁶⁹ The ICJ may therefore exercise jurisdiction only where the States concerned have consented to it.

⁶¹ Sriram Chandra Lekha, Olga Martin-Ortega & Johanna Herman, *War, Conflict and Human Rights* 53 (2d ed. 2014).

⁶² G.A. Res. 60/1, ¶ 138, *2005 World Summit Outcome* (Oct. 24, 2005).

⁶³ U.N. Secretary-General, *Implementing the Responsibility to Protect*, ¶ 138, U.N. Doc. A/63/677 (Jan. 12, 2009).

⁶⁴ S.C. Res. 1674, ¶ 4 (Apr. 28, 2006).

⁶⁵ A/Res/60/1, *supra* note 62, at ¶ 139.

⁶⁶ S.C. Res. 2669, ¶ 6 (Dec. 21, 2022).

⁶⁷ Int’l Law Comm’n, *Draft Articles on Responsibility of States for Internationally Wrongful Acts* arts. 1–2, U.N. Doc. A/56/49(Vol. I)/Corr.4 (2001).

⁶⁸ Statute of the International Court of Justice art. 34(1), June 26, 1945, 59 Stat. 1055, 33 U.N.T.S. 993.

⁶⁹ U.N. Charter art. 93(1)– (2); Statute of the International Court of Justice arts. 34(1), 36.

Accordingly, “a matter involving jus cogens and erga omnes obligations does not obviate the need for consent by the state parties to the ICJ’s jurisdiction.”⁷⁰

The jurisdiction of the ICJ includes, inter alia, disputes concerning “the existence of any fact which, if established, would constitute a breach of an international obligation;” and “the nature or extent of the reparation to be made for the breach of an international obligation.”⁷¹ Where the relevant jurisdictional requirements are satisfied, disputes arising between States in relation to treaty obligations or alleged violations of jus cogens, together with claims for reparation, may be brought before the ICJ for adjudication.

Concerning the matter of genocide, the Genocide convention states, “disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”⁷² The State filing a case to the ICJ does not necessarily have to be directly involved in the genocide it accuses, as all State parties to the Genocide Convention have the treaty obligation to prevent and punish genocide. Therefore, any State party can bring a matter to the attention of the ICJ when it perceives a genocide is (about to) occur. The *Gambia v. Myanmar* case serves as an example of such a situation.⁷³

In terms of war crimes, the Geneva Conventions specify that State members are obligated “to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the [Geneva Conventions].”⁷⁴ Additionally, “[e]ach High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts.”⁷⁵ Therefore, the Geneva Conventions’ grave breaches regime reflects a central concern of the law of war crimes: the pursuit of individual criminal accountability for serious violations of international humanitarian law.

On the subject of crimes against humanity, the preamble of the draft articles on the Prevention and Punishment of Crimes Against Humanity emphasizes that every State has a duty to “exercise its criminal jurisdiction with respect to crime against humanity.”⁷⁶ These draft articles also outline the obligations of States regarding criminal jurisdiction within their territory. As mentioned earlier, the ICJ exclusively adjudicates cases involving States. Consequently, the ICJ lacks jurisdiction “to try individuals accused of war crimes or crimes against humanity. As it is not a criminal court, it does not have a prosecutor able to initiate proceedings.”⁷⁷ “While war crimes, crimes against humanity and genocide all exist in the Rome Statute of the International Criminal Court, this provides only for individual criminal responsibility. A general treaty [like the Genocide

⁷⁰ Milanovic, *supra* note 58, at 564.

⁷¹ Statute of the International Court of Justice art. 36(2)(c)(d).

⁷² Genocide Convention art. IX.

⁷³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Application Instituting Proceedings, 2019 I.C.J. Gen. List No. 178 (Nov. 11).

⁷⁴ Geneva Convention (I) arts. 49–52; Geneva Convention (II) arts. 50–53; Geneva Convention (III) arts. 129–131; Geneva Convention (IV) arts. 146–149.

⁷⁵ *Id.*

⁷⁶ Int’l Law Comm’n, Draft Articles on Prevention and Punishment of Crimes Against Humanity pmbl., U.N. Doc. A/74/10 (2019).

⁷⁷ Int’l Ct. of Justice, Frequently Asked Questions, <https://www.icj-cij.org/frequently-asked-questions>.

Convention] would also ensure state action and responsibility.”⁷⁸ The responsibility to stop the atrocity lies not only with the perpetrating state, but also with the treaty member states, who must take action to put an end to it.

IV. Responsibility of Individuals

Within the scope of international law, individuals may be subject to prosecution under international criminal law as natural persons. As previously noted, violations of jus cogens norms are frequently invoked as a basis for claims of universal jurisdiction, subject to doctrinal conditions, jurisdictional constraints, and continuing debates in international law. Genocide, crimes against humanity, and the basic rules of IHL are widely recognized as norms of jus cogens.

Accordingly, individuals alleged to have committed such crimes may, under certain legal frameworks and subject to applicable jurisdictional requirements, be exposed to criminal proceedings before national courts exercising universal or extraterritorial jurisdiction. In addition, under international criminal law, these serious crimes may fall within the jurisdiction of the International Criminal Court (ICC) where the relevant jurisdictional conditions are satisfied.

i. Jurisdiction of the International Criminal Court

The jurisdiction of the ICC is limited to the most serious crimes of concern to the international community as a whole, including genocide, crimes against humanity, war crimes, and aggression.⁷⁹ The ICC has jurisdiction over conduct in question that occurred within a State party’s territory or committed by a State party’s citizen. Additionally, a State that is not a party to the Rome Statute can express its acceptance of the ICC’s jurisdiction.⁸⁰ If a State party or the Security Council (acting under Chapter VII of the UN Charter) refers to a situation where one or more of these crimes have been committed to the Prosecutor, the Prosecutor has the authority to initiate an investigation into such a crime.⁸¹ An example of the ICC exercising its jurisdiction is that, in 2019, Pre-Trial Chamber III of the ICC granted the Prosecutor’s request to investigate alleged crimes within the ICC’s jurisdiction in the Situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar. The authorization is limited to crimes allegedly committed against the Rohingya people from Myanmar, as Myanmar is not a State Party to the Rome Statute. The investigation’s scope will be confined to crimes allegedly committed partially on the territory of Bangladesh, as Bangladesh is a State Party to the Rome Statute.⁸²

In this regard, when individuals are alleged to have committed genocide, crimes against humanity, or war crimes, national courts may, subject to applicable domestic and international law and jurisdictional requirements, exercise universal or extraterritorial jurisdiction over such individuals. Suppose the person’s national State is a member State of the Rome Statute or has accepted the jurisdiction of the ICC and is unwilling or unable to prosecute these offenders. In that

⁷⁸ O’Brien, *supra* note 33, at 168.

⁷⁹ Rome Statute art. 5.

⁸⁰ Rome Statute art. 12.

⁸¹ Rome Statute art. 13 to 15.

⁸² Situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar, ICC-01/19; Office of the Prosecutor, Int’l Crim. Ct., Prosecutor Requests Judicial Authorization to Commence an Investigation into the Situation in Bangladesh/Myanmar (July 4, 2019), <https://www.icc-cpi.int/news/icc-prosecutor-fatou-bensouda-requests-judicial-authorisation-commence-investigation-situation>.

case, the ICC can intervene by its prosecutors or through the referral of a member state or the Security Council. Moreover, within ICC’s jurisdiction, “[a]cting in an official capacity as a head of state, member of government or parliament or as an elected representative or public official” does not grant immunity from prosecution or criminal accountability.⁸³ “Like most international criminal tribunals, the ICC generally only prosecutes military and political leaders.”⁸⁴ The high-ranking individuals implicated in the accused atrocities are the targets of the ICC prosecution, as “superiors or military commanders may be held responsible for criminal offences committed by persons under their effective command and control or effective authority and control.”⁸⁵

V. The Requisite Intent

Another element that distinguishes genocide from war crimes and crimes against humanity is the requirement of an intent to destroy, in whole or in part, a protected group, as set out in Article II of the Genocide Convention. There must be an intent to commit acts aimed at destroying a protected group, in whole or in part, to constitute genocide. In other words, the perpetrator must both intend to carry out the genocidal acts and have the deliberate purpose of eradicating the protected group. The genocidal acts are directed against individuals, not because of their personal capacity, but because of their membership in the targeted group.⁸⁶ The prohibited acts are perpetrated against persons because they are regarded as members of the targeted protected group, and the intended object of destruction is the group “as such” (in whole or in part), rather than persons as isolated individuals.

The Genocide Convention, as stated in Article 1, was created with the purpose to prevent and punish acts of genocide. The Contracting Parties acknowledged that genocide has caused significant suffering throughout history.⁸⁷ However, the definition of genocide within the Convention remains somewhat ambiguous, particularly when it comes to determining if a current or potential atrocity qualifies as genocide. A key challenge in this definition is the requirement to prove the element of “intent.”⁸⁸

Article 2 of the Genocide Convention employs the term “intent” but does not delineate the specific type of intent that is required, such as *dolus specialis*, general intent, or knowledge-based intent. *Dolus specialis* “demands that the perpetrator clearly seeks to produce the act charged.”⁸⁹ General intent “requires that the perpetrator intends to commit the killing but not necessarily to destroy the group.”⁹⁰ Knowledge-based intent “means awareness that a circumstance exists or that a consequence will occur in the ordinary course of events.”⁹¹ These specific types of intent are respectively supported by judgments and scholars. However, as previously mentioned, the Genocide Convention does not specify any particular type of intent.

⁸³ Int’l Crim. Ct., *ICC at a Glance* (2023), <https://www.icc-cpi.int/sites/default/files/2023-03/ICCAAtAGlanceENG.pdf>.

⁸⁴ Rosemary Grey, *Prosecuting Sexual and Gender-Based Crime at the International Criminal Court: Practice, Progress and Potential* 10 (Cambridge Univ. Press 2019).

⁸⁵ Int’l Crim. Ct., *supra* note 82.

⁸⁶ Lippman, *supra* note 45, at 19.

⁸⁷ Genocide Convention pmbl..

⁸⁸ Goldsmith, *supra* note 5, at 240.

⁸⁹ *Id.*, at 241.

⁹⁰ *Id.*, at 241-242.

⁹¹ *Id.*, at 245.

When a treaty provision is ambiguous, the VCLT provides the interpretive framework for clarifying its meaning.⁹² Article 31(1) of the VCLT demonstrated the general rule of interpretation: “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”⁹³ The object and purpose of the Genocide Convention, as stated in Article 1, “[t]he Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” From this perspective, any interpretation of the Genocide Convention must facilitate the fulfillment of its purpose of “preventing and punishing” genocide. Additionally, the International Court of Justice has emphasized that the object of the Genocide Convention “is to safeguard the very existence of certain human groups.”⁹⁴ An interpretation that sets a higher threshold, thereby deviating from the Convention’s object and purpose, would ultimately fail to protect those groups.

Furthermore, Article 32 of the VCLT states that if the interpretation according to Article 31 “leaves the meaning ambiguous or obscure, or leads to a result which is manifestly absurd or unreasonable,” then “[r]ecourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion.” When considering the *Travaux Préparatoires* of the Genocide Convention, it becomes clear that a specific type of intent was not strictly defined, as “the delegates intended for the definition to be broad enough to give judges the flexibility to assess each case individually. This suggests a more lenient interpretation of intent rather than the strictest standard.”⁹⁵

The Genocide Convention was established to address gaps in international law, with the aim of preventing the recurrence of tragic events and the immense loss of human life. Imposing a stricter standard than what the Convention originally intended would not only deviate from its core purpose but also provide a pretext to avoid preventing and punishing the crime of genocide, potentially encouraging its repetition. Committing acts of atrocity with the intent to destroy an entire group or part of it is an element that distinguishes genocide from other atrocities. This fundamental element should be acknowledged without being used to impose a higher threshold that restricts the definition of genocide when evaluating the actions of perpetrators.

1.2.1.3 Sexual Violence in Genocide, Crimes Against Humanity and War Crimes

International criminal law addresses sexual violence through several legal categories, including genocide, crimes against humanity, and war crimes. Rome Statute classifies acts such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any equivalent form of sexual violence as war crimes and crimes against humanity.⁹⁶ The ICTR and the ICTY

⁹² Vienna Convention on the Law of Treaties, *supra* note 51.

⁹³ Since Articles 31 to 33 of the VCLT embody customary international law, which the VCLT codified, they are binding on all States, regardless of whether they are parties to the VCLT.

⁹⁴ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, 1951 I.C.J. 15, 12.

⁹⁵ Goldsmith, *supra* note 5, at 250.

⁹⁶ Rome Statute, Art. 8 (2) (b) (xxii): “Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7 (2) (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions.” Art. 7 (1): “For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.”

confirmed that rape and other forms of sexual violence in armed conflict is a crime against humanity, a tool of genocide, a grave breach and a war crime.⁹⁷

The Genocide Convention does not explicitly address sexual violence in its text. Nevertheless, acts of sexual violence can be carried out as part of various genocidal actions outlined in Article 2 of the Genocide Convention. For example, Article 2 (b) — Causing serious bodily or mental harm to members of the group — includes acts such as rape, which can inflict severe physical or mental harm on victims and witnesses, akin to the consequences of Article 2 (a) — Killing members of the group. Additionally, Article 2 (c) — Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part — can lead to the gradual diminishment of the targeted group due to a lack of essential living resources, often referred to as a form of slow murder. Deprivation of the oppressed group’s Sexual and Reproductive Health and Rights (SRHRs) may result in members dying from inadequate healthcare and resources. Furthermore, Article 2 (d) — Imposing measures intended to prevent births within the group — can be achieved through violations of sexual autonomy, forced sterilization, forced pregnancy, forced abortion, or the destruction of victims’ sexual and reproductive organs. The victims may be unable to engage in intimate relationships afterward and could face rejection from their own communities.⁹⁸ These measures aim to inflict mental and physical harm, as well as social stigma, in order to prevent natural reproduction within the group.

For sexual violence to qualify as crimes against humanity, the acts of sexual violence must “be committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. In other words, there must be a policy or a practice of committing crimes that are tolerated or condoned by a government or de facto authority.”⁹⁹

As discussed previously, when “acts of sexual violence with a nexus to an armed conflict are therefore [...] war crimes.”¹⁰⁰ The war crimes of sexual violence defined by the ICC is “an act of a sexual nature against one or more persons or cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent.”¹⁰¹

Chile Eboe-Osuji’s explanation of the distinctions between rape in the contexts of genocide, crimes against humanity, and war crimes effectively concludes this section:

“Rape as an act of genocide is predicated on the special intent to destroy a group in whole or in part, the victim of rape being part of the group targeted for such destruction. Rape as a crime against humanity is predicated on the rape being part of a widespread or systematic attack against a civilian population, with the victim being raped as part of that attack. And rape as a war crime is predicated on the existence of an armed conflict (internal or international), during which the victim was raped.”¹⁰²

⁹⁷ Inal Tuba, *Looting and Rape in Wartime: Law and Change in International Relations*, 164 (2013).

⁹⁸ Lippman, *supra* note 43, at 89.

⁹⁹ Gloria Gaggioli, Sexual Violence in Armed Conflicts: A Violation of International Humanitarian Law and Human Rights Law, 96 *Int’l Rev. Red Cross* 503, 530 (2014).

¹⁰⁰ A/HRC/42/CRP.4, *supra* note 42, at ¶ 42.

¹⁰¹ Int’l Crim. Ct., Elements of Crimes art. 8(2)(e)(vi)-6, ICC-ASP/1/3 (2002).

¹⁰² Chile Eboe-Osuji, *International Law And Sexual Violence In Armed Conflicts*, 154 (Brill 2012).

1.2.2 Synthesis: Why Genocide as the Primary Legal Framework of This Thesis

The comparative analysis above clarifies why genocide provides the most appropriate legal framework for the present study. The primary distinctions among genocide, crimes against humanity, and war crimes encompass temporal applicability, the scope of protected persons or groups, the institutional fora through which responsibility is adjudicated (including the ICJ and the ICC), and the allocation of obligations and responsibility between States and individuals. War crimes are restricted to the context of armed conflict, whereas crimes against humanity and genocide may be committed in times of peace as well as war. Crimes against humanity and genocide both regulate large-scale attacks on civilians, but genocide applies specifically to conduct committed with intent to destroy, in whole or in part, a protected group “as such,” while crimes against humanity regulate widespread or systematic attacks directed against any civilian population without requiring group-destruction intent.

This thesis therefore adopts genocide as its primary analytical framework for three legally specific reasons that cannot be fully captured by war crimes or crimes against humanity. First, genocide is uniquely structured around a group-protective logic anchored in the Convention’s definition and State obligations: the same treaty framework that defines the crime also establishes duties “to prevent and to punish,” and expressly contemplates disputes concerning State responsibility. Second, genocide is the only one of the three core atrocity crimes that is governed by a dedicated multilateral convention that (i) frames prevention as a central legal obligation, and (ii) provides an explicit clause enabling inter-State litigation before the ICJ regarding the “interpretation, application or fulfilment” of the Convention, including State responsibility for genocide and related acts. Third, because genocide straddles both individual criminal responsibility and State responsibility, it provides a doctrinal and institutional pathway through which claims about an unfolding or imminent atrocity can be articulated not only as retrospective criminal wrongdoing but also as an ongoing breach of international obligations that engages duties of prevention and cooperation.

Regarding the subjects of regulation, individuals can be held accountable for war crimes, crimes against humanity, and genocide. Under specific circumstances, the ICC can exercise its jurisdiction over these individuals. However, the legal architecture of genocide is distinctive in that it simultaneously anchors (i) individual criminal responsibility under international criminal law and (ii) State responsibility under general international law, including through ICJ adjudication where jurisdictional requirements are satisfied. The Genocide Convention imposes responsibilities on States to prevent and punish acts of genocide. If a State fails to prevent or punish genocide, it incurs responsibility, in addition to the individual perpetrators, and must face scrutiny as a State. Therefore, victims often seek to have the atrocities committed against them recognized as genocide because such a designation triggers specific obligations under the Genocide Convention. According to this Convention, State parties are required to prevent and punish acts of genocide, which ideally would compel international engagement when genocide is identified.¹⁰³

This choice is also methodological: the thesis is concerned not only with the classification of past violence, but with the legal intelligibility of early and non-lethal modalities of group destruction—particularly sexual and reproductive violence—that may signal a genocidal process

¹⁰³ O’Brien, *supra* note 33, at 168.

before mass killing is visible or complete. War crimes analysis, by design, turns on the existence and classification of armed conflict and the nexus requirement; crimes against humanity analysis turns on the chapeau requirements of a widespread or systematic attack directed against civilians. Genocide analysis, by contrast, allows the thesis to keep in view how multiple Article II modalities—especially II(b)–(d)—may operate cumulatively and strategically as part of a project to destroy the protected group, even where the violence is implemented through social, reproductive, or institutional mechanisms rather than immediately lethal force. This does not assume that “genocide is worse” as a moral matter; rather, it reflects the thesis’s legal focus on the Convention’s prevention-oriented structure and on the dual track of State and individual responsibility that the genocide framework enables.

A commonality among the three crimes is that they are recognized as serious offences, all falling under the R2P, which emphasizes States’ obligation to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Violating this responsibility to protect allows the international community to intervene for humanitarian reasons. Moreover, the basic principles of war crimes, crimes against humanity, and genocide are considered *jus cogens*, to which States are obliged to adhere. But while these shared features underscore the gravity of all three categories, they do not erase the legal distinctiveness of genocide as a treaty-based regime that expressly couples prohibition with duties of prevention and judicable State responsibility. For the purposes of this dissertation—especially its gender-sensitive analysis of how non-lethal but group-destructive harms may be legally apprehended as part of a genocidal process—the genocide framework therefore provides the most conceptually and institutionally appropriate point of entry.

Having established why genocide provides the appropriate legal framework, the remainder of the thesis examines genocide internally—through its doctrinal structure, interpretive practices, and gendered logics—without recurring to parallel analyses of war crimes or crimes against humanity.

1.3 Background and Justification of the Study

This section situates the dissertation within its historical, legal, and political context, and explains why this study is both timely and necessary. It justifies the selection of the Rohingya and Uyghur contexts as core case studies for examining gendered genocidal processes and clarifies the study’s contribution to ongoing debates in international criminal law, feminist legal theory, and genocide prevention. By doing so, it establishes the empirical and normative grounds for the research design developed in subsequent chapters.

1.3.1 Defining Asia

This study examines sexual and reproductive violence in two genocidal contexts located in Asia: the persecution of the Rohingya in Myanmar and the repression of the Uyghurs in China. The reference to “Asia” in this study is thus geographic and contextual rather than civilizational or cultural. It does not presuppose a coherent “Asian” identity, culture, or gender order, nor does it suggest that the dynamics analyzed here are unique to Asia. Rather, it reflects the empirical location of the selected case studies and the political and legal contexts within which they unfold.

According to the United Nations' geographical classification, Asia can be divided into five major regions: Central Asia, East Asia, Southeast Asia, South Asia, and West Asia.¹⁰⁴ Asia encompasses a vast and diverse geographical expanse that stretches from the Pacific Ocean in the east to the borders of Europe in the west—from Japan in the east to Turkey in the west, and from Kazakhstan in the north to Indonesia in the south. This study focuses on China in East Asia and Myanmar in Southeast Asia, particularly on two minority groups—Uyghurs (a Turkic, predominantly Muslim group straddling Central and East Asia) and Rohingya (an Indo-Aryan, predominantly Muslim group straddling South and Southeast Asia)—who are currently facing state-led and ongoing genocidal persecution.¹⁰⁵

From this classification, it is evident that Asia is not a monolithic cultural entity but rather a region composed of an especially wide array of diverse and heterogeneous languages, cultures, and ethnic groups. For example, Southeast Asia alone encompasses more than 1,200 languages.¹⁰⁶ The region's religious landscape is also complex, incorporating Buddhism, Taoism, Islam, Shintoism, Christianity, Shamanism, atheism and more.¹⁰⁷ Moreover, the ethnic composition is highly intricate. For instance, in China, the government officially recognizes 56 distinct ethnic groups.¹⁰⁸ In Myanmar, the government officially recognizes 135 ethnic groups within its territory¹⁰⁹ – with the Rohingya no longer (since 1982) among those now officially recognized, but having been recognized on Myanmar/Burma's independence in 1948.¹¹⁰

¹⁰⁴ In this research, the classification of Asia follows the United Nations' geographical framework, which divides the continent into five major regions: Central Asia, East Asia, Southeast Asia, South Asia, and West Asia. East Asia includes China, Japan, South Korea, North Korea, and Mongolia. Southeast Asia comprises Myanmar, Thailand, Laos, Cambodia, Vietnam, Malaysia, Singapore, Indonesia, the Philippines, Brunei, and Timor-Leste. South Asia consists of India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, and the Maldives. Central Asia includes Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, and Turkmenistan. West Asia encompasses Turkey, Iran, Iraq, Saudi Arabia, Syria, Palestine, Jordan, Israel, Lebanon, the United Arab Emirates, Qatar, Bahrain, Oman, Yemen, and the South Caucasus countries of Armenia, Azerbaijan, and Georgia. This study focuses on China in East Asia and Myanmar in Southeast Asia, particularly on two Muslim minority groups—Uyghurs and Rohingya—who are currently facing state-led and ongoing genocidal persecution. U.N. Statistics Div., Geographic Regions, <https://unstats.un.org/unsd/methodology/m49/>.

¹⁰⁵ The Rohingya population lives primarily in Myanmar's Rakhine State, which is located in the southwest region and shares a border with Bangladesh. Myanmar is a diverse country that constitutionally recognizes 135 ethnic groups within its territory. The largest of which is the Burmese, who predominantly speak Burmese and follow Buddhism. The Rohingya community, consisting mainly of Muslims speaking the Rohingya language, represents a small minority in Myanmar, comprising only 2% of the country's population. The Uyghur community, a Turkic ethnic group, resides predominantly in China's Xinjiang Uyghur Autonomous Region (XUAR), located in the northwest region. The XUAR shares borders with Mongolia, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan and India. The Uyghur people have a distinct language, Uyghur, and most of them practice Islam. Their geographic remoteness from central China and differences in ethnicity, religion and language set them apart from the Han Chinese majority. Within China, the Uyghur people are officially recognized as a minority group. *Rep. of the Indep. Int'l Fact-Finding Mission on Myanmar*, ¶ 1391, U.N. Doc. A/HRC/39/CRP.2 (2018); Uyghur Tribunal, Judgment, ¶ 412(b) (2022), <https://uyghurtribunal.com/wp-content/uploads/2022/09/UYGHUR-TRIBUNAL-Judgment-2022.09.20.pdf>.

¹⁰⁶ Kalevi Kosonen, Language Policy and Education in Southeast Asia, in *Language Policy And Political Issues in Education* 477 (Stephen May ed., 3d ed. 2017).

¹⁰⁷ U.N. Educ., Sci. & Cultural Org. (UNESCO), *Traditional Cultures in South-East Asia*, <https://unesdoc.unesco.org/ark:/48223/pf0000133188>.

¹⁰⁸ Nat'l Bureau of Statistics of China, <https://www.stats.gov.cn/>.

¹⁰⁹ A/HRC/39/CRP.2(2018), *supra* note 105, at ¶ 85.

¹¹⁰ *Id.*, at ¶ 699; Citizenship Law (Pyithu Hluttaw Law No. 4/1982) (Myanmar), <https://un-act.org/publication/view/myanmars-citizenship-law-1982/>.

1.3.2 The Socio-Cultural Context for Selecting Uyghurs and Rohingya as Case Studies of Genocide

The primary reason for selecting Uyghurs and Rohingya as case studies of genocide is that these groups continue to experience persecution, with atrocities actively unfolding. The Rohingya and Uyghurs are both ethnic minorities within their respective countries, differing significantly from the dominant population in terms of ethnicity, religion, language, and culture. They are indisputably identifiable. Positioned at the intersection of group conflicts, they have been designated as groups that must either assimilate or be eradicated. What is being targeted for elimination is not only their physical existence but also their identity and the continuity of their heritage across future generations; they are targeted as a collective *group*. The survival and continuity of these groups are at stake, underscoring the urgent need for critical investigation and appropriate international response.

Additionally, my background as a Taiwanese researcher provides me with a unique perspective. Asia has historically remained at the margins of international legal development and has often been perceived as peripheral to the global legal order.¹¹¹ This research is grounded in the perspective of an Asian researcher who observes acts of genocide occurring within Asia. By adopting a position shaped by regional belonging and relative marginality, I examine the gendered persecution of ethnically and culturally marginalized groups—the Uyghurs and the Rohingya—not only as a matter of legal and political violence, but also as a deeply gendered phenomenon.¹¹²

Moreover, both the Rohingya and Uyghur populations face systematic persecution by their respective governments, albeit through distinct approaches. The Chinese government officially recognizes Uyghurs as an ethnic minority, yet it implements extremely coercive assimilation policies aimed at eradicating Uyghur cultural and ethnic identities, ultimately intending the full Sinicization of the Uyghur people.¹¹³ In contrast, the Myanmar government refuses to acknowledge the Rohingya as one of the state's ethnic groups, instead classifying them as illegal immigrants.¹¹⁴ Its policies are oriented toward the direct elimination and expulsion of the Rohingya population – which, in fact, has largely occurred – without any apparent intention of assimilation or integration into Myanmar society or the wider state. However, despite differing policy objectives, both governments similarly employ sexual violence specifically targeting

¹¹¹ David P. Fidler, *The Asian Century: Implications for International Law*, 19 *Ind. J. Global Legal Stud.* 19, 21 (2005).

¹¹² Furthermore, Taiwan's historical experiences allow me to empathize with the Uyghurs' forced assimilation and the Rohingya's denial of identity. Taiwan has long been denied formal recognition in the international community; it is neither a member of the United Nations nor of major international organizations, and it faces territorial claims and harassment from the Chinese government. Against this backdrop, Taiwanese people deeply understand what it means to have their identity stripped away and invalidated, as well as the threats that arise from asserting one's identity. This bears certain parallels to the contemporary struggles of the Uyghurs and Rohingya. Taiwan itself has also endured large-scale violence in its history. In 1947, following the Chinese Civil War, the defeated Kuomintang government retreated to Taiwan and carried out a massacre against the local population. The trauma from this event continues to affect Taiwanese society today, passing through generations as an unresolved wound. Many historical truths remain undisclosed, perpetrators have not been held accountable, and transitional justice efforts face persistent challenges. This historical experience compels me to explore the long-term impact of ethnic persecution and underscores the importance of examining contemporary cases of genocide.

¹¹³ Adrian Zenz, *The Xinjiang Papers: An Analysis of Key Findings and Implications for the Uyghur Tribunal in London* 25–26 (Victims of Communism Mem'l Found. Dec. 9, 2021).

¹¹⁴ A/HRC/42/CRP.5(2019), *supra* note 2, at ¶ 3 & 210.

women as a means of achieving their policies, highlighting sexual violence as a shared instrument of political and ethnic control and, ultimately, of destruction of these two groups.

1.4 Research Questions

This section sets out the dissertation's principal research questions and explains how they are methodologically operationalized. It clarifies how the project moves from doctrinal interpretation to structural and process-oriented analysis, and how the selected methods are designed to capture forms of genocidal harm that are often obscured by death-centered evidentiary frameworks. It thereby links the dissertation's normative concerns to a coherent analytical strategy.

This study adopts a gendered lens to argue that genocide is deeply shaped by socially constructed gender roles. By centering women's long-overlooked experiences, it explores how sexual violence against women may constitute genocide. This inquiry leads to the following research questions:

Question 1: How does sexual violence against women operate as a strategic tool of genocide to dismantle the social fabric of targeted groups, based on gender roles and cultural norms?

Question 2: To what extent do international legal frameworks and jurisprudence recognize gender-based acts—such as rape, forced impregnation, and sterilization—as constitutive elements of genocide?

Question 3: How does the systematic use of sexual violence against women demonstrate and help establish genocidal intent in international legal analysis?

Question 4: How does the recognition of gender-based forms of genocide affect both state accountability and broader notions of international legal responsibility, including duties to prevent, punish, and provide reparations?

Question 5: In what ways can gender-sensitive early warning indicators enhance genocide prevention mechanisms by identifying patterns of violence targeting women's bodies and reproductive autonomy?

1.4.1 Research Objectives

This study focuses on the experiences of Rohingya women in Myanmar and Uyghur women in China, analyzing how the respective governments of these countries utilize women's bodies as instruments of contemporary genocide in Asia.¹¹⁵ First, this research explores the symbolic significance of women's bodies in cultural contexts and argues that sexual violence targeting women of specific groups can inflict severe harm on their communities, ultimately leading to their destruction. The study posits that, as long as perpetrators and victims share a cultural understanding of the symbolic meaning of women's bodies—or if perpetrators recognize the significance of women's bodies within the victimized community—destroying these symbols can serve as a means of destroying the entire group.

¹¹⁵ See *supra* note 105.

In both the Rohingya and Uyghur cases, sexual violence is not incidental but central to the state's strategy of group destruction. Women's bodies are treated as vessels of cultural identity, lineage, and social cohesion. Violations such as rape and forced sterilization target these symbolic roles, aiming to rupture the group's continuity and undermine its ability to regenerate. This weaponization of gender must be understood as part of the broader genocidal project.

Through an examination of the Rohingya and Uyghur cases, this study assesses whether such acts of sexual violence meet the definition of genocidal acts outlined in the Genocide Convention. Furthermore, it scrutinizes the national policies and practices of China and Myanmar, evaluating how their approaches to sexual violence against women reflect genocidal intent. Lastly, this research discusses the potential early warning mechanisms, state responsibility of perpetrator nations, and the broader international community in addressing sexual violence as a form of genocide.

1.5 Theoretical Framework: Feminism, Gender, and Genocidal Patriarchy

This study adopts feminist and intersectional approaches as a method of legal interpretation and institutional critique, rather than merely as a normative or ideological position. On this basis, it conceptualizes what it terms genocidal patriarchy as an analytical framework for understanding how gendered power structures are mobilized within genocidal processes. The concept does not suggest that patriarchy is the sole or universal cause of genocide, nor does it posit gender as an autonomous explanatory variable detached from political, racial, or ideological factors. Rather, it identifies patriarchy as a recurrent and strategically exploitable logic of domination through which perpetrators are able to weaponize gender norms, women's bodies, and reproductive capacities in order to undermine the social, cultural, and biological continuity of targeted groups.

Within this framework, the study further develops the notion of triple vulnerability to capture the layered and intersecting forms of exposure faced by women in genocidal contexts—arising from their gendered social positioning, their membership in targeted ethnic or religious groups, and their location within legal and institutional structures that frequently fail to recognize or remedy gender-based harms. These concepts function not as abstract theory but as interpretive tools for analyzing how specific forms of violence against women—particularly sexual and reproductive violence—operate as mechanisms of group destruction.

The following sections situate this framework within existing feminist and intersectional scholarship and explain how it informs the legal analysis developed throughout the thesis. These frameworks are employed not as normative prescriptions, but as analytical tools for interrogating how international legal interpretation and evidentiary practices render certain forms of harm visible or invisible.

1.5.1 Feminist Critiques of Gender Roles and Patriarchal Power

Feminist theory is often most familiar as a tool for challenging existing gender orders and traditional gender-role frameworks. It is equally important as a method for examining how aspects of everyday life come to appear natural, ordinary, or self-evident, even when they are structured through power, contradiction, and injustice. They have shown that “woman” is not a natural category but a socially produced one. Simone de Beauvoir, in *The Second Sex* (1949), famously

observed that “one is not born, but rather becomes, a woman,” thus exposing gender as a social construction and demonstrating how patriarchal society marginalizes women as “the Other.”¹¹⁶

Judith Butler, in *Gender Trouble* (1990), further argued that gender is not an essence but is constituted through repeated performances, and that those who fail to conform to normative scripts are subject to social sanction.¹¹⁷ Her work challenges both gender essentialism and binary conceptions of sex and gender, destabilizing traditional definitions of “men” and “women.”

Catharine A. MacKinnon, in *Toward a Feminist Theory of the State* (1989), argued that gender roles serve patriarchal power structures and that gender difference itself is a form of social hierarchy.¹¹⁸ From the perspectives of law and sexual violence, she exposes how gender operates as a mechanism of domination. This study draws on MacKinnon’s work methodologically to examine how legal institutions and evidentiary practices reproduce gendered hierarchies under the guise of neutrality.

1.5.2 Intersectional Feminism and the Limits of Universalism

bell hooks argues that mainstream feminism—shaped by the gender-role assumptions and social positions of white, middle-class women—has marginalized race and class as structural forms of oppression, a limitation that undermines feminism’s capacity to liberate women situated outside that privileged framework.¹¹⁹

Kimberlé Crenshaw, in “Demarginalizing the Intersection of Race and Sex” (1989), further demonstrated that gender cannot be analyzed independently of race, class, culture, and other intersecting structures of subordination, and that both law and mainstream feminism systematically marginalize the gendered experiences of Black women.¹²⁰ This study adopts intersectionality not as a substantive theory of identity, but as a methodological tool for tracing how overlapping structures of power shape both exposure to violence and access to legal recognition.

This thesis reads MacKinnon and Crenshaw as analytically distinct but methodologically complementary. MacKinnon clarifies how legal institutions are structured by masculinist assumptions that normalize certain injuries while downgrading others; her contribution is therefore directed to the critique of evidentiary hierarchy and the production of legal invisibility. Crenshaw, by contrast, provides the method for tracing how gendered harm is differentially produced through the intersection of ethnicity, religion, nationality, and minority status, and why women within targeted groups are not exposed to genocide in uniform ways. The project does not collapse these frameworks into a single theory, nor does it treat women as a homogeneous category. Instead, it uses MacKinnon to diagnose the institutional grammar of recognition and Crenshaw to map patterned differentiation within genocidal processes. Read together, they support the thesis’s central claim: women can be simultaneously central to perpetrators’ strategies of group destruction

¹¹⁶ Simone de Beauvoir, *The Second Sex* 283 (H.M. Parshley trans., Alfred A. Knopf 1953) (1949).

¹¹⁷ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* 6 (Routledge 1990).

¹¹⁸ Catharine A. MacKinnon, *Toward a Feminist Theory of the State* 237-238 (Harvard Univ. Press 1989).

¹¹⁹ bell hooks, *Feminist Theory: From Margin to Center* 2–4 (Routledge 2015).

¹²⁰ Kimberlé Crenshaw, Demarginalizing the Intersection of Race and Sex, 1989 *U. Chi. Legal F.* 139, 139–40, 149, 152–56 (1989).

and peripheral to legal recognition, particularly under adjudicative practices that privilege lethal, visible violence over reproductive, sexual, and psychosocial modes of harm.

1.5.3 The Concept of *Genocidal Patriarchy and Resistance*

Building on these methodological commitments, this study conceptualizes *genocidal patriarchy* as an analytical framework for understanding how gendered power relations and patriarchal norms structure the organization and distribution of violence within genocidal processes. It does not claim that patriarchy is the sole cause of genocide, nor that gender operates in isolation from political, racial, or ideological factors. Rather, it argues that genocidal violence is always mediated through gendered logics: perpetrators select, differentiate, and target victims in ways that reflect culturally and institutionally constructed understandings of masculinity, femininity, reproduction, honor, and social role.

As used in this thesis, patriarchy refers to an arrangement of power that organizes social relations through gendered hierarchy and assigns meaning, value, and vulnerability through gender. Because this order is socially constructed, its forms and effects cannot be assumed to be universal, stable, or uniform. They shift across contexts and are best understood through the specific social arrangements that produce and sustain gendered hierarchy.¹²¹

Genocidal patriarchy thus refers to the strategic mobilization of gender norms and the perpetrator-driven reduction of persons into objects of regulation, violation, and reproductive control within genocidal campaigns. Killing, rape, forced impregnation, sterilization, forced marriage, detention, and disappearance are not random or interchangeable acts, but gender-differentiated modalities of violence through which groups are dismantled biologically, socially, and symbolically.

By foregrounding gender as a structure of power rather than as an identity category, this concept shifts analytical attention from isolated acts of sexual violence to the broader political and institutional conditions that render such violence an effective technique of group destruction. This is an analysis of perpetrator and institutional logics, not of individual motivations or responsibilities.

However, an account that merely maps structures of domination risks reproducing their apparent inevitability. For this reason, the framework also requires a conceptual vocabulary for identifying how such structures may be disrupted, contested, and rendered unstable. Within this framework, *resistance* is understood not as an individualized moral obligation, but as the structural disruption and contestation of the gendered norms and institutional arrangements through which genocidal violence is organized and rendered effective.¹²²

This study is not concerned with why women are vulnerable, but with how institutional, cultural, and political structures construct particular gendered positions as available for mobilization, manipulation, and transformation into techniques of violence. This focus is analytical rather than explanatory, and does not attribute responsibility to victims.

¹²¹ See Sylvia Walby, *Theorising Patriarchy*, 23(2) *Sociology* 213, 227 (1989).

¹²² At this stage, resistance is noted in a delimiting sense only. Its doctrinal and normative development is deferred to Chapter 6, which examines resistance as a prevention-relevant category linked to recognition gaps, evidentiary legibility, and institutional design.

Accordingly, this analysis does not endorse perpetrators' reinforcement or exploitation of traditional gender roles, nor does it treat the invocation of shared cultural frameworks as legitimizing gendered oppression. Rather, it remains grounded in a feminist critique that seeks to expose how gender roles are strategically transformed into instruments of harm within patriarchal and ethno-nationalist political structures. Resistance thus denotes structural, legal, and cultural processes through which gender roles are denaturalized, their instrumentalization is exposed, and their capacity to function as tools of group destruction is weakened.

This study further employs the concept of triple vulnerability as an operational tool to analyze how gender, group membership, and institutional marginalization intersect to shape women's exposure to genocidal violence. This concept will be elaborated and applied in the subsequent chapters.

1.6 Methodology

This study draws on radical feminist scholarship to examine how patriarchal state structures weaponize women's bodies in genocide. It approaches patriarchy as a gendered structure of power whose effects are mediated through ethnicity, religion, citizenship, security governance, and state power. Using an intersectional feminist framework, grounded in the concept of intersectionality coined by Kimberlé Crenshaw, this study examines how gendered domination operates differently across protected-group positions. In this sense, radical feminist theory helps identify the structural significance of sexual and reproductive domination, and intersectionality clarifies why that domination cannot be analyzed as if all women experience it in the same way.¹²³ The Rohingya and Uyghur cases therefore require attention to women's gendered subordination and to the specific protected-group positions through which that subordination is organized and exploited. This approach shows that genocide cannot be understood through killing alone; it also requires attention to forms of sexual and reproductive violence that attack the protected group through gendered structures of power.

From the perspective of intersectionality, just as Black men are commonly positioned as the primary representatives of the "Black experience," Asians (or in variation by sub-regions) are often treated as a homogenous group, with male perspectives serving as the default.¹²⁴ As a result, the distinct experiences of Asian women are marginalized – dismissed as exceptional rather than representative.

This essentializing view of Asians as a singular, unified category excludes the complex, layered realities of Asian women, who navigate structural inequalities shaped by both ethnicity and gender. An intersectional framework makes it possible to examine the systemic invisibility of Asian women and to challenge dominant international narratives that privilege the most visible forms of victimhood, particularly the killing of men.

The reason for drawing simultaneously on radical feminism and intersectional feminism is as follows. I rely on MacKinnon's work because she demonstrates how the state mobilizes patriarchy

¹²³ Crenshaw, *supra* note 120, at 139.

¹²⁴ Kimberlé Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, 43 *Stan. L. Rev.* 1241, 1243–45 (1991).

as a structure of domination.¹²⁵ She argues that the state and its legal institutions are not neutral but are constructed around male experiences and male interests, such that legal “neutrality” in fact reflects a male standpoint and relegates women to the status of exceptions or special cases. This insight remains highly relevant to contemporary international responses to genocide, which continue to prioritize forms of harm that are visible and quantifiable—most notably death counts, often reflecting male experiences of violence—while marginalizing or overlooking the experiences of women who survive other forms of genocidal harm, particularly sexual and reproductive violence.

In MacKinnon’s account, what is often presented as “sex difference” or complementarity operates in practice as a hierarchy of domination, in which women are systematically subordinated to men as a class.¹²⁶ Sexuality functions as the primary social mechanism through which this hierarchy is produced, enforced, and rendered natural.¹²⁷ This structure of subordination operates not only in culture, family, and labor, but is deeply embedded in legal and political institutions.¹²⁸ Accordingly, sex is theorized as a social hierarchy of power—one that the state and law institutionalize rather than neutrally arbitrate—such that legal “neutrality” operates in practice in the service of male power.¹²⁹

Intersectional feminism, by contrast, emphasizes that oppression is constituted through the interaction of race, gender, class, and other axes of power, and that the state’s failure to recognize these intersections produces forms of legal absence and exclusion. MacKinnon’s work has been widely criticized for its reliance on the standpoint of white women and for its insufficient attention to the experiences of racialized and marginalized women. Yet her analysis of how male-dominated political and legal systems structure responses to social problems remains analytically valuable. From an intersectional perspective, no single form of women’s oppression can be treated as universal; oppression is heterogeneous and relational. Nonetheless, patriarchy remains a

¹²⁵ See MacKinnon, *Toward a Feminist Theory of the State*, *supra* note 118.

¹²⁶ MacKinnon, *Toward a Feminist Theory of the State*, *supra* note 118, at 130–31, 241–42.

¹²⁷ *Id.*, at 126–54.

¹²⁸ *Id.*, at 237–49.

¹²⁹ MacKinnon uses “sex” to name a structural hierarchy of domination, “sexuality” to describe a primary social mechanism through which that hierarchy is produced and naturalized, and “gender” more variably to refer to the social meanings and roles that express—or are generated by—that sex-based power arrangement. See generally Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard Univ. Press 1987); MacKinnon, *Toward a Feminist Theory of the State*, *supra* note 118. This thesis draws on MacKinnon’s account to analyze sexual and reproductive domination, while also using “gender” more broadly to capture the social meanings attached to bodies, sexuality, masculinity, femininity, family position, and group belonging. In the genocide context, this broader usage is necessary because sexual violence may operate through both sex-based and gender-based forms of subordination. Women may be targeted through forms of violence that exploit meanings attached to female bodies, sexuality, reproduction, and group continuity. Men and boys may also be targeted through sexual violence that derives its force from feminization, emasculation, homophobia, racialization, and the association of sexual violation with humiliation or loss of social standing. Puar’s analysis further situates sexualized violence within the overlapping production of race, gender, sexuality, nationalism, and security. This is especially relevant where sexual violence marks certain bodies as deviant, threatening, feminized, or available for violation. See J Puar, *supra* note 22. This thesis remains centered on women’s experiences of genocidal sexual and reproductive violence, while using Puar to clarify why the gendered meaning of sexual violence also depends on the sexual, racialized, and security meanings attached to the victim and the targeted group.

systematic structure that operates across these differences, shaping distinct forms of domination for different groups of women.

The reason for drawing simultaneously on radical feminism and intersectional feminism is methodological rather than doctrinal. MacKinnon's work is used at the structural level to identify patriarchy as an institutional logic embedded in law and state power, while Crenshaw's theory of intersectionality is employed to trace how this logic operates differently across race, ethnicity, religion, and legal status. This combination allows the study to be simultaneously structural and contextual, avoiding both universalism and relativism.

In genocidal contexts, perpetrators interpret gender relations through a patriarchal lens. They reinforce traditional gender-role frameworks through discourse, normalize gender hierarchies necessary for governance and control, and mobilize attacks against the socially constructed meanings of women in culture and society in order to harm specific communities. The ways in which gender roles are constructed and politicized thus shape the forms of violence to which different genders are subjected.

This study employs a multi-method qualitative approach, combining legal framework analysis, and case studies to examine the use of sexual violence against Rohingya and Uyghur women under international law. The legal analysis focuses on the 1948 Genocide Convention, with particular attention to whether acts of sexual violence satisfy the Convention's legal threshold for genocidal acts. This involves a close examination of the Convention's text, its travaux préparatoires, relevant international jurisprudence (e.g., ICJ, ICTY, ICTR), legal arguments and reports from international human rights bodies to assess how sexual violence has been interpreted and recognized within the evolving contours of international law.

The case study focuses on two ethnically and religiously marginalized groups of women—the Rohingya in Myanmar and the Uyghurs in China—drawing on survivor testimonies documented by the UN and other human rights organizations, human rights reports, and analyses of state policies, the study investigates the patterns, scale, and intent behind the use of sexual violence against these populations. These cases are evaluated in light of international legal standards to determine whether the documented acts constitute genocidal violence.¹³⁰

Due to practical limitations, political sensitivities and language barriers, as well as ethical concerns, direct interviews with survivors within Myanmar and China, or within refugee camps, are not feasible.¹³¹ Instead, the research includes semi-structured interviews with human rights researchers, primary commentators, scholars and members of the Rohingya and Uyghur diaspora

¹³⁰ For instance, the United Nations Independent International Fact-Finding Mission on Myanmar (IIFMM) and the United Nations Human Rights Council, Human Rights Watch, Fortify Rights.

¹³¹ Interviews with survivors of sexual violence require trained professionals to ensure that victims are not subjected to secondary trauma. Additionally, language barriers—particularly with the Rohingya population—and the severe restrictions on freedom of expression faced by Uyghur victims further complicated the possibility of conducting direct interviews. Uyghur Human Rights Project, *Uyghur Women Activists in the Diaspora: Restorying a Genocide* (2024) (online conference), <https://www.youtube.com/watch?v=TfZ3PtjemwA>; Jelke Boesten & Marsha Henry, Between Fatigue and Silence: The Challenges of Conducting Research on Sexual Violence in Conflict, 25 *Soc. Pol.* 568, 569, 580 (2018); Human Rights Watch, “*All of My Body Was Pain*”: *Sexual Violence against Rohingya Women and Girls in Burma* 36 (2017), <https://www.hrw.org/report/2017/11/16/all-my-body-was-pain/sexual-violence-against-rohingya-women-and-girls-burma>.

groups. These interviews aim to supplement the documentary evidence and offer nuanced insights into the lived experiences of affected women, thereby enhancing the study's capacity to represent their realities within a legal and intersectional feminist framework.

This study further engages with a range of databases related to human rights, gender equality, and atrocity crimes to examine both what these sources can reveal and what they fail to capture about sexual violence against women as a potential indicator of genocidal acts.¹³² In addition, it considers whether the erosion of women's rights—such as the curtailment of reproductive autonomy—can be identified as a potential early warning sign where such measures affect women within a protected group and form part of a broader pattern of exclusion, coercive governance, or violence directed at the group. Such measures may precede more overt acts, including rape, other violations of physical integrity, and killing, and may provide earlier indications of how gendered control is becoming connected to the targeting of the group. By examining both the possibilities and limits of existing data sources, this research seeks to contribute to the development of more effective approaches to the prevention of genocide.

1.7 Positionality and Reflexivity

This section explains the role of positionality and reflexivity in the production and interpretation of legal knowledge in this dissertation. Rather than treating standpoint as a personal aside, it addresses how researcher location, disciplinary framing, and normative commitments shape question formation, source selection, and legal interpretation. This clarification is methodologically important for making the research design explicit and for situating the analysis in relation to gendered atrocity.

1.7.1 Experience of Being a Mother

The inspiration for this research stems from my personal experiences. After becoming a mother, I went through a prolonged period of emotional distress—not merely due to the role transition but because of the profound impact this change had on every aspect of my life. The birth of a child alters personal priorities and fundamentally reshapes one's life trajectory. Almost all freedoms are restricted, except, it seems, for weight gain and bodily changes. This drastic transformation led me to question: why is such a significant life change rarely (or inadequately) discussed in society?

Traditional societal expectations dictate that women should marry and bear children at an appropriate age.¹³³ However, there is a lack of adequate discourse on the childbirth process and its consequences.¹³⁴ The physical and mental impact of childbirth on women is often irreversible,

¹³² These databases include, but are not limited to, the Asia Pacific Centre for the Responsibility to Protect's Early Warning Risk Assessments, the Atrocity Forecasting Project (AFP), Crisis Watch, the Global Centre for the Responsibility to Protect's Populations at Risk, the Violence & Impacts Early-Warning System (VIEWS), the Political Instability Task Force (PITF), the World Bank Gender Data Portal, and the Universal Human Rights Index (UHRI), UN Statistics Division. These datasets serve as illustrative examples of the types of sources used to contextualize and empirically assess patterns of targeted sexual violence and their potential alignment with genocidal intent.

¹³³ "According to different national projects, under specific historical circumstances, some or all women of childbearing age groups would be called on, sometimes bribed, and sometimes even forced, to have more, or fewer, children [...] A central dimension of these policies would usually be, to a greater or lesser extent, a concern about the 'genetic pool' of the nation." Nira Yuval-Davis, *Gender and Nation* 22 (Sage Publ'ns 1997).

¹³⁴ World Health Organization, *More Than a Third of Women Experience Lasting Health Problems After Childbirth, New Research Shows: Beyond Pregnancy—Experts Call for Greater Attention to the Long-Term Health Challenges*

including postpartum incontinence and other bodily changes.¹³⁵ Yet, these issues are treated as private matters—even women themselves may not openly discuss them with one another.¹³⁶ Motherhood is often glorified as a noble act of life-giving, but the impact on women’s bodies and future aspirations is rarely acknowledged.¹³⁷ This led me to question: why is a woman’s reproductive capacity equated with an obligation to bear children? Why is not only childbirth but also the responsibility of child-rearing assumed to be an inherent duty of women? More broadly, are women in many societies merely viewed as vessels for perpetuating bloodlines, ethnic groups, or nations?

1.7.2 Experience of being an Asian Woman

Another catalyst for this research is my personal experience within my family. When my daughter was born, some family members expressed disappointment, believing that a male heir was necessary to continue the family lineage. This mindset reflects deeply ingrained traditional values in Asian societies.¹³⁸ When my partner and I decided not to have additional children, we faced severe criticism and pressure. In such moments, I found myself questioning: “What era are we living in? How is it that I still need to discuss how I use my uterus with others?” The absurdity of the situation nearly made me laugh even in the face of my relatives’ anger.

Women are subject to deeply embedded social norms and legal structures that reinforce gender-based expectations. Efforts to advance reproductive autonomy frequently provoke institutional and societal resistance.¹³⁹ The cumulative effect of seemingly minor disadvantages and concessions constitutes a systemic constraint – an invisible cage that limits women’s full enjoyment of their putatively inherent and inalienable human rights under international human rights law.

These experiences prompted me to examine the issue of women’s reproductive autonomy.¹⁴⁰ It is worth considering that even in Taiwan—a country with a relatively high gender equality index within Asia—I encountered such strong societal pressure regarding reproduction.¹⁴¹ This raises

of Women and Girls in Special *Lancet* Series (Dec. 7, 2023), <https://www.who.int/news/item/07-12-2023-more-than-a-third-of-women-experience-lasting-health-problems-after-childbirth>.

¹³⁵ *Id.*; See Joshua P. Vogel et al., Neglected Medium-Term and Long-Term Consequences of Labour and Childbirth: A Systematic Analysis of the Burden, Recommended Practices, and a Way Forward, 12 *Lancet Glob. Health* e317 (2024)

¹³⁶ See Jaime R. DeLuca & Jacob J. Bustad, Beyond “Bouncing Back”: Bodily Change and Postpartum Embodiment, 52 *Body Image* 101859 (2025).

¹³⁷ *Id.*

¹³⁸ “[O]n preference or sex selection favouring boys in many parts of South, East and Central Asia, where ratios as high as 130 boys for every 100 girls have been observed.” Office of the U.N. High Comm’r for Hum. Rts., U.N. Population Fund, U.N. Children’s Fund, U.N. Women & World Health Org., “*Son Preference*” *Perpetuates Discrimination and Violations of Women’s Rights—It Must and Can End* (June 14, 2011), <https://www.ohchr.org/en/press-releases/2011/06/joint-statement-ohchr-unfpa-unicef-un-women-and-who>.

¹³⁹ For example, the right to abortion remains a highly contested issue, consistently generating polarized public and political opinion.

¹⁴⁰ This can be seen as my personal moment of awakening. As Nira Yuval-Davis notes, “The right of women to choose whether to have children, as well as how many to have and when, has been seen by many feminists as the basic ‘touchstone’ of feminist politics.” Yuval-Davis, *supra* note 133, at 22.

¹⁴¹ Dep’t of Gender Equality, Exec. Yuan (Taiwan), *Gender at a Glance in R.O.C. (Taiwan)* 1 (2024), <https://www.boca.gov.tw/dl-4079-ac405212f8d34d50b4490707136cdb06.html>.

the question: what about women in societies with lower levels of gender equality and much weaker human rights protections?

By studying sexual violence and genocide—extreme manifestations of these issues—I hope to bring greater attention to these topics and encourage continuous societal discourse. Ultimately, I hope to make a small contribution toward advancing the recognition of women’s autonomy over their bodies, so they are not merely perceived as means for sustaining families, ethnic groups, or nations.

1.7.3 Locating Myself Within the Research

Having grown up in Taiwan, I have been deeply shaped by the complexities of self-identification within a society marked by internal diversity and an ambiguous international status.¹⁴² These dynamics have rendered the question of self-identity not only intellectually compelling but also personally meaningful, deepening my interest in how identity is constructed, negotiated, and politicized within both national and individual frameworks.

As a female lawyer, I care deeply about the issue of violence against women. I hope to use my legal background to contribute to efforts that support and protect those affected, especially the most vulnerable. While this study does not purport to offer a comprehensive solution regarding sexual violence against women as genocide, it aims to contribute to scholarly discourse from an Asian perspective.

Importantly, this study does not seek to assess or critique Islamic theology, nor does it make normative claims about the status of women in Islamic cultures. Rather, it focuses on how gender is weaponized within state-led projects of domination and erasure. By centering this intersection of gender, religion, and structural violence, the research underscores that such acts of gendered persecution warrant the same level of international concern and condemnation as any other recognized form of genocide.

1.8 The Importance and Originality of the Research

This research aims to contribute to the growing body of scholarship on ongoing genocides against the Uyghur and Rohingya peoples by shedding light on the systematic use of sexual violence by the Chinese and Myanmar governments as a means of achieving genocidal objectives—an aspect that remains under-examined in existing literature.¹⁴³ By adopting a gender perspective, this research seeks to analyze genocide not solely as an act of mass killing, but as a process deeply embedded in social structures, particularly through the manipulation and destruction of gender roles within targeted groups.¹⁴⁴

¹⁴² Election Study Ctr., Nat’l Chengchi Univ., *Taiwanese/Chinese Identity* (June 1992–Dec. 2024), <https://esc.nccu.edu.tw/PageDoc/Detail?fid=7800&id=6961>.

¹⁴³ As these genocides are ongoing in contexts which obstruct access and fully conclusive examination, full analyses are so far conditioned by the evident limitations. Several obstacles persist, including concerns for the safety of victims and the difficulty of reaching survivors. Nonetheless, it would be perverse to wait for better scholarly conditions before engaging in analysis of such situations. Indeed, the Genocide Convention compels us to try.

¹⁴⁴ The gendered study of genocide requires examining how gender operates across multiple layers that contribute to the commission of the crime. These layers include how perpetrators conceptualize power through gender, define group identities, and structure social, economic, and political systems. It also encompasses the gendered strategies used in

This study emphasizes the interrelation between gendered social meanings and group identity, arguing that gender is a foundational element of social organization and group cohesion.¹⁴⁵ Violence targeted at specific gender roles—especially sexual violence against women—can thus serve as a strategic tool for dismantling the social fabric of a group, thereby facilitating its destruction.¹⁴⁶ This perspective places gender at the center of both understanding and preventing genocide.¹⁴⁷ This analysis also requires attention to the political narratives through which sexuality and sexual violence are interpreted. Nationalist and security discourses may selectively condemn rape when it is attributed to the enemy, while obscuring or legitimating sexual violence committed by state actors or dominant groups. This perspective positions gender as central to understanding how genocide is organized, justified, and recognized.¹⁴⁸

By articulating the causal relationship between gender-based violence and the broader genocidal framework, the research calls for a more comprehensive attribution of responsibility and commensurate action. It advocates for the recognition of sexual violence as an integral component of genocidal acts, challenging tendencies to treat such violence as incidental or unrelated. Indeed, the targeting of, and specific actions against, women are central to the genocidal conduct – to the destruction of the group, as such, in whole or in part. Ultimately, this study seeks to enhance mechanisms of accountability by clearly establishing the role of gendered violence in the perpetration of genocide and to inspire states to take all preventive steps at the earliest time.

1.9 Structure of the Thesis

This thesis is organized into seven chapters. Chapter 1 introduces the research problem, situates the study within existing debates on genocide, gender, and international law, and sets out the research questions, methodology, and scope of the inquiry.

Chapter 2 develops the theoretical and legal framework of the thesis. It first examines the Genocide Convention and the evolution of its interpretation in international jurisprudence. It then situates the study within feminist and intersectional legal theory before introducing the concepts of genocidal patriarchy and triple vulnerability as analytical tools for understanding how gendered power relations structure patterns of genocidal violence and legal recognition.

Chapter 3 analyzes how gender operates as a structure of power in the organization of genocidal violence. It examines gendered expectations and social roles, the differentiated targeting of men and women, and the use of sexual and reproductive violence as techniques of group

group destruction, the influence of gender on personal and collective experiences of violence, and the role of gender in international responses, propaganda, denial, and justice systems. While some of these dimensions have been explored in Holocaust studies, most remain under-researched in broader genocide scholarship. von Joeden-Forgey, *supra* note 9 at 91.

¹⁴⁵ von Joeden-Forgey, “Gender and the Future of Genocide Studies and Prevention,” *supra* note 9 at 92-94.

¹⁴⁶ S.C. Res. 1820, U.N. Doc. S/RES/1820 (June 19, 2008).

¹⁴⁷ Elisa von Joeden-Forgey argues that focusing primarily on the violent deaths of men in genocide often marginalizes women’s experiences and reinforces definitions of genocide that prioritize mass killing over other severe forms of harm, such as rape and sexual torture. This narrow framing overlooks the long-term physical and psychological consequences of sexual violence and the many deaths that result indirectly. She warns that such a limited perspective may hinder early detection of genocidal processes and obscure cases where women and children are deliberately subjected to extreme trauma as part of a broader strategy of group destruction. von Joeden-Forgey, “Gender and the Future of Genocide Studies and Prevention,” *supra* note 9 at 90.

¹⁴⁸ See Puar, *supra* note 22; see also Atluri, *supra* note 25.

destruction. It also explores the cultural and religious dimensions through which gender, honor, and reproduction are politicized within ethno-nationalist and patriarchal projects.

Chapters 4 and 5 present detailed case studies of the Rohingya in Myanmar and the Uyghurs in China, respectively. Each chapter examines the political and legal context, documents patterns of sexual and reproductive violence, and evaluates how these harms relate to the legal elements of genocide in the absence of final adjudication.

Chapter 6 moves from case analysis to theoretical and preventive synthesis. It draws on the Rohingya and Uyghur cases to develop genocidal patriarchy as an analytical framework for understanding how sexual and reproductive violence may operate as a means of group destruction. The chapter examines how gendered power relations, patriarchal social meanings, and state practices can make women's bodies, sexuality, reproductive capacity, and family positions sites through which genocidal violence is organized. It then considers how these harms are often fragmented or obscured in legal analysis, public data, and early-warning frameworks. By examining both the possibilities and limits of existing sources, the chapter argues for an approach to genocide prevention that reads gendered harms in relation to protected-group status, coercive governance, and the conditions through which a group is able to sustain itself.

Chapter 7 concludes the dissertation by synthesizing the core findings and contributions of the study. Rather than advancing new institutional designs, it clarifies the study's implications for genocide prevention, accountability, and feminist international legal theory, and outlines priority avenues for future research.

Chapter 2. Genocidal Patriarchy and the Interpretive Architecture of the Genocide Convention

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2.1 The Genocide Convention and Evolving Jurisprudence

2.1.1 The Object and Purpose of the Convention

Drawing on the analytical framework established in Chapter 1, this chapter examines the internal legal structure and interpretive practices of the Genocide Convention. As demonstrated earlier, the Convention’s equal enumeration of five prohibited acts has,

in practice, been displaced by a recognition paradigm that privileges large-scale killing as the primary indicator of genocidal intent.

This evidentiary emphasis has significantly narrowed the scope of legal recognition. Although the jurisprudence following Rwanda and the former Yugoslavia made sexual violence more visible within international criminal law, it did not fully displace the tendency to treat mass killing as the paradigmatic form of genocidal harm. Sexual violence and reproductive coercion may be recognized once they are translated into discrete crimes, but their earlier and more structural significance for group destruction often remains harder to see. Crenshaw's account of intersectional invisibility helps explain this problem: when human rights and legal frameworks separate race, ethnicity, and gender into distinct categories of analysis, harms experienced at their intersection may be over-included as generic violence against women or under-included as peripheral to racial, ethnic, or group-based destruction.¹ These harms may therefore precede, accompany, or even substitute for mass killing, while still appearing legally secondary when they are not read as part of the same genocidal process. As a result, early warning signs of group destruction may remain difficult to recognize within the preventive framework of the Convention.¹

Against this backdrop, Chapter 2 turns inward to interrogate the interpretive architecture of the Genocide Convention itself. It examines how doctrinal interpretation, evidentiary practices, and institutional epistemologies have produced a killing-centered hierarchy that is neither textually required nor normatively neutral. Through a feminist legal analysis grounded in treaty interpretation, this chapter conceptualizes genocidal patriarchy as an interpretive logic through which gendered modalities of group destruction are rendered marginal, despite remaining legally cognizable under Articles II(b)–(d). This framework establishes the foundation for the analysis of compounded gendered vulnerabilities developed in the following chapter.

The Genocide Convention was adopted by the United Nations (UN) General Assembly in 1948, following the atrocities of the Holocaust and the tireless advocacy of Polish-Jewish jurist Raphael Lemkin.² Article I of the Genocide Convention

¹ Charles Cater & David M. Malone, The Genesis of R2P: Kofi Annan's Intervention Dilemma in Alex J. Bellamy & Tim Dunne eds, *The Oxford Handbook of the Responsibility to Protect* (Oxford Univ. Press, 2016) 114, 116; see Kimberlé Crenshaw, *Background Paper for the Expert Meeting on Gender and Racial Discrimination, prepared for the World Conference Against Racism* (2000).

² G.A. Res. 260 (III) A, U.N. Doc. A/RES/260(III)A (Dec. 9, 1948); A. Dirk Moses, Raphael Lemkin, Culture, and the Concept of Genocide, in Donald Bloxham & A. Dirk Moses eds, *The Oxford Handbook of Genocide Studies* 19, 22 (Oxford: Oxford Univ. Press, 2010); Katherine Goldsmith, The Issue of Intent in the Genocide Convention and Its Effect on the Prevention and Punishment of the Crime of Genocide: Toward a Knowledge-Based Approach, 5 *Genocide Stud. & Prevention: Int'l J.* 238, 239 (2010).

stipulates the essential obligation of states parties as follows: “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”³

As the ICJ has explained, the Genocide Convention is a treaty with a fundamentally protective object and purpose— “to safeguard the very existence of certain human groups.”⁴ This protective orientation is reflected in Article I, which not only criminalizes genocide but also imposes a freestanding duty on States to prevent it. The Court has made clear that this obligation arises “at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”⁵ States are therefore required to take preventive measures as soon as a serious risk becomes known or should have been known, rather than waiting for genocidal acts to materialize.

2.1.2 The Five Enumerated Acts and Their Equal Legal Status

Article II of the Genocide Convention defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”⁶

The Convention provides no textual basis for elevating killing above the other enumerated acts. Genocide may be perpetrated through any of the acts listed in Article II, provided they are carried out with the intent to destroy the protected group. The legal concept of genocide is therefore not limited to a single modality but is understood in analytically plural and non-hierarchical terms.

³ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277 (entered into force Jan. 12, 1951).

⁴ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (Advisory Opinion), 1951 I.C.J. 15, 23.

⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 2007 I.C.J. 43 (Feb. 26) ¶ 431.

⁶ The Genocide Convention art. II.

2.1.3 Treaty Interpretation under the Vienna Convention on the Law of Treaties (VCLT)

The determination of whether an act constitutes genocide should be based on the criteria set forth in Article II of the Genocide Convention. In cases where the treaty language is ambiguous, interpretation should be guided by Articles 31 to 33 of the Vienna Convention on the Law of Treaties.⁷

Under international law, the interpretive framework set out in Articles 31 to 33 of the Vienna Convention on the Law of Treaties (VCLT) governs how treaty provisions must be understood. The interpretive framework set out in Articles 31 to 33 of the VCLT is widely regarded—and has consistently been treated by the ICJ—as reflecting customary international law. It therefore provides the governing methodology for construing the Genocide Convention, including for States not party to the VCLT.⁸ Article 31(1) articulates the general rule of interpretation: treaty terms must be construed in good faith, according to their ordinary meaning, and in light of both their context and the instrument’s object and purpose.⁹ Applied to the Genocide Convention, this requires that any interpretation remain consistent with the Convention’s foundational commitment—set out in Article I—that States undertake obligations to prevent and punish genocide “in time of peace or in time of war.”

Where application of Article 31 leaves a provision’s meaning unresolved, ambiguous, or leads to a result that would be unreasonable or absurd, Article 32 allows recourse to supplementary interpretive materials.¹⁰ These include the travaux préparatoires and the circumstances surrounding the Convention’s adoption, which shed light on the drafters’ intent and the structural design of the instrument. A review of the drafting history reveals no indication that the drafters intended to assign a hierarchical status to any of the five acts in Article II; the disjunctive formulation “any

⁷ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331.

⁸ See *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (Qatar v. Bahrain), Jurisdiction and Admissibility, Judgment, 1995 I.C.J. 6, ¶ 33 (recognizing Articles 31–33 of the Vienna Convention on the Law of Treaties as reflecting customary international law); *Territorial Dispute* (Libyan Arab Jamahiriya/Chad), Judgment, 1994 I.C.J. 6, ¶ 41 (applying Articles 31–32 of the VCLT as customary rules of treaty interpretation); *Bosn. & Herz. v. Serb. & Montenegro*, supra note 5, at ¶¶ 160–162 (interpreting the Genocide Convention in accordance with the general rules of treaty interpretation).

⁹ “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.” Vienna Convention on the Law of Treaties art. 31(1).

¹⁰ “Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31: (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable.” Vienna Convention on the Law of Treaties art. 32.

of the following acts” was consistently treated as identifying separate and sufficient modalities through which genocide may be perpetrated.¹¹

Within this interpretive framework, the five enumerated acts must therefore be accorded equal doctrinal weight. Approaches that treat killing as the sole or primary indicator of genocidal conduct deviate from the interpretive methodology required by the VCLT and risk distorting the Convention’s text and purpose.

2.1.4 From Doctrinal Neutrality to Gendered Interpretive Practices

As discussed above, the Convention’s text and the VCLT interpretive framework provide no basis for ranking the acts enumerated in Article II. At the level of treaty text, killing, causing serious bodily or mental harm, imposing conditions of life calculated to bring about physical destruction, preventing births, and forcibly transferring children are accorded equal legal status as constitutive acts of genocide.

Practice, however, has developed along a narrower track.¹² To date, determinations of genocide by international courts and tribunals have overwhelmingly arisen from factual matrices involving large-scale killing.¹³ By contrast, there remains no international judgment recognizing genocide solely on the basis of sexual violence, reproductive coercion, or other non-lethal forms of genocidal acts, even though these harms are textually included in Article II(b)–(d). In effect, genocide recognition has been tethered to settings where mass death is visible and documentable.

This evidentiary emphasis shapes how genocide is perceived and legally recognized in gendered ways. In many genocidal contexts, men and adolescent boys are disproportionately targeted for execution, often because they are perceived as potential combatants, community defenders, or carriers of collective resistance.¹⁴

¹¹ See generally *Travaux Préparatoires of the Genocide Convention*, including the records of the Ad Hoc Committee on Genocide and the Sixth Committee debates, e.g., U.N. Doc. E/AC.25/SR.1–28 (1948); U.N. Doc. A/C.6/SR.82–140 (1948).

¹² See e.g., The prevailing male-centred discourse in the context of genocide, often recognizes genocide only when it results in mass fatalities. Elisa von Joeden-Forgey, Gender and the Future of Genocide Studies and Prevention, 7 *Genocide Stud. & Prevention* 89, 90 (2012); William A. Schabas, *Genocide in International Law: The Crime of Crimes* 11 (Cambridge Univ. Press 2009); Chile Eboe-Osuji, *International Law And Sexual Violence In Armed Conflicts*, 262 (Brill 2012).

¹³ See *Bosn. & Herz. v. Serb. & Montenegro*, *supra* note 5; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croat. v. Serb.)* Judgment, 2015 I.C.J. Rep. 3; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myan.)* provisional measures, 2020 I.C.J. Rep. 3; *Prosecutor v. Krstić, Prosecutor v. Krstić*, Case No. IT-98-33-A, Judgment, ¶¶ 26–27 (Int’l Crim. Trib. for the Former Yugoslavia Apr. 19, 2004).

¹⁴ In *Krstić*, the defendant argued that the selective killing of men was predicated on the perception that men constituted a potential source of military resistance. *Prosecutor v. Krstić*, *supra* note 13, at ¶¶ 26–27; Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: *The Fall of Srebrenica*, U.N. Doc. A/54/549, VIII Aftermath of the fall of Srebrenica (Nov. 15, 1999); Office of the

Genocidal violence thus frequently produces a gendered distribution of harm in which killings disproportionately affect male members of the group, while women are more frequently subjected to sexual violence and reproductive coercion.¹⁵ When adjudicative attention centers on mass killing, legal visibility tends to privilege modalities of violence more often documented among male victims, while gendered forms of destruction are more likely to be treated as secondary or contextual.¹⁶ The legal definition of genocide is capable of encompassing gendered harms, while adjudicative practice has recognized their genocidal significance unevenly.

These filters operate within legal and institutional environments that feminist international law scholarship has long shown to be gendered. Feminist international law scholarship has long demonstrated that international law privileges harms aligned with male experiences of violence—those that are lethal, visible, and immediate—while relegating harms that target women’s reproductive, social, and symbolic roles to the periphery of legal recognition.¹⁷ In the context of genocide, this structural bias shapes not only how violence is interpreted, but which forms of group destruction are rendered legally cognizable.

This epistemic filtering affects how violence is categorized and how responsibility can be established. A legal system oriented toward prevention and accountability requires that harms experienced by victims be rendered legible and attributable to concrete perpetrators. When gendered harms remain institutionally under-seen or doctrinally downgraded, attribution becomes harder to sustain within legal processes, evidentiary thresholds are recalibrated toward lethal violence, and accountability is correspondingly impaired.

Fully understanding genocide therefore requires interrogating the patriarchal legal and institutional structures through which violence becomes visible, intelligible, and legally actionable. These structures do more than shape evidentiary interpretation; they set the epistemic boundaries of legal recognition. This chapter develops the concept of *genocidal patriarchy* as an analytical framework, and the following chapter introduces

Prosecutor, Int’l Crim. Ct., *Policy on Gender-Based Crimes* ¶50 (Dec. 2023).

¹⁵ See *Prosecutor v. Krstić*, *supra* note 13; *Prosecutor v. Akayesu*, ICTR-96-4 (Sept. 2, 1998), *Bosn. & Herz. v. Serb. & Montenegro*, *supra* note 5; von Joeden-Forgey, *supra* note 12, at 92–95; Adam Jones, *Gendercide and Genocide: A Gendered Perspective*, in *Gendercide and Genocide* 1–38 (Adam Jones ed., Vanderbilt Univ. Press 2004); Øystein Gullvåg Holter, *The Theory of Genocide*, in *Gendercide and Genocide* 62–97 (Adam Jones ed., Vanderbilt Univ. Press 2004); see also Office of the United Nations High Commissioner for Human Rights, *Report of the Independent International Fact-Finding Mission on Myanmar*, U.N. Doc. A/HRC/39/64 (Sept. 12, 2018) (documenting widespread sexual violence and reproductive harms against Rohingya women alongside killings of Rohingya men).

¹⁶ Hilary Charlesworth, Christine Chinkin & Shelley Wright, *Feminist Approaches to International Law*, 85 *Am. J. Int’l L.* 613, 625 (1991).

¹⁷ *Id.*, at 613.

and operationalizes a *triple-vulnerability framework* to map how external, internal, and institutional forces intersect to expose women to distinct and cumulative forms of genocidal harm.

Foregrounding patriarchy clarifies that gendered forms of violence are not incidental or collateral. They are among the mechanisms through which genocide is enacted and rationalized, and through which some harms become more legally legible than others. A gender-structural analysis does not expand the Genocide Convention; more precisely, it reveals the patriarchal assumptions that have limited its application in practice. By identifying the mechanisms through which patriarchal structures render certain genocidal acts hyper-visible (such as killings) while systematically obscuring others (such as sexual violence and reproductive coercion), a gendered analysis provides a doctrinally coherent basis for interpreting genocide in a manner that aligns with both the Convention's text and its preventive purpose. This gap between doctrinal scope and interpretive practice sets the stage for the theoretical interventions developed below.

2.2 Feminist, Intersectional, and Legal Theories

This section specifies the theoretical and legal vocabularies through which the thesis conducts its interpretation of genocide law and its analysis of gendered patterns of destruction. Rather than surveying feminist or intersectional scholarship exhaustively, it identifies those strands of theory that bear directly on international legal reasoning—particularly on how law constructs neutrality, classifies harm, and produces institutional hierarchies of visibility and proof. It clarifies how feminist legal theory interrogates the assumptions of objectivity and the gendered organization of legal categories; how intersectional theory exposes the limits of single-axis accounts in contexts of racialized and ethno-national violence; and how these perspectives together enable a re-reading of genocide beyond killing-centered paradigms. These frameworks are operationalized in later chapters to assess how sexual and reproductive violence against Rohingya and Uyghur women functions as a technique of genocide and how international law has alternately recognized and marginalized such harms.

2.2.1 Feminist Legal Theory and the Critique of Neutrality

Feminist legal theory provides a critical framework for interrogating the claim that law—and international law in particular—operates as a neutral, objective, and universal

system of rules.¹⁸ Feminist scholars have long argued that legal neutrality is not a descriptive fact but a normative construct that reflects and reproduces historically dominant social perspectives. Catharine MacKinnon has shown that in societies structured by male supremacy, the male standpoint comes to define what counts as objective, reasonable, and legally cognizable, such that male experience is universalized while female experience is rendered particular, exceptional, or marginal.¹⁹ Similarly, Charlesworth and Chinkin have demonstrated that international law's claims to universality and objectivity mask the ways in which its categories, priorities, and modes of reasoning are structured around assumptions derived from male experiences of power, conflict, and harm.²⁰

This critique has particular salience in the context of mass atrocity and genocide, where international legal institutions exhibit a pronounced tendency to privilege certain forms of violence as paradigmatic. Lethal, visible, and quantifiable harms—most notably killing—are more readily recognized as legally significant, more easily documented, and more readily translated into judicial categories.²¹ By contrast, forms of violence that are cumulative, structural, intimate, or gendered—such as sexual violence, reproductive coercion, forced pregnancy, or the destruction of family and social relations—are less easily rendered visible within legal processes and are therefore more likely to be marginalized, reclassified as secondary, or treated as incidental to the “core” crime.²² Feminist legal analysis thus helps to explain why international law has historically struggled to apprehend sexual and reproductive violence as central rather than peripheral to the logic of group destruction.

¹⁸ Hilary Charlesworth & Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis*, 44–48 (Manchester Univ. Press 2000); see also Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard Univ. Press 1989).

¹⁹ MacKinnon, *supra* note 18, at 161–62, 237 (Harvard Univ. Press 1989); Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, pmb. (Dec. 20, 1993).

²⁰ Charlesworth & Chinkin, *supra* note 18, at 44–48.

²¹ The United Nations Office on Genocide Prevention and the Responsibility to Protect similarly emphasizes that the decisive element of genocide is the perpetrator's intent to physically destroy the protected group. United Nations Office on Genocide Prevention and the Responsibility to Protect, *Definitions: Genocide*, <https://www.un.org/en/genocide-prevention/definition>; International criminal tribunals have not approached non-lethal modalities of genocide in a consistent manner. In *Krstić*, for example, sexual violence was documented but not treated as central to the determination of genocidal intent, whereas in *Akayesu* the Trial Chamber recognized rape as capable of constituting genocide under Article II(b). These differences do not reflect ambiguity in the Convention's text but illustrate the variability of interpretive practices across cases. *Prosecutor v. Krstić*, *supra* note 13, at ¶¶ 595–98; *Prosecutor v. Akayesu*, *supra* note 15, at ¶¶ 731–33. See also Rhonda Copelon, Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law, 46 *McGill L.J.* 217 (2000).

²² Erin Farrell Rosenberg, *Gender and Genocide in the 21st Century: How Understanding Gender Can Improve Genocide Prevention and Response* 5 (Newlines Inst. 2021); see also Copelon, *supra* note 21; Charlesworth, Chinkin & Wright, *supra* note 16; Elisa von Joeden-Forgey, Gender and Genocide, in *The Oxford Handbook of Genocide Studies* 61 (Donald Bloxham & A. Dirk Moses eds., 2010).

At a deeper level, this asymmetry reflects the gendered operation of legal categories. The foundational distinctions through which international law organizes harm—such as public versus private, combatant versus civilian, and serious harm versus lesser harm—have developed within assumptions about where violence occurs, whose suffering counts, and which forms of injury merit collective condemnation.²³ The history of gender-based violence against women in international human rights law illustrates this problem. Its recognition as a human rights harm required sustained feminist advocacy, particularly because harms occurring in private, intimate, or reproductive domains were long treated as peripheral to the core concerns of international law.²⁴ The continuum between everyday, conflict-related, and post-conflict forms of gender-based violence further shows that these harms may be separated by legal categories while remaining connected through the gendered structures that make them possible and difficult to recognize.²⁵ Violence that takes place in public, militarized, and visibly political spaces is more readily recognized as legally relevant, while violence that occurs in intimate, domestic, or reproductive domains is more easily relegated to the margins of legal concern. As a result, harms that disproportionately affect women remain at risk of being rendered legally invisible or conceptually downgraded.²⁶

Feminist legal theory therefore does not merely add “women’s experiences” to an otherwise complete legal framework. Rather, it exposes how the framework itself is structured in ways that privilege certain experiences and exclude others. In doing so, it reveals that the marginalization of sexual and reproductive violence within international law is not accidental, but is produced by the gendered organization of legal categories, evidentiary standards, and normative priorities. This insight is essential for understanding both the limitations of existing international legal responses to genocide and the necessity of rethinking how harm, responsibility, and destruction are conceptualized within international law.

²³ Human Rights Council, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, ¶ 63, U.N. Doc. A/HRC/26/38 (Apr. 28, 2014); Charlesworth, Chinkin & Wright, *supra* note 16, at 625–26, 644.

²⁴ See Alda Facio, Women’s Human Rights on the World Stage: An Unfinished History, 33 *Canadian Woman Stud./Les Cahiers de la Femme* 6, 11–13 (2018)

²⁵ *Id.*, at 13–14.

²⁶ See generally, U.N. Doc. A/HRC/26/38; Declaration on the Elimination of Violence against Women, *supra* note 19, at pmbl; Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Dec. 18, 1979, 1249 U.N.T.S. 13, art. 2(f)–(g); Charlesworth & Chinkin, *supra* note 18, at 68–71; von Joeden-Forgey, *supra* note 12, at 92–94.

2.2.2 Intersectionality and the Limits of Gender-Only Analysis

While feminist legal theory exposes how gendered power structures shape the production and recognition of harm, an analysis that focuses on gender alone risks obscuring the ways in which gender is itself constituted through and entangled with other axes of power. Intersectional feminism, most prominently articulated by Kimberlé Crenshaw, responds to this limitation by demonstrating that systems of oppression such as racism, sexism, class hierarchy, colonialism, and religious discrimination do not operate independently but are mutually constitutive.²⁷ Women do not experience gendered oppression in the abstract; they experience it as racialized, classed, nationalized, and culturally situated subjects. As a result, a purely gender-based framework cannot adequately capture the differentiated vulnerabilities, exposures, and forms of violence faced by women across social and political contexts.

Crenshaw's intervention emerged from the observation that both antidiscrimination law and mainstream feminist theory tended to treat gender and race as separate, additive categories.²⁸ This approach rendered Black women legally and analytically invisible, as their experiences did not fit within either race-based or gender-based frameworks when those frameworks were applied in isolation.²⁹ This insight has direct relevance for international law and mass atrocity analysis, where legal categories and institutional practices often presume a universal victim subject and thereby obscure how violence is patterned along intersecting lines of ethnicity, religion, nationality, and gender. In genocidal contexts, women are targeted not simply because they are women, but because they are women of a particular group—Rohingya women, Uyghur women, Yazidi women, Tutsi women—whose bodies, reproductive capacities, and social roles acquire specific political meanings within broader projects of group destruction.

Intersectionality thus enables a more precise understanding of how gendered violence functions within genocidal campaigns. It reveals that sexual and reproductive violence is not only a manifestation of misogyny, but also a technique for regulating group boundaries, erasing identities, and transforming demographic and cultural futures. For example, rape, forced pregnancy, and sterilization operate at the intersection of gender, ethnicity, religion, and nation: they target women as women, but they do so in order to affect groups as groups.³⁰ A gender-only analysis risks abstracting

²⁷ Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex*, 1989 *U. Chi. Legal F.* 139, 139 (1989).

²⁸ *Id.*

²⁹ *Id.*, at 141–50.

³⁰ *Prosecutor v. Akayesu*, *supra* note 15, at ¶ 508.

sexual violence from these collective dimensions and thereby underestimating its role within strategies of genocide.³¹

Moreover, intersectionality highlights how legal and institutional responses to violence are themselves unevenly distributed. The capacity of victims to be recognized, believed, and protected by international law is shaped by geopolitical hierarchies, racialized narratives of credibility, and colonial patterns of attention and neglect.³² Certain groups are more readily legible as victims than others, and certain forms of suffering are more readily mobilized within international political and legal discourse.³³ Intersectional analysis thus reveals not only how violence is inflicted, but also how it is

³¹ Feminist international legal scholarship has treated the relationship between rape in war and rape in peace as central to understanding both the specificity of conflict-related sexual violence and its continuity with broader gendered structures of sexual violence. Dowds, for example, distinguishes between rape in war and rape in peace while also questioning the sharpness of that distinction. She identifies three features often used to characterize rape as an international crime: rape as a strategy, rape across ethnic divides, and rape as explicitly or innovatively violent. These features help explain why conflict-related sexual violence is often understood through its collective, political, or group-directed dimensions. At the same time, Dowds cautions that “weapon of war” narratives may reinforce an exceptionality framework that distances rape in conflict from rape in peace. Drawing on feminist scholarship on the continuum and layered nature of violence, she shows that sexual violence across contexts may share gendered structures of coercion, domination, social control, shame, and stigma, even where conflict or genocidal violence gives those structures a distinct legal and political function. In the genocide context, this distinction clarifies why sexual violence may be rooted in social meanings that also shape peacetime rape, while acquiring additional significance when committed as part of a campaign directed at a protected group. See *Eithne Dowds, Feminist Engagement with International Criminal Law: Norm Transfer, Complementarity, Rape and Consent* 122–24, 131–37 (Hart Publ’g 2020).

³² See *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, U.N. Doc. S/1999/1257 (Dec. 16, 1999). The Inquiry documents the existence of extensive early warnings concerning mass violence against the Tutsi population, while acknowledging that these warnings were not accorded sufficient credibility or urgency by international actors. The report reflects how violence in Rwanda was initially framed as internal or “tribal” conflict, contributing to a failure to recognize its genocidal character in a timely manner; for an analysis of how international human rights frameworks may fail to recognize harms that arise at the intersection of race and gender because prevailing categories often proceed along single axes of classification, see Crenshaw, *Gender-Related Aspects of Race Discrimination*, *supra* note 1, 5–7, 14–16. Crenshaw explains that harms affecting women in marginalized racial or ethnic groups may be rendered invisible or misclassified when human rights frameworks do not anticipate the interaction between racialized and gendered subordination. The initial framing of the violence in Rwanda as an internal or “tribal” conflict illustrates a related problem: legal and political categories may obscure genocide when filtered through racialized or colonial assumptions about African violence. In that context, sexual violence against Tutsi women could be treated either as a secondary feature of ethnic conflict or as gender-based violence detached from the destruction of the Tutsi group, rather than as intersectional violence central to the genocidal process.

³³ See U.N. Comm’n of Experts Established Pursuant to S.C. Res. 780 (1992), *Final Report*, U.N. Doc. S/1994/674. Established prior to the creation of the ICTY, the Commission of Experts focused primarily on documenting killings, detention camps, and policies of ethnic cleansing as the central indicators of international crimes. Although sexual violence and forced pregnancy were recorded, these harms were largely treated as contextual or ancillary to the principal patterns of violence, rather than as primary bases for international legal mobilization.

differentially rendered visible, actionable, or ignorable within international legal regimes.

For these reasons, this study understands intersectionality as an integral strand of feminist thought developed to contest frameworks that universalize women's experiences or collapse diverse forms of oppression into a single axis of gender. Crenshaw's concepts of over-inclusion and under-inclusion further clarify how such erasure occurs.³⁴ Over-inclusion occurs when a harm experienced disproportionately by a subset of women is absorbed into a general gender framework, obscuring the racial, ethnic, religious, or other structures that shape that harm. Under-inclusion occurs when a harm experienced by women within a racial, ethnic, or protected group is treated as peripheral to the group's subordination because its gendered character makes it appear separate from race- or group-based violence. In the context of genocide, these concepts help explain why sexual and reproductive violence against protected-group women may be misread either as generic violence against women or as secondary to the destruction of the group. By integrating feminist and intersectional approaches, this study seeks to capture both the structural logic of patriarchal power and the differentiated ways in which that logic is instantiated across racialized, religious, and national contexts. This integrated approach is essential for understanding how gendered violence operates as a mechanism of genocide and how international law both responds to and reproduces these patterns of harm.

2.2.3 Feminism and Genocide Studies: Beyond Killing-Centered Paradigms

Genocide studies and international legal practice have long been structured around a killing-centered paradigm in which mass death functions as the primary indicator of genocidal intent and the core manifestation of genocide.³⁵ This orientation is shaped in part by the evidentiary preferences of criminal law, which privilege acts that are visible, quantifiable, and temporally discrete, and in part by historical narratives of genocide that foreground moments of mass killing as the defining features of atrocity.³⁶ As a result, genocide has often been conceptually equated with large-scale physical

³⁴ Crenshaw, Gender-Related Aspects of Race Discrimination, *supra* note 1, at 5–7.

³⁵ See *Bosn. & Herz. v. Serb. & Montenegro*, *supra* note 5; *Croat. v. Serb.*, *supra* note 13; *The Gambia v. Myan.*, *supra* note 13; *Prosecutor v. Krstić*, *supra* note 13.

³⁶ See e.g., The prevailing male-centred discourse in the context of genocide, often recognizes genocide only when it results in mass fatalities. von Joeden-Forgey, *supra* note 12, at 90; William Schabas, *Genocide in International Law: The Crime of Crimes* (Cambridge Univ. Press, 2009) 11; Eboe-Osuji, *supra* note 12, at 262 (Brill 2012)

annihilation, while other modalities of destruction have been treated as secondary, derivative, or insufficiently constitutive of the crime.

Feminist scholarship has challenged this paradigm by demonstrating that genocide is not enacted solely through killing, but also through gendered and reproductive forms of violence that target the biological and social reproduction of a group.³⁷ Sexual violence, forced pregnancy, sterilization, and the systematic disruption of family and kinship relations function as techniques through which group continuity is dismantled over time. These harms do not merely accompany genocide; they constitute some of the means through which genocide is carried out. From this perspective, sexual and reproductive violence are not “lesser” harms, but are forms of group destruction that operate through gendered power relations and the regulation of reproduction.

This reorientation is reflected in the jurisprudence of the International Criminal Tribunal for Rwanda, most notably in *Prosecutor v. Akayesu*, where the Tribunal recognized rape and sexual violence as constitutive acts of genocide when committed with the intent to destroy a protected group, in whole or in part.³⁸ The Tribunal’s acknowledgment that sexual violence could cause serious bodily or mental harm, and could contribute to the physical and social destruction of a group, marked a significant doctrinal shift away from a purely killing-centered understanding of genocide.³⁹ Feminist legal scholars have emphasized the importance of this jurisprudence in expanding the legal imagination of genocide beyond immediate death to include gendered and reproductive forms of destruction as legally and morally central.⁴⁰

However, despite this doctrinal recognition, institutional and political practices continue to privilege killing as the most authoritative indicator of genocide.⁴¹ Sexual and reproductive violence are still frequently treated as ancillary, evidentiary

³⁷ Charlesworth, Chinkin & Wright, *supra* note 16, at 613; Catharine A. MacKinnon, *Toward a Feminist Theory of the State* 237-238 (Harvard Univ. Press 1989); Declaration on the Elimination of Violence against Women, pmbl; Convention on the Elimination of All Forms of Discrimination Against Women art. 2(f)–(g); Charlesworth & Chinkin, *supra* note 18, at 68–71; von Joeden-Forgey, *supra* note 12, at 92–94.

³⁸ *Prosecutor v. Akayesu*, *supra* note 15.

³⁹ *Id.*, at ¶¶ 507-508.

⁴⁰ Charlesworth, Chinkin & Wright, *supra* note 16, at 625.

⁴¹ For example, in *Prosecutor v. Krstić*, the ICTY Chamber affirmed that genocide is limited to acts intended to bring about the physical or biological destruction of a protected group, concluding that the organized killing of Bosnian Muslim men of military age constituted the destruction of a substantial part of the group. In determining genocidal intent, the Chamber and the Appeal Chamber focused primarily on the mass killings of men while giving little analytical attention to acts directed against women, such as forced displacement, sexual violence, or psychological destruction. *Prosecutor v. Krstić*, IT-98-33, ¶¶ 580, 595, 856-862 (Aug. 2, 2001); *Prosecutor v. Krstić* (2004), *supra* note 13, at ¶¶ 26–38.

supplements, or aggravating circumstances rather than as central mechanisms of group destruction.⁴² Feminist analysis thus reveals a persistent gap between the formal scope of genocide law and the interpretive habits through which it is applied.

This gap has profound implications for prevention. If genocide is recognized only when mass killing becomes visible, then international legal and political responses are structurally oriented toward reaction rather than prevention. Gendered forms of violence, by contrast, often emerge at earlier stages of genocidal campaigns, when perpetrators seek to reshape, weaken, or erase group identity through control over reproduction, sexuality, and social relations.⁴³ A gender-sensitive analytical framework therefore enables earlier identification of genocidal processes and more timely intervention.

Feminist approaches to genocide studies thus do not merely broaden the descriptive scope of the field; they reconfigure its temporal and normative orientation. By foregrounding gendered and reproductive violence as constitutive of group destruction, feminist analysis shifts attention from the aftermath of mass killing to the processes through which groups are targeted, destabilized, and dismantled over time. This shift is essential if genocide studies and international law are to fulfill not only their retrospective and punitive functions, but also their preventive and protective mandates.

2.2.4 International Law and the Problem of Intersectional Harm

Fully understanding intersectional harm in international law requires moving beyond descriptive accounts of discrimination toward an examination of the structural logics through which harm becomes visible, intelligible, and legally actionable. As Martti Koskeniemi has shown in his analysis of the fragmentation of international law, legal

⁴² Women's marginalization in international law can be observed in the longstanding neglect of sexual violence against women in armed conflict. After World War II, the International Military Tribunal (IMT) meticulously documented mass murder and persecution, yet rape was neither charged nor prosecuted as an independent offense. The International Military Tribunal for the Far East (IMTFE) likewise failed to treat Japan's system of military sexual slavery as a crime warranting separate legal recognition. These omissions were not merely evidentiary but reflected broader doctrinal judgments about which harms were understood as "public" forms of violence, and which were relegated to the private sphere. Later developments in international criminal law did not fully resolve this pattern. Although the conflicts in the former Yugoslavia marked a turning point—where rape was publicly framed as a "weapon of war"—jurisprudence at the ICTY and ICTR remained inconsistent in their treatment of sexual violence as a form of genocide. Moreover, neither the ICJ—whose most recent genocide merits judgment remains *Bosnia v. Serbia* (2007)—nor the ICC has issued new final judgments on genocide, leaving these inconsistencies largely unaddressed within contemporary international jurisprudence. See Rosenberg, *supra* note 22, at 2; Copelon, *supra* note 21, at 223; Charlesworth, Chinkin & Wright, *supra* note 16, at 625.

⁴³ Crenshaw, Gender-Related Aspects of Race Discrimination, *supra* note 1, at 5–7, 14–16.

meaning is produced through specialized regimes, institutional contexts, and classificatory techniques.⁴⁴ Building on this insight, harm in international law is not encountered as an undifferentiated social reality, but is mediated through fragmented legal regimes and legal categories.⁴⁵ This fragmentation does not arise from technical necessity alone. Rather, it reflects deeper normative and institutional arrangements that shape how law perceives harm, agency, and responsibility.

Drawing on and consistent with international human rights instruments that recognize violence against women as rooted in historically unequal power relations, this study adopts a structural understanding of patriarchy as an analytical framework for examining law and power.⁴⁶ On this basis, patriarchy is approached not as a residual social phenomenon or a cultural tradition, but as a foundational logic of power that organizes social, legal, and political order.⁴⁷

As used in this study, patriarchy refers not merely to a relationship of male domination over women, but to a comprehensive institutional system embedded in cultural, religious, legal, and familial structures. It actively shapes the norms, values, and meanings through which communities—and legal systems—understand gender, honour, reproduction, and social order. Its defining feature lies in the treatment of male experience as the normative and privileged standard, a standpoint that has come to structure the categories, criteria, and modes through which law recognizes harm, responsibility, and subjecthood.⁴⁸

2.2.4.1 Patriarchy as Institutional and Juridical Logic

To explain why intersectional harms are disaggregated, misclassified, or only partially visible in international law, pointing to doctrinal gaps or evidentiary technique is not enough. The analysis must also address the deeper institutional and normative logics through which law organizes harm.

International law classifies violence through a dense architecture of legal categories—genocide, crimes against humanity, war crimes, and human rights violations—each with distinct elements, thresholds, and evidentiary demands. Within these regimes, further distinctions are drawn between types of harm, such as killing,

⁴⁴ Martti Koskenniemi, Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, *Report of the Study Group of the International Law Commission*, U.N. Doc. A/CN.4/L.682 (2006).

⁴⁵ Charlesworth, Chinkin & Wright, *supra* note 16, at 613.

⁴⁶ Declaration on the Elimination of Violence against Women, pmbl.

⁴⁷ MacKinnon, *supra* note 18, at 237-238.

⁴⁸ *Id.*

rape, torture, persecution, or inhuman treatment. While these classificatory practices serve important doctrinal and jurisdictional functions, they also shape what law is capable of seeing, naming, and responding to.

These classificatory tendencies are not neutral. Feminist legal theory has long demonstrated that legal classification operates within a normative framework structured around male-centered experiences of harm, agency, and injury.⁴⁹ As Catharine MacKinnon has argued, law's claim to neutrality obscures the fact that male experience functions as the unmarked norm against which other experiences are measured.⁵⁰ Harms that do not conform to paradigmatic male experiences of violence—particularly those that are intimate, sexual, reproductive, cumulative, or relational—are more likely to appear marginal, exceptional, or insufficiently serious within legal reasoning.

In the context of genocide law, this male-centered normative standard has particularly significant consequences. Because genocidal intent is often inferred through patterns of conduct deemed objectively destructive or immediately lethal, harms that operate through reproductive disruption, sexual domination, or cumulative social fragmentation are less readily apprehended as probative of group destruction. As a result, the legal architecture governing genocide risks privileging visible killing over other forms of violence that are equally capable of undermining a group's present viability and future continuity.

Within such a framework, women's legal significance is rarely apprehended on its own terms. Instead, women become legally intelligible through roles that align with dominant legal and social imaginaries—most notably as reproducers, family members, or symbolic bearers of group identity. This mode of intelligibility produces a paradoxical juridical status: women are rendered hyper-visible as carriers of honour, continuity, and collective meaning, while their experiences as autonomous rights-bearing subjects remain structurally marginalized within legal protection regimes.⁵¹

⁴⁹ For example, refugee protection frameworks have historically assumed male-centered patterns of displacement and agency. Women were frequently classified administratively as “wives and children” of male refugees, rather than as independent claimants, resulting in heightened vulnerability in refugee camps, particularly with respect to security, access to resources, and exposure to sexual violence. Chiseche Salome Mibenge, *Sex and International Tribunals* 15 (Univ. of Pennsylvania Press 2013); Office of the United Nations High Commissioner for Refugees, *Guidelines on the Protection of Refugee Women* 3–7 (1991); see also Charlesworth, Chinkin & Wright, *supra* note 16, at 615–21.

⁵⁰ MacKinnon, *supra* note 18, at 237–38.

⁵¹ For example, in *Prosecutor v. Akayesu*, the ICTR recognized that sexual violence against Tutsi women functioned to destroy the group by targeting women as bearers of ethnic identity and reproduction. At the same time, the case has been widely noted as exceptional within international criminal jurisprudence, underscoring how women's experiences are more readily rendered legally intelligible when framed in terms of collective honour and group destruction than when articulated as violations of women's

It is through this process of legal intelligibility that patriarchy operates as an institutional and juridical logic. Law does not simply fail to recognize women's harms; it systematically refracts them through patriarchal categories that privilege certain forms of injury while obscuring others.⁵² Experiences that do not conform to male-defined paradigms of harm, agency, and injury—particularly intimate, sexual, reproductive, cumulative, or relational harms—are more likely to appear marginal, exceptional, or insufficiently serious within legal reasoning.⁵³

Although CEDAW did not expressly address violence against women in its original text, subsequent interpretation by the CEDAW Committee—particularly General Recommendations No. 19 and No. 35—has brought gender-based violence against women within the Convention's equality and non-discrimination framework. This interpretive development recognizes that discrimination and violence against women are rooted in historically unequal power relations and require structural transformation rather than episodic responses.⁵⁴ Yet even within these frameworks, the translation of this insight into binding legal standards and adjudicative practice remains uneven. The persistence of formal neutrality, reasonableness standards, and individualized harm assessments often reproduces the very hierarchies these instruments seek to dismantle. This gap between formal recognition and institutional practice underscores how deeply patriarchal logics remain embedded within the

autonomous rights. See *Prosecutor v. Akayesu*, *supra* note 15, at ¶¶ 731–734 (Sept. 2, 1998). A similar paradox can be observed in early ICTY jurisprudence concerning forced pregnancy during the Bosnian conflict. While women were discursively framed as bearers of ethnic continuity and honour, forced pregnancy was not initially treated as an autonomous legal harm, but rather subsumed under broader categories of sexual violence or inhumane treatment. See Rhonda Copelon, *supra* note 21, at 233–38 (2000); see also Catharine A. MacKinnon, *Rape, Genocide, and Women's Human Rights*, 17 *Harv. Women's L.J.* 5, 11–15 (1994). Outside the criminal context, a comparable dynamic appears in nationality and refugee regimes, where women are frequently valorized as mothers of the nation or symbols of cultural continuity, while remaining structurally disadvantaged as independent rights-holders. See Comm. on the Elimination of Discrimination against Women, *General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women*, U.N. Doc. CEDAW/C/GC/32 (2014).

⁵² Charlesworth, Chinkin & Wright, *supra* note 16, at 621.

⁵³ *Id.*

⁵⁴ Comm. on the Elimination of Discrimination Against Women, *Gen. Recommendation No. 19: Violence Against Women*, ¶¶ 1, 6–7, U.N. Doc. CEDAW/C/GC/19 (1992); Comm. on the Elimination of Discrimination Against Women, *Gen. Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, ¶¶ 1, 10, 14–19, U.N. Doc. CEDAW/C/GC/35 (July 26, 2017); Comm. on the Elimination of Discrimination Against Women, *Gen. Recommendation No. 28: Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women*, ¶¶ 5, 19, 30, U.N. Doc. CEDAW/C/GC/28 (Dec. 16, 2010); *Joint Gen. Recommendation No. 31 of the Comm. on the Elimination of Discrimination Against Women/Gen. Comment No. 18 of the Comm. on the Rights of the Child on Harmful Practices*, ¶¶ 6–8, U.N. Doc. CEDAW/C/GC/31–CRC/C/GC/18 (Nov. 14, 2014); Human Rights Council, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, ¶¶ 37, 56, U.N. Doc. A/HRC/4/34 (Jan. 17, 2007); Facio, *supra* note 24, at 11–13.

structures through which international law classifies harm, assesses responsibility, and determines legal visibility.

2.2.4.2 Patriarchy as Governance and Symbolic Violence

Beyond the juridical domain, patriarchy also operates as a mode of governance that regulates populations through gender hierarchy and reproductive control.⁵⁵ Through family law, nationality regimes, moral regulation, population policy, and administrative surveillance, states govern women not merely as individual rights-bearers, but as bearers of biological and symbolic reproduction.⁵⁶

State interventions into women's reproductive autonomy—often justified in the language of public interest, social stability, national security, or demographic management—illustrate how patriarchal power becomes institutionalized as biopolitical governance.⁵⁷ Such interventions do not simply subordinate women; they manage the continuity, composition, and boundaries of groups through the regulation of women's bodies as reproductive resources.

This governance logic intersects with race, ethnicity, religion, and nationality, shaping which populations are encouraged to reproduce and which are discouraged, restricted, or prevented from doing so. Practices such as forced sterilization, marriage restrictions, birth-prevention policies, or gender-discriminatory nationality laws demonstrate that patriarchal governance functions simultaneously as a technology of gender hierarchy and a mechanism of population control.

The problem of intersectional harm therefore reflects not only the limits of legal classification, but the operation of broader regimes of patriarchal power that shape how harm is produced, distributed, and experienced. Intersectional feminist analysis exposes these regimes and demonstrates that legal abstraction is never neutral: it actively structures what can be seen, named, and remedied.

These institutional and governance logics do not remain confined to legal doctrine or population policy. In contexts of mass violence, they may be strategically mobilized

⁵⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), UNAIDS, UN Women, UNDP, UNFPA & WHO, *Eliminating Forced, Coercive and Otherwise Involuntary Sterilization 2–3* (2014); United Nations Population Fund (UNFPA), *State of World Population 2019: Unfinished Business—The Pursuit of Rights and Choices for All* 53 (2019).

⁵⁶ Loretta J. Ross, *The Color of Choice: White Supremacy and Reproductive Justice*, in *Color of Violence: The Incite! Anthology* 53, 53–61 (INCITE! Women of Color Against Violence ed., South End Press 2006).

⁵⁷ See Office of the United Nations High Commissioner for Human Rights (OHCHR), UNAIDS, UN Women, UNDP, UNFPA & WHO, *supra* note 55; see also *Id.*, at 61.

by perpetrators to organize, calibrate, and legitimate practices of group destruction.⁵⁸ When gender hierarchy, reproductive governance, and symbolic regulation are harnessed as tools of violence, patriarchy ceases to function merely as background structure and becomes an active political resource.

It is this transition—from institutional condition to genocidal logic—that the following section examines through the concept of *genocidal patriarchy*.

2.3 Genocidal Patriarchy as a Logic of Group Destruction

This section defines *genocidal patriarchy* as an analytical framework. It explains how perpetrators organize gendered power relations as techniques of group destruction within genocidal processes.

Genocidal patriarchy does not describe patriarchy as a general social condition, nor does it posit gender inequality as a universal cause of genocide. Instead, it identifies a specific perpetrator-centered logic through which gendered hierarchies are mobilized to target the biological, social, and relational foundations of a protected group.⁵⁹

Under this logic, violence against women is not incidental to group destruction but constitutes one of its operative modalities.⁶⁰ By targeting women's reproductive capacities, sexual integrity, and socially assigned relational roles, perpetrators intervene

⁵⁸ See Dubravka Žarkov, *The Body of War: Media, Ethnicity, and Gender in the Break-up of Yugoslavia* 170-187 (Duke Univ. Press 2008).

⁵⁹ The terms “genocidal patriarchy and resistance” and “the genocidal phantom” were coined by Professor Nadia Abu-Zahra, a member of my thesis committee. I am grateful to her for introducing these terms and for the conceptual insight they have contributed to this dissertation.

This analysis is based on observations of the groups under discussion—namely, the Uyghurs in China and the Rohingya in Myanmar—as well as of the perpetrating governments, China and Myanmar. It does not imply any endorsement of the perpetrators' narratives, nor does it presume that victimized communities exhibit the kind of cultural homogeneity that perpetrators often assume, such that identical methods of harm would yield uniform results. As Walby has observed, patriarchy is not a universal and monolithic concept but rather manifests in diverse and shifting forms. In line with contemporary feminist critiques of essentialism, women cannot be treated as a homogeneous category, as their subordination is mediated by the intersecting dynamics of race, religion, class, and other factors. Patriarchal oppression, therefore, cannot be generalized in a unitary fashion but must be analyzed within specific social structures and contexts. Patriarchy itself is fluid, as are the social structures it constitutes. Consequently, if the social labels attached to women shift, even identical forms of harm may produce markedly different outcomes. Recognizing this variability helps to avoid essentializing or universalizing the gendered dimensions of state violence within the framework of international law and underscores the importance of intersectional factors in evaluating modes of perpetration. See Sylvia Walby, *Theorising Patriarchy*, 23(2) *Sociology* 213, 227 (1989).

⁶⁰ It is crucial to underscore that women are not merely passive victims of genocidal patriarchy. They also emerge as survivors and agents of resistance. Even within structures of extreme violence, women resist erasure by preserving cultural memory, sustaining networks of care, and reclaiming agency over their bodies and narratives. Recognizing women as both subjects of violence and subjects of resistance corrects the gendered blind spots of earlier genocide studies and aligns with contemporary feminist critiques that challenge the essentialization of women as only victims.

directly in the mechanisms through which a group reproduces itself across generations and maintains internal cohesion.⁶¹ Sexual violence, reproductive coercion, and the destruction of family structures may therefore operate as techniques that undermine group continuity, particularly when they are read in relation to the overlapping social, political, and legal conditions that shape their meaning and effects. Treating such acts as isolated private or opportunistic harm risks obscuring the broader structures through which they contribute to group destruction.⁶² In this sense, sexual violence, reproductive coercion, and attacks on family structures require analysis both as violations of individual victims and as acts that may contribute to group destruction when they occur within a broader pattern directed at the group's survival and continuity.

Operationally, genocidal patriarchy transforms gender relations into instruments of group destruction through three interrelated modalities. It does so, first, by targeting women's reproductive capacities through measures intended to prevent births within the group, including rape, sexual mutilation, forced sterilization, birth restrictions, and forced separation of families. Second, it deploys sexual violence as a means of humiliating, fragmenting, and terrorizing communities, thereby undermining social cohesion and collective identity.⁶³ Third, it instrumentalizes norms of honor, shame, and purity to displace responsibility from perpetrators onto victims and communities, thereby internalizing the effects of violence and deepening its destructive impact.⁶⁴

These constructions render women's bodies particularly vulnerable in contexts of group-based violence. Because women are symbolically positioned as bearers of biological reproduction, family honour, and communal integrity, harm inflicted upon

⁶¹ Catharine A MacKinnon, *Are Women Human? And Other International Dialogues* 213 (Harvard University Press 2006).

⁶² Debra Bergoffen, The Genocidal Politics of Rape, Shame, and Disgust, in *War and Sexual Violence: New Perspectives in A New Era* 15, 15 (Sarah K. Danielsson ed., Brill 2019).

⁶³ This modality also captures the narrow terms through which sexual violence against men and boys has often been recognized in international law and conflict-related sexual violence scholarship. Féron shows that dominant narratives of wartime sexual violence tend to associate femininity with vulnerability and masculinity with aggression, protection, and invulnerability, making male vulnerability difficult to acknowledge. In the limited contexts where male sexual victimization becomes visible, it is often interpreted through gendered meanings of humiliation, feminization, emasculation, homosexuality, degradation, and the symbolic weakening of the wider community or nation. These dynamics reinforce the point that sexual violence can terrorize and fragment communities through the social meanings attached to gender, sexuality, and collective identity, rather than through the sex of the victim alone. This study recognizes the significance of sexual violence against men and boys for a broader gender analysis of genocide, while maintaining its focus on women's experiences of genocidal sexual and reproductive violence. See Élise Féron, The Elusiveness of Narratives on Wartime Sexual Violence Against Men, in *Wartime Sexual Violence Against Men: Masculinities and Power in Conflict Zones* 115, 115–30 (Rowman & Littlefield 2018).

⁶⁴ See Genocide Convention art. II(b)–(d); *Prosecutor v. Akayesu*, *supra* note 15, at ¶¶ 731–734; Copelon, *supra* note 21, at 229–38 (2000); MacKinnon, *supra* note 61, at 221–24; Bergoffen, *supra* note 62, at 15.

them reverberates beyond the individual level.⁶⁵ Sexual violence and reproductive coercion operate not only as violations of bodily integrity, but as interventions into the social and symbolic foundations of group existence.⁶⁶ By targeting women through their gendered reproductive and relational roles, perpetrators exploit deeply embedded patriarchal logics. This destabilizes the conditions under which a group reproduces itself across generations.⁶⁷ Violence against women's bodies thus functions as a structural mode of group destruction rather than as an incidental or culturally contingent harm.⁶⁸

These practices correspond directly to the legal prohibitions set out in Article II(b)–(d) of the Genocide Convention, including causing serious bodily or mental harm, inflicting destructive conditions of life, and imposing measures intended to prevent births within the group. Conceptualized in this way, genocidal patriarchy demonstrates that gendered violence is not external to genocide law but embedded within its core prohibitions, even where it has been unevenly recognized or under-theorized in legal practice.

The effectiveness and relative invisibility of this logic depend on the naturalization of gendered roles within both social and legal structures, a dynamic examined in the following section as a legal problem of patriarchy.

2.3.1 Genocide as Gender-Differentiated Violence: Perpetrators' Interpretations and the Organization of Harm

International law has largely been shaped by male perspectives, a dynamic that has marginalized harms that disproportionately affect women, particularly sexual and reproductive violence in contexts of mass atrocity.⁶⁹ Although the UN Security Council

⁶⁵ Cynthia Cockburn, Militarism and War in Gender Matters in *Global Politics: A Feminist Introduction To International Relations* (Laura J. Shepherd ed., Routledge, 2010) 105 at 112.

⁶⁶ MacKinnon, *supra* note 61, at 229; Gloria Gaggioli, Sexual Violence in Armed Conflicts: A Violation of International Humanitarian Law and Human Rights Law, 96 *Int'l Rev. Red Cross* 503, 505 (2014).

⁶⁷ Nira Yuval-Davis, *Gender and Nation* 39 (Sage Publ'ns 1997); Charlesworth & Chinkin, *supra* note 18, at 201; Jelke Boesten Revisiting Methodologies and Approaches in Researching Sexual Violence in Conflict, 25 *Soc. Pol.* 457, 460 (2018).

⁶⁸ *Prosecutor v. Akayesu*, *supra* note 15, at ¶ 731.

⁶⁹ Women's marginalization in international law can be observed in the longstanding neglect of sexual violence against women in armed conflict. After World War II, the International Military Tribunal (IMT) meticulously documented mass murder and persecution, yet rape was neither charged nor prosecuted as an independent offense. The International Military Tribunal for the Far East (IMTFE) likewise failed to treat Japan's system of military sexual slavery as a crime warranting separate legal recognition. These omissions were not merely evidentiary but reflected broader doctrinal judgments about which harms were understood as "public" forms of violence, and which were relegated to the private sphere. Later developments in international criminal law did not fully resolve this pattern. Although the conflicts in the former Yugoslavia marked a turning point—where rape was publicly framed as a "weapon of war"—jurisprudence at the ICTY and ICTR remained inconsistent in their

and other international bodies explicitly recognize that women are among the primary victims of sexual violence during genocide, international legal discourse has historically prioritized body counts and death tolls, often overlooking the lived experiences of survivors—especially women.⁷⁰

United Nations Security Council Resolution 1820 expressly recognizes that women and girls are particularly vulnerable to sexual violence in armed conflict and that such violence is frequently employed as a tactic to humiliate, dominate, instill fear, forcibly displace, or expel members of a group.⁷¹ This recognition, however, has not translated into a corresponding shift in how genocidal harm is interpreted, evidenced, or prioritized within genocide law. The continued centrality of killing reflects not a lack of legal categories addressing gendered harm, but entrenched interpretive habits that treat lethal violence as the paradigmatic indicator of genocidal destruction.⁷²

This differentiation does not reflect inherent gender traits or fixed identities of victims. Rather, it arises from perpetrators' strategic interpretations of the social functions attributed to men and women within the targeted group. Violence is organized through gender not because of what victims "are," but because of how perpetrators read, classify, and instrumentalize socially ascribed gender roles within the social, cultural, and symbolic economy of the victimized community as technologies of group destruction.⁷³

Feminist scholarship has demonstrated that genocidal violence is frequently gender-differentiated, shaped by perpetrators' perceptions of gender roles.⁷⁴ Women

treatment of sexual violence as a form of genocide. Moreover, neither the ICJ—whose most recent genocide merits judgment remains *Bosnia v. Serbia* (2007)—nor the ICC has issued new final judgments on genocide, leaving these inconsistencies largely unaddressed within contemporary international jurisprudence. See Rosenberg, *supra* note 22, at 2; Copelon, *supra* note 21, at 223; Charlesworth, Chinkin & Wright, *supra* note 16, at 625.

⁷⁰ S.C. Res. 2467 (Apr. 23, 2019); Rosenberg *supra* note 22, at 2.

⁷¹ S.C. Res.1820 (June 19, 2008).

⁷² Global Justice Center, *Beyond Killing: Gender, Genocide and Obligations under International Law* 3 (2018), <https://www.globaljusticecenter.net>; von Joeden-Forgey, "Gender and the Future of Genocide Studies and Prevention," *supra* note 22, at 90; Chile Eboe-Osuji, *supra* note 12, at 262; see also *supra* note 37.

⁷³ Barbara Harff, No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955, in *Genocide and Human Rights* 329, 331 (Mark Lattimer ed., Taylor and Francis 2017).

⁷⁴ Perpetrators often target the gender roles within a group to dismantle the social and cultural functions that individuals—particularly women and men—are expected to fulfill. In this way, it is not only individuals but the group's gendered structures and identities that become the focus of destruction. Rosemary Grey, *Prosecuting Sexual and Gender-based Crime at the International Criminal Court* 20 (Cambridge Uni. Press 2019); Rosenberg, *supra* note 22, at 3. Of course, there are some exception, for example "[v]ery rarely, socio-cultural organization did not gravitate around body-oriented concepts of gender. For instance, in old African Yoruba land the chronological age difference/seniority rather than

and girls are frequently targeted through rape, sexual mutilation, and reproductive violence—forms of harm that may or may not result in immediate death—whereas men are more commonly singled out for direct execution during genocidal campaigns.⁷⁵ These patterns do not suggest a hierarchy of suffering, nor do they imply that killing is replaced by gendered violence as a mechanism of destruction. This differential pattern raises a central analytical question: if genocide seeks to destroy a group, why are members of the same group subjected to distinct forms of violence based on gender? The answer lies in the gendered social meanings attached to bodies, roles, and reproduction within the targeted group.

Women's experiences of genocide are thus qualitatively differentiated rather than uniform. They are structured through gendered social roles and symbolically constructed meanings—such as chastity, honour, motherhood, and cultural transmission—that position women as bearers of collective identity and continuity.⁷⁶ As Nira Yuval-Davis observes, in ethnic and national projects grounded in bloodline, belonging is commonly presumed to depend on being born into the group.⁷⁷ Women's reproductive capacity therefore, becomes central to the group's perceived survival. Within such frameworks, control over women's bodies is strategically mobilized by perpetrators as a means of intervening in the social reproduction of the group, and thus of controlling the group itself. Violence against women in genocide thus operates simultaneously at the physical, social, and symbolic levels.

The foregoing analysis shows that genocidal violence is gender-differentiated and shaped by perpetrators' understandings of social roles within the targeted group. Violence is not distributed randomly, nor solely according to immediate military threat, but is organized in ways that exploit the distinct social, reproductive, and relational functions attributed to men and women.

Within this logic, violence directed at women—particularly sexual and reproductive violence—functions as a means of intervening in the social reproduction

gender constituted the criteria for distributing social roles. Nevertheless, over time and especially due to the legacy of colonialism, gender binary thinking became a dominant model throughout the world." Adis Duderija et al, *Islam and Gender: Major Issues and Debates 7* (Routledge 2020).

⁷⁵ In *Krstić*, the defendant argued that the selective killing of men was predicated on the perception that men constituted a potential source of military resistance. *Prosecutor v. Krstić*, *supra* note 13, at ¶¶ 26–27; Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: *The Fall of Srebrenica*, U.N. Doc. A/54/549, VIII Aftermath of the fall of Srebrenica (Nov. 15, 1999); Office of the Prosecutor, Int'l Crim. Ct., *Policy on Gender-Based Crimes* ¶50 (Dec. 2023).

⁷⁶ Cockburn, *supra* note 65, at 112; Chiseche Salome Mibenge, *Sex and International Tribunals* 69 (Uni.of Pennsylvania Press 2013).

⁷⁷ Yuval-Davis, *supra* note 67, at 26–27.

of the group itself. When women's bodies are targeted in genocidal settings, sexual violence may affect the relations through which group continuity, cohesion, and identity are sustained across generations. The meaning of that violence can be produced through more than a fully articulated plan or a sophisticated understanding by each individual perpetrator. At the level of implementation, it may unfold through militarized impunity, peer pressure, dehumanizing propaganda, patriarchal entitlement, group hatred, and the chaotic dynamics of collective violence. These conditions allow sexual violence to draw on patriarchal imaginaries even where rank-and-file perpetrators act through impulse, conformity, opportunism, or hatred rather than through explicit reflection on group destruction. In this sense, gendered violence takes shape through the interaction between individual conduct, collective violence, and the social meanings that make certain bodies available for violation.

Framing genocide as a process that operates through gendered social meanings helps explain why certain forms of violence have been persistently marginalized or misrecognized within international legal analysis. It also provides the conceptual groundwork for examining how patriarchal assumptions shape legal recognition, evidentiary practices, and failures of prevention—issues taken up in the following sections. In many contexts, perpetrators do not need to create the social meaning of sexual or reproductive violence from outside the group; they can act through meanings that already circulate within the targeted social world. Where women's bodies have been linked to reproduction, family continuity, honour, belonging, or collective survival, violence against them may acquire group-destructive significance by intervening in the social relations through which the group understands and sustains itself.

2.3.2 Bringing Women Fully into Genocide Studies

Although international courts have acknowledged that sexual violence can constitute genocidal acts, women's experiences have not been consistently understood on their own terms within legal doctrine and genocide scholarship.⁷⁸ Sexual violence is sometimes ignored, but it can also be selectively mobilized in nationalist or racialized narratives that use rape to mark the enemy as primitive, sexually dangerous, or outside the bounds of civilization. This form of recognition may render sexual violence visible

⁷⁸ See *Prosecutor v. Akayesu*, *supra* note 15 at ¶¶ 597, 731; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croat. v. Serb.)*, Judgment, 2015 I.C.J. Rep. 3, ¶¶ 158, 161, 166; *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, Judgment, ¶ 862 (Int'l Crim. Trib. for the Former Yugoslavia Sept. 27, 2006); *Prosecutor v. Kayishema & Ruzindana*, Case No. ICTR-95-1-T, Judgment, ¶ 116 (Int'l Crim. Trib. for Rwanda May 21, 1999).

while still obscuring women's own injuries, agency, and survival.⁷⁹ This study centers women's experiences for three reasons. First, women are disproportionately subjected to sexual violence in genocidal contexts.⁸⁰ Second, women are uniquely targeted for reproductive violations—forced pregnancy, sexual enslavement, sterilization—that cannot be inflicted on men in the same way.⁸¹ Third, in many cultural contexts, women's sexuality is symbolically tied to group honor and continuity, rendering their violation a collective harm rather than merely an individual one.⁸²

Centering women's experiences is therefore not an exercise in exclusion but a corrective to a field historically structured around male suffering and male-defined harms. By bringing women fully into genocide studies, this study seeks to reveal forms of destruction that remain obscured by killing-centered paradigms and to restore analytic visibility to gendered mechanisms of group destruction.⁸³

2.3.3 Patriarchy as a Legal Problem

2.3.3.1 Naturalized Patriarchy in International Law

Patriarchy is not merely a sociological descriptor; it is a governance logic that naturalizes male experience and embeds gender hierarchy within legal and institutional structures.⁸⁴ This naturalization determines which harms are recognized as public, which injuries qualify as group-directed, and which forms of domination are dismissed as private or cultural.⁸⁵ In genocide law, this produces an evidentiary tilt toward killing while obscuring gendered mechanisms that fracture a group's present and foreclose its future.

International criminal adjudication has historically treated large-scale killing as the most immediate and readily observable manifestation of genocidal intent, particularly because such acts lend themselves more easily to inference from patterns

⁷⁹ See Matthews, Heidi. *Redeeming Rape: Berlin 1945 and the Making of Modern International Criminal Law*, in *The New Histories of International Criminal Law: Retrials* 90 (Immi Tallgren & Thomas Skouteris eds., 2019).

⁸⁰ S.C. Res. 2467, *supra* note 70 at 2.

⁸¹ MacKinnon, *supra* note 61, at 181.

⁸² Charlesworth & Chinkin, *supra* note 18, at 201; Boesten, *supra* note 67 at 460.

⁸³ von Joeden-Forgey, *supra* note 22, at 89.

⁸⁴ Walby, *supra* note 59, at 224; Allan G. Johnson, *The Gender Knot: Unraveling Our Patriarchal Legacy* 52, 110–12 (3d ed., Temple Univ. Press 2014); Christine Beasley, Rethinking Hegemonic Masculinity in a Globalizing World, 11 *Men & Masculinities* 86, 86–87 (2008).

⁸⁵ Charlesworth, Chinkin & Wright, *supra* note 16, at 613; Human Rights Council, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, ¶ 63, U.N. Doc. A/HRC/26/38 (Apr. 28, 2014).

of conduct and to attribution at the collective level.⁸⁶ In practice, this evidentiary preference reflects deeper institutional conventions: international criminal adjudication has tended to rely on forms of harm that are immediately visible, temporally discrete, and quantifiable—most notably mass killing—because such acts more readily satisfy prevailing standards of proof, attribution, and causal inference.⁸⁷ As a result, killing has come to function as a default evidentiary anchor for genocidal intent, even though the Genocide Convention itself does not privilege lethal violence over other prohibited acts.

This killing-centered evidentiary orientation is not gender-neutral in its effects. Because genocidal campaigns frequently deploy differentiated modalities of violence along gendered lines—disproportionately executing men while subjecting women to sexual and reproductive violence—a legal framework that privileges killing as the primary indicator of group destruction will systematically align with male-coded patterns of victimization. Gendered harms that operate cumulatively, relationally, or through social and reproductive structures are therefore less likely to be recognized as independently probative of genocidal intent, even when they are central to the perpetrator’s strategy of destruction. In this way, patriarchal assumptions embedded in evidentiary practice shape not only what is seen, but whose suffering is rendered legally intelligible as genocide.

When lethal violence is treated as the paradigmatic expression of genocidal harm, other modalities—sexual violence, reproductive control, family separation, symbolic humiliation—are implicitly relegated to a supplementary or derivative status. They appear as aggravating circumstances or collateral consequences rather than as constitutive mechanisms of group destruction in their own right. The result is not merely analytical distortion, but a risk of structural misrecognition of how genocide is organized in practice, particularly in contexts where the destruction of a group proceeds through the regulation of reproduction, kinship, and social continuity rather than immediate mass killing.

Nothing in the text of the Genocide Convention compels such a narrow interpretive lens. Articles II(b)–(e) explicitly encompass serious bodily or mental harm, destructive conditions of life, birth prevention, and child transfer—modalities that map directly onto gendered strategies of destruction. The persistent marginalization of these

⁸⁶ See William A. Schabas, *supra* note 36; see also *Bosnia v. Serbia*, *supra* note 5, at ¶¶ 187–88.

⁸⁷ See *Bosnia v. Serbia*, *supra* note 5, ¶¶ 187–197; see also *Prosecutor v. Akayesu*, *supra* note 15, at ¶¶ 523–24.

acts reflects not doctrinal limits, but interpretive habits shaped by patriarchal legal assumptions.⁸⁸

2.3.3.2 The Patriarchal Phantom: Naturalization and Legal Invisibility

The *patriarchal phantom* is conceptualized here as a mediating mechanism between gendered social hierarchies and legal recognition, explaining how naturalized patriarchal norms shape the intelligibility of violence within international law rather than serving as a cultural explanation for its occurrence.

Gender roles operate as socially constructed yet experientially real structures.⁸⁹ This study refers to this phenomenon as the *patriarchal phantom*: an ideological formation that naturalizes hierarchical gender norms and renders them invisible as constructions. Women are cast as reproducers, bearers of honor, and custodians of culture; these roles are presented as natural, moral, and inevitable.

The power of the *patriarchal phantom* lies not only in its content, but in its mode of operation. It functions by transforming historically contingent relations of domination into apparently timeless moral orders. Gender hierarchy is reframed as tradition; obedience is recoded as virtue; and subordination is rendered as cultural authenticity or religious obligation. In this way, patriarchy does not appear as a political structure but as a social given, and thus escapes scrutiny as a form of power.

This naturalization is sustained through everyday socialization, institutional practices, and normative discourses that shape how individuals understand themselves and others. Families, religious institutions, educational systems, and legal norms reproduce gender roles as part of the ordinary moral fabric of social life. Because these norms are learned early, repeated constantly, and rarely named as structures of domination, they become internalized as common sense. The *patriarchal phantom* therefore does not require coercion to operate; it relies on recognition, attachment, and moral identification. Individuals come to experience gender hierarchy not as imposed, but as meaningful, necessary, or even desirable.

⁸⁸ For a structural account of how international legal frameworks systematically under-recognize harms that arise at the intersection of race and gender due to single-axis modes of classification, see Crenshaw, *supra* note 1. Crenshaw's analysis helps explain why gendered and reproductive forms of violence—despite falling within existing legal prohibitions—have often remained marginalized in legal interpretation. In this sense, failures of genocide prevention may be rooted not in the absence of warning signs, but in failures of legal recognition.

⁸⁹ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* viii (Routledge 1990); Judith Butler, *Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory*, 40 *Theatre J.* 519, 519 (1988).

Because these roles are internalized, they become powerful instruments of manipulation.⁹⁰ Perpetrators who understand or share these cultural codes can weaponize them to induce shame, fracture identity, and dismantle social cohesion.⁹¹ Violence thus becomes culturally calibrated—targeted not only at bodies but at meanings, symbols, and emotional structures that hold the group together.

This is what enables patriarchal norms to be politically mobilized in moments of conflict. When violence is enacted through gendered codes of honor, purity, or moral transgression, it acquires a form of social intelligibility that exceeds its physical effects. Acts such as rape, forced pregnancy, or public sexual humiliation do not merely harm individuals; they resonate within existing moral frameworks that interpret them as contamination, dishonor, or collective failure. The *patriarchal phantom* thus supplies the symbolic infrastructure that allows violence to travel from the level of the body to the level of the group.⁹²

On this account, the *patriarchal phantom* operates as a mediating structure between intimate domination and collective destruction. It is the mechanism through which gender hierarchy becomes a resource for political violence, and through which the regulation of women's bodies is transformed into a strategy for regulating group identity, continuity, and belonging. Patriarchy here is not simply a background condition of inequality; it is an active ideological technology that makes genocidal violence legible, effective, and socially consequential.

2.3.4 Genocidal Patriarchy: Modalities and Their Fit with Article II(b)–(d)

Genocidal patriarchy refers to a distinct logic of genocide in which perpetrators mobilize patriarchal norms and gender symbolism to weaponize women's bodies and socially ascribed identities as instruments of group destruction. It is not simply that women are disproportionately harmed in genocide, but that gendered hierarchies themselves are transformed into mechanisms of destruction. Once women are constructed as bearers of honour, purity, and reproductive continuity, attacks on women become attacks on the group as such.

This framework does not treat killing as a neutral or pre-gendered baseline of genocidal violence to which “gendered” harms are subsequently added. Nor does it assume that particular forms of violence flow naturally from the inherent qualities of

⁹⁰ Žarkov, *supra* note 58, at 170–187.

⁹¹ *Id.*

⁹² Bergoffen, *supra* note 62, at 15; Yuval-Davis, *supra* note 67, at 26.

men or women. Rather, genocidal patriarchy conceptualizes genocide as organized through perpetrators' gendered interpretations of the targeted group. Violence is calibrated not according to what victims "are," but according to how perpetrators read, classify, and instrumentalize socially ascribed gender roles within the victimized community.

Perpetrators do not target men because of masculinity, nor women because of femininity as such. They target men and women differently in ways that draw upon the cultural, symbolic, and social meanings attached to those bodies within the targeted group. These meanings need not be fully articulated by every perpetrator; they may operate through shared assumptions, collective violence, military practice, propaganda, or patriarchal common sense. Men may be constructed as defenders, political agents, or bearers of resistance; women may be constructed as reproducers, bearers of honour, or carriers of communal continuity. These are not inherent traits but attributed functions, and it is these attributed functions that guide the selection of victims and the design of harm.

Genocidal violence is therefore organized through gender as a strategic and interpretive structure. It is tailored to maximize destructive impact by intervening in those social roles, symbolic orders, and relational infrastructures through which the group sustains itself. From this perspective, both lethal and non-lethal modalities of violence are gendered not because of the victims' identities, but because of the perpetrators' use of gender as a technology through which genocidal practices are structured, deployed, and rendered legible within legal and political orders.

This logic operates through a set of recognizable modalities that are both socially intelligible within patriarchal orders and legally cognizable under the Genocide Convention. These modalities should be analyzed at more than one level. At the level of the broader genocidal campaign, they may be selective, systematic, foreseeable, or policy-driven. At the level of implementation, however, sexual and reproductive violence may also be carried out through chaotic, opportunistic, or affective dynamics, including militarized impunity, group hatred, patriarchal entitlement, and the force of collective participation. Rank-and-file perpetrators may act through patriarchal and group-based imaginaries without consciously understanding the violence as an attack on the biological, social, and symbolic conditions through which a group reproduces itself over time. The violence may nevertheless produce those effects when it becomes part of a wider pattern of group destruction.

Genocidal patriarchy operates through multiple, overlapping modalities of destruction that target the biological, social, and relational foundations of group existence. These modalities may be realized through discrete acts that fall within a single subparagraph of Article II—including killing under Article II(a)—but in practice they often operate in combination, with the same pattern of conduct engaging multiple subparagraphs of the Genocide Convention in parallel.

First, reproductive control directly targets the biological continuation of the group. Practices such as forced sterilization, compulsory contraception, forced abortion, the suppression of childbirth, or the systematic obstruction of family formation interfere with the group's capacity to reproduce itself across generations. Where such measures are imposed selectively upon a protected group and sustained over time, they fall squarely within Article II(d) of the Genocide Convention, which prohibits "imposing measures intended to prevent births within the group." Reproductive violence therefore requires analysis as a layered practice: it may operate through individual acts, institutional routines, and policy structures that together obstruct the group's capacity to reproduce itself over time.

Second, strategic sexual violence targets women's bodily integrity, psychological well-being, and socially assigned relational roles as bearers of group continuity. Rape, sexual slavery, forced pregnancy, and sexual mutilation operate not only as acts of individual harm but as collective assaults on kinship structures, family relations, and social cohesion.⁹³ These practices cause serious bodily and mental harm within the meaning of Article II(b), while also, in certain configurations, contributing to the prevention of births within the group under Article II(d), particularly where stigma, trauma, or coercion renders reproduction socially or biologically impossible.⁹⁴

Third, symbolic violence organized through norms of honor, shame, and purity targets the moral and relational infrastructure through which group identity and continuity are sustained.⁹⁵ Public sexual humiliation, the stigmatization of survivors, and the weaponization of sexual shame operate by contaminating the symbolic integrity of the group and fracturing its internal cohesion.⁹⁶ In patriarchal contexts where

⁹³ Bergoffen, *supra* note 57, at 15; Yuval-Davis, *supra* note 61, at 26 .

⁹⁴ *Prosecutor v. Akayesu*, *supra* note 15 at para 507-508.

⁹⁵ Bergoffen, *supra* note 57, at 15; Claudia Card, *Genocide and Social Death*, 18 *Hypatia* 63, 64–69 (2003).

⁹⁶ S.C. Res.1820, *supra* note 65; H. Patricia Hynes, On the Battlefield of Women's Bodies: An Overview of the Harm of War to Women, 27 *Women's Stud. Int'l F.* 431, 433–36 (2004); Men's bodies may also be instrumentalized in analogous ways through gendered meanings of humiliation, emasculation, feminization, and collective dishonour. See Féron, *supra* note 63.

women's bodies are constructed as bearers of communal honor and boundary markers of collective belonging, such acts reverberate far beyond the individual victim.

These practices induce displacement, social exclusion, marital exclusion, and long-term psychological harm, thereby inflicting serious mental harm within the meaning of Article II(b) and contributing to conditions of life incompatible with the group's continued existence under Article II(c).⁹⁷ Crucially, where stigma, exclusion, and trauma systematically foreclose women's ability to form families, sustain intimate relations, or reproduce within the group, symbolic violence also operates as a structural mechanism of birth prevention, engaging Article II(d) through its cumulative and socially mediated effects.

Fourth, institutional measures such as denationalization, mass detention, family separation, and the systematic disruption of kinship relations dismantle the social reproduction of the group. By severing intergenerational continuity and destabilizing the relational structures necessary for collective survival, these practices impose conditions of life calculated to undermine group existence. They therefore engage Articles II(b) and II(c), while also, in certain configurations, reinforcing the cumulative effects of reproductive destruction captured by Article II(d).

Taken together, these modalities illustrate that Articles II(b), II(c), and II(d) do not describe distinct stages of genocidal violence but delineate overlapping dimensions of group destruction. Acts that cause serious bodily or mental harm or impose destructive conditions of life may themselves constitute genocidal outcomes, while also contributing—individually or cumulatively—to the systematic prevention of births within the group. *Genocidal patriarchy* thus reveals how gendered and reproductive violence operates not at the margins of genocide law, but within the core prohibitions through which group destruction is legally defined.⁹⁸

This understanding is consistent with international jurisprudence on genocidal intent. As the ICJ held in *Bosnia v. Serbia*, genocidal intent may be inferred from patterns of conduct whose destructive consequences are foreseeable and unavoidable. Similarly, the ICTR in *Akayesu* recognized that systematic sexual violence could itself constitute a means of group destruction when directed at a protected group.⁹⁹ These

⁹⁷ *Croatia v. Serbia*, *supra* note 72, at ¶ 158; *Prosecutor v. Krajišnik*, *supra* note 72, at ¶ 862.

⁹⁸ See Genocide Convention art. II(b)–(d); *Prosecutor v. Akayesu*, *supra* note 15, at ¶¶ 731–34; *Prosecutor v. Kayishema & Ruzindana*, *supra* note 72, at ¶¶ 116, 121–123; Bergoffen, *supra* note 57, at 15–20.

⁹⁹ *Bosnia & Herz. v. Serb. & Montenegro*, *supra* note 5, ¶¶ 187–89; *Prosecutor v. Krstić*, *supra* note 13, at ¶¶ 595–97; *Prosecutor v. Akayesu*, *supra* note 5, at ¶¶ 731–34.

cases confirm that genocide need not be executed solely through mass killing; it may proceed through sustained practices that dismantle the conditions of group survival.

Genocidal patriarchy thus clarifies how gendered violence functions not as collateral harm but as a central mechanism through which genocide is perpetrated. It exposes the legal and analytical limitations of a killing-centered paradigm and reveals how patriarchal logics are instrumentalized to transform women's bodies into sites through which group destruction is organized, justified, and sustained. This analysis does not suggest that every instance of gender-based harm constitutes genocide, but rather that where such harms are deployed systematically and with genocidal intent, they fall squarely within the Convention's protective scope.

2.4 Operationalizing Genocidal Patriarchy: The Triple Vulnerability Framework

The following analysis operationalizes the analytical framework of *genocidal patriarchy* by identifying the structural conditions through which gendered violence becomes an effective technique of group destruction. Rather than treating sexual and reproductive violence as episodic or incidental, the *triple vulnerability* framework treats such violence as structurally produced. It locates this production in the interaction of three mutually reinforcing domains: external state repression against targeted groups, internal patriarchal norms assigning women roles of honor and reproductive continuity, and institutional invisibility in international law, where evidentiary and doctrinal hierarchies marginalize gendered harms.

These vulnerabilities are not cumulative layers operating mechanically or sequentially. They are interlocking structures that shape both victim selection and the modalities of violence. The operative mechanism is role-specific targeting: perpetrators align particular forms of violence with socially and institutionally ascribed gendered roles to maximize group fragmentation and long-term disintegration. Harms inflicted through these pathways are also less likely to trigger early legal or political recognition.

The triple vulnerability framework thus does not constitute a separate theory alongside genocidal patriarchy. Rather, it specifies how patriarchal logics become operational across state, community, and legal domains, transforming gendered power relations into instruments of group destruction. It provides the methodological bridge between the theoretical analysis in this chapter and the empirical examination of genocidal practices in the chapters that follow. In doing so, it enables a systematic

analysis of how genocidal patriarchy is enacted across different sites of power without reducing gendered violence to either culture or policy alone.

Chapter 3 applies this framework to analyze how these three dimensions materialize in practice. It examines how external repression, internal patriarchal norms, and institutional invisibility converge to shape gendered patterns of violence in genocidal contexts, thereby establishing the analytical foundation for the subsequent case studies.

Chapter 3. Operationalizing Triple Vulnerability: Gender, Power, and the Organization of Violence

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3.1 Introducing the Triple Vulnerability Framework

Responding to the research questions set out in Chapter 1, this chapter examines how external, internal, and institutional vulnerabilities interact in the operation of genocidal violence. It centers gender not as a secondary lens or a descriptive variable, but as a constitutive dimension of how genocidal violence is structured, justified, and carried out. It asks a foundational question: why are women disproportionately targeted

through forms of violence that are sexualized, symbolic, and reproductive—and, if genocide seeks to destroy a group as such, why are members of that same group subjected to differentiated forms of violence based on gender?

Externally, women are targeted as members of racialized, ethnic, religious, or national groups subject to exclusionary governance, demographic engineering, and coercive state control. *Internally*, patriarchal norms socially construct women as bearers of honour, purity, and collective continuity, making them strategically targetable and increasing their exposure to specific forms of violence, as well as the predictable collective impact of violations against them. *Institutionally*, legal and political recognition processes frequently privilege forms of harm that are immediately visible, quantifiable, and lethally demonstrable, thereby reducing the legibility of disproportionately gendered sexual and reproductive violence—most frequently inflicted on women— as indicators of genocidal intent.¹

These three dimensions do not operate independently. They function as structurally reinforcing conditions that shape both the selection of victims and the modalities of violence. The *triple vulnerability framework* therefore does not describe three separate types of harm, but a relational configuration through which gendered violence becomes an effective and intelligible technique of genocide. It provides an analytical map for understanding how intimate forms of domination are connected to collective projects of genocide, and how gender operates as a mediating structure between state policy, community norms, and legal recognition.

Sections 3.2 and 3.3 examine the external and internal production of vulnerability. Section 3.4 then develops the institutional axis, showing how evidentiary hierarchies and recognition thresholds within international law condition which forms of violence become actionable as genocide. This structure clarifies why women may be central to perpetrators' strategies of group destruction while remaining peripheral in legal recognition.

Section 3.5 maps patterns of gender-differentiated targeting, showing how perpetrators calibrate violence along gendered lines—for example, treating men as immediate military or protective threats while subjecting women to sexualized and reproductive violence that damages the group's long-term continuity. Building on that pattern analysis, Section 3.6 operationalizes triple vulnerability as a mechanism: it

¹ S.C. Res. 2467 (Apr. 23, 2019).

moves from external coercive governance, to internal gender orders, to mediating narratives and social translation, and then to institutional recognition gaps that shape what counts as legally visible harm. The final part of Section 3.6 links these mechanisms to Article II(b)–(d), clarifying how sexual and reproductive violence may function as group-destructive conduct within the genocide framework. The concluding section then synthesizes the chapter’s core claims and sets up the testable propositions developed in the Rohingya and Uyghur case studies in Chapters 4 and 5.

3.2 External Vulnerability: Minority Status and State Exclusion

This section examines external vulnerability as a structural condition produced by state power, exclusionary governance, and group-based targeting. It analyzes how harms inflicted on individual women may acquire consequences beyond the individual victim when those women are targeted as members of racialized, ethnic, religious, or national groups politically constructed as disposable or threatening. The section therefore establishes the macro-level environment in which gendered destruction becomes operationally possible.

3.2.1 Ethnic Othering and State Violence — Structural Marginalization, Women as Members of Minority Groups

In this context, ‘external vulnerability’ refers to the political and legal positioning of minority groups within state orders—processes of exclusion, de-righting, and administrative marginalization that render the group governable through coercion.² This does not mean that sexual or reproductive violence is itself ‘external,’ but that state-produced minority status creates the permissive conditions in which gendered violations can be deployed with heightened impunity and strategic effect. International legal instruments and fact-finding bodies have repeatedly underscored that sexual and reproductive violence are facilitated by prior processes of legal exclusion and minority

² The juridical production of minority vulnerability through state law and administration has been extensively documented in international legal history. A paradigmatic example is provided by Nazi Germany’s Nuremberg Laws of 1935, which systematically stripped Jews of citizenship, political rights, and legal protection, transforming them into administratively governed subjects rather than rights-bearing members of the polity. This process of legal de-righting and reclassification rendered the targeted population governable through coercion and exclusion, creating the structural conditions for subsequent bodily regulation, confinement, and mass violence. Comparable patterns of state-produced minority status have been identified in later international contexts, where the formal withdrawal of legal protection precedes and enables the deployment of coercive and violent measures against targeted groups. See *Reich Citizenship Law* (Sept. 15, 1935) (Germany); *Law for the Protection of German Blood and German Honour* (Sept. 15, 1935) (Germany); ICTY, *Prosecutor v. Krstić*, IT-98-33, Judgment (Aug. 2, 2001).

production. Where a population is rendered legally rightless, stateless, or subject to exceptional administrative governance, gendered violations are more likely to be perpetrated with impunity and to acquire strategic significance. International criminal jurisprudence and UN investigations have documented that systematic sexual violence frequently occurs in contexts where targeted groups have first been deprived of citizenship, legal remedies, and institutional protection, thereby enabling perpetrators to act with minimal fear of accountability.³

International human rights law provides that States have obligations to protect the cultural, linguistic, and political participation rights of minorities (e.g., ICCPR art. 27; art. 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)).⁴ Yet in practice, many State policies embed marginalization through legal, administrative, and territorial mechanisms—segregation, discriminatory citizenship regimes, movement restrictions, and unequal access to public services—that collectively erode minorities’ ability to exercise meaningful participation.⁵ These arrangements transform ethnic difference into a durable architecture of exclusion. Persistent legal exclusion, when combined with securitized othering and coercive governance, can escalate from discrimination to policies aimed at forced removal or group destruction.

UN mechanisms—including the OHCHR, the Special Rapporteur on racism, and experts on minority issues—have consistently observed that contemporary discrimination rarely appears explicitly; instead, States deny exclusion and attribute structural disadvantage to minority groups themselves.⁶ Moreover, xenophobic rhetoric and dehumanizing language normalize hostility, creating political conditions in which

³ See Charter of the International Military Tribunal art. 6(c) (1945); *Prosecutor v. Krstić* (2001), *supra* note 2; ICTY, *Prosecutor v. Kunarac* (2001); Human Rights Council, *Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, U.N. Doc. A/HRC/39/CRP.2 (Sept. 17, 2018); Office of the U.N. High Commissioner for Human Rights, *Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China* (Aug. 31, 2022).

⁴ International Covenant on Civil and Political Rights art. 27, Dec. 16, 1966, 999 U.N.T.S. 171; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities art. 4, G.A. Res. 47/135, U.N. Doc. A/RES/47/135 (Dec. 18, 1992).

⁵ OHCHR, *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation* xii-xiii (2023).

⁶ *Id.*, at 135; see *United Nations Network on Racial Discrimination and Protection of Minorities, Inputs into Secretary-General’s Call to Action Follow-Up: Agenda for Protection* 3–4 (2021).

ethnic cleansing—and in some cases genocide—can emerge.⁷ The following examples show how this structure operates through concrete legal and administrative instruments.

This pattern is reflected in state regulation of citizenship, mobility, family life, and reproduction. In Myanmar, for example, official portrayals of the Rohingya as illegal and threatening have helped legitimize state repression and social exclusion.⁸ The Rohingya illustrate how State law can be mobilized to convert ethnic otherness into legal erasure.⁹ Myanmar’s 1982 Citizenship Law renders the Rohingya stateless, stripping them of nationality, legal personhood, and access to fundamental rights.¹⁰ Through marriage restrictions, movement controls, and administrative barriers to education and health care, the State embeds racialized otherness directly into the structure of citizenship.¹¹

A similar dynamic characterizes China’s treatment of the Uyghurs. Official discourse frames Uyghurs as “terrorists,” “extremists,” or “backward,” thereby legitimizing surveillance, detention, and coercive “re-education.”¹² As documented in the 2022 OHCHR assessment, the campaign intensified after 2017, combining coercive birth-prevention measures—forced abortions, IUD insertions, sterilizations—with punitive consequences for non-compliance, including detention or transfer to camps.¹³ The report concludes that these measures “may contribute to significant population-level changes,” indicating coercive interference with reproductive autonomy.¹⁴

⁷ “Ethnonationalism, broadly defined, views the nation as “defined in terms of assumed blood ties and ethnicity [...] It is important to highlight that, despite popular perception, ethno-nationalist ideologies are not spontaneous. They are the result of a range of complex economic, political, social and historical forces combined with the deliberate manipulation by “ethnic entrepreneurs” and other political actors who seek to advance the narrow interests of particular groups.” U.N. Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, U.N. Doc. A/HRC/38/52, ¶¶ 39–40 (May 25, 2018).

⁸ U.N. Human Rights Council, Independent International Fact-Finding Mission on Myanmar, *Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, U.N. Doc. A/HRC/42/CRP.5, ¶¶ 3, 210 (Sept. 16, 2019).

⁹ A/HRC/38/52, *supra* note 7, at ¶¶ 45–46.

¹⁰ See UNHCR, *States of Denial: A Review of UNHCR’s Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh*, 10–15 (2011); A/HRC/39/CRP.2(2018), *supra* note 3, at ¶ 460; *The 1982 Citizenship Law* (Pyithu Hluttaw Law No. 4/1982) (Myan.), available at <http://un-act.org/publication/view/myanmars-citizenship-law-1982/>; A/HRC/42/CRP.5, *supra* note 10, at ¶¶ 3, 210 (Sept. 16, 2019).

¹¹ See A/HRC/39/CRP.2(2018), *supra* note 3; Pyidaungsu Hluttaw Law (2015) No. 1376 ME (The Population Control Health Care Law, 2015).

¹² Newlines Inst. for Strategy & Policy, *The Uyghur Genocide: An Examination of China’s Breaches of the 1948 Genocide Convention*, 16 (2021).

¹³ *Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region*, *supra* note 3, ¶¶ 109–11.

¹⁴ *Id.*, ¶¶ 113–114.

The UN has also emphasized that in some states, legal systems themselves enact gendered discrimination, institutionalizing inequality and enabling the exclusion of particular ethnic, religious, or national groups.¹⁵ This is especially evident in nationality, citizenship, and immigration laws, where gender-discriminatory provisions remain widespread, preventing women from transmitting nationality to their children or non-national spouses.¹⁶ Framed as the protection of national purity or interests, these regimes control women's marriage and reproductive autonomy, thereby regulating the formation of families across ethnic or religious lines. In effect, states utilize gendered nationality systems to intertwine patriarchal structures with population governance, turning women into instruments for preserving national boundaries and identity regimes.¹⁷

Across both contexts, State violence targets women in particularly acute ways.¹⁸ Because women are constructed as biological and symbolic bearers of group continuity, they experience the compounded effects of ethnic repression and patriarchal control. In Myanmar, widespread mass rape and sexual violence by the military served not merely as terror but as a deliberate strategy to dismantle social cohesion and compel displacement.¹⁹ Evidence illustrates that senior military command exercised full control over whether troops engaged in sexual violence—suggesting that such acts were allowed, directed, or strategically tolerated.²⁰

In Xinjiang, reproductive coercion—combined with mass detention, family separation, and intrusive surveillance—functions as a modality of group-destructive governance, reshaping demographic patterns and weakening the intergenerational continuation of the Uyghur population.²¹

¹⁵ A/HRC/38/52, *supra* note 7, ¶¶12, 34.

¹⁶ Comm. on the Elimination of Discrimination Against Women, Gen. Recommendation No. 28: *Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women*, ¶¶ 16, 51–62, U.N. Doc. CEDAW/C/GC/28 (Dec. 16, 2010).

¹⁷ A/HRC/38/52, *supra* note 7, at ¶ 42.

¹⁸ *Id.*

¹⁹ U.N. Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, ¶¶ 59–67, U.N. Doc. A/HRC/56/CRP.8 (2024); Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, ¶¶ 74–85, U.N. Doc. A/HRC/39/64 (Sept. 12, 2018).

²⁰ A/HRC/39/64, *supra* note 19, at ¶¶ 74–85; A/HRC/42/CRP.5, *supra* note 8, at ¶ 15.

²¹ See Adrian Zenz, End the dominance of the Uyghur ethnic group: an analysis of Beijing's population optimization strategy in southern Xinjiang, *Central Asian Survey*, 24 August 2021; Adrian Zenz, Sterilizations, IUDs, and Mandatory Birth Control: The CCP's Campaign to Suppress Uyghur Birthrates in Xinjiang, June 2020, https://www.researchgate.net/publication/343971074_Sterilizations_IUDs_and_Mandatory_Birth_Cont

Viewed in combination, these patterns reveal that minority women face external vulnerability because they occupy a dual symbolic position: as members of groups framed as threats to national identity and as bearers of the group's cultural and reproductive future. Through legal disenfranchisement, administrative repression, sexual violence, and reproductive control, States govern women through the transformation of their bodies into sites where ethnic identity is degraded, disciplined, or destroyed. External vulnerability is therefore not merely the product of discrimination but the result of coordinated State strategies that weaponize the intersection of gender and ethnicity to erode the demographic, cultural, and social foundations of targeted groups.

3.3 Internal Vulnerability: Gendered Expectations and Social Roles

This section examines internal vulnerability as a gendered condition embedded in patriarchal social organization within targeted communities. It analyzes how women's assigned roles—reproductive, symbolic, and social—can intensify both their visibility to perpetrators and the collective consequences of violence inflicted upon them. By focusing on these internal role structures, the section explains why certain forms of harm are strategically effective in dismantling group continuity.

3.3.1 Gendered Orders in Culture and Religion²²

For analytical clarity, this section treats gendered cultural and religious orders as an internal dimension of vulnerability. Empirically, however, internal and external dimensions are co-constitutive: patriarchal norms are reproduced within communities and can also be appropriated, amplified, or institutionalized by state actors. This overlap is especially salient where perpetrators and victims share the same cultural repertoire.

The UN has noted that States often confront deep structural tensions between the public and private spheres when responding to violence against women, systematically pushing gender-based harms into the private realm and thereby diminishing their legal

rol The CCP's Campaign to Suppress Uyghur Birthrates in Xinjiang

²² This chapter does not advance cultural genocide as an independent legal category. Rather, it examines the social and symbolic effects produced by acts enumerated in Article II of the Genocide Convention, particularly in relation to gender, reproduction, and group continuity. Culture and religion are conceptualized as mediating symbolic infrastructures through which these acts acquire social meaning, moral force, and cumulative destructive effect. This analysis focuses in particular on how gendered cultural norms relating to honour, sexuality, and reproduction are strategically appropriated by perpetrators to extend the impact of sexual and reproductive violence beyond immediate physical harm and into the social and symbolic conditions of group existence.

and political visibility.²³ In many patriarchal societies, guardianship regimes and related legal frameworks are deliberately designed to restrict women's autonomy and participation in public life.²⁴

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a central international legal framework for addressing discrimination against women and for understanding such discrimination as a structural condition embedded in social, economic, cultural, and institutional life.²⁵ Although the original text of CEDAW did not expressly refer to violence against women, feminist advocacy and the Committee's subsequent jurisprudence brought gender-based violence against women within the Convention's equality and non-discrimination framework. General Recommendation No. 19 first clarified that gender-based violence is a form of discrimination against women, and General Recommendation No. 35 later reaffirmed and updated that interpretation by emphasizing the structural and gendered character of such violence.²⁶ General Recommendations No. 28 and No. 33 further situate women's inequality within the social, economic, cultural, and institutional contexts in which discrimination is produced and reproduced.²⁷

Different forms of exclusion and inequality often intersect and reinforce one another, intensifying the effects of gendered violence and deepening structural disadvantage. Accordingly, States must adopt an intersectional approach in designing laws and policies so that legal and institutional responses address the compounded forms of discrimination experienced by women situated within multiple and overlapping structures of inequality.²⁸ Women's experiences of inequality take shape within broader hierarchies of power. These intersecting hierarchies form the internal social environment within which women's subordination is normalized and reproduced.

²³ Human Rights Council, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, ¶ 63, U.N. Doc. A/HRC/26/38 (Apr. 28, 2014).

²⁴ *Id.*

²⁵ Convention on the Elimination of All Forms of Discrimination Against Women arts. 1, 2(f)–(g), Dec. 18, 1979, 1249 U.N.T.S. 13.

²⁶ See Committee on the Elimination of Discrimination Against Women, *Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 19: Violence Against Women*, U.N. Doc. CEDAW/C/GC/19 (1992); Committee on the Elimination of Discrimination Against Women, *Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, ¶¶ 10, 12, U.N. Doc. CEDAW/C/GC/35 (July 26, 2017); Alda Facio, *Women's Human Rights on the World Stage: An Unfinished History*, 33 *Canadian Woman Stud./Les Cahiers de la Femme* 6 (2018).

²⁷ See Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 33 on Women's Access to Justice*, ¶ 8, U.N. Doc. CEDAW/C/GC/33 (Aug. 3, 2015); CEDAW/C/GC/28, *supra* note 16.

²⁸ *Id.*

However, in practice, many legal frameworks addressing gender-based violence remain weak, under-enforced, or undermined by cultural resistance. Traditional, cultural, religious, or fundamentalist ideologies are frequently invoked to justify the erosion or rejection of legal reforms intended to eliminate gender discrimination.²⁹ Cultural and religious resistance therefore operates not merely as a social attitude, but as a normative force that infiltrates legal interpretation, enforcement practices, and the institutional tolerance of violence.³⁰

The Office of the Prosecutor of the ICC and the CEDAW Committee have emphasized that gender-based violence against women is rooted in structural inequality and patriarchal social norms.³¹ Its origins lie in a set of cultural and social factors, including ideologies that privilege men’s rights and authority over women, social expectations that regulate masculinity, power structures that maintain male dominance, and mechanisms that discipline or punish women who are perceived as violating gender norms. Together, these dynamics contribute to a social and institutional consensus that normalizes gendered violence and obstructs women’s access to justice.³² Procedural neutrality, in this context, often masks the reproduction of patriarchal norms.

In addition, discriminatory legal and procedural norms often reinforce these patriarchal structures. In some legal systems, violence justified in the name of “honour,” cultural custom, or male privilege continues to be treated as mitigating or exculpatory.³³ Extreme punishments based on gendered morality codes—including stoning or flogging in certain jurisdictions—further demonstrate how patriarchal norms remain embedded in legal orders.³⁴ Judicial authorities often overlook the structural context of gender-based violence. As the Special Rapporteur on violence against women has observed in relation to rape, legal systems across jurisdictions frequently reproduce gender stereotypes, victim-blaming assumptions, and evidentiary practices that narrow

²⁹ U.N. Human Rights Council, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, U.N. Doc. A/HRC/4/34, ¶¶ 37, 56 (Jan. 17, 2007).

³⁰ See Vibhuti Patel, “There Is No Honour in Honour Killing,” in *Analyzing Violence Against Women* 189, 191 (Wanda Teays, ed., Springer 2019); Erin Farrell Rosenberg, *Gender and Genocide in the 21st Century: How Understanding Gender Can Improve Genocide Prevention and Response* 3 (Newlines Inst. 2021); Recep Doğan, Is Honor Killing a “Muslim Phenomenon”? Textual Interpretations and Cultural Representations, 31 *J. Muslim Minority Aff.* 423, 425 (2011); Sara Ferro Ribeiro & Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict* 17 (U.K. Foreign & Commonwealth Off. 2017); Chiseche Salome Mibenge, *Sex and International Tribunals* 14 (Univ. of Pennsylvania Press 2013).

³¹ CEDAW/C/GC/35, *supra* note 26, at ¶ 19; Office of the Prosecutor, Int’l Crim. Ct., *Policy on Gender-Based Crimes* ¶28 (Dec. 2023).

³² CEDAW/C/GC/35, *supra* note 26, at ¶ 19.

³³ *Id.*, at ¶ 29–30.

³⁴ *Id.*, ¶ 29.

the meaning of sexual violence and expose survivors to renewed harm within the justice process.³⁵

These internal patriarchal norms do not remain confined to the community sphere; they interact with, and are often co-opted by, state institutions. When culture and religion are mobilized to justify patriarchal domination, violence can be recast as moral preservation, communal duty, or the defence of social order. The core of this internal patriarchy lies in the patriarchal appropriation of cultural meaning, through which women's bodies, honour, sexuality, and reproductive capacities are incorporated into frameworks of legitimacy and obligation. Culture may also provide access to belonging, identity, collective memory, and rights, and it may serve as a ground for women's own claims to justice and liberation. Particular patriarchal interpretations of culture become especially powerful when they are elevated as authoritative, allowing coercion, stigma, and institutionalized inequality to be presented as tradition, duty, or communal survival. The same normative repertoire may structure both the targeted group and the perpetrating order, while being mobilized in different ways to regulate women's bodies and lives. In this way, patriarchal interpretations of culture discipline individual women while also providing the state with a moral vocabulary through which authority can be asserted and inequality preserved.³⁶

3.3.2 Culturally and Socially Ascribed Meanings of Womanhood

In this framework, women's social roles in patriarchal societies are defined through culturally constructed notions such as chastity, honour, and the idea that women serve as bearers of communal or national boundaries.³⁷ The association between women's bodies and the honour of the family or ethnic group is not a neutral cultural belief but a politically shaped ideology that legitimizes male authority.³⁸ Authoritative social, religious, and political discourses mobilize these concepts to maintain hierarchy and

³⁵ *Id.*; see Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Rape as a Grave, Systematic and Widespread Human Rights Violation, a Crime and a Manifestation of Gender-Based Violence Against Women and Girls, and Its Prevention*, U.N. Doc. A/HRC/47/26 (Apr. 19, 2021).

³⁶ See CEDAW art. 5(a), Dec. 18, 1979, 1249 U.N.T.S. 13; International Covenant on Economic, Social and Cultural Rights art. 15(1)(a), Dec. 16, 1966, 993 U.N.T.S. 3; Comm. on Econ., Soc. & Cultural Rights, General Comment No. 21: Right of Everyone to Take Part in Cultural Life, ¶¶ 11–16, 49, U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009); Chandra Talpade Mohanty, *Under Western Eyes: Feminist Scholarship and Colonial Discourses*, 30 *Feminist Rev.* 61, 61–88 (1988); Uma Narayan, *Dislocating Cultures: Identities, Traditions, and Third World Feminism* 3–39 (1997); Lila Abu-Lughod, *Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others*, 104 *Am. Anthropologist* 783, 783–90 (2002).

³⁷ Stacy Banwell, *Gender and the Violence(s) of War and Armed Conflict: More Dangerous to Be a Woman?* 19–40 (Emerald Publishing Limited 2020); see also *supra* note 28.

³⁸ Nira Yuval-Davis, *Gender and Nation* 423–25 (SAGE Publ'ns 1997).

suppress challenges to established gender norms. Deviations from prescribed gender roles frequently trigger communal shaming, surveillance, and condemnation.³⁹

Empirical contexts demonstrate that these symbolic constructions can acquire political salience. Importantly, the analysis that follows does not treat sexual violence or allegations thereof as self-evident causes of collective violence; rather, it examines how narratives of sexual violation acquire political force when filtered through patriarchal and ethnicized frameworks of honour, threat, and social order. For example, in Myanmar, sexual violence against Rohingya women has been widely documented as a deliberate tactic through which ethnic domination is enacted, degrading women who are symbolically constructed as bearers of communal honour and continuity.⁴⁰

A related mechanism is visible in Ürümqi, the largest city of the Xinjiang Uyghur Autonomous Region in northwestern China, where gendered narratives of sexual threat were rapidly translated into ethnicized political mobilization. In the context preceding the 2009 unrest in Ürümqi, a widely circulated rumour concerning the sexual assault of Han Chinese women by Uyghur men mobilized a familiar gendered and nationalist script in which women's sexual vulnerability becomes a sign of collective danger and minority men are cast as sexual threats to the dominant group. In this form, sexual-violence narratives provide a political language through which group boundaries are sharpened, masculine protection is invoked, and violence against the accused group becomes easier to justify.⁴¹ The rumour, regardless of whether it was factually substantiated, was rapidly mobilized to frame Uyghur men as threats to Han women and to collective moral order, contributing to violent confrontations between Han and Uyghur workers.⁴² Subsequent Uyghur protests in Ürümqi emerged in response to both the initial violence and the perceived failure of state authorities to ensure accountability, at which point the state reframed the unrest as a matter of security and social stability.

³⁹ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* 1–4, 33–36 (Routledge 1990).

⁴⁰ See A/HRC/42/CRP.5, *supra* note 8; Peter Beaumont, Burma's Leader Admits Deadly Attacks on Muslims, *The Guardian* (Oct. 27, 2012), <https://www.theguardian.com/world/2012/oct/27/burma-wave-anti-muslim-violence>; Reuters, Four Killed as Rohingya Muslims Riot in Myanmar: Government, *REUTERS* (June 8, 2012), <https://www.reuters.com/article/us-myanmar-violence-idUSBRE85714E20120608>

⁴¹ This dissertation recognizes that sexual violence operates through narrative and representation. Rumours, allegations, and images of sexual violation may construct minority men as sexual threats, mobilize protective masculinities, and sharpen the boundaries of national or ethnic belonging. These representational uses of sexual violence can help organize group hostility and collective violence, while direct acts of sexual and reproductive violence may themselves function as methods of group destruction. See Heidi Matthews, *Redeeming Rape: Berlin 1945 and the Making of Modern International Criminal Law*, in *The New Histories of International Criminal Law: Retrials* 90, 91–95 (Immi Tallgren & Thomas Skouteris eds., 2019).

⁴² Kara Abramson, Gender, Uyghur Identity, and the Story of Nuzugum, 71 *J. Asian Stud.* 1069, 1082–83 (2012).

In this sequence, the imagined violation of women's bodily integrity operated as a symbolic trigger that transformed gendered harm into ethnic antagonism and helped justify extensive state repression.⁴³ The use of sexual-violence allegations to construct racialized or minority men as threats to women is a recurrent tactic in racialized and nationalist politics. It complicates responses to alleged sexual violence in highly volatile contexts, where claims of protection may coexist with, or become absorbed into, projects of racialization, nation-building, and collective punishment.

These cases illustrate how the symbolic meanings attached to women's bodies within patriarchal and ethnicized frameworks can be instrumentalized for political ends. When women's bodies are treated as signs of group honour, purity, vulnerability, or continuity, an alleged or imagined sexual violation can be narrated as an attack on the group as a whole. That narrative may mobilize protective masculinities, intensify fear of the accused group, and make retaliatory or repressive violence appear necessary to defend communal order. Narratives of sexual violation can therefore become mechanisms of collective mobilization, moral panic, and state violence.

Within this patriarchal logic, the concept of honour is inseparable from women's social positioning and embodied autonomy, rather than from women's dignity as rights-bearing subjects. Women's conduct is often treated as capable of elevating or tarnishing the honour of men, families, and even the nation. Yet this form of "honour" does not concern women's own dignity; rather, it is sustained by strictly policing women's sexuality and bodily autonomy to preserve male power and social order.⁴⁴ Women's gendered identities thus function as sites through which masculinity is performed and patriarchal authority reaffirmed. This male-centered conception of honour demands women's obedience and chastity, recasting gender control as moral virtue and legitimizing the subordination of women as the foundation of social stability.⁴⁵

This is precisely where the *patriarchal phantom* becomes analytically visible: socially constructed gender hierarchy is experienced as common sense, internalized as obligation, and enforced through community sanction. Women's apparent "consent" to patriarchal norms often emerges within constrained conditions shaped by reputational risk, material dependence, and threat of punishment.

⁴³ See bell hooks, *Ain't I a Woman: Black Women and Feminism* (2d ed. 2015).

⁴⁴ Doğan, *supra* note 30, at 423.

⁴⁵ Alina Isac Alak, Adis Duderija & Kristin Hissong, *Islam and Gender: Major Issues and Debates* 44–45 (Routledge 2020).

In sum, women are constructed in patriarchal societies as symbols of moral order and collective identity, while their autonomy is subordinated to communal norms.⁴⁶ The cultural meanings attributed to womanhood are not naturally occurring but are produced through the interaction of patriarchal ideology and political power.⁴⁷ By binding women's gendered roles to the moral integrity of the group, patriarchy naturalizes domination as cultural preservation.⁴⁸ These symbolic constructions generate a normative vocabulary that can later be appropriated by state institutions when seeking to regulate, discipline, or marginalize targeted communities.

The discussion here is explanatory, showing how gendered meanings are socially produced and politically mobilized; Section 3.6 examines how these meanings are operationalized into group-destructive mechanisms and assessed within the genocide framework.

3.3.3 From Community Patriarchy to State Violence: The Weaponization of Gender Norms

This analysis builds on the preceding account of gendered meaning systems by showing how these internal orders become politically exploitable. This section examines how internal patriarchal orders—embedded in cultural, religious, and familial life—become vulnerable to political appropriation and weaponization by state power. Before proceeding, it is important to emphasize that these patriarchal dynamics should not be attributed to any particular culture or religion. They are context-specific formations of patriarchal power that take shape differently across societies, institutions, and historical conditions. This framing avoids cultural essentialism and resists the assumption that patriarchy operates as a single, uniform structure across all societies.⁴⁹

Building on the preceding discussion, the Rohingya and Uyghur communities—both predominantly Muslim—exemplify how patriarchal norms operate internally to sustain gender hierarchy while simultaneously being weaponized by state power. In these communities, religious doctrine and cultural tradition are not static inheritances but living frameworks that regulate gender, morality, and social order. As Alina Isac Alak, Adis Duderija, and Kristin Hissong argue, religious traditions, beliefs, and customary practices are highly gendered, and gender relations are fundamentally

⁴⁶ See *supra* note 30.

⁴⁷ Yuval-Davis, *supra* note 38, at 423–25.

⁴⁸ Alak, Duderija & Hissong, *supra* note 45, at 44–45.

⁴⁹ See *supra* note 36.

conditioned by the broader social and communal power structures in which they are embedded.⁵⁰ Religion not only informs individual identity but also shapes gendered value systems, leading individuals to internalize religiously grounded norms of gender roles. Even when such norms conflict with the worldview or moral systems of other groups, adherents may continue to treat these religious traditions as integral to their sense of identity.⁵¹ Thus, religious doctrine and gender relations are mutually constitutive, and both are dynamic categories contingent on their specific socio-historical contexts.⁵²

In this framework, “gender inequality” has historically functioned as a pervasive feature across most traditional civilizations, premised upon the structural subordination of women.⁵³ Gender functions within the social order as an organizing mechanism that historically developed in conjunction with patriarchal power.⁵⁴ This patriarchal order privileges male experience as the universal standard—associating men with rationality, authority, and the public sphere—while women are positioned as subordinate, emotional, and confined to the private domain. This diminishes women’s agency and renders their experiences culturally and politically marginal.⁵⁵ In many expressions of Islamic cultural tradition, this gendered structure is discernible in legal systems, political institutions, moral codes, and everyday social norms.⁵⁶ Muslim family and personal law traditions are internally diverse and legally mediated in different ways across jurisdictions. Their interpretation ranges from accounts grounded in gender complementarity to highly patriarchal and politicized readings that allocate authority, protection, and dependency along gendered lines. In many states, these personal law systems also operate within constitutional and statutory frameworks that may moderate, modify, or separate religious norms from national legal regulation. For the purposes of this analysis, the focus is on the institutionalized interpretations that reproduce patriarchal ordering by positioning men as protectors or providers and women as dependents, guardianship subjects, or bearers of family honour. These interpretations

⁵⁰ See Alak, Duderija & Hissong, *supra* note 45; see also Pok Yin S. Chow, *Cultural Rights in International Law and Discourse: Contemporary Challenges and Interdisciplinary Perspectives* (2018).

⁵¹ Duderija & Hissong, *supra* note 45, at 7.

⁵² *Id.*

⁵³ *Id.*, at 9.

⁵⁴ *Id.*, at 8.

⁵⁵ *Id.*

⁵⁶ *Id.*, at 9.

become especially significant when state institutions or communal authorities mobilize them to regulate marriage, sexuality, reproduction, and family belonging.⁵⁷

Patriarchal domination operates not only externally, but also internally within these communities. Rohingya and Uyghur social life is characterized by male-centered religious and familial institutions in which women are assigned symbolic roles tied to lineage and cultural purity. Among the Rohingya, women's gender roles are tightly bound to childbirth and kinship reproduction, and husbands are afforded culturally sanctioned authority—including the use of violence—within the household.⁵⁸ The Rohingya concept of *izzot* (honour) exemplifies how gender and power intersect: it functions not as an individual moral value but as a collective system of surveillance and discipline. Women's conduct becomes a reflection of family reputation and communal identity, requiring constant self-regulation and public conformity.⁵⁹ Through *izzot*, patriarchal norms transform the female body into a symbolic and moral frontier—the site upon which family honour and communal legitimacy are continuously inscribed and policed.⁶⁰

Similarly, within the Uyghur community, patriarchy is deeply woven into cultural and religious expressions of identity.⁶¹ While some Uyghur accounts support women's education and employment and reject the view that Islam itself requires female subordination, certain community narratives also emphasize gendered family roles as important to Uyghur cultural and religious life. Within these narratives, “good Muslim motherhood” and skillful household management may be valorized as markers of Uyghur womanhood, while men may be expected to serve as economic providers, family representatives, and carriers of patrilineal continuity. These ideals are neither fixed nor uncontested. They may provide belonging, recognition, and moral authority, even as they also generate normative expectations through which women's sexuality, labour, mobility, and reproductive roles are regulated.⁶² These gendered expectations

⁵⁷ *Id.*, at 8.

⁵⁸ “The Rohingya patriarchal society forces their wives to have multiple pregnancies until they have a son.” Md. Ziaur Rahman et al., Cultural Attitudes of Rohingya Men and Women on Reproductive Decision-Making, 12 *Int'l J. Acad. Res. Bus. & Soc. Sci.* 125, 135–136 (2022); UN Women & Int'l Org. for Migration (IOM), *Shifting Gendered Perceptions and Experiences: A Comprehensive Gender Analysis of Rohingya and Host Communities in Cox's Bazar* 34–35, 46 (2022).

⁵⁹ UN Women & Int'l Org. for Migration (IOM), *Voices of Our Hearts: Honour in Transition—Changing Gender Norms among the Rohingya and Host Communities* 7–11, 22–26 (2020).

⁶⁰ *Id.*

⁶¹ See Sarah Tynen, Belonging between Inclusion and Exclusion: Dimensions of Ethno-Cultural Identity for Uyghur Women in Xinjiang, China, 26 *Geopolitics* 1243 (2021).

⁶² *Id.*; Xiaowei Zang, Perceptions of Masculinity and Femininity among Uyghur Muslims in China,

shape patterns of child-rearing—boys are encouraged to develop independence and masculine resolve, while girls are expected to be gentle, self-restraining, and responsible for maintaining familial emotional harmony.⁶³ Domestic and caregiving labor remains conceptualized as women’s primary duty.⁶⁴ These gender-differentiated expectations are therefore better understood as context-specific formations of patriarchal power, shaped through particular interpretations of religion, culture, family, and community life, with women often subject to heavier normative constraints.⁶⁵

These internal patriarchal norms create points of symbolic and reproductive vulnerability that states can exploit with extraordinary precision. Understanding this internal patriarchal order clarifies why women become strategic targets in genocide. When the state seeks to dismantle a community, it exploits these patriarchal logics: by violating or controlling women, it strikes at the symbolic and reproductive core of the group itself. Systematic sexual violence and reproductive restrictions not only inflict direct harm but also shatter the internal moral architecture that sustains collective identity. In this sense, patriarchy functions as both the medium and the mechanism of genocidal destruction—an ideological bridge that connects intimate domination to group destruction.

Seen in their structural interrelation, these dynamics illustrate that genocidal violence cannot be fully understood without situating women’s experiences at the intersection of internal patriarchal hierarchies and external state repression—a relationship that lies at the heart of the “triple vulnerabilities” framework developed in this chapter.

3.4 Institutional Vulnerability: The Gendered Invisibility within International Law

Although the Genocide Convention accords equal legal status to all five acts under Article II, international adjudication has developed an evidentiary practice that treats large-scale killing as the most authoritative basis for inferring genocidal intent.⁶⁶ Given

Asian Women 28(4) 9, 15–16 (2012).

⁶³ *Id.*

⁶⁴ *Id.*, at 31.

⁶⁵ *Id.*

⁶⁶ For example, the IMT and IMTFTE. Moreover, in *Prosecutor v. Krstić*, the ICTY Chamber affirmed that genocide is limited to acts intended to bring about the physical or biological destruction of a protected group, concluding that the organized killing of Bosnian Muslim men of military age

the relatively limited number of final genocide judgments in international adjudication, this claim is necessarily based on patterns observable within that constrained jurisprudential record.⁶⁷ This practice does not arise from the text of the Convention but from the institutional environments in which genocide investigations and adjudications unfold—environments shaped by methodological preferences for visible, quantifiable, and immediately verifiable forms of harm. Within this evidentiary culture, gendered modalities of destruction—sexual violence, reproductive coercion, psychological domination, and the dismantling of communal cohesion—are rarely treated as independently probative of intent, even when they fall squarely within Articles II(b)–(d).

Feminist legal scholars have shown that this hierarchy reflects deeper structural assumptions embedded within international law.⁶⁸ Investigative protocols, prosecutorial strategies, and judicial reasoning have often framed “serious harm” through a masculine lens that prioritizes harms more commonly experienced by men, particularly execution. By contrast, harms disproportionately targeting women are more likely to be classified as collateral, indirect, or insufficiently indicative of a special intent to destroy.⁶⁹ The consequence is a recurrent evidentiary pattern in which gendered harms are acknowledged doctrinally but assigned weaker probative value in intent analysis.

This structural dynamic is intensified by the political nature of genocide recognition. States and international institutions have repeatedly hesitated to label

constituted the destruction of a substantial part of the group. In determining genocidal intent, the Chamber and the Appeal Chamber focused primarily on the mass killings of men while giving little analytical attention to acts directed against women, such as forced displacement, sexual violence, or psychological destruction. *Prosecutor v. Krstić* (2001), *supra* note 3, at ¶¶ 580, 595, 856-862.; *Prosecutor v. Krstić*, Case No. IT-98-33-A, Judgment, ¶¶ 26-38. (Int’l Crim. Trib. for the Former Yugoslavia Apr. 19, 2004).

⁶⁷ Only a small number of cases have resulted in final genocide convictions or findings before international courts—eleven before the International Criminal Tribunal for Rwanda (ICTR), five before the International Criminal Tribunal for the Former Yugoslavia (ICTY) (all concerning Srebrenica), and one before the ICJ. See *Prosecutor v. Akayesu*, ICTR-96-4 (Sept. 2, 1998); *Prosecutor v. Krstić*, *supra* note 3; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 2007 I.C.J. 43 (Feb. 26).

This observation refers to all relevant international judicial bodies that have adjudicated genocide-related questions, including the International Court of Justice (ICJ) in state-responsibility proceedings, the ad hoc international criminal tribunals (ICTR and ICTY), and the International Criminal Court (ICC). Each of these institutions operates under distinct mandates—most notably, the ICJ determines state responsibility, whereas the ICTR, ICTY, and ICC adjudicate individual criminal liability. The point concerns the overall scarcity of genocide determinations across these fora, not a conflation of their respective subjects or competences.

⁶⁸ Hilary Charlesworth, Christine Chinkin & Shelley Wright, *Feminist Approaches to International Law*, 85 *Am. J. Int’l L.* 613, 613 (1991).

⁶⁹ *Id.*

unfolding atrocities as genocide, even in the face of overwhelming lethal violence.⁷⁰ If political actors are reluctant to acknowledge genocide when confronted with mass executions, they are even less likely to do so when destructive measures take non-lethal forms, such as reproductive restrictions or systematic sexualized violence. The threshold for political and legal recognition thus becomes calibrated to visible death, excellent analysis.rendering early-stage, gendered forms of destruction institutionally invisible.

These dynamics are evident in the major genocide cases. In *Krstić*, the ICTY inferred genocidal intent primarily from the organized execution of Bosnian Muslim men, giving little analytical weight to the forced displacement and sexual violence inflicted on women.⁷¹ Although *Akayesu* remains the leading authority recognizing rape as an act of genocide under Article II(b), later jurisprudence rarely treated such acts as central indicators of intent.⁷² In *Bosnia v. Serbia*, the ICJ acknowledged that sexual violence falls within the ambit of Article II(b), yet ultimately relied on mass executions as the decisive evidence of intent.⁷³ Across these decisions, women's harms are acknowledged at the doctrinal level but tend to remain peripheral in evidentiary reasoning.

These fragmentary and conditional acknowledgments reveal a persistent patriarchal legal framework that conceptualizes sexual violence as humiliating, private, or ancillary harm, rather than as a mode of violence inherently capable of advancing genocidal intent.

The institutional consequences of this evidentiary hierarchy are profound. Because genocidal intent is typically established through inference from patterns of conduct, privileging lethal violence limits the evidentiary imagination of the crime.⁷⁴ Non-lethal

⁷⁰ At the 1999 fifty-fourth session of the UN General Assembly, Secretary-General Kofi Annan underscored the evolving conception of sovereignty, observing that states are increasingly regarded as accountable to their populations rather than the reverse. He recalled that the genocide in Rwanda starkly demonstrated how collective inaction by the international community can enable mass atrocity. As the Secretary-General noted, Rwanda stands as a reminder that atrocity crimes flourish when the world fails to respond; yet, despite this lesson, the international community continues to approach the attribution of genocide with caution and political reluctance. G.A., 54th mtg., U.N. Doc. A/54/PV.4 (1999), 1.

⁷¹ *Prosecutor v. Krstić*, *supra* note 3, at ¶¶ 580, 595; *Prosecutor v. Krstić*, *supra* note 60, at ¶¶ 26-38.

⁷² *Prosecutor v. Akayesu*, *supra* note 67, ¶ 731.

⁷³ The reference to the ICJ is not intended to blur its distinct jurisdictional mandate from that of the criminal tribunals; it is included simply because the body of genocide case law remains limited, and the Court's analysis therefore provides helpful interpretive guidance. *Bosnia v. Serbia*, Judgment, 2007 *supra* note 67, at ¶¶ 295–297.

⁷⁴ The United Nations Office on Genocide Prevention and the Responsibility to Protect similarly emphasizes that the decisive element of genocide is the perpetrator's intent to physically destroy the protected group. United Nations Office on Genocide Prevention and the Responsibility to Protect,

but group-destructive measures—those targeting women’s bodies, reproductive capacities, and psychological integrity—struggle to function as independent bases for establishing genocidal purpose. This evidentiary narrowing not only marginalizes women’s experiences but also delays recognition of genocidal campaigns until substantial loss of life has already occurred, thereby undermining the preventive function of the Convention.⁷⁵

Institutional vulnerability thus constitutes the third axis of the *triple-vulnerability* framework: even when women’s harms fall squarely within the enumerated acts of genocide, the evidentiary and political structures of international adjudication render them insufficiently legible as indicators of intent. Women remain central to perpetrators’ strategies of destruction but peripheral in the legal recognition of genocide.

In sum, institutional vulnerability completes the *triple-vulnerability* framework by showing how legal and political structures render gendered forms of destruction insufficiently legible as evidence of genocidal intent. This understanding provides the foundation for examining how these dynamics materialize in contemporary genocidal campaigns.

3.5 Gendered Targeting and Differentiated Modalities of Violence

This section addresses a central question raised by gendered patterns of harm in genocidal contexts: if genocide seeks to destroy a group, why are individuals within the same group subjected to different forms of violence based on gender? The answer lies not in the relative severity of particular harms, but in the way genocidal violence is strategically organized through gendered social meanings and power relations. Perpetrators differentiate both targets and methods in order to attack distinct social functions attributed to men and women, thereby maximizing the destructive impact of violence on the group as a whole.⁷⁶ This differentiation reflects perpetrators’ socially constructed interpretations of gendered function, threat, and utility within the targeted group, rather than any objective or fixed assessment of gender roles.⁷⁷

Definitions: Genocide, <https://www.un.org/en/genocide-prevention/definition>.

⁷⁵ See Kimberlé Crenshaw, *Background Paper for the Expert Meeting on Gender and Racial Discrimination, prepared for the World Conference Against Racism* (2000).

⁷⁶ Elisa von Joeden-Forgey, Gender and Genocide, in *The Oxford Handbook of Genocide Studies*, 91 (Donald Bloxham & A. Dirk Moses eds., 2010).

⁷⁷ Perpetrators often target the gender roles within a group to dismantle the social and cultural functions that individuals—particularly women and men—are expected to fulfill. In this way, it is not only individuals but the group’s gendered structures and identities that become the focus of destruction.

Whether women are killed or subjected to other forms of harm thus depends on whether perpetrators seek to eliminate them outright or to instrumentalize their reproductive and symbolic roles.⁷⁸ Women become “usable victims” within genocidal campaigns: their bodies, sexuality, and reproductive capacities are transformed into sites through which group destruction can be enacted without necessarily resorting to mass killing. This logic may operate at the level of command, where women’s reproductive and symbolic positions are treated as central to group continuity, and at lower levels of perpetration, where older logics of women as bounty, spoil, or reward may shape sexual violence. In this sense, women are rarely treated as autonomous individuals within genocidal logic; they are instead constructed as extensions of the group, the family, or the men to whom they are socially attached, while also being rendered available to the perpetrating order.⁷⁹

Gender-differentiated targeting is therefore not incidental but integral to how genocidal violence is organized. Rather than reflecting ad hoc or opportunistic brutality, these differentiated forms of harm operate together as a coordinated strategy aimed at dismantling the group as a living social entity across time. Through this coordination, violence directed at different segments of the group produces cumulative effects that exceed the impact of any single modality of harm.

In many genocidal campaigns, men and adolescent boys are disproportionately targeted for direct and immediate killing.⁸⁰ This pattern is observable across diverse contexts in which mass executions, enforced disappearances, and selective killings of men function as techniques for rapidly disabling the group’s capacity to resist, reorganize, or maintain collective leadership.⁸¹ By removing those perceived as capable

Rosemary Grey, *Prosecuting Sexual and Gender-based Crime at the International Criminal Court*, 20 (Cambridge Uni. Press 2019); Of course, there are some exception, for example “[v]ery rarely, socio-cultural organization did not gravitate around body-oriented concepts of gender. For instance, in old African Yoruba land the chronological age difference/seniority rather than gender constituted the criteria for distributing social roles. Nevertheless, over time and especially due to the legacy of colonialism, gender binary thinking became a dominant model throughout the world.” Alak et al, *supra* note 44, at 7.

⁷⁸ Helen Fein, *Genocide and Gender: The Uses of Women and Group Destiny*, 1 *J. Genocide Res.* 43, 57 (1999).

⁷⁹ Noelle N.R. Quéniwet, *Sexual Offenses in Armed Conflict and International Law* 149–50 (Transnational Publishers, Inc. 2005), see also Chile Eboe-Osuji, *International Law And Sexual Violence In Armed Conflicts*, 262 (Brill 2012).

⁸⁰ Global Justice Center, *Human Rights Through Rule of Law* 21 (2018), <https://www.globaljusticecenter.net>; von Joeden-Forgey, *supra* note 75 at 90, 94; S.C. Res. 2467 (2019), *supra* note 1. This pattern does not exclude other gendered forms of violence against men and boys, including sexualized violence used to humiliate, feminize, or degrade targeted men in ethnicized or religiousized conflicts. See, e.g., Sandesh Sivakumaran, *Sexual Violence Against Men in Armed Conflict*, 18 *Eur. J. Int’l L.* 253, 253–76 (2007); Dubravka Žarkov, *The Body of War: Media, Ethnicity, and Gender in the Break-up of Yugoslavia* 155–79 (2007).

⁸¹ von Joeden-Forget, *supra* note 76 at 68.

of defense or political agency, perpetrators seek to neutralize what they understand to be the group's present capacity for resistance and collective action.

By contrast, women are more often subjected to forms of violence that are sexualized, reproductive, and symbolic in nature.⁸² Rather than reiterating the logic of gendered attribution outlined above, this pattern is reflected in the specific modalities of violence directed at women's bodies and social positions. Sexual violence, forced pregnancy, sterilization, public humiliation, and attacks on maternal and familial roles target not only women's physical integrity, but also their reproductive agency, social identity, and symbolic significance within the group. These forms of harm operate as techniques for destabilizing the group's future and eroding social cohesion by exploiting patriarchal ideas of purity, honour, lineage, and collective identity. Within that logic, sexual and reproductive violence may be made to signify the "contamination" of women, families, bloodlines, or the group itself. This does not make contamination a real property of the victim or the group; it identifies the patriarchal and genocidal meanings through which perpetrators and affected communities may interpret the harm, allowing violence against individual women to be converted into perceived damage to collective continuity and identity.⁸³

These differentiated modalities of violence should not be understood as separate, competing, or hierarchically ordered harms. They are coordinated components of a single project of genocide. Within perpetrators' strategic calculus, the killing of men may be used to incapacitate what is perceived as the group's immediate capacity for resistance and leadership, while sexual and reproductive violence against women may be used to disrupt the group's biological continuity, social reproduction, and symbolic order. Together, these practices restructure the targeted group internally, dismantling the material and relational conditions through which it sustains itself over time as a social, cultural, and biological collectivity.

Understanding this differentiation as a strategic organization of violence rather than as an incidental pattern is essential for legal and analytical clarity. Gendered targeting is not a byproduct of genocide; it is one of the mechanisms through which genocide is enacted. This becomes most visible in the case of sexual and reproductive violence, which does not merely harm individual women but targets the conditions

⁸² *Id.*, at 90, 94; Global Justice Center, *supra* note 80, at 21; Res 2467(2019), *supra* note 1; Fein, *supra* note 78, at 43.

⁸³ Quénivet, *supra* note at 79; Catharine A. MacKinnon, *Are Women Human? and Other International Dialogues* 229 (Harvard University Press 2006).

under which a group continues to exist. The following section therefore examines sexual and reproductive violence as a technique of group destruction.

The analysis thus far identifies a recurring pattern of gender-differentiated targeting; Section 3.6 operationalizes this pattern through the triple vulnerability framework and then assesses its legal relevance under Article II(b)–(d), without presuming dispositive responsibility.

3.6 Operationalizing Triple Vulnerability: Sexual and Reproductive Violence as Group-Destructive Mechanisms

This section does not revisit the doctrinal foundations developed in Chapter 2. Instead, it operationalizes the triple vulnerability framework by specifying how sexual and reproductive violence becomes group-destructive in practice across three interacting dimensions: external governance, internal social order, and institutional recognition.

3.6.1 External Vulnerability as Exposure to Group-Targeting Power

At the external level, targeted groups are often placed under coercive systems of surveillance, detention, mobility restriction, and administrative control over marriage and family life.⁸⁴ Within such environments, sexual and reproductive violence is not reducible to isolated interpersonal abuse. It can function as a governing technology that disciplines populations, restructures demographic futures, and weakens the group’s capacity to reproduce itself socially and biologically over time.⁸⁵

This mechanism is especially visible where state or para-state control extends into intimate domains—marriage permission, reproductive decision-making, pregnancy outcomes, and family separation. In these settings, harm to women’s bodily autonomy carries collective effects: kinship continuity is disrupted, care networks are destabilized, and intergenerational transmission becomes fragile.⁸⁶

⁸⁴ *Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region*, *supra* note 3, at ¶148 (Aug. 31, 2022); A/HRC/39/CRP.2, *supra* note 3, at ¶ 1172 (2018); Karen Stote, *An Act of Genocide: Colonialism and the Sterilization of Aboriginal Women* 88–90 (Fernwood Publ’g 2015). See also Human Rights Council Res. 60/3, *Responding to the Human Rights and Humanitarian Crisis Caused by the Ongoing Armed Conflict in the Sudan*, U.N. Doc. A/HRC/RES/60/3 (Oct. 6, 2025).

⁸⁵ S.C. Res.1820 (June 19, 2008); *Prosecutor v. Akayesu*, *supra* note 67, at ¶¶ 507–508; Doris E. Buss, Rethinking “Rape as a Weapon of War,” 17 *Feminist Legal Stud.* 145, 148–49 (2009).

⁸⁶ Yuval-Davis, *supra* note 38, at 26-27.

Historical and contemporary international records confirm that state power can use law and policy to target specific groups through governance of status, family, and reproduction. U.N. General Assembly Resolution 1761 (XVII) identified apartheid South Africa as a state-driven system of racial domination institutionalized through law and administration.⁸⁷ Treaty-body practice shows comparable logics in reproductive governance: CERD called on the Czech Republic to establish redress for Roma victims of forced sterilization, and CEDAW found that Peru's 1990s forced-sterilization policy constituted sex-based violence and intersectional discrimination, particularly against Indigenous, rural, and poor women.⁸⁸ These materials illustrate that coercive regulation of intimate life can be organized through formal legal and policy frameworks to produce group-differentiated harm over time.⁸⁹

3.6.2 Internal Vulnerability as Patriarchal Role-Entrapment

At the internal level, patriarchal and patrilineal social orders assign political meaning to reproduction, descent, chastity, and communal honour. In many such contexts, children are socially attributed to the father's line, making control over women's reproductive lives central to the maintenance or reconfiguration of group boundaries.⁹⁰ More fundamentally, this internal vulnerability is rooted in women's subordinate position within intra-group power hierarchies, where men more often control authority, mobility, and decisions over family and community life. This hierarchical structure makes gendered violence strategically effective as a means of internal group destabilization.⁹¹

The key point is not that women are "naturally" reproductive subjects, but that gendered social organization makes their reproductive positioning strategically exploitable.⁹² Under this logic, attacks on women can be designed to fracture collective

⁸⁷ G.A. Res. 1761 (XVII), The Policies of Apartheid of the Government of the Republic of South Africa (Nov. 6, 1962).

⁸⁸ Comm. on the Elimination of Racial Discrimination, Concluding Observations on the Combined Twelfth and Thirteenth Periodic Reports of Czechia ¶¶ 19–20, U.N. Doc. CERD/C/CZE/CO/12-13 (Sept. 19, 2019); Committee on the Elimination of Discrimination against Women, Views Adopted by the Committee under Article 7(3) of the Optional Protocol, Concerning Communication No. 170/2021, U.N. Doc. CEDAW/C/89/D/170/2021 (Oct. 30, 2024).

⁸⁹ These examples are illustrative of mechanism, not categorical equivalence. Moreover, these examples establish a governance mechanism, not legal equivalence across atrocity categories.

⁹⁰ Yuval-Davis, *supra* note 38 at 26.

⁹¹ Elissa Bemporad, Memory, Body, and Power: Women and the Study of Genocide, in *Women and Genocide: Survivors, Victims, Perpetrators* 1, 2 (Joyce W. Warren & Elissa Bemporad eds., Indiana Univ. Press 2018); Daniel Chirot & Clark McCauley, *Why Not Kill Them All? The Logic and Prevention of Mass Political Murder* 210 (Princeton Univ. Press 2006).

⁹² Mibenge, *supra* note 28, at 69; Albert Doja, Rethinking the Politics of Mass Rapes as a Military Strategy and Instrument of Ethnic Cleansing in *War and Sexual Violence* 85, 119 (Sarah K. Danielsson ed., Brill, 2019); these same technologies were used against Indigenous women in Canada,

cohesion from within—by severing kinship ties, destabilizing family legitimacy, and producing long-term social disintegration.⁹³

This claim is contextual, not universal. It does not exclude gendered harms against men and boys, which may operate through other logics, including attacks on masculine status, kinship authority, religious identity, or perceived defensive capacity. It explains why, in the context examined here, women’s socially assigned reproductive and relational roles are frequently instrumentalized in group-destructive strategies.

In some genocidal settings, this strategy is reinforced by locally specific symbolic codes that attach meanings of chastity, respectability, lineage, or communal honour to women’s bodies. Their force varies across communities, but where such codes are socially salient, perpetrators may exploit them to magnify the consequences of sexual and reproductive violence beyond the individual victim.⁹⁴ These codes are socially produced and politically consequential: they shape boundary-making practices and help amplify stigma, kinship rupture, and social fragmentation when violence occurs.⁹⁵ At the same time, these norms can also inhibit survivors from disclosing experiences of genocidal violence—particularly sexual and reproductive violence—thereby constraining early documentation and legal recognition.⁹⁶

Historical practice confirms that this mechanism is not abstract. In post-genocide Rwanda, prosecutorial guidance documented that survivors of rape were frequently treated as “dishonored” and ostracized by their own families and communities,

see Nat’l Inquiry into Missing & Murdered Indigenous Women & Girls, *A Legal Analysis of Genocide: Supplementary Report* (2019), https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report_Genocide.pdf.

⁹³ This analysis does not advance cultural genocide as an independent legal category, which was deliberately excluded from the final text of the Genocide Convention. Instead, it examines the social and symbolic effects produced by acts enumerated in Article II—particularly serious bodily or mental harm and measures intended to prevent births—and their role in undermining the biological, social, and relational conditions of collective continuity.

⁹⁴ Patel, *supra* note 30, at 191; Rosenberg, *supra* note 30, at 3; Mibenge, *supra* note 30, at 14; Dog’an, *supra* note 30, at 425; Ribeiro & van der Straten Ponthoz, *supra* note 30, at 17.

⁹⁵ Debra Bergoffen, The Genocidal Politics of Rape, Shame, and Disgust, in *War and Sexual Violence: New Perspectives in A New Era* 15, 15 (Sarah K. Danielsson ed., Brill 2019); Yuval-Davis, *supra* note 38 at 26-27, 39.

⁹⁶ This dynamic is visible in documented post-conflict stigma against women impregnated through rape. For instance, reports from multiple conflict settings indicate that women impregnated as a result of rape are frequently stigmatized as “tainted” and regarded as unfit for socially recognized reproduction within their communities. Todd A. Salzman, Rape Camps as a Means of Ethnic Cleansing: Religious, Cultural, and Ethical Responses to Rape Victims in the Former Yugoslavia, 20 *Hum. Rts. Q.* 348, 366 (1998); see also Patricia Hynes, On the Battlefield of Women’s Bodies: An Overview of the Harm of War to Women, 27 *Women’s Stud. Int’l F.* 431, 434 (2004).

deepening isolation beyond the immediate assault.⁹⁷ In Bosnia and Herzegovina, U.N.-supported documentation similarly records enduring stigma against conflict-related sexual violence survivors, including barriers to testimony, social reintegration, and access to justice.⁹⁸ These patterns show how sexual violence can generate group-relevant internal effects: the harm is not confined to the victim's body but extends to kinship legitimacy, communal belonging, and the group's internal cohesion.

The post-violence stigmatization of survivors operates through the patriarchal social order of the targeted group. Genocidal violence exploits gendered norms of honour, sexual respectability, kinship, and reproduction, turning them into instruments of internal rupture. In communities where women are constructed as carriers of family honour, socially constructed sexual respectability, and boundary integrity, sexual victimization is often reinterpreted as communal shame attributable to the woman rather than to the perpetrator. This patriarchal inversion of blame enables social disciplining—ostracism, forced silence, marital exclusion, and loss of status—through which violence continues after the physical assault. The result is that harm is reproduced through community governance itself, transforming individual victimization into sustained collective fragmentation.

In this sense, the *patriarchal phantom* operates not only at the moment of assault, but in its aftermath, by organizing blame, shame, and social exclusion as continuing mechanisms of social control.

3.6.3 Mediating Narratives and Social Translation

This section examines how sexual and reproductive violence derives much of its destructive force from mediating symbolic and moral orders, rather than from physical harm alone. Building on Section 3.6.2, the focus here is translational: how harm is made socially intelligible, morally charged, and politically actionable.

⁹⁷ Int'l Crim. Trib. for Rwanda, Office of the Prosecutor, *Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor of the International Criminal Tribunal for Rwanda* ¶¶ 51–52 (2014).

⁹⁸ U.N. Secretary-General, Conflict-Related Sexual Violence, U.N. Doc. S/2021/312, ¶¶ 62–66 (Mar. 29, 2021); Org. for Sec. & Co-operation in Eur. (OSCE) Mission to Bosnia & Herzegovina, *Combating Impunity for Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges: An Analysis of Criminal Proceedings before the Court of Bosnia and Herzegovina between 2005 and 2013* 17 (Feb. 2014).

The mediating layer extends beyond culture or religion. It includes legal discourse, community governance, media circulation, and institutional norm-production. Through these channels, gendered harm is translated into socially enforceable consequences.

These patriarchal constructions are produced and sustained through the interaction of gendered social norms, family regulation, institutional authority, and political power. Social, religious, and legal discourses may be mobilized to assign meaning to women's bodies and reproductive roles in ways that legitimize male authority, normalize gender hierarchy, and frame women's subordination as morality, tradition, or divine order. As a result, violence against women can be symbolically reframed rather than recognized as an abuse of power. It may be narrated as moral correction, social preservation, or necessary discipline.⁹⁹ This symbolic reframing enables sexual and reproductive violence to be mobilized as socially intelligible and, in some contexts, less publicly contestable acts within broader projects of domination.

Within many patriarchal symbolic economies, women are positioned as bearers of family honour, moral purity, and communal boundaries.¹⁰⁰ Female sexuality is closely regulated, and women's bodies are treated as sites through which moral order is maintained and collective identity reproduced.¹⁰¹ Chastity, modesty, and reproductive conformity are not merely personal virtues but social obligations, enforced through norms of shame, surveillance, and discipline.¹⁰² Within such frameworks, harm inflicted on women is readily translated into harm inflicted on the group itself. This is because women are socially constructed as embodying the group's moral, reproductive,

⁹⁹ Amanda Dale, International Women's Human Rights and the Hope for Feminist Law: Intersectionality as a Legal Framework, 33 *Women's Hum. Rts.* 37 (2018–2019); see CEDAW, *General Recommendation No. 19: Violence Against Women*, U.N. Doc. CEDAW/C/GC/19 (1992); *General Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women / General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices*, U.N. Doc. CEDAW/C/GC/31–CRC/C/GC/18 (2014); Human Rights Council, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, ¶¶ 37, 56, U.N. Doc. A/HRC/4/34 (Jan. 17, 2007).

¹⁰⁰ Patel, *supra* note 30, at 190; Doja, *supra* note 92, at 115.

¹⁰¹ Human Rights Council, Women's and girls' sexual and reproductive health rights in crisis, *Report of the Working Group on the Issue of Discrimination against Women and Girls*, ¶ 22, U.N. Doc. A/HRC/47/38 (2021); Human Rights Council, *Situation of Human Rights in the Islamic Republic of Iran*, ¶¶ 36–45, U.N. Doc. A/HRC/55/62 (2024); U.N. Doc. A/HRC/47/26 (2021), *supra* note 35, at ¶ 28; Amnesty International, *Body Politics: A Primer on Criminalization of Sexuality and Reproduction* (POL 40/7763/2018), 94, <https://www.amnesty.org/es/wp-content/uploads/2021/05/POL4077632018ENGLISH.pdf>.

¹⁰² CEDAW/C/GC/33, *supra* note 27, at ¶¶ 29–30; Cynthia Cockburn, Militarism and War, in *Gender Matters in Global Politics: A Feminist Introduction to International Relations* 105, 112 (Laura J. Shepherd ed., Routledge 2010).

and cultural integrity, and as conduits through which collective identity is transmitted across generations.

Public sexual violence inflicts harm that extends beyond the immediate victim.¹⁰³ It does so by activating narratives of failed male protection, which undermine masculine authority, family legitimacy, and communal cohesion.¹⁰⁴ Rape destroys not only individual dignity and bodily integrity, but also the relational structures through which families and communities sustain themselves.¹⁰⁵ Because women are symbolically constructed as carriers of honour and continuity, their violation is experienced as a collective wound that reverberates across familial and communal relations.¹⁰⁶

In genocidal contexts, perpetrators strategically exploit these gendered symbolic orders. By targeting women's sexuality and reproductive capacity, they activate culturally embedded logics of shame, dishonour, and contamination that extend the effects of violence far beyond the immediate act.¹⁰⁷ Rape becomes not only a physical assault but a mechanism for producing social rupture, family breakdown, exclusion, and communal fragmentation. Forced pregnancy, sterilization, or reproductive control function not only as demographic interventions but as symbolic attacks on lineage, inheritance, and collective continuity. Through these mechanisms, intimate violations are converted into instruments of social disintegration and internalized destruction.

Cultural and religious frameworks thus function as mediating structures that connect intimate domination to collective annihilation. They provide the language, symbols, and emotional registers through which genocidal violence becomes socially legible and politically mobilizable. Patriarchy operates here not simply as background inequality. It functions as an enabling structure of violence. Under these conditions, gendered harm is used to police, destabilize, and ultimately dismantle group boundaries.

Understanding these symbolic dimensions is essential to understanding *genocidal patriarchy*. Without attending to how gender, honour, and reproduction are culturally constituted, the destructive power of sexual and reproductive violence remains analytically opaque. These forms of violence do not destroy groups only through physical consequences. They also intervene in the symbolic systems through which

¹⁰³ Bergoffen, *supra* note 95, at 15.

¹⁰⁴ Amnesty Int'l, *supra* note 101, at 26.

¹⁰⁵ Fein, *supra* note 78, at 43.

¹⁰⁶ Bergoffen, *supra* note 94, at 15.

¹⁰⁷ United Nations Population Fund (UNFPA), *State of World Population 2021: My Body Is My Own* 124–125 (New York: UNFPA 2021); Hynes, *supra* note 96, at 433.

groups define belonging, reproduce social continuity, and maintain group cohesion over time.

The dynamics traced in this section also operationalize the concept of the *patriarchal phantom* developed in Chapter 2. Gender roles operate as socially constructed yet experientially real structures: they are naturalized as moral common sense and thus rendered invisible as constructions. Precisely because these norms are internalized, they can be activated as instruments of coercion. In genocidal contexts, perpetrators who understand—or strategically appropriate—these cultural codes can weaponize honour, chastity, and reproductive expectations to produce shame, fracture identity, and dismantle social cohesion. Violence thus becomes culturally calibrated. It targets not only bodies, but also the normative codes and meanings through which the group defines itself and maintains cohesion.

3.6.4 Institutional Vulnerability as Operational Opportunity in Genocidal Processes

Building on the earlier doctrinal discussion, this section shifts from identifying recognition gaps to analyzing how institutional legibility gaps may be operationally used within genocidal processes.

At the institutional level, legal and political processes often privilege harms that are immediately visible, countable, and narratively legible—especially mass killing. Sexual and reproductive violence, by contrast, is frequently diffuse in documentation, mediated by stigma, and temporally cumulative in effect.¹⁰⁸ As a result, conduct that may be central to genocide can appear peripheral in investigative framing and adjudicative reasoning. This asymmetry creates not only a recognition deficit, but also an operational opportunity: perpetrators can rely on forms of violence that are highly destructive to group continuity yet less likely to trigger early genocide recognition.

Institutional vulnerability is best understood as a layered hierarchy of recognition and enforcement. At its core is an evidentiary and interpretive bias that treats harms more commonly documented through male victimization—especially immediate, large-scale killing—as the primary template of genocidal violence. This hierarchy does not merely describe visibility; it structures legal priority. Because sexual and

¹⁰⁸ See U.N. Secretary-General, *Conflict-Related Sexual Violence*, U.N. Doc. S/2023/413 (June 22, 2023); U.N. Secretary-General, *Conflict-Related Sexual Violence*, U.N. Doc. S/2024/292 (Apr. 16, 2024); Int'l Crim. Ct., Office of the Prosecutor, *Strategic Plan June 2012–2015*, ¶ 58 (Oct. 11, 2013); CEDAW/C/GC/33, *supra* note 25, at ¶¶ 26–28.

reproductive harms disproportionately affecting women are less likely to match the dominant template, they are more often coded as contextual, derivative, or supplementary rather than as central indicators of genocidal intent. Under-enforcement follows from this recognition order: what is treated as secondary is investigated later, charged less centrally, and weighed less heavily in intent reasoning.¹⁰⁹ At the same time, women's subordinate status within intra-group social hierarchies restricts mobility, reporting capacity, access to protection, and testimonial credibility. As a result, even when survivors seek legal remedy, access to justice remains uneven.¹¹⁰ Cultural marginalization and legal marginalization therefore reinforce each other. The result is a recursive structure in which male-coded harms set the threshold of urgency, while gendered harms against women remain under-recognized, delaying intervention and enabling the continuation of genocidal practices.

Where genocidal violence against women fails to trigger public urgency or genocide labeling, perpetrators can continue and scale such practices in the absence of sustained international attention and political will. More importantly, when such conduct is not expressly characterized as a breach of the Genocide Convention, state responsibility is obscured, weakening legal attribution and limiting the force of international response.

This pattern is consistent with recurring U.N. documentation on conflict-related sexual violence, which identifies chronic underreporting driven by retaliation risks, social stigma, displacement, and limited access to protection and services.¹¹¹ These conditions can delay documentation and weaken early evidentiary consolidation, allowing gendered harms central to genocidal processes to enter legal characterization later and with reduced probative weight.

This recognition gap is often intensified where alleged perpetrators are state-linked actors, in which case investigation and prosecution may be delayed, narrowed, or politically constrained. Accordingly, institutional vulnerability is a process condition

¹⁰⁹ Chile Eboe-Osuji, *International Law And Sexual Violence In Armed Conflicts*, 262 (Brill 2012); Charlesworth, Chinkin & Wright, *supra* note 68, at 625.

¹¹⁰ S/2023/413, *supra* note 108, at ¶11; S/2024/292, *supra* note 108, at ¶¶ 17; Int'l Crim. Ct., Office of the Prosecutor, *supra* note 108, at ¶ 58; CEDAW/C/GC/33, *supra* note 27, at ¶¶ 26–28.

¹¹¹ Across multiple U.N. Secretary-General annual reports on conflict-related sexual violence, underreporting is described as a persistent pattern rather than an isolated problem. Survivors' fear of retaliation, social stigma, insecurity, displacement, and limited access to protection and services can suppress reporting at the evidentiary front end. These documented constraints can weaken early documentation and complicate investigation and prosecution, reducing the institutional visibility of harms that may be central to broader patterns of genocidal violence. *Id.*

within genocidal dynamics. It shapes not only whether harms are recognized, but also when they are recognized and how much legal weight they carry.

3.6.5 Legal Relevance under Article II(b)–(d)

When genocidal intent is alleged or inferable from a broader pattern of conduct, the mechanisms above can acquire legal relevance under existing Convention categories. Serious sexual and reproductive harms may fall within Article II(b) as bodily or mental harm. Where such harms are embedded in coordinated systems that erode the material and social conditions necessary for group survival, they may contribute to analysis under Article II(c). Measures such as forced sterilization, forced abortion, or other imposed reproductive constraints may engage Article II(d) where intended to prevent births within the group.

The Convention does not establish a hierarchy among Article II acts. Sexual and reproductive violence may therefore constitute central genocidal conduct under Articles II(b)–(d) where pattern, coordination, and intent linkage are established through contextual evidence. Accordingly, the decisive legal inquiry is not whether the harm is immediately lethal, but whether the conduct—assessed as part of a coordinated pattern—supports a credible inference of intent to destroy a protected group, in whole or in part. Read this way, the Convention provides doctrinal space to assess group destruction pursued through cumulative attacks on bodily integrity, kinship continuity, and intergenerational survival.

As developed in Chapter 2, the *patriarchal phantom* explains how socially constructed gender hierarchy becomes naturalized, internalized, and actionable in violence.¹¹² Accordingly, *triple vulnerability* clarifies mechanism rather than replacing legal threshold. External coercion enables the conduct; internal gender orders—organized through the *patriarchal phantom*—assign social meaning to violation; and institutional frameworks condition whether these patterned harms are documented, interpreted, and recognized as probative of genocidal intent.

¹¹² The *patriarchal phantom* operates across the internal and external dimensions of vulnerability. Internally, it is reproduced as a naturalized gender order that assigns differentiated symbolic value to masculinity and femininity and structures everyday compliance. Externally, the same symbolic order can be strategically appropriated by perpetrators, who weaponize norms of honour, chastity, lineage, and belonging to maximize collective harm through sexual and reproductive violence. In this sense, the patriarchal phantom is not merely a background cultural condition; it is a transmissive mechanism through which internal gender hierarchies become actionable instruments of group-destructive strategy.

3.7 Conclusion

This chapter has argued that genocidal violence is structured through the interaction of external, internal, and institutional vulnerabilities. These dimensions do not describe separate harms; they identify the conditions under which gendered targeting becomes intelligible, actionable, and politically effective.

It has also shown that differentiated violence within the same protected group is not analytically anomalous. In genocidal contexts where patriarchal social orders tie group continuity to patrilineage, reproduction, and women's relational roles, perpetrators may organize violence through gendered assumptions about threat, utility, and reproduction. In such contexts, men may be targeted through immediate lethal violence when they are perceived as combatants, defenders, or sources of resistance, while women may be targeted through sexual and reproductive harms that disrupt what perpetrators construct as the group's continuity across bodily, kinship, and social dimensions. Consistent with Chapter 2's account of patriarchal normativity, these effects are often intensified when patriarchal norms within the targeted community are themselves exploited, reinforcing stigma and enabling social dynamics through which harm is reproduced from within.

Legally, the chapter does not presume that all such harms automatically constitute genocide. Rather, it clarifies how these patterns may become probative under Article II(b)–(d), provided that contextual and evidentiary analysis supports an inference of genocidal intent.

Chapters 4 and 5 test these propositions in the Rohingya and Uyghur contexts by examining whether documented patterns of sexual and reproductive violence, family separation, and reproductive control can be legally read as coordinated techniques of group destruction within the Genocide Convention framework.

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4.1 Background of the Rohingya in Myanmar

The Rohingya are concentrated primarily in northern Rakhine State in southwestern Myanmar, along the border with Bangladesh, a location that has long placed their communities at the intersection of border control, security governance, and ethnic politics.¹ Myanmar is a highly diverse state that officially recognizes 135 “national races,” with the Burman majority occupying a dominant demographic, linguistic, and religious position through Burmese language and Buddhism.² By contrast, the Rohingya are predominantly Muslim and Rohingya-speaking, and constitute a small minority within the national population.³ Under exclusionary nation-building projects, demographic and cultural difference can be turned into a legal and political basis for

¹ Myanmar was named Burma before the military government changed the name of the nation in 1989. Syed S. Mahmood et al., *The Rohingya People of Myanmar: Health, Human Rights, and Identity*, 389 *Lancet* 1841, 1841–42 (2017); see also Rep. of the Detailed Findings of the Indep. Int’l Fact-Finding Mission on Myanmar, U.N. Human Rights Council, U.N. Doc. A/HRC/39/CRP.2 (2018).

² A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 85–87.

³ Most of the Rohingya people are Muslims who speak the native Rohingya language; Rohingya comprise around 2% of Myanmar’s population. The proportion of the Myanmar population affiliated with the Islamic faith is 4.3%. In contrast, Burman, the majority ethnic group (68%) of Myanmar, affiliate with the majority religion, Buddhism, which is followed by 87.9% of Myanmar’s population. The Rohingya can be regarded as an ethnic, racial or religious group because Rohingya members share a common language and culture and “hereditary physical traits often identified with a geographical region.” They are thus a protected group according to Article II of the Genocide Convention. The Myanmar government states that this number is “based on the assumption that the non-enumerated population in Rakhine State affiliate with the Islamic faith.” The latest 2019 census did not illustrate percentage of population by religion. Dep’t of Population, Ministry of Labour, Immigr. & Population, *Overview of the Results of the 2014 Population and Housing Census, Myanmar 24* (Dec. 2017), https://www.dop.gov.mm/sites/dop.gov.mm/files/publication_docs/overview_and_results_of_the_2014_census.pdf; A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 87; Mahmood, et al., *supra* note 1, at 1842.

othering. In the Rohingya case, that transformation was institutionalized over decades through law, administration, and public discourse.

The Rohingya presence in northern Rakhine is best situated within the longer history of the Bay of Bengal borderlands—a frontier region shaped by trade, mobility, and layered patterns of settlement that long predate modern state boundaries. In that historical landscape, Rohingya communities became rooted in Rakhine over generations.⁴ Crucially, at earlier moments in Myanmar’s post-independence history, the Rohingya were officially recognized as Burmese/Myanmar nationals, and many held state-issued documentation reflecting that status.⁵ In subsequent decades—especially under military rule after 1962—state narratives and legal-administrative practices increasingly reworked the terms of belonging, progressively recasting the Rohingya as outsiders in law and governance.⁶ None of these classificatory moves changed what international law required of the state. Whether a population is labeled “citizens” or “foreigners,” international law prohibits genocide and other mass atrocity crimes.

Under the rule of the Tatmadaw, the name of Myanmar’s military, state identity formation increasingly privileged race-based and lineage-based definitions of belonging, and the legal status of the Rohingya progressively deteriorated. This trajectory was codified in the 1982 Citizenship Law, which excluded the Rohingya from the roster of officially recognized ethnic groups and enabled their treatment in official discourse as “Bengali,” i.e., as presumed outsiders rather than members of the political community.⁷ This was not a semantic shift. It was a legal technology of de-nationalization. By reclassifying identity, the state withdrew citizenship status and produced a durable condition of de facto statelessness.⁸ Once citizenship is stripped, the architecture of rights protection is correspondingly hollowed out, allowing multiple domains of life to be regulated through exceptional controls.

Within this architecture, the Rohingya were subjected to long-term, overlapping restrictions affecting education, marriage and family formation, reproductive

⁴ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 699.

⁵ The Rohingya were referred to by name as an indigenous group of Myanmar in 1954 by the first president of Myanmar, Sao Shwe Thaik, and the Prime Minister, U Nu, after Myanmar’s independence from Britain. A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 473.

⁶ The 1982 Citizenship Law, art. 3, Pyithu Hluttaw Law No. 4/1982 (Myanmar), <http://un-act.org/publication/view/myanmars-citizenship-law-1982/>.

⁷ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 699 & 1312; The 1982 Citizenship Law, chs. II–V, Pyithu Hluttaw Law No. 4/1982 (Myanmar).

⁸ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 67.

autonomy, access to healthcare, freedom of movement, and access to employment.⁹ Although these measures were often presented as separate administrative practices, they worked together to constrain the community's ability to reproduce social life across generations. In this sense, the persecution of the Rohingya cannot be reduced to episodic discrimination or isolated human rights violations. It operated as a structural regime that weakened collective continuity before the most visible phase of mass violence began. The conditions for group destruction can be built through routinized governance long before they become internationally visible through spectacular violence.

The so-called “clearance operations” launched by the Tatmadaw on 25 August 2017 marked an escalation of this preexisting system of exclusion into openly large-scale violence.¹⁰ In the weeks that followed, Rohingya civilians were killed, injured, terrorized, and forcibly displaced. Villages were burned, and more than 800,000 people fled to Bangladesh within a short period, with broader displacement figures rising thereafter.¹¹ International concern intensified in response to the large-scale deaths and the sudden displacement of hundreds of thousands in 2017.¹² This crisis also rendered more legible the long-standing architecture of exclusion and discrimination that had structured Rohingya life for years, bringing practices that had long persisted with limited external attention into sharper international view.¹³ Although the Tatmadaw presented the 2017 violence as a security response to attacks by the Arakan Rohingya Salvation Army (ARSA), it cannot be understood apart from the longer history that preceded it.¹⁴ It was the concentrated manifestation of a longer project of de-citizenization, dehumanization, and differential governance directed at the Rohingya as a group. UN investigative findings have underscored that the patterns of conduct bore the hallmarks of genocide.¹⁵

⁹ U.N. Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in Myanmar, ¶ 78, U.N. Doc. A/HRC/7/18 (2008).

¹⁰ Rep. of the Special Rapporteur on the Situation of Human Rights in Myanmar, U.N. Human Rights Council, at 11, U.N. Doc. A/HRC/43/59 (2020).

¹¹ Rep. of the Detailed Findings of the Indep. Int'l Fact-Finding Mission on Myanmar, ¶ 59, U.N. Doc. A/HRC/42/CRP.5 (2019).

¹² For example, see G.A. Res. 72/248, Situation of Human Rights in Myanmar (Jan. 23, 2018); U.N. SCOR, 8179th mtg., U.N. Doc. S/PV.8179 (Feb. 13, 2018).

¹³ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 748.

¹⁴ Rep. of the Indep. Int'l Fact-Finding Mission on Myanmar, ¶¶ 10, 32, U.N. Doc. A/HRC/39/64 (2018).

¹⁵ A/HRC/42/CRP.5 (2019), *supra* note 11, at ¶ 2.

4.2 Facts and Patterned Structure: Sexual and Reproductive Violence as a Deliberate Modality of Group Destruction

Any account of violence against the Rohingya that treats sexual violence as incidental to armed conflict misses how it functioned in practice. The pattern of violence shows that it functioned in ways that terrorized civilians, drove displacement, impeded return, and weakened the community's social and biological continuity.¹⁶

One defining feature of this violence is its public, demonstrative character. Reports and survivor testimonies repeatedly describe rapes and gang rapes committed in front of victims' children, relatives, and neighbours.¹⁷ This public staging is crucial to understanding how the violence operated and what effects it was capable of producing. It transforms rape from an assault against an individual body into an attack on communal witnessing, social trust, and collective dignity.¹⁸ The violence is meant to radiate outward: witnesses are traumatized, kinship bonds are destabilized, and the social field in which survivors would otherwise seek support is itself turned into a site of fear and humiliation.¹⁹ Public rape thus operates as a social technology, not merely as bodily harm.

Another feature is the deliberate use of sexual mutilation and visible injury. The infliction of bites and injuries on cheeks, breasts, thighs, and genital areas—described by many observers as a form of “branding”—is not random brutality.²⁰ It has symbolic and social functions. It marks the victim in ways that make concealment difficult and reintegration more precarious in communities already under severe strain.²¹ In contexts where women's social standing is tied to sexual respectability, the production of visible marks weaponizes stigma and can generate long-term exclusion.²² The attack therefore

¹⁶ Rep. of the Indep. Int'l Fact-Finding Mission on Myanmar, ¶¶ 152–60, U.N. Doc. A/HRC/39/64 (2018); see also Fortify Rights, *They Gave Them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar* (July 19, 2018), <https://www.fortifyrights.org/mly-inv-rep-2018-07-19/>.

¹⁷ Sexual and Gender-Based Violence in Myanmar and the Gendered Impact of Its Ethnic Conflicts, ¶ 195, U.N. Doc. A/HRC/42/CRP.4 (2019).

¹⁸ See A/HRC/42/CRP.5(2019), *supra* note 11.

¹⁹ U.N. Econ. & Soc. Council, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, ¶ 17, U.N. Doc. E/CN.4/1999/68/Add.4 (Jan. 21, 1999); A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 7.

²⁰ A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 65.

²¹ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶ 1397.

²² U.N. Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, ¶¶ 44, 91, U.N. Doc. A/HRC/56/CRP.8 (2024).

extends beyond the immediate act of rape: it seeks to reorganize the victim's future social possibilities and, by extension, to weaken community cohesion from within.²³

The violence inflicted during attacks on Rohingya civilians was also patterned in gender-differentiated ways.²⁴ Men and women were frequently separated. Men and boys were often subjected to execution, brutal beatings, and other forms of severe physical abuse.²⁵ Women and girls, by contrast, were disproportionately subjected to mass gang rape, rape, sexual humiliation, sexual slavery, and sexual mutilation.²⁶ This differentiation should not be read as two unrelated forms of violence. It is more accurately understood as a coordinated strategy that used different modalities against different bodies to produce cumulative destruction at group level: rapid incapacitation and elimination on one side, and reproductive harm, together with the weakening of social cohesion and the breakdown of communal relations, on the other.

This pattern is difficult to explain as opportunistic excess. Findings from the UN Independent International Fact-Finding Mission on Myanmar (IIFMM) indicate that sexual violence formed part of a deliberate strategy to intimidate, terrorize, and punish the Rohingya population, including forcing flight and impeding return.²⁷ In a hierarchical military system, the repeated and geographically widespread use of similar methods is difficult to explain without tolerance, authorization, or command-level permissiveness.²⁸ The persistence of sexual violence before and during the 2017 “clearance operations” further supports the conclusion that these acts were enabled by a long-standing climate of impunity rather than by sudden wartime breakdown.²⁹

The reproductive dimension of the violence further sharpens its genocidal significance. Evidence indicates specific targeting of women and girls of reproductive age, including pregnant women.³⁰ Injuries inflicted during sexual assaults often involved reproductive organs.³¹ Survivors reported severe physical damage, persistent

²³ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 699-675,767; A/HRC/42/CRP.5(2019), *supra* note 11, at ¶¶ 358-359; A/HRC/42/CRP.4(2019), *supra* note 17, at ¶ 73.

²⁴ A/HRC/43/59 (2020), *supra* note 10, at ¶ 2; A/HRC/42/CRP.4(2019), *supra* note 17, at ¶¶ 3–60; A/HRC/42/CRP.5(2019), *supra* note 11, at ¶¶61-79; Jamille Bigio & Rachel Vogelstein, *Countering Sexual Violence in Conflict 7* (Council on Foreign Relations 2017).

²⁵ A/HRC/42/CRP.4(2019), *supra* note 17, at ¶ 9.

²⁶ *Id.*

²⁷ A/HRC/39/64(2018), *supra* note 14, at ¶¶ 152–60; see also Fortify Rights, *supra* note 16.

²⁸ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1374,1422–25.

²⁹ A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 69; A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 620–21.

³⁰ A/HRC/42/CRP. 4(2019), *supra* note 17, at ¶ 97.

³¹ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶ 1426.

pain, reproductive health complications, and fears regarding future fertility.³² Many assaults were accompanied by additional violence—beatings, mutilation, and burning—before, during, or after rape.³³ For numerous survivors, forced flight to Bangladesh occurred under conditions of extreme medical deprivation, and some died due to the severity of injuries and lack of care.³⁴ Sexual violence here was not merely a form of psychosexual domination; it had foreseeable and, in many instances, realized consequences for reproductive capacity and bodily survival.

These acts occurred within a broader administrative system that had long regulated Rohingya marriage and fertility. Local restrictions in northern Rakhine reportedly constrained the number and spacing of children; noncompliance could trigger penalties linked to household registration and policing practices.³⁵ Such controls were reinforced within a wider policy environment that framed Rohingya population growth as a governance problem.³⁶ The 2015 package of “race and religion” laws—covering areas such as marriage, religious conversion, monogamy, and population control—did not emerge in a vacuum, but intensified pre-existing practices of demographic management.³⁷ In effect, coercive violence and bureaucratic regulation operated as two arms of a single process: one producing immediate terror and injury, the other institutionalizing long-term control over family formation and group continuity.

³² *Id.*, at ¶1410.

³³ *Id.*, at ¶909; A/HRC/42/CRP. 4(2019), *supra* note 17, at ¶¶ 72, 80,117.

³⁴ A/HRC/42/CRP. 4(2019), *supra* note 17, at ¶ 97.

³⁵ Reg'l Order 1/2005, quoted in Matthew Smith et al., Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar* 31 (Feb. 2014).

³⁶ Since the 1990s, the Myanmar government has allowed township groups to control “imbalances” among Myanmar’s populations and prevent poverty among Rohingya communities. According to related regulations, a Rohingya family can have only two children, and they need to be born at least 36 months apart. Families with “extra” children face fines and punishment; for example, if any children are excluded from the household list, then they can be arrested and detained by the government. A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 33, 593–94; Parveen K. Parmar et al., *Mortality in Rohingya Refugee Camps in Bangladesh: Historical, Social, and Political Context*, 27 *Sexual & Reprod. Health Matters* 39, 41 (2019).

³⁷ To repress the “uncontrollable” birth rate of the Rohingya, the government introduced a package of laws in 2015, including the Buddhist Women Special Marriage Law, the Religious Conversion Law, the Population Control Healthcare Law, and the Monogamy Law. Religious Conversion Law, Pyidaungsu Hluttaw Law No. 48/2015 (Myanmar), <https://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/union-solidarity-and-development-party-laws-2012-2016/myanmar-laws-2015/>; Myanmar Buddhist Women’s Special Marriage Law, Pyidaungsu Hluttaw Law No. 50/2015 (Myanmar), <https://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/union-solidarity-and-development-party-laws-2012-2016/myanmar-laws-2015/>; Population Control Health Care Law, Pyidaungsu Hluttaw Law No. 28/2015 (Myanmar), <https://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/union-solidarity-and-development-party-laws-2012-2016/myanmar-laws-2015/>.

Sexual violence against Rohingya women and girls did not operate as a single form of harm. It was public, repetitive, and directed at them in their social and reproductive roles. It was accompanied by bodily marking and reproductive injury, operated alongside controls over marriage and births, and unfolded in a setting marked by command-level responsibility concerns and entrenched impunity. This is why the violence cannot be understood only in terms of what it did to individual victims. It also damaged the social and reproductive conditions through which the Rohingya sustained themselves as a group.

4.3 Triple Vulnerability: External Repression, Internal Patriarchal Role Assignment, and Institutional Invisibility

Applied to the Rohingya case, the *triple-vulnerability framework* explains a specific causal chain: how legal exclusion and othering made the group governable as removable, how patriarchal honour logics made women's bodies a high-impact target, and how institutional invisibility enabled repetition without decisive accountability. It shows, in a concrete and traceable way, how vulnerability is produced and then operationalized—how it becomes a condition of governability, and eventually a condition of genocide.

In Myanmar, these three dimensions did not operate separately. State-led othering and legal exclusion made the Rohingya governable as a population that could be controlled, constrained, and removed. Patriarchal norms assigned women symbolic and reproductive significance, making violence against them capable of spreading beyond the immediate victim into family life, communal relations, and group continuity. At the same time, domestic impunity and the international under-centering of sexual violence made these harms easier to repeat than to restrain. These conditions help explain why women and girls were attacked in the ways they were, why the effects of that violence extended beyond the body, and why those effects have not always been fully centered in genocide analysis.

4.3.1 External Dimension: State-led Othering, De-citizenization, and the Politics of Removability

The Rohingya did not suddenly become vulnerable in 2017. They were made vulnerable through years of state practice that reclassified them—politically, socially, and

legally—as people who did not belong.³⁸ The Myanmar government’s construction of the Rohingya as a threatening religious and ethnic “outsider” did more than harden prejudice.³⁹ It created a public and administrative understanding: the Rohingya were not “us,” but “them.” Once that boundary is accepted, exclusion is easier to defend, and violence is easier to excuse. This is one reason that othering matters for genocide analysis: it prepares the ground on which discriminatory measures can appear reasonable, even necessary.⁴⁰ The Myanmar government has, through official narratives and practices, contributed to the incitement and normalization of Rohingya exclusion and discrimination, including by portraying the Rohingya as an existential threat to the nation and to its Buddhist character.⁴¹ In doing so, state discourse presents a particular version of national culture, defined through majority and state power, as if it were the culture of the nation itself. This leaves little room to ask who is authorized to define that culture, whose interests it serves, and who within the dominant group may also be left unrepresented or suppressed by it, including women.

The 1982 Citizenship Law is pivotal because it turns that boundary into a legal fact.⁴² By treating the Rohingya as illegal migrants and demographic threats, it stripped citizenship and embedded exclusion into the state’s architecture of membership.⁴³ That shift is not merely symbolic. It expands what the state can do to a population—how it can regulate movement, access to services, livelihoods, and, crucially, family formation. De-citizenization operates as a governance platform: it allows persecution to be implemented not only through episodic violence, but through routine administration.

This is where the Rohingya case becomes especially instructive for the *triple-vulnerability framework*. Reproductive life—marriage, childbirth, and the spacing of

³⁸ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 458–60.

³⁹ *Id.*, at ¶¶ 696–98, 1420; A/HRC/42/CRP.5(2019) *supra* note 11, at ¶¶ 3 & 210.

⁴⁰ Gregory Stanton argues that genocide begins long before mass killing, at the point where societies sort human beings into opposed categories such as ethnic, racial, religious, or national groups. Once these distinctions are embedded in citizenship regimes, they become legal instruments of exclusion, depriving targeted communities of the protections attached to membership in the political community. Drawing on examples including Nazi Germany and Myanmar’s treatment of the Rohingya, he shows that exclusion from citizenship can serve as an early institutional foundation for more severe forms of persecution. On this view, prevention requires institutions capable of crossing communal divisions and citizenship frameworks that resist exclusionary forms of belonging. Gregory H. Stanton, *The Ten Stages of Genocide*, Genocide Watch, <https://www.genocidewatch.com/tenstages>.

⁴¹ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 696, 1402, 1420–1421.

⁴² The 1982 Citizenship Law, *supra* note 6; A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 101, 699.

⁴³ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 469–98; A/HRC/42/CRP.5(2019) *supra* note 11, at ¶ 101.

children—was subjected to surveillance and bureaucratic control. Requirements for state approval of marriage, restrictions on marriages between Myanmar Buddhist women and non-Buddhist men, including Rohingya Muslim men, and regulatory limits on births and birth intervals treat intimate and reproductive life as a managed risk rather than a protected sphere of life. By regulating Buddhist women’s marital choices, the restriction polices religious and ethnic boundaries while casting non-Buddhist men, including Rohingya Muslim men, as threats to the dominant community. This is a patriarchal mode of boundary-making, because women’s sexuality, marriage, and reproductive capacity become sites through which collective belonging is guarded and controlled.⁴⁴ Over time, such measures do not simply constrain “choices.” They reorganize everyday existence around permission, documentation, and the threat of punishment. They create what might be called an administrative atmosphere of coercion: a condition in which a group’s continuity becomes governable. In practical terms, demographic futures become differentially administrable—enabling the state to facilitate population growth for favored groups while constraining family formation and reproduction within targeted communities.⁴⁵

The “clearance operations” of August 2017 must be read against this background. Their brutality and scale drew international attention because of mass deaths, village burnings and the rapid displacement of hundreds of thousands. Yet the operations were not an isolated rupture. They were an escalation that exploited a structure already in place. The patterned gender differentiation during attacks is difficult to miss: men and adolescent boys were separated and subjected to execution and severe physical abuse, while women—especially those of reproductive age—were subjected to repeated sexual violence, often in public. UN documentation and the IFFMM’s findings situate this violence within a broader logic of destruction, including sexual violence as an indicator of genocidal intent.⁴⁶ The operative point, for present purposes, is that the external architecture did not merely allow violence to happen; it made the Rohingya removable in the eyes of the state and, increasingly, in the eyes of the society it

⁴⁴ Myanmar Buddhist Women’s Special Marriage Law, Pyidaungsu Hluttaw Law No. 50/2015, §§ 2(a), 4 (“This Law shall be applicable to Myanmar Buddhist Women and non-Buddhist men”; providing that the Law does not apply to marriages “between Buddhists” or “between non-Buddhists”), *supra* note 37; A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 581, 583–584, 595–600.

⁴⁵ Through discriminatory laws and administrative measures, the Myanmar government sought to regulate who could lawfully marry and reproduce, while framing Rohingya birth rates as excessive and requiring control. *Id.*, at ¶ 1402.

⁴⁶ A/HRC/43/59(2020), *supra* note 10, at ¶ 2; A/HRC/42/CRP.4(2019), *supra* note 17, at ¶¶ 3–60; A/HRC/42/CRP.5(2019), *supra* note 11, at ¶¶ 61–79; Bigio & Vogelstein, *supra* note 24, at 7.

governed. It also made their persecution easier for the international community to overlook, as the harm unfolded gradually through administrative, legal, and social forms of discrimination before becoming recognizable as mass atrocity.

International attention intensified after the large-scale killings and the mass exodus of Rohingya in 2017, and it was through that crisis that the longer history of legal exclusion and discriminatory governance came into sharper view.⁴⁷ In other words, the world did not first notice the architecture of persecution and then worry about the crisis; the crisis forced the architecture into view.

This external dimension gives empirical content to what Chapter 2 theorized as the transformation of an imagined boundary into a binding discipline. The Rohingya were first made into “others,” and then governed as removable. It is also the external pillar of the *triple-vulnerability* model: a state-enabled environment in which discrimination is not a departure from order but a method of governing order.

4.3.2 Internal Dimension: Patriarchal Honour Frameworks and Why Sexual Violence Travels Beyond the Individual Body

The violence inflicted on Rohingya women and girls cannot be understood by reference to bodily injury alone. Its wider force was anchored in a social environment in which women’s bodies, conduct, sexuality, and reproductive position had long been assigned meanings that exceeded the individual person. In Myanmar’s broader patriarchal order, Rohingya women were situated within communal expectations that attached particular weight to modesty, chastity, obedience, marriageability, and family reputation.⁴⁸ Those expectations did not operate only as private moral preferences. They helped organize social standing, kinship value, and the terms on which women could remain fully recognized within family and community life.

One Burmese proverb, which describes the husband as “God” and the son as “master,” helps situate the wider patriarchal climate of Myanmar, while recognizing that these gender norms are contested from within, where male authority is normalized

⁴⁷ Human Rights Council Opens Special Session on the Situation of Human Rights of the Rohingya and Other Minorities in Rakhine State in Myanmar, Off. of the U.N. High Comm’r for Hum. Rts. (Dec. 5, 2017), <https://www.ohchr.org/en/press-releases/2017/12/human-rights-council-opens-special-session-situation-human-rights-rohingya>; U.N. High Comm’r for Refugees, Joint Response Plan for Rohingya Humanitarian Crisis 10 (2018), <https://www.unhcr.org/us/sites/en-us/files/legacy-pdf/5ab8e23a7.pdf>.

⁴⁸ A/HRC/56/CRP.8 (2024), *supra* note 22, at ¶¶ 46–50; A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶¶ 13–16; Makiko Takeda, *Women, Children and Social Transformation in Myanmar* 36–37 (Palgrave 2020).

and women are more readily evaluated through expectations tied to sexual propriety, domestic role, and social respectability.⁴⁹ In such an environment, injury to women's bodies is never read only as injury to flesh. It is also read through the categories by which worth, honour, belonging, and future life have already been distributed.

That prior social ordering matters because it shaped the route by which harm could move. Sexual violence did not need to create an entirely new field of meaning in order to damage more than the immediate victim. The field was already there. Where a woman's sexual status has been tied to family reputation, where chastity and modesty carry consequences for marriageability and communal standing, and where patriarchal discipline has made those evaluations feel ordinary, rape acquires effects that exceed bodily violation without requiring any additional conceptual work by the perpetrator.⁵⁰ Shame, blame, diminished marriage prospects, social withdrawal, altered family relations, distrust, and narrowed prospects for reintegration emerge more readily because patriarchal norms have already made those reactions intelligible.⁵¹ Sexual violence becomes capable of injuring not only bodies but also relations. The assault enters the space in which kinship, reputation, and future participation in communal life are negotiated, and it does so along paths that were laid down before the attack took place.⁵²

The Rohingya context makes that dynamic especially acute. Rohingya women and girls lived within intersecting forms of constraint tied to gender, ethnicity, religion, and statelessness. Their vulnerability did not arise simply from abstract patriarchy, but from patriarchy operating within a persecuted and administratively controlled minority community. Rohingya women and girls were often relegated to roles shaped by socially defined norms and practices, including childbearing, household chores, and limited participation in formal and informal decision-making processes within their communities, even as women also sustained families, supported survivors, participated in community life, and articulated claims to safety, dignity, and rights in displacement

⁴⁹ A/HRC/56/CRP.8 (2024), *supra* note 22, at ¶ 42. At the same time, women's rights activists, pro-democracy movements, and Rohingya feminist voices have challenged these gendered hierarchies from within, showing that gender norms in Myanmar and within Rohingya communities are contested rather than uniform. See, e.g., Int'l Rescue Comm., *Meet the Rohingya Activist Bringing Feminism to the World's Biggest Refugee Camp* (Mar. 4, 2020), <https://www.rescue.org/en/article/meet-rohingya-activist-bringing-feminism-worlds-biggest-refugee-camp> (describing Rohingya activist Razia Sultana's work documenting women's experiences of violence, supporting survivors, and promoting women's rights in the Cox's Bazar camps).

⁵⁰ A/HRC/56/CRP.8 (2024), *supra* note 22, at ¶ 42.

⁵¹ *Id.*, at ¶ 44.

⁵² A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶¶ 52, 54, 56; A/HRC/56/CRP.8(2024), *supra* note 22, at ¶¶ 44, 91.

and exile.⁵³ In that setting, women stood close to the social and reproductive practices through which continuity was maintained. Harm directed at them could therefore radiate outward with unusual force, since the social order had already made those roles consequential. Patriarchal assignment did not describe women's essence. It described the structure within which injury to women could produce effects on the life of the group.

The importance of this point is easiest to grasp when one considers what makes certain reactions appear "natural."⁵⁴ Judgments concerning purity, respectability, marriageability, and dishonour do not emerge spontaneously at the moment of crisis. They become available through repetition, discipline, and social reinforcement over time. Their force depends partly on the fact that they often appear self-evident rather than constructed. That appearance matters. Reactions that present themselves as ordinary moral responses are easier to anticipate, and reactions that are easier to anticipate are easier to activate. Stigma, silence, family rupture, fear of disclosure, and communal distrust need not be invented anew by perpetrators. They already exist as possibilities within the social field. Sexual violence can therefore trigger wider disintegration because patriarchal norms have already prepared the terms on which injury will be interpreted and redistributed. The violence travels beyond the body because pre-existing patriarchal judgment, including within the targeted community, has already shaped where its effects can go.⁵⁵

This does not yet answer every question raised by the Rohingya pattern. A patriarchal order can explain why sexual violence is capable of producing wider social and group-destructive effects, but that alone does not demonstrate why this form of violence was selected, repeated, and carried out in the specific ways documented during the "clearance operations." That further question concerns the operational use of vulnerability. It belongs to the next stage of the analysis. The point established here is narrower, but foundational: once women's bodies have been placed within a patriarchal field structured by honour, sexual respectability, marriageability, and communal standing, violence directed at those bodies can injure the group through more than physical pain. It can damage the relations through which the group sustains social trust, intergenerational continuity, and the ordinary conditions of collective life.

⁵³ A/HRC/56/CRP.8 (2024), *supra* note 22, at ¶ 10; A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 56; see also Int'l Rescue Comm., *supra* note 49.

⁵⁴ For the earlier development of this concept, see Chapter 2, 2.3.2.2 Patriarchal Phantom.

⁵⁵ Debra Bergoffen, The Genocidal Politics of Rape, Shame, and Disgust, in *War and Sexual Violence: New Perspectives in a New Era* 15, 16, 18, 24, 31 (Sarah K. Danielsson ed., 2019).

4.3.3 Institutional Invisibility: Impunity at Home and the Evidentiary Marginalization of Women's Harm

If external persecution creates the conditions for violence, and internal patriarchy amplifies its group effects, institutional invisibility explains why the violence can persist without being legally centered. This invisibility operates at two levels at once. Domestically, the durability of discriminatory policy and recurring atrocity indicates a long-standing environment of impunity.⁵⁶ Internationally, even after 2017, sexual violence has been repeatedly acknowledged in relation to the Rohingya atrocities, yet its eventual place within the evidentiary analysis of genocidal intent remains unsettled.⁵⁷

At the domestic level, the more important point is that discriminatory governance and violence were sustained over time in ways that point to intentional state practice. Exclusion was not confined to isolated abuses. It was built into the legal and administrative organization of Rohingya life: citizenship was denied or degraded, movement was restricted, marriage required authorization, and family formation and reproduction were subjected to bureaucratic control. Once these forms of exclusion were embedded in law, administration, and militarized enforcement, accountability was difficult not only after the violence occurred, but from the outset. The same structures that organized Rohingya exclusion also narrowed access to protection, complaint, investigation, and remedy. Impunity did not merely follow atrocity; it helped make repetition possible by normalizing coercion and reducing the likelihood of consequence. This dynamic was especially important in relation to sexual violence. Where stigma, fear, and social silence suppress disclosure and documentation, impunity does not operate alone; it works through those conditions to keep the violence both underreported and institutionally underread. Low visibility then becomes easy to mistake for low significance, reinforcing the very structures that allow the violence to continue.⁵⁸

In the Rohingya case, UN investigations have repeatedly found that the primary perpetrators of sexual violence were Myanmar's military and other state-affiliated actors, and that these crimes occurred as part of broader state-led operations against the

⁵⁶ A/HRC/42/CRP.5(2019), *supra* note 11, at ¶¶ 25,193,226,233.

⁵⁷ A/HRC/42/CRP.4(2019), *supra* note 17, at ¶¶ 191–92, 211–12, 219–20; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order of Jan. 23, 2020, 2020 I.C.J. 3, ¶ 42.

⁵⁸ A/HRC/56/CRP.8(2024), *supra* note 22, at ¶ 91.

Rohingya.⁵⁹ This perpetrator structure is itself decisive for accountability. When the state and its security forces are the principal agents of violence, “access to justice” is not merely difficult; it is structurally foreclosed. Survivors are asked to report crimes through institutions controlled by the same apparatus responsible for the harm— institutions that can intimidate, retaliate, or simply refuse to register complaints. Under such conditions, expecting protection or remedy from the primary perpetrator is not a realistic option, but an additional risk imposed on victims.

At the international level, the Rohingya case reveals a different form of institutional invisibility. Sexual violence against Rohingya women was documented in general UN reporting and later examined in a dedicated report on sexual and gender-based violence.⁶⁰ These materials show that women’s harms entered the international record. However, in the legal and political consolidation of the 2017 crisis, the dominant images through which the Rohingya catastrophe came to be apprehended internationally were mass killings, burned villages, and the large-scale flight of refugees into Bangladesh. Sexual violence formed part of that same record, but it less often furnished the principal frame through which the crisis was first and most broadly understood. Women’s harms entered an international account that had already taken shape more readily around mass killing, village destruction, and refugee flight.

That dynamic is also reflected in the range of international legal processes now surrounding the Rohingya case. Sexual violence is present in ICC proceedings concerning individual criminal responsibility, and it is likewise present in the materials before the ICJ in *The Gambia v. Myanmar*, where Myanmar’s responsibility under the Genocide Convention is now being adjudicated.⁶¹ Its appearance in international proceedings, however, does not settle its legal status. Unless sexual violence is interpreted as falling within the forms of violence prohibited by the Genocide Convention, it may remain part of the factual record without being treated as genocidal conduct in law, and may instead be discussed through the categories of other

⁵⁹ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶ 920; A/HRC/39/64(2018), *supra* note 14, at ¶¶ 48, 52–A/HRC/42/CRP.4(2019), *supra* note 17, at ¶¶ 53, 90–91.

⁶⁰ See A/HRC/42/CRP.4(2019), *supra* note 17.

⁶¹ *The Gambia v. Myanmar*, *supra* note 57, at ¶¶ 75–86 (Jan. 23); *Application of the Genocide Convention (The Gambia v. Myanmar)*, Judgment on Preliminary Objections, 2022 I.C.J. 1 (July 22); see Office of the Prosecutor, Annual Report 2024, at discussion of the Bangladesh/Myanmar situation (noting that the Office has continued to investigate the mass deportation of the Rohingya population from Myanmar into Bangladesh); A/80/342, ¶ 61 (Aug. 18, 2025); Situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar, Summary of the Prosecutor’s Request for Authorization of an Investigation Pursuant to Article 15, at 5 (July 4, 2019).

international crimes. The central issue is therefore one of legal characterization: how sexual violence is understood and interpreted within the structure of genocide law.

The Joint Declaration filed jointly by seven States under Article 63 in *The Gambia v. Myanmar* is important because it expressly treats sexual and gender-based violence as legally pertinent to the interpretation and application of the Genocide Convention, including as underlying genocidal acts and as evidence bearing on specific intent.⁶² That explicit move matters because it shows that the Convention's application to gendered harm cannot always be left to implication. Women's suffering has been documented, carried into international legal proceedings, and argued in terms directed to the Convention itself. The unresolved question is whether those harms will ultimately be treated, in law, as part of the genocidal violence itself.

4.3.4 Synthesis: Why *Triple Vulnerability* Is Not “Context” but Mechanism in the Rohingya Case

If the three dimensions are read separately, they risk sounding like background—law here, culture there, institutions elsewhere. The Rohingya case shows why they cannot be separated. State-led othering and de-citizenization create removability. Patriarchal role assignment makes sexual and reproductive violence a high-impact method of collective fracture; and institutional invisibility—through impunity and evidentiary hierarchy—allows repetition without decisive consequence. Together, these forces form an enabling chain, not a list.

This synthesis also dissolves the temptation to treat “pre-2017 discrimination” and “2017 atrocities” as distinct stories. The same logic runs through both. Legal exclusion and demographic governance established the conditions of vulnerability. The 2017 military operations then weaponized those conditions, while weak accountability helped stabilize the cycle and allowed similar harms to recur. This is why triple vulnerability is not an afterthought framework. It is the mechanism by which genocidal harm becomes thinkable, doable, and repeatable in this case.

⁶² Statute of the International Court of Justice art. 63; *Joint Declaration of Intervention of Canada, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland, Pursuant to Article 63 of the Statute of the International Court of Justice, In the case of Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)* 15 November 2023: <https://icj-cij.org/sites/default/files/case-related/178/178-20231115-wri-01-00-en.pdf>; ICJ, <https://icj-cij.org/case/178/intervention>.

4.4 Patriarchy as Genocidal Mechanism: From Gendered Role Assignment to Group Destruction

The Rohingya case shows more than the fact that patriarchy intensified the consequences of sexual violence. It shows how patriarchy helped make sexual violence a particularly effective method of group destruction. Women had already been placed within social roles tied to sexual respectability, marriageability, family continuity, and reproduction.⁶³ Under those conditions, violence against women could injure them directly while also damaging the relations and expectations through which communal life was sustained.

This helps explain why the Tatmadaw's assault pattern took the forms it did. Sexual violence was repeatedly inflicted in front of family members, children, and neighbours. It was accompanied by visible injury, mutilation, and reproductive harm. These features did not simply add cruelty to the attack. They made the violence socially durable. The assault could remain active after the moment of rape, continuing through stigma, silence, disrupted family relations, damaged marriage prospects, and the weakening of social trust. Patriarchal meaning was therefore part of the mechanism through which sexual violence could work as a method of group destruction.

4.4.1 Sexual Violence as a Genocidal Modality

During the “clearance operations,” sexual violence recurred across multiple locations as part of the broader assault pattern directed against the Rohingya population.⁶⁴ Women and girls were subjected to rape, mass gang rape, sexual mutilation, genital injury, and public sexual humiliation.⁶⁵ Many assaults took place in front of children,

⁶³ Rohingya women and girls as subject to intersecting discrimination based on gender, ethnicity, religion, and statelessness; noting that they are largely confined to socially prescribed roles such as childbearing, household work, and some farming, with limited participation in formal and informal decision-making; and documenting restrictions affecting their reproductive autonomy, access to education, and freedom of movement. *See* A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶¶ 54, 56–58; conservative beliefs within the Rohingya community contribute to the isolation and vulnerability of women and girls, and that patriarchal norms and traditional practices place women primarily within marriage and household structures, limiting their access to the public sphere and their control over major life decisions. A/HRC/56/CRP.8(2024), *supra* note 22, at ¶¶ 10, 165–166; In discussions with the author, Yasmin Ullah and Noor Azizah, two internationally active Rohingya women, described women's bodies as closely tied to family and community honour, explained how norms of modesty and sexual purity are maintained through social monitoring, and emphasized that patriarchal structures operate by regulating women's roles, constraining their choices, and shaping community responses to sexual violence through shame, silence, stigma, and damage to family and communal relations. Their accounts are used here as contextual material to illuminate these social meanings, without suggesting that they capture the full range of Rohingya women's experiences across different social locations.

⁶⁴ *See* A/HRC/42/CRP.4 (2019), *supra* note 17.

⁶⁵ *Id.*, at ¶ 74.

relatives, and neighbours.⁶⁶ Survivors described bites, wounds, injuries to reproductive organs, persistent pain, and bodily traces that remained after the assault.⁶⁷ Pregnant women and women of reproductive age were among those attacked.⁶⁸ These features show violence whose effects were never likely to remain confined to the moment of assault or to the body of the immediate victim.

The social setting in which these assaults occurred is inseparable from their wider force. Violence carried out before witnesses, leaving visible injuries behind, entered family and community life in durable ways. It could continue in altered household relations, in silence and fear around disclosure, in damage to reputation and marriage prospects, and in the persistence of the assault within communal memory.⁶⁹ Many assaults took place before others, left marks that remained visible, or resulted in reproductive injury. These were not incidental features. They allowed the violence to persist beyond the moment of attack and into family relations, reputation, and communal life. Harm that might otherwise have remained bodily or private could continue in the survivor's social world, reshaping the relations through which she had to keep living.

The injury did not have to acquire these meanings for the first time after the event. They were already available in a setting where women's bodies were read through chastity, shame, moral standing, marriageability, and reproductive value. The reactions set in motion by such violence were therefore neither random nor culturally weightless. Judgments tied to purity, respectability, marriageability, and dishonour had already been normalized through repetition within everyday life.⁷⁰ Because those judgments were familiar, the reactions attached to them were more likely to follow: stigma, withdrawal, distrust, family rupture, fear of disclosure, and narrowed possibilities for reintegration.⁷¹ Sexual violence could draw force from those responses without needing to create them from nothing. The assault reached beyond the individual woman because the surrounding social order had already prepared the terms on which her injury would be interpreted.

⁶⁶ *Id.*

⁶⁷ *Id.*, at ¶ 75.

⁶⁸ *Id.*, at ¶ 95.

⁶⁹ *Id.*, at ¶¶ 113, 124.

⁷⁰ A/HRC/56/CRP.8(2024), *supra* note 22, at ¶¶ 44, 165–166.

⁷¹ A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 91.

The direct harm was grave in its own right. Survivors endured rape, mutilation, trauma, reproductive injury, and lasting pain. The violence also burdened family life with fear and silence, strained kinship relations, reduced the social space available to survivors, and damaged the practical conditions under which communal continuity might be rebuilt.⁷² Within the broader pattern of atrocities committed against the Rohingya, sexual violence formed part of the way genocide was carried out. Women were attacked in ways that injured them directly and also unsettled conditions under which the group could continue over time. Sexual violence belonged to the genocidal process because it damaged women directly while also damaging the social and reproductive conditions through which collective life was sustained.

4.4.2 Reproductive Governance as State Reinforcement of *Genocidal Patriarchy*

The genocidal significance of this violence becomes clearer once it is placed within the pre-existing structure of reproductive governance under which Rohingya family life had long been organized. For years, marriage and childbirth were subjected to permits, surveillance, birth-spacing requirements, and restrictions on the number of children.⁷³ These were not neutral regulations. They treated Rohingya intimacy as an object of demographic management and cast Rohingya reproduction as something dangerous that had to be contained.

This is important because *genocidal patriarchy* in the Rohingya case was not only social; it was administrative as well. Patriarchal role assignment gave women's bodies symbolic and reproductive significance, while state governance turned that significance into an object of regulation. Once marriage, family formation, and childbirth became matters of permission, documentation, and punishment, violence against women no longer took place against an unregulated background. It took place within a legal-administrative structure already oriented toward constraining the group's continuity. Sexual violence and reproductive governance therefore reinforced one another. One worked through direct bodily assault, stigma, and reproductive injury; the other restricted the lawful and practical conditions under which marriage, childbirth, and family life could continue. Together, they made women's bodies a central site through which genocidal destruction was pursued.

⁷² A/HRC/42/CRP.4 (2019) indicates the existence of a culturally rooted environment in which survivors of sexual violence are stigmatized and ostracized, contributing to likely underreporting, *id.*, at ¶ 113.

⁷³ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 33, 593–94; Parmar et al., *supra* note 36, at 41.

4.4.3 Patriarchal Logic and Gender-Differentiated Modalities of Destruction

Available documentation on the Rohingya atrocities points to differentiated forms of violence within the same destructive campaign. Men and boys were frequently separated, executed, disappeared, or subjected to severe physical assault.⁷⁴ Women and girls were disproportionately subjected to rape, sexual humiliation, reproductive injury, and other forms of sexual violence.⁷⁵ The violence was therefore not distributed in a uniform manner across the group. Different forms of harm clustered around different members of the same protected group, and they did so in ways that corresponded to the vulnerabilities through which those members could be most effectively attacked.

Killings and severe physical assaults on men and boys rapidly incapacitated one part of the group and contributed to terror, removal, and demographic devastation.⁷⁶ They also diminished the possibility that women could later marry, form families, and bear children within the group. Sexual and reproductive violence against women and girls worked through another but related route. It caused bodily and psychological injury, while also generating stigma, exclusion, disruption of intimate and family life, and damage to women's reproductive capacity.⁷⁷ These forms of violence weakened the conditions under which the group could sustain itself across generations. Distinct forms of violence were distributed across different members of the group, but they operated within the same genocidal process.

Genocide is still often read through the dominant image of mass killing. Under that image, harms carried through sexual and reproductive violence, stigma, and the weakening of the conditions needed for collective continuity are more readily treated as secondary or peripheral. In the Rohingya case, violence was distributed across the group through different methods and different vulnerabilities, yet these differences did not separate the harms into distinct analytical categories. They remained part of the same genocidal process directed against the same group.

⁷⁴ A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 699-675,767; A/HRC/42/CRP.5(2019), *supra* note 11, at ¶¶ 358-359; A/HRC/42/CRP.4 (2019), *supra* note 18, at ¶ 73.

⁷⁵ *Id.*

⁷⁶ A/HRC/39/64 (2018), *supra* note 14, at ¶¶ 152-60; see also Fortify Rights, *supra* note 18.

⁷⁷ A/HRC/39/64(2018), *supra* note 14, at ¶¶ 74-85; see also A/HRC/39/CRP.2(2018), *supra* note 1, at ¶¶ 1347-1410.

4.5 From Mechanism to Legal Qualification: Why the Rohingya Pattern Supports Genocidal Analysis under Article II(b), II(c), and II(d)

This section translates the Rohingya evidentiary basis—already established through the patterned facts of violence and governance—into legal qualification under the Genocide Convention. The conduct relevant to Article II(b), II(c), and II(d) does not appear as a series of isolated incidents. It appears as a genocidal pattern in which state-led exclusion and administrative control over family life converged with systematic sexual violence during military operations, producing cumulative consequences for the group's continuity. On this evidentiary basis, sexual and reproductive violence is not legally peripheral. It is one of the principal means through which genocide was pursued.

4.5.1 The Pattern of Conduct Against the Rohingya Must Be Assessed as an Integrated Genocidal Process

A central difficulty in genocide analysis is the tendency to isolate forms of violence that, in practice, operated together. In the Rohingya case, killings, sexual violence, reproductive injury, forced displacement, and coercive regulation of marriage and fertility were not separate layers of harm accidentally occurring at the same time. They formed part of the same destructive pattern directed against the Rohingya as a protected group.

The legal question is therefore not whether each rape, restriction, injury, or deprivation is independently sufficient to establish genocide when viewed in isolation. The question is whether these forms of harm, taken together, disclose a genocidal process. In the Rohingya case, the answer cannot be worked out through fragmentation. Public rape and mass gang rape, bodily marking, reproductive injury, terrorized displacement, restricted access to post-assault care, and long-standing controls over marriage and childbirth must be assessed as an integrated pattern. Article II is structured to capture multiple forms of genocidal conduct, not killing alone. The Rohingya record therefore has to be read as a whole if the legal significance of sexual and reproductive violence is to be properly understood.

4.5.2 Article II(b): Serious Bodily or Mental Harm as a Central Mode of Genocide

Article II(b) concerns the causing of serious bodily or mental harm to members of the group. In the Rohingya case, this threshold is met not at the margins, but at the center of the documented conduct.

The bodily harm was severe and repeated. The evidence includes rape and mass gang rape, sexual slavery, genital mutilation, beatings during and after assault, and deliberate marking through bites and injuries to visible and intimate parts of the body.⁷⁸ These were recurring methods of attack rather than isolated excesses. The seriousness of the harm is underscored not only by the immediate violence, but also by the injuries survivors continued to report, including persistent pain, reproductive complications, long-term disability, and severe trauma.⁷⁹

The mental harm was equally central. Publicly staged sexual violence inflicted terror not only on survivors but also on witnesses, relatives, and neighbours.⁸⁰ Shame, stigma, fear, and humiliation were not incidental aftereffects. They were among the foreseeable consequences of the way the violence was carried out. In communities where women's social standing is heavily mediated through patriarchal honour norms, public rape and visible bodily marking predictably damaged marriage prospects, household stability, and communal trust. Mental harm therefore operated both at the level of the individual survivor and through broader processes of social disarticulation.⁸¹

In the Rohingya case, these harms do more than demonstrate brutality. They show that serious bodily and mental harm was inflicted in patterned ways that destabilized the group's continuity. Article II(b) is therefore central to the legal analysis here, because it captures one of the principal ways in which genocide was carried out.

4.5.3 Article II(c): Conditions of Life Calculated to Bring About Physical Destruction

Article II(c) concerns the deliberate infliction on the group of conditions of life calculated to bring about its physical destruction in whole or in part. For the Rohingya, those conditions took shape through the combined operation of discriminatory governance, exclusion from essential services, terrorized displacement, and the denial of recovery after violence. Village burnings, and forced flight were part of this pattern, but not its full content.

Before 2017, the Rohingya were already subjected to movement restrictions, limited access to healthcare, restricted employment, and constraints on marriage and

⁷⁸ A/HRC/42/CRP.4 (2019), *supra* note 17, at ¶ 75.

⁷⁹ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1396–97.

⁸⁰ A/HRC/42/CRP.4(2019), *supra* note 17, at ¶ 7.

⁸¹ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1398–99.

family life.⁸² These conditions materially undermined health, subsistence, and collective survival. During and after the “clearance operations,” these pre-existing conditions converged with mass violence. Survivors of rape and serious injury were forced to flee under conditions of acute medical deprivation.⁸³ Safe housing collapsed. Access to treatment was restricted. What resulted was not simply hardship, but a regime of life-threatening deterioration.⁸⁴

Under Article II(c), what matters is the cumulative effect of these conditions on Rohingya survival over time. Movement restrictions, terrorized displacement, exclusion from care, and the collapse of safe living conditions formed a sustained structure with foreseeable consequences, including increased death, serious illness, and long-term physical deterioration. Policy, administration, and coercion worked in alignment: the state apparatus that enabled the violence also restricted access to protection and recovery, while impunity allowed the same harms to recur.

Article II(c) is central to understanding how genocide operated in the Rohingya case. Physical destruction took the form of sustained conditions that progressively eroded the possibility of continued survival and produced a form of “slow death” at the level of the group, alongside direct killing.⁸⁵

4.5.4 Article II(d): Measures Intended to Prevent Births Within the Group

Article II(d) concerns measures intended to prevent births within the group. It is especially salient in the Rohingya case because the evidence reveals two interacting forms of reproductive suppression: one administrative and one violent. Their interaction is central to the analysis.

The administrative dimension is clear. For years, Rohingya reproduction was subjected to restrictions on marriage, birth-spacing requirements, child-number controls, registration regimes, and punitive enforcement practices.⁸⁶ Families with “extra” children faced fines, household-registration problems, and risks of arrest or detention. State discourse repeatedly framed Rohingya population growth as a

⁸² *Id.*, at ¶¶ 1400–07.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*, at ¶ 1400; see also *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, ¶ 546 (Int’l Crim. Trib. for the Former Yugoslavia Mar. 24, 2016).

⁸⁶ Matthew Smith et al., “Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar” 31(Fortify Rights Feb. 2014) (quoting “Regional Order 1/2005”); A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶1409.

demographic problem requiring management. The 2015 package of “race and religion” laws did not create this logic from nothing; it consolidated and extended practices that had already constrained marriage and reproductive life in northern Rakhine for years. One consequence was that women were pushed toward unsafe abortions in a setting where abortion was illegal, showing that legal-structural control over reproduction can generate bodily coercion even without formal sterilization.⁸⁷

The violent dimension is equally important. During the “clearance operations,” the Tatmadaw specifically targeted women and girls of reproductive age, including pregnant women, through rape, sexual violence, genital mutilation, and injuries affecting reproductive organs. Survivors reported severe reproductive harm, and the available findings connect systematic sexual violence to the impairment of reproductive capacity. The violence inflicted injury and trauma in ways that could foreseeably affect reproductive health, pregnancy, and childbirth. It also damaged the conditions under which family life could be resumed after assault.⁸⁸

Article II(d) is therefore best understood in the Rohingya case through the interaction of governance and violence. Administrative reproductive suppression and violent reproductive injury worked together. One restricted the lawful and practical conditions under which births could occur; the other damaged the bodily conditions necessary for reproduction and burdened the restoration of family life in the aftermath of assault. This interaction is the core of the Article II(d) analysis in this case.

Akayesu helps illuminate a further dimension of this problem. In patriarchal settings, rules of lineage and affiliation can shape the social meaning of reproduction.⁸⁹ Where community membership is mediated through patrilineal affiliation, children born to surviving women may not be socially counted as belonging to the mother’s group unless the father is recognized as a member of that group. Under such conditions, survival and childbirth do not automatically secure continuity within the group as that group is socially defined and regulated. This does not by itself establish Article II(d), which remains grounded here in the documented restrictions on marriage, childbirth, and reproductive integrity. It does, however, help explain why sexual violence in a

⁸⁷ See *Prosecutor v. Akayesu*, ICTR-96-4, Judgment, ¶¶ 731–732 (Sept. 2, 1998); A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1408–10.

⁸⁸ A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1408–10.

⁸⁹ *Akayesu*, *supra* note 87, at ¶ 507–508; see also U.N. Sec. Council, *Women and Girls Who Become Pregnant as a Result of Sexual Violence in Conflict and Children Born of Sexual Violence in Conflict*, U.N. Doc. S/2022/77, ¶ 2 (2022); Nira Yuval-Davis, *Gender and Nation* 26 (SAGE Publ’ns 1997).

patriarchal order may carry genocidal significance beyond immediate bodily injury, extending to the group's intergenerational continuity through rules that govern how the next generation is assigned group membership.

The evidence in the Rohingya case therefore supports a robust reading of Article II(d). The central point is the combined operation of administrative reproductive suppression and violent sexual and reproductive injury. The question of affiliation adds a further layer of explanation, but the legal core lies in the interaction between state regulation of reproduction and direct violence directed at women's reproductive lives.

4.6 From Pattern to Intent: Reconstructing Genocidal Intent in the Rohingya Case

Genocidal intent is rarely established through direct confession.⁹⁰ In practice, genocidal intent is more often reconstructed from patterns of conduct: how a group is identified, how violence is distributed, how particular methods recur, and what consequences those methods are likely to produce.⁹¹ In the Rohingya case, discriminatory governance, gender-differentiated violence, and sustained impunity do not appear as disconnected phenomena. They form an integrated genocidal pattern from which intent may reasonably be inferred.⁹²

4.6.1 Target Construction: The Rohingya as a Governed and Removable Group

Intent inference begins with the way the Rohingya were constructed as a target.⁹³ The group was not subjected only to episodic hostility. Over time, it was legally and politically remade as alien, threatening, and removable. The 1982 Citizenship Law, the language of "Bengali" outsiderhood, and the long-standing regulation of movement, family life, and reproduction did more than discriminate.⁹⁴ They treated the Rohingya as a population whose continuity could be governed, constrained, and ultimately destroyed.

⁹⁰ Katherine Goldsmith, The Issue of Intent in the Genocide Convention and Its Effect on the Prevention and Punishment of the Crime of Genocide: Toward a Knowledge-Based Approach, 5 *Genocide Stud. & Prevention* 238, 242 (2010). See Lawrence J. LeBlanc, *The United States and the Genocide Convention* 51 (Duke University Press, 1991).

⁹¹ Newlines Inst. for Strategy & Pol'y, *The Uyghur Genocide: An Examination of China's Breaches of the 1948 Genocide Convention* 35 (2021); Yonah Diamond & John Packer, *Uyghur Tribunal Expert Report: China's State Responsibility for Breaches of the Genocide Convention* 13 (2021).

⁹² A/HRC/39/CRP.2 (2018), *supra* note 1, at ¶¶ 1419–1438.

⁹³ *Id.*, at ¶ 1419.

⁹⁴ *Id.*, at ¶¶ 1420–21.

Where a group is repeatedly subjected to exceptional controls and publicly framed as alien to the national community, later mass violence against that group acquires a different interpretive force. It appears less as contingent escalation and more as the violent culmination of an already institutionalized project of exclusion. In the Rohingya case, that project was directed at the group as such. The later violence is more plausibly understood as part of a genocidal process because it arose within a pre-existing architecture of de-citizenization and demographic control.

4.6.2 Modality Consistency: Repeatable Methods as Evidence of Operational Logic

Intent inference is strengthened when methods recur with recognizable consistency across locations and phases.⁹⁵ The Rohingya case reveals recurrent patterns that predated and culminated in the August 2017 “clearance operations,” including gender separation during attacks, large-scale sexual violence against women and girls, public staging of assault, severe physical brutality, village destruction, and forced displacement.⁹⁶ These patterns matter doctrinally because repetition across episodes points to operational logic rather than accident.

The IFFFMM found that the highest levels of command appeared able to control whether troops used sexual violence during attacks on civilians and civilian populations.⁹⁷ In that context, the repeated use of similar forms of sexual violence across units and locations is difficult to read as spontaneous criminality or local indiscipline. It more plausibly indicates that such violence formed part of the operation and was ordered, directed, or consciously deployed from above. The recurrence of the same methods across areas therefore supports an inference of coordinated implementation rather than unauthorized excess.

Temporal continuity strengthens the point. The Fact-Finding Mission reported that rape and sexual violence had been a recurrent feature of Tatmadaw operations since 2011, and that similar patterns had been reported for at least three decades. Sexual violence and reproductive injuries were therefore documented before 2017 and were

⁹⁵ Goldsmith, *supra* note 90, at 242.

⁹⁶ A/HRC/39/64(2018), *supra* note 14, at ¶¶ 15, 38, 45, 49 (describing large-scale sexual violence, including gang rape, during the 2016 and 2017 “clearance operations,” as well as continuing attacks and sexual violence after the operations were said to have ended); A/HRC/42/CRP.4(2019), *supra* note 17, at ¶¶ 13, 72–79, 190–95 (explaining that rape and other sexual violence had been a recurrent feature since 2011, occurred in a context of long-standing tolerance and impunity, and was carried out in recurring patterns during the 2016–2017 operations).

⁹⁷ A/HRC/42/CRP.5(2019), *supra* note 11, at ¶ 15.

carried out on a larger scale during the operations that began in August 2017.⁹⁸ This continuity makes the violence legible as part of a sustained genocidal environment rather than as a temporary battlefield aberration.

4.6.3 Gender-Differentiated Violence and a Unified Genocidal Horizon

Genocide analysis has often struggled to account for differentiated forms of violence without treating them as analytically separate. Killings are commonly read as the paradigmatic form of destruction, while sexual violence is more easily relegated to the status of collateral or secondary abuse. The Rohingya case does not support that division. It shows that differentiated harms can function through distinct modalities while remaining oriented toward a unified genocidal end.

During attacks, men and boys were frequently separated and subjected to killing or severe physical abuse, while women and girls were disproportionately subjected to systematic sexual violence, including forms that inflicted serious bodily and mental harm and that were often staged publicly to maximize terror, stigma, and communal rupture. These were not separate stories of suffering. They were coordinated modalities directed against the same protected group through different bodies and different social vulnerabilities.

The importance of this differentiation lies in the way its effects converged. Killing and severe physical abuse rapidly incapacitated one part of the group. Sexual and reproductive violence destabilized family life, marriageability, reproductive continuity, and communal trust. These harms moved through different pathways, but their effects converged in displacement, social disintegration, and the erosion of the conditions necessary for community reconstitution. In genocide analysis, differentiated victimization does not undercut the inference of intent. When it is patterned and coordinated, it can instead clarify the design through which genocide was pursued.

4.6.4 Reproductive and Group Continuity as Indicators of Genocidal Intent

Long before the 2017 attacks, marriage, childbirth, and family formation had already been brought under discriminatory control.⁹⁹ Rohingya couples faced restrictions on marriage, birth spacing, and the number of children, while reproductive life was

⁹⁸ A/HRC/42/CRP.4(2019), supra note 17, at ¶¶ 13–14, 84, 96.

⁹⁹ Rep. of the U.N. High Comm’r for Hum. Rts., U.N. Doc. A/HRC/40/37, ¶ 28 (Mar. 11, 2019).

subjected to monitoring and administrative intervention. These measures were directed at the ordinary processes through which the group continued across generations.

The attacks on women and girls intensified pressure on that same field of life. Women of reproductive age were subjected to rape, public sexual violence, genital injury, trauma, and forced displacement under conditions of severe medical deprivation. Regulation and assault were thus directed at the same object from different angles. One constrained the lawful and practical conditions of reproduction through governance. The other damaged them through direct violence.

This convergence bears directly on genocidal intent. When a protected group is already subjected to long-term controls over marriage and childbirth, and violence is then inflicted in forms that damage reproductive capacity, family life, and the conditions of group continuity, the pattern is not easily explained as incidental brutality. It supports the inference that impairing the group's capacity to continue was part of what the violence was intended to do.

4.7 Chapter Conclusion

Sexual violence against Rohingya women formed part of the genocidal process itself. It operated within a broader structure of de-citizenization, demographic governance, and patriarchal role assignment, and served as one of the means through which genocide was carried out. Discriminatory governance, gender-differentiated violence, and reproductive control unfolded within the same process of genocide.

The triple-vulnerability framework developed in this dissertation helps make that process legible. State repression rendered the Rohingya a population subject to regulation, removal, and destruction. Patriarchal norms placed women and girls within roles tied to honour, marriageability, reproduction, lineage, and family continuity. Legal and institutional under-centering then made harms carried through sexual and reproductive violence easier to record than to center. Their convergence made violence against women and girls especially consequential for the destruction of the group.

The Rohingya case also gives concrete content to patriarchal genocide. Patriarchal norms had already organized women's value around sexual status, bodily integrity, marriageability, reproduction, and group continuity before the violence was inflicted. That prior organization of social life made sexual violence especially effective as a means of group destruction. Injury to women could move through shame, stigma, fear,

family rupture, damage to communal trust, and other reactions that bore on the group's future because those reactions were already structured by patriarchal judgment. Sexual violence reached beyond the immediate assault through meanings that had long been attached to women's place within the group.

Sexual violence against Rohingya women falls within genocide here because it was embedded in a wider pattern directed at the destruction of the group as a group. The conduct examined in this chapter caused serious bodily and mental harm, operated alongside measures constraining marriage and reproduction, and bore on the conditions under which the group could continue across generations. Sexual and reproductive violence therefore belonged to the genocidal process itself.

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5.1 Background of the Uyghurs in China

The Uyghurs are an officially recognized ethnic minority in China who reside predominantly in the Xinjiang Uyghur Autonomous Region (“XUAR”) in the country’s northwest, a region many Uyghurs refer to as East Turkestan.¹ The XUAR borders Mongolia, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan, and India.² The Uyghurs are a Turkic people with their own language and distinct religious and cultural traditions; most speak Uyghur and practice Islam.³ Their geographic distance from China’s ruling centres, together with their ethnic, linguistic, and religious distinctiveness, has long set them apart from the Han Chinese majority.⁴ As the Uyghur Tribunal observed, “the Uyghur population of XUAR constitutes an ethnical group within the meaning of Art. 6 of the Rome Statute.”⁵

Before the Qing conquest in 1755, the Uyghurs had ruled the area for more than two thousand years. The Qing Dynasty later incorporated the region into imperial rule and renamed it “Xinjiang,” meaning “new frontier.”⁶ After the establishment of the People’s Republic of China in 1949, the Chinese Communist Party (“CCP”) took control of Xinjiang. Since then, although the Chinese government has formally recognized the Uyghurs as an ethnic minority, it has also pursued policies aimed at erasing Uyghur identity and turning the group into part of the Chinese nation.⁷ Subsequent scholarship shows that this project moved beyond standard assimilationist

¹ Newlines Inst. for Strategy & Pol’y, *The Uyghur Genocide: An Examination of China’s Breaches of the 1948 Genocide Convention* 15 (2021); Gardner Bovingdon, *The Uyghurs: Strangers in Their Own Land* 10 (Colum. Univ. Press 2010).

² Office of the U.N. High Comm’r for Hum. Rts., *OHCHR Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China* ¶ 9 (Aug. 31, 2022).

³ OHCHR, *Xinjiang Assessment*, *supra* note, at ¶ 58.

⁴ Gardner Bovingdon, *The Uyghurs: Strangers in Their Own Land* 3 (Colum. Univ. Press 2010).

⁵ Uyghur Tribunal, *Uyghur Tribunal Judgment* ¶ 412(b) (2022), <https://uyghurtribunal.com/wp-content/uploads/2022/09/UYGHUR-TRIBUNAL-Judgment-2022.09.20.pdf>. Independent documentation concerning abuses against Uyghurs is constrained in part by the Chinese government’s restrictions on access to the XUAR, control over information, and the risks of reprisals against those who speak to outside investigators. The relative scarcity of UN reporting should therefore not be mistaken for an absence of underlying abuse.

⁶ Darren Byler, *In the Camps: China’s High-Tech Penal Colony* 13 (Colum. Glob. Reps. 2021).

⁷ Bovingdon, *The Uyghurs*, *supra* note 4, at 14–15, 160.

language and increasingly treated the elimination of ethnic difference itself as a policy horizon, especially in education and cultural policy.⁸

State repression against the Uyghurs intensified significantly after the September 11 attacks. Claiming to support the international fight against terrorism, the Chinese government began to expand anti-Uyghur propaganda and to frame Uyghurs and other Muslim minorities in the XUAR as potential security threats.⁹ Under the rubric of “preventive counter-terrorism and de-extremism work,” Uyghurs, Kazakhs, and other Muslim ethnic minorities were increasingly monitored and targeted.¹⁰ The state’s rhetoric also became openly dehumanizing. These groups were accused of harbouring “ideology viruses” and “terrorist thoughts” and were described as a “malignant tumor,” a “communicable plague,” or “weeds” that had to be eradicated.¹¹ Such language did more than stigmatize the affected population. It helped construct them as a group to be managed, transformed, and suppressed.

Repression intensified after Xi Jinping declared a “People’s war on terror” in the XUAR in 2014. This broader political turn was accompanied by the expansion of “Strike Hard” measures and other coercive policies in the years that followed.¹² In this period, the CCP portrayed Uyghurs primarily as terrorists and adopted increasingly severe measures, including mass internment, coercive birth prevention, the forcible transfer of children to state-run facilities, the selective targeting of Uyghur leaders, and broader efforts to eradicate Uyghur identity.¹³ More than one million Uyghurs and other ethnic minority individuals were reportedly detained without sufficient reason in so-called re-education camps or “Vocational Skills Education and Training Centres.”¹⁴ Reports further described systematic torture and cruel, inhuman, and degrading

⁸ Darren Byler, *State Discourses and Effects of “Ethnic Extinction”* 1–3 (report prepared for the Uyghur Tribunal, 2021).

⁹ Geoffrey Cain, *The Perfect Police State: An Undercover Odyssey into China’s Terrifying Surveillance Dystopia of the Future* 83 (PublicAffairs 2021).

¹⁰ Newlines Inst., *supra* note 1, at 35; Cain, *supra* note 9, at 1.

¹¹ Newlines Inst., *supra* note 1, at 38, 48; Cain, *supra* note 9, at 1.

¹² Hum. Rts. Watch, “*Break Their Lineage, Break Their Roots*”: *China’s Crimes Against Humanity Targeting Uyghurs and Other Turkic Muslims* 24 (2021); Meng Jianzhu (孟建柱), *坚决维护新疆社会稳定 全力促进国家长治久安* [Resolutely Safeguard Social Stability in Xinjiang and Fully Promote the Country’s Long-Term Peace and Stability], *Xinhua* (May 30, 2014), reprinted in Consulate-General of the People’s Republic of China in New York, https://newyork.china-consulate.gov.cn/jbwzlm/zt/12345/201405/t20140531_5435484.htm; OHCHR Xinjiang Assessment, *supra* note 2, at ¶¶ 60-61.

¹³ OHCHR, Xinjiang Assessment, *supra* note 2, at ¶¶ 58, 110–14; Newlines Inst., *supra* note 1, at 28–29 (2021).

¹⁴ OHCHR, Xinjiang Assessment, *supra* note 2, at ¶¶ 37–40, 58, 110–14, 145–48; Uyghur Tribunal Judgment, *supra* note 5, at ¶¶ 127–28, 318; U.S. Dep’t of State, *2022 Report on International Religious Freedom: China (Includes Hong Kong, Macau, Tibet, and Xinjiang)* (2023).

treatment, including rape, sexual abuse, and public humiliation, both inside and outside the camps.¹⁵ Detainees reportedly received meagre food insufficient to maintain health, and leaked policies indicated that those who failed to obey verbal orders could be shot.¹⁶ Although the Chinese government justified these measures as necessary to combat terrorism and prevent unrest from spreading beyond Xinjiang, international bodies have characterized the situation in much graver terms.¹⁷ In August 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that the Chinese government's measures against the Uyghurs and other predominantly Muslim groups in the XUAR may constitute international crimes, particularly crimes against humanity.¹⁸

The coercive structure imposed on the Uyghurs has not ceased after the OHCHR expressing concerns. In 2024, the OHCHR stated that many problematic laws and policies governing Xinjiang remained in place and again called for a full review of the national security and counter-terrorism framework from a human rights perspective.¹⁹ Subsequent UN expert statements in 2025 and 2026 continued to describe ongoing repression in connected forms, including the increasing criminalization of Uyghur and other minority cultural expression and persistent allegations of State-imposed forced labour affecting Uyghur and other minority communities within and beyond Xinjiang.²⁰

At the same time, the Chinese government has continued to defend its Xinjiang policy through an updated vocabulary of legality, stability, development, and national unity. In 2024 it issued a white paper presenting counterterrorism measures as part of a legal framework compatible with human rights protection.²¹ In 2025, official guidance

¹⁵ Newlines Inst., *supra* note 1, at 49.

¹⁶ “Incident Response Plan in Case of Escapes During Outdoor Activities (室外活动防逃跑处置预案(流程)),” “Response Plan and Procedure for Escape and Disturbance Prevention During Class Times (上课期间防闹事、逃跑预案处置流程),” Xinjiang Police Files, <https://www.xinjiangpolicefiles.org/key-documents/>; Adrian Zenz, *The Xinjiang Police Files: Re-Education Camp Security and Political Paranoia in the Xinjiang Uyghur Autonomous Region*, 3 J. Eur. Ass’n Chinese Stud. 263, 282 (2022) [hereinafter Zenz, *The Xinjiang Police Files*].

¹⁷ Newlines Inst., *supra* note 1, at 35; Cain, *supra* note 8, at 1; OHCHR Xinjiang Assessment, *supra* note 2, at ¶148.

¹⁸ OHCHR, Xinjiang Assessment, *supra* note 2, at ¶148.

¹⁹ Office of the U.N. High Comm’r for Hum. Rts., China: Update on the Work of UN Human Rights Office (Aug. 27, 2024), <https://www.ohchr.org/en/press-briefing-notes/2024/08/china-update-work-un-human-rights-office>.

²⁰ Office of the U.N. High Comm’r for Hum. Rts., U.N. Experts Urge China to End Repression of Uyghur and Cultural Expression of Minorities (Oct. 1, 2025), <https://www.ohchr.org/en/press-releases/2025/10/un-experts-urge-china-end-repression-uyghur-and-cultural-expression>; Office of the U.N. High Comm’r for Hum. Rts., U.N. Experts Alarmed by Reports of Forced Labour of Uyghur, Tibetan and Other Minorities (Jan. 22, 2026), <https://www.ohchr.org/en/press-releases/2026/01/un-experts-alarmed-reports-forced-labour-uyghur-tibetan-and-other-minorities>.

²¹ 国务院新闻办公室，《中国的反恐怖主义法律制度体系与实践》[China’s Legal Framework and

on governing Xinjiang in the “new era” further emphasized “forging a stronger sense of the Chinese nation as one community,” maintaining social stability, and ensuring that religions in China conform to China’s realities.²² These formulations show that the official position frames Uyghur difference as incompatible with the project of constructing a unified Chinese national identity, thereby presenting assimilationist measures as necessary and consistent with state interests.

5.2 Facts and Patterned Structure: Sexual and Reproductive Violence as a Deliberate Modality of Group Destruction

Violence directed against Uyghur women in the XUAR operated within a recurring structure. The available evidence indicates that reproductive control, detention, sexual violence, and coerced forms of social reordering were interconnected and mutually reinforcing. Each extended into a different part of social life, and together they disrupted family life, reproduction, and the group’s ability to carry itself forward. Each measure reinforced the others. Birth-prevention policies exposed women to heightened surveillance and punishment. Detention created further opportunities for bodily invasion, sexual abuse, and coercive reproductive intervention. Measures directed at fertility reduced the possibility of Uyghur births, while state pressure toward inter-ethnic marriage reached into descent, kinship, and the terms on which the group could reproduce itself across generations. These acts reveal a sustained attack on the biological and social basis of Uyghur group existence, rather than a series of harms affecting women only at the individual level.

Uyghur women of childbearing age are subjected to stringent birth control measures, and women who exceed the permitted number of births face serious penalties, including high fines and detention.²³ A leaked Chinese government document

Measures for Counterterrorism] (Jan. 23, 2024), https://english.scio.gov.cn/whitepapers/2024-01/23/content_116958678.htm; 国务院新闻办公室,《新疆的人权保障》[Human Rights in Xinjiang] (2021年9月14日), http://english.www.gov.cn/archive/whitepaper/202109/14/content_WS614031f3c6d0df57f98e0ceb.html.

²² 国务院新闻办公室,《新时代党的治疆方略的成功实践》[CPC Guidelines for Governing Xinjiang in the New Era: Practice and Achievements] (2025年9月), https://www.scio.gov.cn/zfbps/zfbps_2279/202509/t20250922_932149.html; State Council Info. Off. of the People’s Republic of China, Essence of CPC’s Guidelines for Governing Xinjiang in New Era, https://english.scio.gov.cn/m/whitepapers/2025-09/19/content_118087620.html.

²³ Adrian Zenz, The Karakax List: Dissecting the Anatomy of Beijing’s Internment Drive in Xinjiang, 8 J. Pol. Risk, no. 2, 2020, <https://www.jpolrisk.com/karakax/> [hereinafter Zenz, The Karakax List]; 出境未归人员亲属送培学员, https://www.jpolrisk.com/wp-content/uploads/2020/02/PDF_Ch_3pg_fully-redacted.pdf; Adrian Zenz, Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang 11 (June 2020),

indicates that violation of birth control policy is the most common reason for detaining Uyghur and other minority women in the XUAR.²⁴ The capacity to bear children is thus placed under direct state coercion: it is monitored, penalized, and made a basis for confinement.

Uyghur women of childbearing age are targeted for forced sterilization, the implantation of intrauterine devices, compulsory birth control pills and injections, and abortion campaigns, including women regardless of how many children they already have.²⁵ Although Uyghurs account for less than 2% of China's total population, the XUAR has the highest IUD placement rate in the country, and over 88% of childbearing-age Uyghur women were reported to have been subjected to "long-term effective birth prevention" measures.²⁶ Compliance is enforced through quarterly IUD checks, monthly family visits, and bi-monthly pregnancy tests.²⁷ The IUDs are made without strings, preventing women from removing them on their own and requiring surgical removal by state-approved medical practitioners.²⁸

Women in re-education camps were also forced to take pills or receive injections that could temporarily or permanently stop their menstrual cycles.²⁹ Once women were confined, the suppression of reproduction no longer depended only on monitoring, mandatory checks, or compulsory devices imposed outside detention. Direct pharmaceutical intervention carried reproductive suppression further inside detention. Detention gave the state another means of imposing reproductive suppression more intensively on women's bodies.

https://www.researchgate.net/publication/343971074_Sterilizations_IUDs_and_Mandatory_Birth_Control_The_CCP's_Campaign_to_Suppress_Uyghur_Birthrates_in_Xinjiang [hereinafter Zenz, Sterilizations, IUDs, and Mandatory Birth Control].

²⁴ "[E]xceeded the official birth quotas or not allowed the three-year minimum time period between births;" "violations of birth control policies constituted the most commonly cited reason for re-education, often along with other (typically religion-related) reasons." Zenz, The Karakax List, *supra* note 23; Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 7; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶108.

²⁵ Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 13.

²⁶ *Id.*, at 14; according to the Seventh National Population Census, the population of the XUAR accounted for 1.83% of China's total population. Nat'l Bureau of Stat., PRC, 第七次全国人口普查公报 (第三号) [Communiqué of the Seventh National Population Census (No. 3)] (May 11, 2021), http://www.stats.gov.cn/xgk/sjfb/zxfb2020/202105/t20210511_1817198.html; Yonah Diamond & John Packer, *Uyghur Tribunal Expert Report: China's State Responsibility for Breaches of the Genocide Convention* (2021), <https://uyghurtribunal.com/wp-content/uploads/2021/09/Diamond-Packer.pdf>; see also Adrian Zenz, "End the Dominance of the Uyghur Ethnic Group": An Analysis of Beijing's Population Optimization Strategy in Southern Xinjiang, 40 *Cent. Asian Surv.* 294, 295 (2021).

²⁷ Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 12.

²⁸ *Id.*, at 14.

²⁹ *Id.*, at 18.

In 2016, China relaxed its one-child policy and encouraged Han Chinese couples to have more children.³⁰ No comparable relaxation was extended to the Uyghur population.³¹ In the XUAR, the natural population growth rate was nearly zero, and in 2019 the Chinese government stated that birth rates in southern Xinjiang were to be reduced by at least four per thousand.³² These figures point in opposite directions. For the Han majority, state policy made additional births more possible and more desirable. For the Uyghur population, it aimed at fewer births and still lower growth. One population was being supported in its future growth; the other was being pushed toward reproductive decline. Over time, that difference bore directly on the capacity of the Uyghur group to continue across generations.

Mass detention compounded this effect. Uyghur men of childbearing age reportedly made up between seventy-five and ninety percent of detainees in re-education camps.³³ The removal of so many men of childbearing age reshaped the circumstances in which Uyghur women could marry, form families, and have children. It left more women widowed, isolated, or cut off from family life, and in doing so further reduced the possibility of births within the group. Between January 2017 and March 2018, the percentage of Uyghur women who were classified as infertile and held related government certificates increased by 124.4 percent, the percentage recorded as menopausal increased by 106.0 percent, and the percentage recorded as widowed increased by 116.5 percent.³⁴ Men were removed through mass detention, women were subjected to sterilization and other birth-prevention measures, and the formation and continuation of Uyghur families were further broken down.

Sexual violence ran through the same institutional structure. Uyghur women were reportedly raped by Han law enforcement officers in detention camps.³⁵ Women detainees had their vaginas and rectums penetrated with electric shock rods and iron bars, and that men from outside were allowed to rape women in exchange for payment.³⁶ Women who had already been confined through policies tied to birth

³⁰ *Id.*, at 10.

³¹ *Id.*

³² Adrian Zenz, *The Xinjiang Papers: An Analysis of Key Findings and Implications for the Uyghur Tribunal* in London 5 (2021), <https://uyghurtribunal.com/wp-content/uploads/2021/12/The-Xinjiang-Papers-An-Analysis-for-the-Uyghur-Tribunal.pdf> [hereinafter Zenz, *The Xinjiang Papers*].

³³ Zenz, *Sterilizations, IUDs, and Mandatory Birth Control*, *supra* note 23, at 14.

³⁴ *Id.*, at 18–19.

³⁵ OHCHR, *Xinjiang Assessment*, *supra* note 2, at ¶¶ 73, 78.

³⁶ Uyghur Tribunal, *supra* note 5, at ¶19(e); Newlines Inst., *supra* note 1, at 19; Erin Farrell Rosenberg, *Gender and Genocide in the 21st Century: How Understanding Gender Can Improve Genocide Prevention and Response 3* (Newlines Inst. for Strategy & Pol’y 2021); OHCHR, *Xinjiang Assessment*, *supra* note 2, at ¶¶ 1, 73.

prevention or broader repression were then exposed to rape, sexual torture, and sexual humiliation inside the same apparatus. The camp became a setting in which reproductive suppression and sexual violence converged on the same population.

The same pattern extended beyond the camps and entered Uyghur homes through the “homestay” policy.³⁷ Uyghur families were required to live with government-assigned Han Chinese officials presented as “family members,” and those officials shared food and beds with the households to which they were assigned.³⁸ State power thus entered the home itself. Women were exposed to surveillance and sexual vulnerability not only in detention, but also in the place where family life, intimacy, and childbearing would ordinarily be sustained. Rape in the camps and sexual coercion in the home formed part of the same structure: both placed Uyghur women under state-enabled violation in the very spaces through which Uyghur families were formed, maintained, and reproduced across generations.

State-encouraged or forced inter-ethnic marriage extended this restructuring into marriage, descent, and the composition of the next generation. The Chinese government promoted marriages between Uyghur women and Han Chinese men in order to increase the number of (perceived) Han Chinese children born to Uyghur mothers and reduce the number of (perceived) Uyghur children.³⁹ The policy therefore acted on more than whether Uyghur women would bear children. It also acted on with whom they would bear them, under what lineage those children would be counted, and which group those births would strengthen. Marriage was used as a means of redirecting reproduction itself. Uyghur women’s bodies became sites through which the state sought to reshape the group’s future: fewer births would sustain the Uyghur population, while more births to Uyghur mothers would be counted toward the Han majority. These measures rested

³⁷ The policy was known as the “Pair Up and Become Family” campaign (结对认亲) and was closely associated with the official slogan “Ethnic Unity, One Family” (民族团结一家亲). It required Han Chinese officials to pair with Uyghur and other minority families as “relatives,” and by 2017–2018 local authorities were requiring cadres in some areas to live in villagers’ homes for at least eight days each month. What was presented officially as ethnic unity functioned in practice as a system of routine household intrusion and surveillance. Hum. Rts. Watch, China: Visiting Officials Occupy Homes in Muslim Region (May 13, 2018), <https://www.hrw.org/news/2018/05/13/china-visiting-officials-occupy-homes-muslim-region>; Xinjiang Documentation Project, Pair Up and Become Family Campaign (结对认亲), <https://xinjiang.sppga.ubc.ca/chinese-sources/chinese-academic-discourse/jieqin-%E7%BB%93%E4%BA%B2/>; Sayragul Sauytbay, *The Chief Witness: Escape from China’s Modern-Day Concentration Camps* 158 (Scribe 2021); Newlines Inst., *supra* note 1, at 3; Uyghur Tribunal, *supra* note 5, at 11; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶ 101.

³⁸ *Id.*

³⁹ Newlines Inst., *supra* note 1, at 20; Uyghur Tribunal, *supra* note 5, at ¶¶ 125-129.

on a patriarchal logic that treated women as instruments of reproduction and located the identity of the next generation in the father's bloodline.

A gendered division in the violence becomes visible once these facts are placed side by side. Uyghur women and men were both subjected to arbitrary detention, torture, ill-treatment, and death. The violence did not fall on them in the same way. Uyghur men were heavily targeted for disappearance through detention. Uyghur women were subjected in a concentrated way to sexual violence, reproductive suppression, and policies directed at childbirth, marriage, and family formation. The distinction tracks the different roles assigned to men and women in the destruction of the group. Women were attacked not only as individual victims, but through their capacity to reproduce, sustain family life, and carry the next generation. The material states this starkly: in the Uyghur genocide, men are targeted to disappear, while women are targeted so that they can no longer give birth.

These policies cannot be explained away as local excesses, unauthorized abuse, or the overreach of individual officials acting at the margins of the state. Xi Jinping's visit to the XUAR on August 26, 2023, his approval of the policies already being carried out there, and his insistence that those policies continue place them within an ongoing project endorsed at the highest level of the Chinese state.⁴⁰ The same picture emerges from the broader pattern already described: forced sterilization was sufficiently funded by local and central authorities; detention was carried out on a mass scale; birth-prevention measures were imposed through sterilization, IUD implantation, pills, injections, and surveillance; sexual violence occurred within re-education camps and through intrusive policies imposed on Uyghur homes; and inter-ethnic marriage was promoted as a means of reshaping who would be born into the next generation. These measures do not sit side by side as unrelated forms of abuse. They work on the same population through connected mechanisms. Women's bodies are controlled as sites of reproduction, penetrated through sexual violence, and redirected through state pressure on marriage and childbirth. Read in that light, sexual and reproductive violence are not peripheral to what is happening in the XUAR. They are among the means through which the destruction of the group is being pursued, even where that destruction does not take the immediately visible form of mass killing.

⁴⁰ "Xi Jinping: Firmly Grasp the Strategic Position of Xinjiang in the National Context and Better Build a Beautiful Xinjiang in the Process of China's Modernization (习近平：牢牢把握新疆在国家全局中的战略定位在中国式现代化进程中更好建设美丽新疆)," CCTV News (Aug. 26, 2023), <https://news.cctv.com/2023/08/26/ARTIzVEnLpvchpD7ZkxtqAAi230826.shtml>.

5.3 Triple Vulnerability: External Repression, Internal Patriarchal Role Assignment, and Institutional Invisibility

Applied to the Uyghur case, the *triple-vulnerability framework* clarifies how different forms of power converged in the genocidal process and why women became such central targets within it. It draws attention, first, to the way state policy and legal discourse cast Uyghurs as a population requiring surveillance, discipline, and transformation. It then brings into view the gendered social meanings that made women's bodies, sexuality, and reproductive capacity matter far beyond the individual woman, shaping family formation, the next generation, and the future of the group. It also requires attention to the institutional setting in which these harms were received, recorded, and too often fragmented, so that measures affecting detention, reproduction, family separation, and sexual violation could appear as discrete abuses rather than as interconnected parts of a larger destructive project. Vulnerability was produced through law, policy, and social structure, then acted upon through detention, reproductive coercion, sexual violence, family separation, and other practices that made the group easier to target and weaken.

In the Uyghur context, these three dimensions reinforced one another rather than operating on separate tracks. State repression, securitizing discourse, and assimilationist governance marked Uyghurs as a population whose religious life, family life, and cultural distinctiveness could legitimately be subjected to intervention. At the same time, women occupied a particularly exposed position because the social meanings attached to them linked their bodies to reproduction, honour, and the future of the group. Harm inflicted upon women could therefore spread outward into marriage, household relations, childbearing, and the wider processes through which the group's future was being shaped. These harms were easier to sustain because the relevant institutions did not always apprehend how they worked together.

When detention, coercive birth prevention, sexual violence, and child separation are handled as isolated categories, the genocidal logic connecting them becomes harder to see. The *triple-vulnerability framework* helps recover that connection. It clarifies why Uyghur women and girls were subjected to these particular forms of violence, how those acts reached beyond immediate bodily injury, and why their significance must be located within the broader analysis of genocide rather than at its margins.

5.3.1 External Dimension: State Assimilation, Detention, and Reproductive Control

In the Uyghur case, the external dimension of vulnerability was produced through a governing structure that treated a distinct ethnoreligious population as a legitimate object of surveillance, transformation, and coercive intervention. In the XUAR, Chinese authorities subjected Uyghurs and other Turkic Muslim minorities to mass arbitrary detention, pervasive monitoring, coercive birth-prevention measures, forced sterilization, and the transfer of children into state institutions.⁴¹ These practices formed part of a larger political and administrative project aimed at weakening Uyghur life as a group, including the group's capacity to live, reproduce, and endure over time.⁴² Over one million people were reportedly detained in camps or camp-like facilities, while religious practice, community leadership, and cultural expression were placed under intensified state control.⁴³ The independent Uyghur Tribunal in London concluded that the cumulative pattern of state conduct amounted to genocide under Article 6 of the Rome Statute and Article II of the Genocide Convention.⁴⁴

This structure was built through legal and policy language that made far-reaching intervention appear administratively defensible. In 2014, the government announced the “People’s War on Terror,” and by 2017 that campaign had developed into a coordinated programme of mass detention and coercive assimilation.⁴⁵ Within this official narrative, ordinary forms of Uyghur religious, cultural, and communal life were increasingly recast as matters of security concern. The Committee on the Elimination of Racial Discrimination had already warned that Chinese law employed broad and indeterminate notions of “terrorism,” “extremism,” and “separatism,” creating room for the criminalization of peaceful civic and religious expression and facilitating the profiling of ethnic and ethno-religious minorities.⁴⁶ Once such categories are drafted and applied in expansive terms, the state gains a framework through which identity,

⁴¹ OHCHR, Xinjiang Assessment, *supra* note 2, at 10–15.

⁴² Uyghur Tribunal, *Uyghur Tribunal Judgment: Summary Form 6* (Dec. 9, 2021), <https://uyghurtribunal.com/wp-content/uploads/2021/12/Uyghur-Tribunal-Summary-Judgment-9th-Dec-21.pdf>; Cain, *supra* note 8, at 1; Zenz, *The Xinjiang Papers*, *supra* note 32, at 1–15; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶ 29.

⁴³ *Id.*

⁴⁴ *Uyghur Tribunal*, *supra* note 5, at ¶¶ 79–87; Rome Statute of the International Criminal Court art. 6, July 17, 1998, 2187 U.N.T.S. 90.

⁴⁵ Newlines Inst., *supra* note 1, at 3–4; Zenz, *The Xinjiang Papers*, *supra* note 32, at 5; Diamond & Packer, *supra* note 26, at 15–22; Rosenberg, *supra* note 36, at 3.

⁴⁶ Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Fourteenth to Seventeenth Periodic Reports of China*, ¶ 36, U.N. Doc. CERD/C/CHN/CO/14–17 (Sept. 19, 2018).

belief, association, and everyday communal practice may themselves become objects of suspicion, surveillance, and punishment.

Chinese government used law, regulation, and official policy language to render extensive control over Uyghurs administratively legitimate. The later implementation of internment, boarding schooling, and demographic intervention followed a policy direction that had been repeatedly communicated from the central leadership and systematically studied by cadres in Xinjiang before the crackdown intensified.⁴⁷ In August 2024, the OHCHR stated that many problematic laws and policies governing Xinjiang remained in force and again called for a full human-rights review of the legal framework relating to national security and counter-terrorism.⁴⁸ Chinese official discourse in 2024–2026 reinforced this structure. In January 2024, the State Council Information Office issued the white paper China’s Legal Framework and Measures for Counterterrorism, presenting counterterrorism policy as lawful and compatible with human rights protection.⁴⁹ Chinese official responses after 2024 continued to portray Xinjiang-related allegations as rumors, disinformation, or accusations lacking a factual basis, while casting outside criticism as a politically motivated attack on China’s Xinjiang policy.⁵⁰ By 2025, official guidance on governing Xinjiang in the “new era” tied this legal and security framework more openly to assimilationist goals, emphasizing social stability, long-term security, a stronger sense of the Chinese nation as “one community,” and the need for religion to conform to China’s realities.⁵¹ Uyghurs were addressed through this framework as a population to be integrated, corrected, and made compatible with the state’s preferred national identity. Law supplied the categories through which coercive control was justified, administered, and normalized.

The same external structure also reached into reproduction, marriage, and family life. International findings and witness testimony describe forced sterilization, state-imposed birth-prevention measures, coercive gynecological interventions, and the

⁴⁷ Zenz, *The Xinjiang Papers*, *supra* note 32, at 4–7.

⁴⁸ See *supra* note 19.

⁴⁹ See *supra* note 21.

⁵⁰ *Id.*; 中华人民共和国外交部，〈2024年2月19日外交部发言人毛宁主持例行记者会〉（2024年2月19日），

https://www.fmprc.gov.cn/fyrbt_673021/jzhs1_673025/202402/t20240219_11247011.shtml; Office of the Ministry of Foreign Affairs of the People’s Republic of China, *Foreign Ministry Spokesperson Mao Ning’s Regular Press Conference on September 2, 2024*, Embassy of the People’s Republic of China in Canada (Sept. 2, 2024), https://ca.china-embassy.gov.cn/eng/lcbt/wjbfyr/202409/t20240902_11483545.htm;

中华人民共和国外交部，〈2024年12月20日外交部发言人林剑主持例行记者会〉（2024年12月20日），

https://www.mfa.gov.cn/fyrbt_673021/202412/t20241220_11510746.shtml

⁵¹ See *supra* note 21.

transfer of Uyghur children into state institutions.⁵² These measures reached beyond immediate bodily control. They regulated whether births would occur, interfered with family formation, and disrupted the transmission of language, religion, memory, and communal belonging across generations. Detention, assimilation, reproductive intervention, and child separation each entered a different part of social life, yet all acted on the social basis through which Uyghur life was maintained across generations. Law, security discourse, and administrative regulation gave this structure its governing form. Through them, deep intervention into religion, family, reproduction, and childrearing could be presented as lawful, necessary, and consistent with state interests.

5.3.2 Internal Dimension: Patriarchal Governance and the Targeting of Gendered Roles

The internal dimension of vulnerability in the Uyghur case arose from a gendered social order in which women's bodies, sexuality, and reproductive roles carried meanings that extended well beyond the individual woman. These meanings reflected broader patriarchal arrangements rather than something specific to Uyghur society or religion. They took shape within patriarchal structures that assigned women particular responsibilities in relation to family continuity, moral respectability, marriage, and childbearing.⁵³ The CEDAW Committee has noted the persistence of gender stereotypes in China and has linked them to practices such as sex-selective abortion, forced abortion, sterilization, and female infanticide.⁵⁴ That broader setting reflects entrenched patriarchal structures sustained through law, family norms, and socio-cultural practices. State repression in Xinjiang entered a social world in which women's conduct, fertility, and sexual respectability were already subject to close regulation and moral judgment.⁵⁵

⁵² See, e.g., *Their Goal Is to Destroy Everyone: Uighur Camp Detainees Allege Systematic Rape*, BBC News (Feb. 2, 2021), <https://www.bbc.com/news/world-asia-china-55794071>; Megha Rajagopalan et al., *China Secretly Built a Vast New Infrastructure to Detain Muslims*, BuzzFeed News (Aug. 27, 2020), <https://www.buzzfeednews.com/article/meghara/china-new-internment-camps-xinjiang-uighurs>; Zenz, *Sterilizations, IUDs, and Mandatory Birth Control*, *supra* note 23, at 10–12.

⁵³ See, The Rights Practice, *Invisible Pain: Sexual and Gender-Based Violence in Xinjiang* (Nov. 2020), <http://www.rights-practice.org>.

⁵⁴ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Seventh and Eighth Periodic Reports of China*, ¶ 24, U.N. Doc. CEDAW/C/CHN/CO/7-8 (Nov. 14, 2014); Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Ninth Periodic Report of China*, ¶ 23, U.N. Doc. CEDAW/C/CHN/CO/9 (May 31, 2023).

⁵⁵ See Chunni Zhang, Xin Tong & Aiyu Liu, *Sociological Studies on Women/Gender in China during the Past 40 Years*, 11 *Chinese J. of Sociology* 2 (2025).

Within Uyghur society, women are often positioned as mothers and as central figures in domestic life, moral upbringing, and the maintenance of the family.⁵⁶ State policies of re-education, surveillance, and regulation of public life target these roles directly. Restrictions on veiling and religious education, interventions into marriage practices, and measures that weaken women's autonomy do more than regulate individual conduct. They interfere with the positions through which women carry religious and cultural tradition, sustain family life, and embody the symbolic meanings attached to communal identity, moral order, and group boundary.⁵⁷ Uyghur cultural formations are embedded in patriarchal frameworks articulated through Islamic social and moral idioms that place particular emphasis on female chastity and honour and are enforced through disciplinary norms governing dress, comportment, and public behaviour.⁵⁸ These frameworks give women's bodies a social significance that exceeds the individual woman, because they are tied to family standing, communal boundary, and the preservation of moral order.⁵⁹

This structure becomes even more consequential once it is crossed by Han-dominated state power. Uyghur women stand within more than one hierarchy at once. They are subject to gendered expectations within their own communities, while also being racialized and governed by a state that treats Uyghur distinctiveness as a problem to be transformed.⁶⁰ State intervention into dress, marriage, fertility, sexuality, and religious conduct therefore enters a social field already structured by patriarchal norms. It does not create the meanings attached to women from nothing. It acts upon meanings already in place and turns them into points through which coercion can travel more deeply into communal life. The Uyghur female body thus became a site on which cultural conflict, ethnic domination, and political coercion were inscribed. Uyghur

⁵⁶ Sarah Tynen, *Belonging between Inclusion and Exclusion: Dimensions of Ethno-Cultural Identity for Uyghur Women in Xinjiang, China*, 26 *Geopolitics* 1243, 1243, 1245 (2021).

⁵⁷ *Id.*, at 1244–1250; See Rukiye Turdush & Magnus Fiskesjö, *Dossier: Uyghur Women in China's Genocide*, 15 *Genocide Stud. & Prevention: An Int'l J.* 22 (2021) 22, 36.

⁵⁸ For example, a recent UN report documents how the de facto authorities' implementation of strict Islamic-inspired rules — including bans on women's education beyond certain grades, restrictions on women's employment and public participation, compulsory full-body dress codes, male guardianship requirements, and exclusion of women from justice and public institutions — has severely curtailed the rights and freedoms of women and girls, a situation widely condemned by the United Nations as inconsistent with international human rights standards. U.N. Secretary-General, *The situation in Afghanistan and its implications for international peace and security*, U.N. Doc. A/79/675–S/2024/876 (2024); see also Tynen, *supra* note 56.

⁵⁹ These patterns should not be attributed to Islam or to Muslim societies as such. They arise from patriarchal interpretations and social practices that take particular shape in specific historical, cultural, and legal settings, including Islamic ones, while remaining comparable to patriarchal formations found elsewhere.

⁶⁰ Tynen, *supra* note 56, at 1243, 1250.

women therefore bore overlapping burdens produced through gender hierarchy, ethnic subordination, and state coercion.⁶¹

Uyghur communities also participated in forms of bodily regulation, especially in response to coercive assimilation.⁶² Expectations of modesty, chastity, and sexual restraint could become tied more tightly to communal survival when external domination threatened the boundary between minority and majority.⁶³ The regulation of women acquired a defensive function: preserving visible difference, marking communal belonging, and resisting absorption into the dominant order. Women's bodies and reproductive capacities thus became a terrain of struggle for both the Uyghur group and the Chinese government.⁶⁴ Women were charged with preserving the moral and cultural boundary of the group at the very moment when the state was seeking to penetrate, reorganize, or dissolve that boundary. Aware of the social force attached to female honour, the state could act upon this gendered structure through sexual violence, coerced sterilization, and pressure surrounding marriage, making gender-based violence a central instrument of its racialized and assimilationist rule.⁶⁵

5.3.3 Invisibility within International Law: Silencing of Gendered Harm in Monitoring Mechanisms

Since 2017, China's system of "re-education camps" has operated through a form of repression that remains comparatively difficult to apprehend within dominant atrocity narratives. Its violence has not depended primarily on overt mass killing. It has instead relied on ideological transformation, pervasive surveillance, confinement, and control over reproduction and family life.⁶⁶ For Uyghur women, this invisibility has been especially pronounced. Their bodies are treated both as symbols of the group's future and as immediate sites of state-led assimilation and genocidal violence.⁶⁷ Reports have documented forced sterilization, sexual violence, and continuing abuse. Yet women

⁶¹ *Id.*, this position is concretely manifested in the strict regulation of premarital chastity and the strong taboo against intermarriage between Uyghur women and Han Chinese men. The Chinese government has further weaponized gendered violence—through sexual assault, forced marriage, and coerced sterilization—to suppress, assimilate, and sever the Uyghur people's capacity for biological and cultural reproduction. In this context, women's bodies signify not only individual identity but also the survival and dignity of the collective.

⁶² Tynen, *supra* note 56, at 1249–1250.

⁶³ *Id.*, at 1246.

⁶⁴ *Id.*

⁶⁵ See Zenz, End the dominance of the Uyghur ethnic group, *supra* note 26; Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23.

⁶⁶ U.N. Doc. CERD/C/CHN/CO/14–17, *supra* note 46, at ¶ 40; Amnesty International, *Like We Were Enemies in a War: China's Mass Internment, Torture, and Persecution of Muslims in Xinjiang* (2021) 25–47.

⁶⁷ Amnesty International, *supra* note 66, at 109, 149; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶ 73.

held in detention have had only limited means of communication, and the cultural stigma surrounding sexual violation has further restricted the circulation of their experiences.⁶⁸ Some of the most gendered forms of violence remain difficult to document, verify, and carry into international legal and institutional processes.

Responses within the UN reflect this structural muting of gendered harm. In its 2018 concluding observations, CERD referred to mass arbitrary detention and “re-education camps,” but it did not address sexual violence.⁶⁹ The OHCHR’s 2022 Assessment went further in concluding that the situation may amount to crimes against humanity, yet it likewise stopped short of expressly recognizing sexual and reproductive violence as genocidal acts.⁷⁰ China, for its part, repeatedly invoked sovereignty and national security to restrict outside scrutiny, including during High Commissioner Michelle Bachelet’s tightly controlled 2022 visit.⁷¹ Even where concern intensified, legal characterization remained cautious. By late 2025, fifteen States issued a joint statement condemning ongoing human rights violations in China, but they still did not characterize the abuses as genocide.⁷² Gendered harm therefore entered the international record only partially: serious enough to be acknowledged as abuse, yet not fully centered in the legal framing through which the most far-reaching forms of group destruction are named and evaluated.

This partial visibility has also been shaped by the Chinese government’s continuing production of an official counter-narrative. International mechanisms have not always centered gendered harm, but that is only part of the problem. Chinese official responses have repeatedly taken allegations of coercion and rewritten them in administrative terms. In its response to the CEDAW Committee’s concluding observations, China described the vocational education and training centres as lawful schools established for de-radicalization, stated that Uyghur women freely choose their work and freely choose whom to marry, rejected allegations of forced sterilization and forced abortion, and presented boarding schools as ordinary educational institutions designed to secure access to education.⁷³ This language does more than deny abuse. It

⁶⁸ Amnesty International, *supra* note 66, at 109–20; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶¶ 73, 78, 94–114.

⁶⁹ CERD/C/CHN/CO/14-17, *supra* note 46, at ¶ 40.

⁷⁰ OHCHR, Xinjiang Assessment, *supra* note 2, at ¶¶ 42–78.

⁷¹ *Id.*, at ¶ 8; U.S. Dep’t of State, *Xinjiang 2022 International Religious Freedom Report*, *supra* note 14.

⁷² U.S. Mission to the UN, Joint Statement on the Human Rights Situation in China (Nov. 21, 2025), <https://usun.usmission.gov/joint-statement-on-the-human-rights-situation-in-china/>.

⁷³ See 中方关于联合国消除对妇女歧视委员会对中国履约审议结论性意见的立场文件[China, Comments on CEDAW Committee’s Concluding Observations on the Ninth Periodic Report of China, CEDAW/C/CHN/CO/9 (June 1, 2023)] 2–6, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=zTZ28xRw/o0nM3KKXuHuA0zeV9PGPdTpZA6ETshpUz9QcAafBQQp7P7k0qTkyEPf.

recasts confinement as training, coercive labour as employment assistance, reproductive violence as demographic development, and child separation as educational provision. Once coercive measures are translated into the language of legality, stability, development, and education, some of the most invasive forms of violence against Uyghur women become harder to name and harder to carry into international legal discourse in a fully integrated form.

5.3.4 Synthesis: Why Triple Vulnerability Is Not “Context” but Mechanism in the Uyghur Case

In the Uyghur case, genocide has advanced through targeted state policies directed at minorities. Mass detention, reproductive coercion, sexual violence, forced marriage, family separation, and the reorganization of family life have allowed genocide to proceed without the large-scale killing that usually triggers immediate international alarm. Chinese government sealed off information, restricted access, and framed these measures as security governance, which made denial easier and recognition slower.⁷⁴

External repression cast Uyghurs as terrorists, extremists, and inherently suspect subjects who could legitimately be singled out for discipline, surveillance, and transformation. That framing normalized discriminatory treatment and gave legal, political, and administrative justification to mass detention, reproductive intervention, and family separation. Internal patriarchal norms made women’s bodies carry meanings tied to honour, chastity, marriageability, and group boundary, so violence against women could travel beyond the individual victim into family relations, social stigma, and the group’s future. International legal and institutional frameworks recorded these harms unevenly and often without placing them at the center of genocide analysis. Genocide in the Uyghur case moved forward through policies that quietly dismantled the social and biological basis of the group’s survival across generations.

⁷⁴ The Chinese government has taken a consistently adamant position on Uyghur issues. It has denied the allegations despite considerable evidence contradicting its narrative, obstructed the United Nations and independent civil society actors from investigating conditions in the XUAR, and delayed meaningful external scrutiny. The Office of the U.N. High Commissioner for Human Rights had sought an unfettered visit to the region since 2018. The Chinese government did not extend an invitation until 2021, and that delay postponed the OHCHR’s ability to present its findings publicly. Office of the U.N. High Comm’r for Hum. Rts., Opening Statement and Global Update of Human Rights Concerns by Then U.N. High Commissioner for Human Rights, Zeid Ra’ad Al Hussein at 38th Session of the U.N. Human Rights Council (June 18, 2018), <https://www.ohchr.org/en/statements/2018/06/opening-statement-and-global-update-human-rights-concerns-un-high-commissioner>; Reuters, U.N. Rights Chief Seeks Xinjiang Visit This Year, Says HK Trials Key Test (June 21, 2021), <https://www.reuters.com/world/china/bachelet-seeks-xinjiang-visit-this-year-says-hk-trials-key-test-2021-06-21/>; Voice of America, China Seeks to Stop U.N. Rights Chief from Releasing Xinjiang Report (July 20, 2022), <https://www.voanews.com/a/china-seeks-to-stop-un-rights-chief-from-releasing-xinjiang-report/6666730.html>. See also Cain, *supra* note 9.

5.4 Patriarchy as Genocidal Mechanism: From Gendered Role Assignment to Group Destruction

The Uyghur case shows how patriarchal role assignment can be drawn into a broader state project of group destruction. Violence against women draws force from the social meanings attached to their bodies, sexuality, fertility, and family roles, allowing harm directed at individual women to extend into family life and the group's reproduction and social existence. Once women are positioned as reproducers of the group, transmitters of cultural life, and bearers of communal boundary, state intervention into their reproductive and intimate lives acquires consequences that extend well beyond the individual woman. Harm inflicted on women could then unsettle marriage, disrupt family life, interrupt births, damage the social integrity of the group, and weaken the terms under which the group carried itself into the next generation.

In the XUAR, the state acted on Uyghur collective life through detention, reproductive intervention, coerced intimacy, and demographic reordering. These measures reached into both the group's present survival and its future endurance. Sexual violence inflicted severe bodily and mental harm. Birth-prevention measures directly constrained the group's capacity to reproduce. Family separation, household penetration, and demographic engineering reached into the social and cultural basis on which Uyghur collective life was maintained and carried forward. Women were attacked through the gendered roles assigned to them within a patriarchal order.

5.4.1 Sexual Violence as a Genocidal Modality

Sexual violence in the Uyghur case was inflicted within a detention regime that deprived women of privacy, communication, physical autonomy, and any realistic possibility of protection. Testimonies describe rape and other forms of sexual abuse in camps and interrogation settings marked by surveillance, coercion, and total institutional control.⁷⁵ Multiple accounts describe sexual violence, mostly against women, inflicted for control, gratification, and humiliation.⁷⁶ Women were removed from cells, taken to rooms without cameras, returned injured, or disappeared altogether. Some assaults were carried out in the presence of other Uyghurs, exposing women to sexual violence before witnesses in ways that magnified humiliation, terror, and social devastation.⁷⁷ Some accounts further indicate that Han Chinese men from outside paid

⁷⁵ Uyghur Tribunal, Judgement, *supra* note 5, at ¶¶ 19(d)(e), 762–71.

⁷⁶ *Id.*, at ¶¶ 762–71.

⁷⁷ *Id.*

for access to detained women in order to rape them.⁷⁸ This placed imprisoned Uyghur women in a position of enforced sexual availability. Their bodies were treated as objects through which male power could be exercised and displayed, and their confinement turned their vulnerability into something that could be exploited, used, and profited from.

Sexual violence in this setting was cruel, degrading, and profoundly inhuman. It attacked bodily integrity, destroyed dignity, and unfolded in a setting where women had little room to resist, little chance to escape, and almost no way to make the abuse known beyond the detention facility. Detention cut women off from family, privacy, communication, and assistance, while subjecting even the most basic aspects of daily life to official control, including movement, bodily functions, and when they could use the toilet.⁷⁹ Women were left with almost no realistic way to get help or to begin recovering from the abuse. In that setting, sexual violence helped produce a condition in which both persons and the group were denied the space to breathe, recover, and sustain themselves over time.

The same logic extended beyond camp walls. “Pairing” and “home-stay” programs inserted Han officials into Uyghur households and collapsed the distinction between public authority and private life. Intimacy itself became vulnerable to state coercion. The household no longer functioned as a protected space of family life and instead became another site of surveillance, intimidation, and penetration. Sexual coercion and imposed proximity turned the home into an instrument of domination through which state power entered intimacy, family relations, and the social basis of Uyghur family life.

Sexual violence in the Uyghur case injured the body and also left women without privacy, security, or any reliable separation from the power that enabled the abuse. Its effects then spread into family relations and communal life. In a setting where women’s sexuality, chastity, and marriageability carried social significance, rape and other forms of sexual abuse could produce stigma, alter marriage prospects, strain family relations, and weaken the social trust that held the group together. Detention intensified these effects by isolating women from family, cutting off communication, and leaving them with almost no realistic way to seek help or begin recovering from the abuse. Sexual violence thus injured individual women and, through them, damaged the family and communal relations that held Uyghur life together.

⁷⁸ *Id.*; *Id.*, at ¶ 19(e).

⁷⁹ *Id.*, at ¶¶ 19(a), 402, 690, 705.

5.4.2 Reproductive Governance as State Reinforcement of Genocidal Patriarchy

The reproductive dimension of the Uyghur case shows the Chinese government acting directly on the biological future of the group through birth prevention, detention, marriage pressure, and the reorganization of descent. Since 2016, China loosened family-planning restrictions for much of the majority population while intensifying reproductive controls over Uyghurs and other Muslim minorities in XUAR.⁸⁰ Human rights reporting and demographic analysis record sharp declines in minority birthrates across several prefectures, together with forced IUD insertion, coerced sterilization, abortion campaigns, and detention for family-planning violations.⁸¹ Birth prevention in this setting reduced Uyghur births and further obstructed the formation and continuation of Uyghur families.

The coercive force of this system lay partly in the way birth control violations were folded into the detention regime. Authorities rigorously investigated reproductive histories, traced alleged violations back to the 1990s, imposed fines many times greater than annual disposable income, and treated family-planning noncompliance as a basis for extrajudicial internment.⁸² Leaked detention records indicate that birth-control violations were among the most common reasons minority women were sent to camps.⁸³ Chinese authorities also linked reproductive noncompliance to “extremism,” turning childbirth and family size into matters of political suspicion.⁸⁴ The state turned reproduction into a field of surveillance, punishment, and carceral control. The relevant policy language simultaneously framed this intervention as “equal” family-planning enforcement and as part of a broader effort to optimize the region’s ethnic population structure.⁸⁵ The state’s view of which populations should expand and which should contract became unmistakable: Han Chinese were encouraged to have more children after 2016, while Uyghurs and other Muslim minorities in the XUAR were subjected to intensified birth-prevention measures.

State intervention also entered women’s bodies in direct and repeated ways. Uyghur women of childbearing age were targeted for forced sterilization, IUD implantation, abortion campaigns, and ongoing monitoring designed to ensure compliance. Reports describe quarterly IUD checks, monthly home visits, bi-monthly pregnancy tests, and contraceptive devices designed to prevent self-removal.⁸⁶ Women

⁸⁰ Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 17.

⁸¹ *Id.*, at 20.

⁸² *Id.*, at 12.

⁸³ Zenz, The Karakax List, *supra* note 23.

⁸⁴ OHCHR, Xinjiang Assessment, *supra* note 2, at ¶ 110.

⁸⁵ Zenz, The Xinjiang Papers, *supra* note 32, at 15–19.

⁸⁶ Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 12.

in detention were also forced to ingest pills or receive injections that disrupted menstruation or caused longer-term reproductive damage.⁸⁷ Fertility was monitored, interrupted, and suppressed through repeated and systematic state intervention, and state policy tightly controlled Uyghur women’s reproductive autonomy.

The detention system widened these effects beyond women directly subjected to sterilization or contraception. Large-scale internment of Uyghur men of childbearing age sharply reduced the possibility of marriage, pregnancy, and continued family life within the group. Reports indicate that a large majority of detainees in the camps were men of reproductive age.⁸⁸ The consequences were cumulative. More women were widowed or pushed into infertility or premature menopause, and the basis on which Uyghur families could form and continue was further damaged.⁸⁹ Against that backdrop, the natural growth of the Uyghur population declined sharply.⁹⁰

State policy also acted directly on marriage and descent.⁹¹ The large-scale detention of Uyghur men of marriageable and reproductive age further obstructed the formation and continuation of Uyghur families. The households which women left behind were marked by stigma, subjected to intrusive monitoring, and entered by Han “relatives” assigned through state programs.⁹² In that environment, marriage became a site of pressure structured by detention, surveillance, fear, and unequal access to state power.⁹³ Reports indicate that women could be pushed toward divorce, pressured to accept Han male presence in the home, or confronted with inter-ethnic marriage when refusal carried serious risks for them and their families.⁹⁴ Material incentives for mixed marriages and preferential treatment for children with one Han parent further tied family formation to the state’s demographic objectives.⁹⁵ These measures bore directly on whom Uyghur women would marry. Mass detention and stigma pushed many Uyghur men out of marriage altogether or into divorce, while pressure toward marriage with Han men redirected family formation away from Uyghur lineage. The state was reworking marriage, descent, and the ethnic location of future children. Reproductive governance in the XUAR thus reached beyond contraception and sterilization. It

⁸⁷ *Id.*, at 14; Diamond & Packer, *supra* note 26, at 18; OHCHR, Xinjiang Assessment, *supra* note 2, at ¶ 72.

⁸⁸ Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 14.

⁸⁹ *Id.*, at 18–19.

⁹⁰ “Uyghur birth rates are plummeting, and growth rates are near or below zero.” Diamond & Packer, *supra* note 26, at 24.

⁹¹ https://archive.org/download/xinjiangpolicefiles/key-documents/5.28_陈全国书记讲话.doc (28 May 2022); Uyghur Tribunal, Judgment, *supra* note 5, at ¶¶ 347–62.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

weakened Uyghur marriage patterns, disrupted family formation, and drew future generations toward incorporation into the dominant national order.

The “Becoming Family” policy intensified this pressure by placing predominantly Han cadres inside Uyghur homes for repeated multi-day stays. Domestic space was opened to ideological inspection, political testing, and intimate intrusion. Testimony described Han men drinking, sleeping, and remaining in close proximity to Uyghur women while husbands were detained or absent, and sexually harassing women after release from detention. The household became another site through which state power entered intimacy, family relations, and the ties that held marriage, trust, and communal life together.⁹⁶

Reproductive governance in the XUAR revealed a targeted policy directed at the future of the Uyghur group. Forced contraception, coerced sterilization, and the breakup of Uyghur families were used to prevent Uyghur women from giving birth to the next generation of Uyghurs. Pressure toward marriage with Han men pushed women’s reproductive capacity toward the production of children regarded as part of the dominant ethnic order. These measures rested on a patriarchal logic that treated women as instruments of reproduction and placed the identity of the next generation in the patrilineal line. The policy direction was clear: Uyghur women were prevented from bearing the next generation of Uyghurs and pressured toward bearing children absorbed into the dominant ethnic and political order.

5.4.3 Patriarchal Logic and Gender-Differentiated Modalities of Destruction

The Chinese government did not distribute violence randomly across male and female bodies. Uyghur men were removed from marriage and family life through detention and disappearance, while Uyghur women were targeted through sexual violence, reproductive suppression, and pressure toward marriage with Han men.

Large numbers of Uyghur men of marriageable and reproductive age were removed from family and communal life through mass detention, disappearance, and other forms of incapacitation.⁹⁷ Their removal cut them off from the social positions of husband, prospective husband, father, and reproductive partner, and further weakened

⁹⁶ Under the policy known as “Becoming a Family,” Han participants could choose whether the minority family would move into a Han household or whether Han Chinese individuals would instead enter and stay in the minority household. The arrangement therefore authorized repeated intrusion into Uyghur domestic space under conditions determined by the Han side. Sauytbay, *supra* note 37, at 158; Newlines Inst., *supra* note 1, at 3.

⁹⁷ Uyghur men of childbearing age comprise 75 to 90 percent of detainees in re-education camps. Zenz, Sterilizations, IUDs, and Mandatory Birth Control, *supra* note 23, at 14.

Uyghur family formation and generational continuity. Uyghur women were pushed along another route. Their fertility was subjected to forced contraception, coerced sterilization, abortion campaigns, pregnancy surveillance, and detention for family-planning violations. Their intimate and domestic lives were also penetrated through homestay arrangements, imposed Han “relatives,” sexual harassment, rape, and pressure toward marriage with Han men.

Sexual violence gave this pattern a deeper social force. Evidence before the Uyghur Tribunal describes repeated rape and other forms of sexual abuse in detention, overwhelmingly directed at women and inflicted for control, gratification, and humiliation. Some women were raped in front of other detainees, turning rape into a public act of humiliation, terror, and communal injury. Women were also selected from cells, taken away under coercion, returned injured, or disappeared altogether; other testimony describes Han Chinese men paying for access to detained women in order to rape them.

In a patriarchal setting where women’s bodies were tied to chastity, honour, marriageability, and communal boundary, such violence could shatter a woman’s sense of dignity and personal wholeness, stain her social standing, unsettle her place within family and marriage, and attach stigma that extended beyond the individual victim. Those same meanings also linked women to the moral standing and continuity of the group, so violence against women injured communal self-respect and weakened the social integrity of the group itself. Patriarchal logic gave this whole pattern its coherence. Men were removed as husbands, fathers, and reproductive partners; women were controlled as reproducers of the group, sexualized bodies, and the means through which births, kinship, descent, and the ethnic location of future children could be interrupted or redirected. Through that allocation of violence across differently gendered bodies and roles, the group’s capacity to carry itself forward was weakened.

5.5 From Mechanism to Legal Qualification: Why the Uyghur Pattern Supports Genocidal Analysis under Article II(b), II(c), and II(d)

The preceding sections have established a coordinated pattern of genocidal conduct directed against the Uyghurs as a protected group. Through mass detention, coercive birth prevention, sexual violence, family separation, pervasive surveillance, state penetration of Uyghur households, and pressure toward marriage with Han men, the Chinese government attacked Uyghur group life across the body, the family, and the

next generation. This section examines how that pattern is legally captured by Article II(b), II(c), and II(d) of the Genocide Convention.

5.5.1 The Pattern of Conduct Against the Uyghurs Must Be Assessed in Its Combined Operation

The Chinese government used mass detention, birth-prevention measures, sexual violence, household intrusion, family separation, and pressure toward marriage with Han men in a coordinated way against the Uyghurs. Mass detention removed men from marriage, family life, and reproduction. Forced sterilization, compulsory IUD insertion, abortion campaigns, pills, injections, and constant reproductive monitoring acted directly on women's capacity to bear children. Women who entered the camp system were then exposed to rape, sexual torture, and sexual humiliation within the same apparatus of confinement. State-assigned Han officials entered Uyghur homes through the "homestay" policy, placing women under surveillance and sexual vulnerability inside the household itself. State policy also encouraged or pressured marriage between Uyghur women and Han men and attached material incentives to mixed marriage and children with one Han parent. The same state apparatus was therefore acting at once on how the group lived in the present and whether it could continue into the future.

These measures intensified one another. Birth prevention extended beyond sterilization, abortion, and reproductive monitoring. The mass detention of Uyghur men also reduced the possibility of marriages being formed and births occurring within the group. Sexual violence in the camps further damaged women whose reproductive lives were already under direct state control and whose chastity, sexual integrity, and social standing could be attacked through rape and sexual humiliation within a patriarchal order. Household intrusion extended that same control into the home and exposed family life, intimacy, and women's sexual integrity to continuing surveillance and coercion. State policy also rewrote the group affiliation of future children by pressuring Uyghur women into marriage with Han men after detention and reproductive policy had already disrupted Uyghur family life. The legal analysis therefore has to address the combined operation of these measures.

5.5.2 Article II(b): Serious Bodily or Mental Harm

Testimonies from former detainees and investigative reporting describe widespread rape and other sexual abuses in detention facilities, as well as sexual coercion linked to the "pairing" and "home-stay" policies that placed Han officials inside Uyghur households. Sexual violence and coerced intimacy were thus used across both detention

and domestic life. They inflicted serious bodily and mental harm on Uyghur women and also damaged the family and communal relations through which Uyghur group life was sustained. This evidence supports analysis under Article II(b) and also forms part of the broader Article II(c) pattern.

Sexual violence was inflicted within detention facilities already marked by abuse, deprivation, and total institutional control.⁹⁸ Testimony from the camps described women's vaginas and rectums being penetrated with electric shock rods and iron bars.⁹⁹ Women of childbearing age were also subjected to forced sterilization, compulsory IUD insertion, abortion campaigns, and drugs or injections that disrupted menstruation and damaged long-term reproductive capacity. These acts caused acute pain, invasive injury, lasting reproductive damage, and profound violation of bodily integrity. The evidence therefore supports Article II(b) on the basis of serious bodily harm.

The same evidence also establishes serious mental harm. Sexual violence was inflicted inside a detention system built on fear, humiliation, surveillance, and total control over the body. Women could be taken from their cells at any time, assaulted without warning, and returned wounded, or not returned at all. Some assaults took place in the presence of other detainees, which intensified terror and humiliation and turned rape into a spectacle of domination. Women had almost no realistic possibility of escape, resistance, communication, or recovery. Outside the camps, the same state maintained pervasive physical and digital surveillance over Uyghur life and entered Uyghur homes through assigned Han officials, so the boundary between detention and domestic life was itself broken down.¹⁰⁰ Fear, terror, humiliation, helplessness, and trauma were built into the way the violence was carried out. Witness testimony before the Uyghur Tribunal also reflected that depth of harm, and several witnesses broke down while giving evidence about sexual violence.¹⁰¹ Article II(b) is therefore engaged on the basis of serious mental harm as well.

In the Uyghur case, the harm also moved beyond the assaulted woman because women's sexuality, chastity, and marriageability carried social force within a patriarchal order articulated through familial, communal, and Islamic moral norms. Rape and sexual abuse could therefore damage a woman's standing within family and marriage, attach stigma to her, and strain kin and communal relations around her.

⁹⁸ See Amnesty International, *supra* note 66.

⁹⁹ Uyghur Tribunal, Judgement, *supra* note 5, at ¶ 19(e).

¹⁰⁰ See Cain, *supra* note 9.

¹⁰¹ See Uyghur Tribunal, Video Record, https://www.uyghurtribunal.com/?page_id=16027.

Sexual violence thus injured women in two connected ways at once. It devastated the body and mind of the woman directly assaulted, and it also moved outward through the social meanings attached to women's bodies, damaging family relations and communal life. Article II(b) is central in the Uyghur case for that reason. The evidence shows grave bodily injury, severe psychological trauma, and the breakdown of family and communal relations flowing from the same acts of sexual violence.

5.5.3 Article II(c): Conditions of Life Calculated to Bring About Physical Destruction

Sexual violence was inflicted in camps where women were already confined, underfed, sleep-deprived, closely controlled, and subjected to routine abuse.¹⁰² Women were removed from their cells by force, some later returned with visible injuries, while others did not return at all, leaving other detainees in prolonged fear and uncertainty. Their reproductive lives also remained under direct state control. Sexual violence in this setting was carried out within a detention regime that kept women hungry, exhausted, injured, and under constant coercion.

Outside the camps, “pairing” and “home-stay” policies placed Han officials inside Uyghur households and exposed women to harassment, coercion, and sexual vulnerability inside the home itself. The household could no longer function as a protected space of privacy, care, or recovery. Women therefore faced sexual violence in a system that had already entered both detention and domestic life and had already stripped away even the minimum conditions of safety, privacy, and care required for bodily or psychological recovery.

The consequences extended further through family structure and social relations. In a patriarchal setting where women's sexuality, chastity, and marriageability carried social force, rape and sexual abuse could attach stigma to the assaulted woman, damage her place within family and marriage, and leave her without the home to which she would previously have returned. Sexual violence thus became part of the reality Uyghur women were forced to live in: injured, exhausted, terrorized, stigmatized, and cut off from family and communal protection. Through women, that harm also damaged Uyghur family life and deepened the broader pattern of family rupture and social disintegration.

¹⁰² See OHCHR, Xinjiang Assessment, *supra* note 2, at ¶¶ 69–78.

5.5.4 Article II(d): Measures Intended to Prevent Births Within the Group

Article II(d) provides one of the clearest legal grounds in the Uyghur case because the prevention of births was directly pursued through policy, administration, medicine, and detention. The evidence shows sustained state action aimed at reducing Uyghur births within the group, and the sharp decline in population growth was consistent with the policies' stated objective of lowering Uyghur birth rates.¹⁰³

Uyghur women of childbearing age were subjected to forced sterilization, compulsory IUD insertion, birth-control pills, injections, abortion campaigns, and repeated pregnancy checks. Compliance was enforced through constant monitoring and punitive consequences. Birth-control violations became a common reason for detention. Women confined in camps were forced to take substances that interrupted menstruation or caused longer-term reproductive damage. These measures directly constrained women's capacity to conceive, carry pregnancies, and bear children. They fit Article II(d) in a direct and straightforward way.

The wider demographic setting confirms the same direction of state policy and places it within a broader project of population optimization. In official discourse, birth-control "equality," balanced population growth, and the restructuring of southern Xinjiang's ethnic composition were linked to long-term security.¹⁰⁴ China relaxed its one-child policy for Han Chinese couples and encouraged further births, but no comparable relaxation was extended to the Uyghur population. In the XUAR, official policy moved toward lower Uyghur birth rates and tighter reproductive control. One population was supported in its future growth; the other was pressed toward reproductive decline. That contrast reveals differential reproductive governance directed at the protected group as such.

Mass detention widened the reach of these measures. Uyghur men of reproductive age were removed in very large numbers, and Uyghur women were also subjected to detention, surveillance, and direct reproductive control. The removal of so many men sharply reduced the possibility of marriage, family formation, and births within the group, while women were left widowed, isolated, stigmatized, or cut off from family life. State policy also pushed family formation in another direction. It encouraged or

¹⁰³ Human rights reporting and demographic analyses document sharp, localized declines in minority birthrates—over fifty percent in several prefectures between 2015 and 2018. Moreover, in 2019, the Chinese government stated that its goal was “to reduce birth rates in southern Xinjiang by at least 4 per mile.” Zenz, *Sterilizations, IUDs, and Mandatory Birth Control*, *supra* note 23, at 17; Zenz, *The Xinjiang Papers*, *supra* note 32, at 4.

¹⁰⁴ Zenz, *The Xinjiang Papers*, *supra* note 32, at 15–19.

imposed marriage between Uyghur women and Han men, offered incentives for mixed marriages, and attached benefits to children with one Han parent. State intervention therefore did more than prevent births in the narrow medical sense. It also acted on whom Uyghur women would marry, under what descent those children would be counted, and which group those births would strengthen.

The core of the Article II(d) analysis remains clear. Forced contraception, coerced sterilization, abortion, detention for reproductive noncompliance, and the disruption of family formation within the group all support Article II(d). Pressure on marriage and descent adds a further layer by showing that state policy acted not only to reduce Uyghur births, but also to redirect reproduction away from the group. The evidence therefore supports a strong reading of Article II(d): the state used direct and systematic measures to prevent births within the Uyghur group.

5.6 From Pattern to Intent: Reconstructing Genocidal Intent in the Uyghur Case

An intent to destroy is rarely expressed in direct terms. The Uyghur case must therefore be reconstructed from objective indicators. The available material instead supports an inference of genocidal intent from the state's coordinated and interconnected destructive campaigns. Viewed as a whole, these policies and practices followed a logical sequence and acted against the continued existence of the Uyghurs as a group.¹⁰⁵

Detention, reproductive suppression, sexual violence, coercive surveillance, household penetration, child separation, and pressure toward inter-ethnic marriage formed coordinated and interconnected campaigns.¹⁰⁶ They followed a logical sequence and acted on the Uyghurs as a group. They identified the group as a population to be governed, transformed, and reduced, distributed violence along gendered lines, and struck at the group's capacity to reproduce and renew itself over time.¹⁰⁷ That cumulative pattern grounds an inference of genocidal intent. Under objective standards, intent may be inferred from official statements, state policy, a general plan, a pattern of conduct, and repeated destructive acts that follow a logical sequence.¹⁰⁸ China's

¹⁰⁵ Diamond & Packer, *supra* note 26, at 13–14.

¹⁰⁶ Newlines Inst., *supra* note 1, at 3–4.

¹⁰⁷ *Id.*, at 4; Darren Byler, *Negative Eugenics, Sexual Violence and Involuntary Surveillance* 1–2 (report prepared for the Uyghur Tribunal, 2021).

¹⁰⁸ Newlines Inst., *supra* note 1, at 35, 49; Diamond & Packer, *supra* note 26, at 13.

policies and practices support the inference that the state acted against the continued existence of the Uyghurs as a group, in whole or in part.¹⁰⁹

5.6.1 Target Construction: The Uyghur as a Governed and Removable Group

The inference of genocidal intent begins with the way the state constructed the target. In the XUAR, Uyghur religious, cultural, and communal life was not treated as protected group life but as a security problem.¹¹⁰ Chinese official discourse increasingly described Uyghurs as infected by “extremism,” likened them to tumors, weeds, or malignant growths, and framed state intervention as treatment, eradication, or transformation.¹¹¹ High-level directives described the campaign in the language of offensive struggle and called for people to be “rounded up,” for roots and connections to be broken, and for the region to be remade through intensified policing, digital surveillance, and re-education.¹¹² These official statements and policies form part of the objective evidence from which intent may be inferred. The target was the Uyghur population as a governed population marked for discipline, removal, and restructuring.¹¹³

This construction reached beyond counterterrorism rhetoric. More recent state discourse and policy thinking treated ethnic difference itself as something to be overcome. After 2009, a discourse of “ethnic extinction” emerged in which Uyghur distinctiveness was cast as backward and the desired endpoint was fusion into a higher Chinese identity defined by Han norms and Chinese language.¹¹⁴ That orientation appeared not only in theoretical and educational texts but in the practical remaking of schools, domestic life, and public culture.¹¹⁵ Uyghur children were increasingly placed in residential schools, Mandarin displaced Uyghur as the language of instruction, Han teachers replaced Uyghur educators, and children were raised in environments designed to detach them from Uyghur language, religion, and family influence.¹¹⁶ Target construction therefore did not stop at identifying the Uyghur as suspect. It also marked Uyghur identity itself as a problem to be reduced, absorbed, and eventually displaced.

That target construction was operational rather than rhetorical. The state built a surveillance architecture designed to classify people as “trustworthy” or

¹⁰⁹ Newlines Inst., *supra* note 1, at 49–50.

¹¹⁰ *Id.*, at 9–10, 17–18.

¹¹¹ *Id.*, at 17–18, 38–39, 49.

¹¹² *Id.*, at 3–4, 10, 37–39, 48–49.

¹¹³ Byler, Negative Eugenics, Sexual Violence and Involuntary Surveillance, *supra* note 107, at 1–2.

¹¹⁴ Byler, State Discourses and Effects of “Ethnic Extinction,” *supra* note 8, at 1.

¹¹⁵ *Id.*, at 1–3.

¹¹⁶ *Id.*, at 2–3.

“untrustworthy,” sent Han cadres into Uyghur homes, legalized mass internment under de-extremification measures, and treated ordinary markers of Uyghur religious and cultural life as grounds for intervention.¹¹⁷ The category of the removable Uyghur was therefore produced through law, administration, data systems, and neighborhood-level monitoring.¹¹⁸ Once that construction was in place, large-scale detention, reproductive control, and family disruption no longer appeared within the state’s own logic as exceptional acts.¹¹⁹ They became normal techniques of rule.

The administrative world built around the Uyghurs also reveals the centrality of this target construction. The Xinjiang Papers trace a direct line between central leadership statements in 2014, their systematic study by cadres in 2016 and 2017, and the later implementation of mass internment, long-term re-education facilities, predictive policing, and the command to “round up all who should be rounded up.”¹²⁰ The same materials connect this framework to the “Four Breaks,” including breaking roots, lineages, and connections.¹²¹ Intent can therefore be inferred not only from official rhetoric, but from a governing structure that had already constituted the Uyghur as a subject who could be seized, confined, surveilled, corrected, separated from family, and remade through institutions of education, policing, and domestic intrusion.¹²²

5.6.2 Modality Consistency: Repeatable Methods as Evidence of Operational Logic

Intent is also revealed by the repeatability of the methods used. The same techniques appeared across multiple sites and through multiple institutions: detention, forced birth prevention, mass reproductive monitoring, coercive pharmaceutical intervention, rape and sexual abuse in the camps, Han cadre intrusion into Uyghur homes, pressure toward Han-Uyghur marriage, transfer of children to state institutions, and the targeting of family and communal transmitters of Uyghur identity.¹²³ Their recurrence across these different domains shows a recurring operational logic rather than disconnected episodes of abuse. Repeated destructive acts carried out through state policy and practice support an inference of intent. The Uyghur case provides a close example of that logic.

¹¹⁷ Byler, Negative Eugenics, Sexual Violence and Involuntary Surveillance, *supra* note 107, at 1–2.

¹¹⁸ Newlines Inst., *supra* note 1, at 21–23, 39–40.

¹¹⁹ Diamond & Packer, *supra* note 26, at 13–20, 23–24.

¹²⁰ See Zenz, The Xinjiang Papers, *supra* note 32, at 1–4, 7–14

¹²¹ *Id.*

¹²² Diamond & Packer, *supra* note 26, at 13–15, 23–24; Byler, State Discourses and Effects of “Ethnic Extinction”, *supra* note 8, at 2–4; Zenz, The Xinjiang Papers, *supra* note 32, at 23–29.

¹²³ Newlines Inst., *supra* note 1, at 35.

These methods reduced Uyghur births, removed Uyghur men from family and reproductive life, expose Uyghur women to reproductive intervention and sexual coercion, disrupted the familial and intergenerational relations through which Uyghur group life was sustained. Darren Byler's analysis is especially useful here because it shows how involuntary surveillance, negative eugenics, and pressure toward inter-ethnic marriage operated together.¹²⁴ He notes that between two-thirds and three-quarters of detained Uyghurs and Kazakhs were men between eighteen and fifty-five, creating the absence of a significant part of the adult male population, while the wives and female relatives of detainees became more vulnerable to pressure to marry Han male "relatives" assigned through the Becoming Family program.¹²⁵ He further explains that state support for inter-ethnic marriage and the forced coexistence of Han men and Muslim women institutionalized pressures that made freely given consent impossible.¹²⁶ This analysis helps clarify the repeatable structure through which these different measures worked together.

5.6.3 Gender-Differentiated Violence and a Unified Genocidal Horizon

The pattern also reveals intent through the differentiated distribution of violence. Uyghur men and women both suffered arbitrary detention, ill-treatment, torture, and death, yet they were not targeted in the same way. Men of marriageable and reproductive age were removed through mass detention, disappearance, and incapacitation. Women bore the brunt of forced sterilization, compulsory IUD insertion, abortion campaigns, pregnancy checks, reproductive monitoring, sexual violence, and pressure toward inter-ethnic marriage. The difference tracks the gendered roles through which the group was attacked. Men were removed from family and reproductive life. Women were controlled as reproducers of the group and as the bodies through which births, kinship, descent, and the ethnic affiliation of future children could be interrupted or redirected. Chapter 5 already develops that point through the framework of patriarchal genocide. At the stage of intent, the same pattern carries additional weight because it shows that the state acted with an understanding of gendered roles within group life. The methods were selected accordingly.¹²⁷

That differentiated violence nevertheless points toward a single horizon. It shows a unified destructive project carried through different bodies by different routes. The Newlines report states this starkly: China pursued a dual strategy of forcibly sterilizing

¹²⁴ See Byler, Negative Eugenics, Sexual Violence and Involuntary Surveillance, *supra* note 107.

¹²⁵ *Id.*, at 1–2.

¹²⁶ *Id.*

¹²⁷ *Id.*; Newlines Inst., *supra* note 1, at 4, 19–20, 48–50.

Uyghur women of childbearing age and interning Uyghur men of child-bearing years, thereby preventing the regenerative capacity of the group. Byler's analysis reinforces the same point from another angle. The removal of a significant percentage of the adult male population increased women's exposure to surveillance, cadre intrusion, coercive intimacy, and pressure toward Han marriage. The result was a gendered division of genocidal labor: men disappeared into the detention system, while women were subjected to reproductive suppression and sexualized domination. The methods differed, but the horizon was the same. The target was the group's ability to continue itself as Uyghur.

5.6.4 Reproductive and Group Continuity as Indicators of Genocidal Intent

The strongest evidence of intent lies in the state's direct intervention into the next generation. China loosened birth-control restrictions for Han Chinese couples in 2016 while maintaining and intensifying coercive restrictions on Uyghur women. In Uyghur-concentrated areas, forced sterilization, IUD placements, injections, abortion campaigns, and regular pregnancy checks were imposed on women of childbearing age, while birth-policy violations became a frequent basis for detention. Government statistics, local directives, and investigative reporting point in the same direction: lowering Uyghur fertility was one of the aims of state policy. Official language tied stricter birth control in southern Xinjiang to the equalization of population growth and to the optimization of the region's ethnic population structure, while the resulting demographic decline closely followed that policy direction.¹²⁸

Intent becomes even clearer once reproductive suppression is read together with child separation, educational restructuring, and the reorganization of descent. The transfer of Uyghur children into state institutions, the expansion of residential schooling, the displacement of Uyghur language and educators, and the pressure toward inter-ethnic marriage all acted on the next generation from different angles.¹²⁹ Birth prevention reduced the number of children who would be born into the group. Child transfer and residential schooling removed children from Uyghur family, linguistic, and religious environments. Pressure toward marriage with Han men redirected future births toward incorporation into the dominant ethnic order through patrilineal affiliation and Han household formation. State policy thus acted not only on whether Uyghur

¹²⁸ Newlines Inst., *supra* note 1, at 4, 17–20, 49–50; Zenz, *The Xinjiang Papers*, *supra* note 32, at 15–19.

¹²⁹ Byler, *Negative Eugenics, Sexual Violence and Involuntary Surveillance*, *supra* note 107, at 2–4.

children would be born, but also on how those who were born would be raised, to whom they would belong, and under what identity they would enter the future.

The same policy field linked these measures to longer-term questions of population balance and security. Internal and classified materials connected population proportion, population security, and long-term stability in southern Xinjiang, while state planning called for altering the ethnic composition of the region through both Han in-migration and sustained suppression of minority birthrates.¹³⁰ Pressure toward Han marriage was produced within this broader structure of surveillance and coercive coexistence, not as an isolated social phenomenon but as part of a wider reordering of family formation and demographic future. A state that reduces births, removes parents, transfers children, restructures education, pressures women into marriages that redirect the group affiliation of future children, and weakens the domestic and institutional settings through which group identity is transmitted acts directly on the group's renewal as a group. That pattern supports the inference that the state acted against the continued existence of the Uyghurs as Uyghurs, in whole or in part.

5.7 Chapter Conclusion

This chapter has shown how genocidal patriarchy operated in the Uyghur case through a distinctive combination of mass detention, reproductive suppression, sexual violence, household intrusion, pressure toward inter-ethnic marriage, child transfer, and educational restructuring. These measures did not function as separate abuses. They converged on the group's capacity to continue itself across generations. Men of marriageable and reproductive age were removed from family and communal life in large numbers. Women were subjected to forced sterilization, compulsory birth prevention, sexual violence, coerced proximity, and pressures that reached into marriage, descent, and the ethnic location of future children. The next generation was targeted from more than one direction at once: births were reduced, parents were separated from children, and children were increasingly drawn into institutions designed to detach them from Uyghur language, religion, and family life.

What made this configuration effective was not only state coercion, but the patriarchal organization of social life on which that coercion acted. Men were more readily situated within roles tied to protection, authority, provision, and fatherhood. Women were more readily situated within roles tied to chastity, marriage, reproduction,

¹³⁰ Zenz, *The Xinjiang Papers*, *supra* note 32, at 15–19.

and the bearing of the next generation. Violence directed through those roles did not remain confined to individual victims. The detention and disappearance of men weakened protection, provision, and family continuity. Sexual violence and reproductive suppression directed at women could spread outward through shame, stigma, familial rupture, reproductive loss, and the reordering of descent. Because those meanings were already socially established, perpetrators could act with a working knowledge of which forms of violence would fracture family life, isolate women, interrupt births, and damage the group's future most efficiently.

The Uyghur case therefore demonstrates a specific configuration of genocidal patriarchy. Group destruction was pursued through the coordinated reordering of gendered roles, reproduction, household life, and the next generation. Sexual and reproductive violence were integral to that process. They caused serious bodily and mental harm, contributed to destructive conditions of life, and formed part of a broader state project aimed at preventing births within the group and reshaping the demographic future in which the group might otherwise endure.

Chapter 6. Genocidal Patriarchy as Group Governance: Comparison, Visibility, and Early Warning

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The previous chapters have explained that sexual violence and reproductive control may constitute part of genocide. Through the Rohingya and Uyghur cases, this study has also shown that state violations of women’s bodily autonomy and reproductive and family life are not scattered measures of gender oppression. They are closely intertwined with group exclusion, forced displacement, forced assimilation, and the destruction of the protected groups’ capacity to survive as distinct communities. If these phenomena are understood merely as sporadic women’s rights violations, social or cultural problems, or secondary harms attached to more visible forms of violence, the systematic operation behind them becomes obscured, making it impossible to fully apprehend the structural role they play in the genocidal process.

This also means that the comparison between the Rohingya and Uyghur cases cannot proceed through a single axis of analysis. The harms examined in this chapter are produced at the intersection of group-based exclusion, gendered role assignment, state security narratives, and the regulation of reproduction and family life. Crenshaw's analysis of intersectional subordination is useful here because it explains why harms located at the intersection of racialized or ethnicized structures and gendered structures are often misread when legal and human rights frameworks treat these structures separately.¹ The question is therefore whether existing legal and institutional frameworks can recognize harms that are jointly produced through racialized governance and gendered subordination.

This point is directly relevant to the comparative analysis in this chapter. In both the Rohingya and Uyghur cases, sexual and reproductive violence cannot be understood apart from ethnicity, religion, national security narratives, citizenship, population governance, and the regulation of family life. When these harms are subsumed under general gender-based violence, their ethnicized character and their relation to state governance become less visible. When they are treated solely as instances of ethnic persecution, the gendered routes through which they operate—through women's bodies, sexuality, childbearing, marriage, and family roles—are again at risk of being obscured.

Existing accountability frameworks still require a fuller account of women's victimization.² Yet an approach to genocide that remains centered on post hoc confirmation, legal characterization, and the attribution of responsibility tends to locate intervention at a point when the destructive process is already well advanced. Article I of the Genocide Convention places prevention at the centre of genocide law, alongside punishment.³ This preventive orientation requires attention to the earlier stages through which discriminated treatment becomes organized, normalized, and legally or administratively embedded. The *genocidal patriarchy* lens developed in this study contributes to that task by bringing into view forms of intimate, reproductive, and familial governance that are often treated as marginal to genocide analysis, even when

¹ Kimberlé Crenshaw, *Gender-Related Aspects of Race Discrimination*, Background Paper Prepared for the Expert Meeting on the Gender-Related Aspects of Race Discrimination, World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Zagreb, Croatia, Nov. 21–24, 2000.

² Elisa von Joeden-Forgey, Gender and the Future of Genocide Studies and Prevention, 7 *Genocide Stud. & Prevention* 89, 90, 94 (2012).

³ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277 (entered into force Jan. 12, 1951).

they reshape the conditions through which a protected group can continue across generations.

When examined separately, these phenomena may be absorbed into ordinary institutional categories, where their relation to the protected group's future becomes harder to see. The framework proposed here moves legal and political recognition to an earlier point in the genocidal process. It challenges the tendency to wait for mass killing, highly visible violence, or catastrophic collapse before recognizing that genocide may already be underway.

Building on the analyses of the Rohingya and Uyghur cases in the previous two chapters, this chapter places the two cases within a shared theoretical framework. It examines how patriarchy operates as a technology of governance that can be repeatedly mobilized in projects of group exclusion, group remaking, and genocide. The chapter traces this process from the social positioning of women within patriarchal orders to the legal, informational, reproductive, and affective mechanisms through which states act upon protected groups. It shows how legal-status deprivation, managed visibility, reproductive governance, and sexual violence can operate together as mechanisms of genocide, rather than as separate fields of harm. These forms of violence gradually unfold across legal, institutional, informational, marital-reproductive, and socio-affective orders, forming part of the mechanisms through which genocide is organized.

The final part of the chapter turns from comparison to prevention. It does not propose a predictive model of genocide. It asks how the framework of genocidal patriarchy can guide early-warning reading by directing attention to women in protected groups, especially where dispersed materials record women's rights restrictions, group-based repression, displacement, population governance, or reproductive control without connecting them as parts of the same process.

6.1 Comparison Between the Rohingya Case and the Uyghur Case

6.1.1 Differences: Displacement and Assimilation as Two Modes of Group Elimination

The Rohingya and the Uyghurs are both Muslim groups. This shared religious identity is analytically relevant, but it cannot, on its own, explain why both groups became targets of state violence. In both cases, Muslim identity was incorporated into state narratives of threat, foreignness, disloyalty, extremism, and demographic danger.

Religious identity, however, does not fully account for the structure of persecution in either case. China’s repression of Tibetan Buddhist communities shows that state governance is not directed exclusively at Islamic identity.⁴ In Myanmar, the Kaman are also Muslim, yet they are listed among the officially recognized ethnic groups; this weakens any explanation that treats Muslim identity alone as sufficient to account for the exclusion of the Rohingya.⁵ The citizenship problems faced by communities of Chinese descent in Myanmar further indicate that national belonging is structured not only through religion, but also through ethnic classification, historical belonging, descent, and state systems of identity recognition.⁶ This study therefore does not treat Muslim identity as the primary basis for comparing the two cases. It understands Muslim identity as one factor mobilized within specific formations of state governance, racialization, securitization, and population politics.

The Rohingya and Uyghur cases both show that, in projects of national unity, states may designate particular minority groups as objects of exclusion, remaking, or elimination. The concrete pathways in the two cases, however, differ. In Myanmar, state violence against the Rohingya has been organized through denial of citizenship, severe restrictions on movement and family life, mass violence, and forced displacement from Rakhine State.⁷ In China, the campaign against Uyghurs has proceeded through mass detention, intrusive surveillance, religious and cultural regulation, family separation, labour transfers, and reproductive control, producing a model of governance directed less toward expulsion than toward forced assimilation and remaking.⁸ The former sought to remove the Rohingya population from Myanmar’s

⁴ See, e.g., Special Rapporteur on Minority Issues et al., Allegation Letter to the Government of China, U.N. Doc. AL CHN 6/2022, at 1–3 (Nov. 11, 2022); U.N. Experts, *China: UN Experts Alarmed by Separation of 1 Million Tibetan Children from Families and Forced Assimilation at Residential Schools*, Office of the U.N. High Comm’r for Human Rights (Feb. 6, 2023).

⁵ Rep. of the U.N. High Comm’r for Human Rights, *Situation of Human Rights of Rohingya Muslims and Other Minorities in Myanmar*, ¶ 2, U.N. Doc. A/HRC/32/18 (June 29, 2016) (“Among the Muslim population, the Kaman are a community belonging to one of the 135 recognized ethnic groups . . .”).

⁶ See Int’l Comm’n of Jurists, *Citizenship Law and Human Rights in Myanmar: Why Law Reform Is Urgent and Possible* 4–6 (2019) (explaining that Myanmar’s citizenship framework links citizenship to membership in prescribed “national races” and enables discrimination against persons of South Asian or Chinese descent); Rep. of the Special Rapporteur on the Situation of Human Rights in Myanmar, ¶¶ 14–19, U.N. Doc. A/HRC/43/18 (Jan. 27, 2020) (discussing Myanmar’s minority-rights framework, citizenship, and the centrality of “national races” in structuring belonging).

⁷ See Indep. Int’l Fact-Finding Mission on Myan., *Detailed Findings of the Independent International Fact-Finding Mission on Myanmar*, ¶¶ 458–63, 766–80, U.N. Doc. A/HRC/39/CRP.2 (Sept. 17, 2018); Indep. Int’l Fact-Finding Mission on Myan., *Sexual and Gender-Based Violence in Myanmar and the Gendered Impact of Its Ethnic Conflicts*, ¶¶ 93–96, 187–91, U.N. Doc. A/HRC/42/CRP.4 (Aug. 22, 2019).

⁸ See Off. of the U.N. High Comm’r for Human Rights, *OHCHR Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China*, ¶¶ 73–76, 100–04, 115–23, 129–36 (Aug. 31, 2022).

territory. The latter has sought to ensure that Uyghurs, while remaining within their original geographical space, gradually lose the identity, cultural practices, and capacity for generational reproduction that sustain them as a distinct group.⁹

In the Rohingya case, the Myanmar government pursued the disappearance of the Rohingya from the national territory and political community. Long-standing discriminatory policies, deprivation of nationality, and the denial of basic rights formed part of the process through which this objective was pursued. The sharpest distinction from the Uyghur case lies in the combined operation of mass killing, village burning, sexual violence, and other terrorizing methods, which caused large numbers of Rohingya to flee Rakhine State, become displaced, and cross into neighbouring Bangladesh within an extremely short period.¹⁰ This model relied on highly visible, direct, and concentrated violence to force an entire group to lose the possibility of continuing to live in its original place of residence.

The Uyghur case presents a different pattern. It does not primarily involve a model of expulsion aimed at moving people beyond the border. It presents a model of forced assimilation centered on forced retention, comprehensive surveillance, and deep social remaking. The Chinese government has not attempted to expel Uyghurs from Xinjiang on a large scale. On the contrary, Uyghurs have been compelled to remain within Xinjiang through measures such as passport confiscation, restrictions on migration, and the deprivation of freedom of movement, making it difficult or impossible for them to leave the controlled space.¹¹ On that basis, the state has further used large-scale detention, sexual violence, reproductive control, forced marriage, child transfer, and other measures to erode Uyghur group identity.¹² Even while remaining in their original place, Uyghurs are gradually deprived of the social, cultural, and familial conditions that allow them to continue as Uyghurs.

Although the two governments adopted different methods, both sought to make a particular group “disappear” from the territory under their rule. Myanmar adopted

⁹ See *id.* ¶¶ 73–76, 100–04, 115–23, 129–36; see also U.N. Comm. on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Fourteenth to Seventeenth Periodic Reports of China (Including Hong Kong, China and Macao, China)*, ¶¶ 40–42, U.N. Doc. CERD/C/CHN/CO/14-17 (Sept. 19, 2018).

¹⁰ See Rep. of the Special Rapporteur on the Situation of Human Rights in Myanmar, U.N. Human Rights Council, at 11, U.N. Doc. A/HRC/43/59 (2020); Rep. of the Detailed Findings of the Indep. Int'l Fact-Finding Mission on Myanmar, ¶ 59, U.N. Doc. A/HRC/42/CRP.5 (2019).

¹¹ See Geoffrey Cain, *The Perfect Police State: An Undercover Odyssey into China's Terrifying Surveillance Dystopia of the Future* (PublicAffairs 2021).

¹² See Newlines Inst. for Strategy & Pol'y, *The Uyghur Genocide: An Examination of China's Breaches of the 1948 Genocide Convention* 15 (2021); OHCHR, *Xinjiang Assessment*, *supra* note 8.

violent displacement, making people disappear from the land. China adopted forced assimilation, making the meaning of the group as a group disappear from the land. One seeks to remove the population itself; the other seeks to eliminate the ethnic existence of that population. Their methods differ, but both are directed toward the elimination of a protected group as a continuing collective presence. The different modes of elimination clarify how *genocidal patriarchy* operates across distinct state projects. In the displacement model, *genocidal patriarchy* enables sexual violence, restrictions on marriage and childbirth, and stigmatization to accelerate group dispersal. In the assimilation model, *genocidal patriarchy* enables reproductive control, family restructuring, and child socialization to remake the group's future. For this reason, displacement and assimilation, despite being different pathways of governance, both act upon the protected group across generations through women's gendered positioning in reproduction, marriage, and family formation.

6.1.2 Visibility, Access, and International Response

The international responses to the two cases also differ markedly. These differences are closely related to the visibility of the forms of violence and to the positions of the two states within international politics. The large-scale, concentrated, and highly visible violence inflicted by the Myanmar military against the Rohingya in 2017 caused hundreds of thousands of Rohingya to flee to Bangladesh within an extremely short period. Cross-border refugee movement quickly became a directly observable fact for the international community, generating widespread attention.¹³ By contrast, the Chinese government has not adopted an externally visible model of mass expulsion. Through large-scale arbitrary detention, surveillance, reproductive control, information blockage, movement restrictions, and other measures, it has imposed oppression on Uyghurs and other Turkic Muslim minorities in a relatively closed space. The 2022 assessment issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) also noted that negotiations between the United Nations (UN) and the Chinese government over arrangements for a visit lasted for an extended period, and that the eventual visit took place within parameters agreed to by China.¹⁴ This

¹³ See G.A. Res. 72/248, Situation of Human Rights in Myanmar (Jan. 23, 2018); U.N. SCOR, 8179th mtg., U.N. Doc. S/PV.8179 (Feb. 13, 2018).

¹⁴ OHCHR, Xinjiang Assessment, *supra* note 8; Off. of the U.N. High Comm'r for Human Rights, *Opening Statement and Global Update of Human Rights Concerns by U.N. High Commissioner for Human Rights Zeid Ra'ad Al Hussein at 38th Session of the Human Rights Council* (June 18, 2018), <https://www.ohchr.org/en/statements/2018/06/opening-statement-and-global-update-human-rights-concerns-un-high-commissioner>; *U.N. Rights Chief Seeks Xinjiang Visit This Year, Says HK Trials Key Test*, Reuters (June 21, 2021), <https://www.reuters.com/world/china/bachelet-seeks-xinjiang-visit-this-year-says-hk-trials-key-test-2021-06-21/>.

indicates that the conditions for external access to information were restricted from the outset. For this reason, it has been more difficult for the international community to see, directly and immediately, that large-scale oppression was occurring inside Xinjiang in the way it could observe the Rohingya refugee flow.

In this sense, the Uyghur case presents what this study describes as a “quiet genocide.” The violence does not occur in the most outwardly visible form, nor in a form immediately captured by global media. It unfolds under conditions of extensive information control, severe difficulty for victims seeking to flee, and restricted external observation.¹⁵ Under these conditions, genocide proceeds with lower visibility and less public noise. When a government can effectively control the circulation of information, restrict victims’ ability to leave, and maintain oppression within a governance framework that is difficult for external actors to recognize in real time, it may delay international recognition that genocide or other serious international crimes are taking place.

Although some survivors have publicly recounted their experiences after leaving China, allowing the outside world gradually to reconstruct the contours of detention, forced birth prevention, and other persecutory measures in Xinjiang, access to the relevant information remained severely restricted for a long period.¹⁶ The OHCHR’s 2022 assessment shows that the UN attempted to develop a fuller understanding of the situation in Xinjiang, but that its access was limited by delayed negotiations over the visit, the conditions under which information could be obtained, and the absence of formal responses to specific information requests.¹⁷ At the same time, China’s status as

¹⁵ Former detainees’ release did not necessarily restore meaningful freedom from state control. The OHCHR Assessment records allegations of extensive online and offline surveillance across Xinjiang, including biometric data collection, facial-recognition cameras, “convenience police stations,” checkpoints, monitoring of communications, and police follow-up where conduct such as contact with persons abroad was flagged as a possible sign of “extremism.” It also records accounts that some former detainees were required to sign pledges not to speak about their experiences before release, and that victims and relatives abroad faced intimidation, threats, reprisals, passport-related restrictions, and risks of forcible return. These findings indicate that release from a VETC did not end the coercive environment; for those who managed to leave China, state pressure could continue through transnational intimidation and reprisals directed at them or their family members in Xinjiang. OHCHR, Xinjiang Assessment, *supra* note 8, at ¶¶ 94–99, 136–41.

¹⁶ OHCHR, Xinjiang Assessment, *supra* note 8, at ¶¶ 17–18, 42–43, 94–99, 107–08, 111–14, 136–41 (Aug. 31, 2022); U.N. Doc. CERD/C/CHN/CO/14-17, *supra* note 9, at ¶¶ 40–42; Amnesty Int’l, “*Like We Were Enemies in a War*”: China’s Mass Internment, Torture and Persecution of Muslims in Xinjiang 14–16, 28–39, 114–19 (2021); Uyghur Tribunal, *Judgment* 33–35, 485 (Dec. 9, 2021) <https://uyghurtribunal.com/wp-content/uploads/2022/09/UYGHUR-TRIBUNAL-Judgment-2022.09.20.pdf>. The Uyghur Tribunal was an independent people’s tribunal rather than a U.N. or state judicial body, but its proceedings gathered public witness testimony and documentary evidence concerning detention, sexual violence, reproductive control, and other measures in Xinjiang.

¹⁷ OHCHR, Xinjiang Assessment, *supra* note 8, at ¶¶ 3–5, 8.

a permanent member of the UN Security Council, together with the voting rules applicable to non-procedural decisions, means that more coercive intervention or sanctions requiring Security Council authorization would face significant political obstacles.¹⁸ The constraints imposed by the veto power of permanent members on the collective security system have become especially apparent in the context of Russia's invasion of Ukraine, where Russia's negative vote prevented the Security Council from adopting a draft resolution condemning its aggression and demanding the withdrawal of Russian forces. This episode again exposed the contradictions and fragility of the existing international legal order when it confronts great powers.¹⁹

By comparison, the Rohingya case has entered proceedings before the International Court of Justice, the International Criminal Court, and universal-jurisdiction proceedings in Argentina.²⁰ The UN Human Rights Council also established the Independent Investigative Mechanism for Myanmar in 2018 to collect, preserve, and analyze evidence of the most serious international crimes.²¹ At the regional level, the Association of Southeast Asian Nations (ASEAN) has not adopted coercive sanctions or humanitarian intervention against Myanmar, but it has continued to express concern about violence inside Myanmar through the Five-Point Consensus and related leaders' statements.²² The Uyghur case, by contrast, has not yet entered any formal international court proceedings, apart from the civil-society Uyghur Tribunal.²³ This difference itself shows that when a case involves a highly closed information

¹⁸ U.N. Charter art. 23, ¶ 1, art. 27, ¶ 3

¹⁹ U.N. Charter art. 27, ¶ 3; S.C. Draft Res. S/2022/155, U.N. Doc. S/2022/155 (Feb. 25, 2022); U.N. Doc. S/PV.8979, *supra* note 13, at 5.

²⁰ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.)*, Application Instituting Proceedings and Request for the Indication of Provisional Measures, ¶¶ 1–2 (Nov. 11, 2019); Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, ICC-01/19, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation, ¶¶ 2, 124 (Nov. 14, 2019); Indep. Investigative Mechanism for Myan., *Universal Jurisdiction*; Burmese Rohingya Organisation UK, *Historic Decision by Argentinian Courts to Take Up Genocide Case Against Myanmar* (Nov. 28, 2021); Global Justice Ctr. & Burmese Rohingya Org. UK, *The Universal Jurisdiction Case Against Myanmar Officials: Argentina Court Considers International Crimes Against Rohingya* 1–2 (Mar. 2025).

²¹ Human Rights Council Res. 39/2, ¶ 22, U.N. Doc. A/HRC/RES/39/2 (Oct. 3, 2018).

²² Ass'n of Se. Asian Nations, *Chairman's Statement on the ASEAN Leaders' Meeting*, ¶ 5 (Apr. 24, 2021), <https://asean.org/wp-content/uploads/Chairmans-Statement-on-ALM-Five-Point-Consensus-24-April-2021-FINAL-a-1.pdf> (calling for the immediate cessation of violence in Myanmar, constructive dialogue among all parties, mediation by a special envoy of the ASEAN Chair, humanitarian assistance through the AHA Centre, and a visit by the special envoy and delegation to Myanmar to meet with all parties concerned).

²³ The Uyghur Tribunal was an independent people's tribunal established after Dolkun Isa, President of the World Uyghur Congress, requested in June 2020 that Sir Geoffrey Nice QC establish and chair a tribunal to investigate alleged ongoing atrocities and possible genocide against Uyghurs, Kazakhs, and other Turkic Muslim populations. The Tribunal was launched on September 3, 2020, with assistance from the Coalition for Genocide Response, while stating that it would act independently. Uyghur Tribunal, About, <https://uyghurtribunal.com/about/>. See *supra* note 16.

environment, the political status of a permanent member of the Security Council, and large-scale oppression that is difficult to render externally visible, existing international legal mechanisms have a more limited capacity to initiate formal accountability procedures.

6.1.3 Commonalities: Reproductive Control, Marital Intervention, Sexual Violence, and Official Denial

Within these two different pathways, reproductive control and sexual violence both play key roles. Both governments have used law, administrative regulation, and institutional arrangements within state policy to restrict the fertility of particular groups. Compared with Myanmar, China may have invested more state budget and administrative resources in this respect. Therefore, in addition to restricting childbirth through legislation and frequent household-registration inspections, it has been able to go further by using medicalized measures such as forced sterilization to ensure that it is difficult for Uyghurs to have a next generation.²⁴ Myanmar may not have intervened through medical technologies on the same scale, but its regulation of Rohingya marriage and childbirth likewise profoundly affected the group's conditions of reproduction.²⁵ This shows that the two cases differ in governance capacity, while sharing a structural consistency in incorporating minority fertility into state control.

In terms of marital restrictions, the two cases present a logic of governance that appears opposite on the surface but is in fact connected. Myanmar, through special marriage laws and local administrative regulation, imposed stricter restrictions on marriages between Buddhist women and non-Buddhist men.²⁶ China, through rewards, propaganda, and the policy environment, encouraged marriages between Han men and Uyghur women.²⁷ The former is a prohibition accompanied by penalties; the latter is an encouragement accompanied by incentives. One side appears to prevent intergroup marriage, while the other appears to facilitate intergroup marriage, but the underlying thinking of the two is in fact highly consistent: both seek to prevent women from giving

²⁴ Adrian Zenz, *Sterilizations, IUDs, and Mandatory Birth Control: The CCP's Campaign to Suppress Uyghur Birthrates in Xinjiang* 13 (June 2020), https://www.researchgate.net/publication/343971074_Sterilizations_IUDs_and_Mandatory_Birth_Control_The_CCP's_Campaign_to_Suppress_Uyghur_Birthrates_in_Xinjiang.

²⁵ Doc. A/HRC/39/CRP.2 (2018), *supra* note 7, at ¶¶ 33, 593–94; Parveen K. Parmar et al., Mortality in Rohingya Refugee Camps in Bangladesh: Historical, Social, and Political Context, 27 *Sexual & Reprod. Health Matters* 39, 41 (2019).

²⁶ Myanmar Buddhist Women's Special Marriage Law, Pyidaungsu Hluttaw Law No. 50/2015 (Myanmar), <https://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/union-solidarity-and-development-party-laws-2012-2016/myanmar-laws-2015/>.

²⁷ Adrian Zenz, *Sterilizations, IUDs, and Mandatory Birth Control*, *supra* note 24, at 10.

birth to children who would be socially, legally, or politically recognized as belonging to the targeted minority group. If Buddhist women are not permitted to marry persons of another religion, they cannot give birth to children who are seen as the next generation of a non-Buddhist group. If Uyghur women marry Han men, the state can expect the children they bear to belong to the Han. The common logic behind these two forms of marital regulation lies in the presupposition of patrilineal belonging.²⁸ Women are positioned in ethnic politics as carriers and transmitters of descendants, rather than as persons with subject status in determining ethnic belonging. Which group a woman belongs to is not treated as decisive for the next generation. What is truly emphasized is the patrilineal community to which the children she bears should belong.

A common feature across the two cases is the use of sexual violence, although its forms differed. The Myanmar government carried out sexual violence in a more public, systematic, and collective manner, while the Chinese government made many forms of sexual violence occur in more closed, opaque, and difficult-to-disclose spaces.²⁹ The difference lies in the degree of public visibility, not in the capacity of sexual violence to produce group-directed harm. In both cases, sexual violence inflicted serious bodily and mental harm on members of the targeted group and drew force from the social meanings attached to women's sexuality within those groups. China and Myanmar are both patriarchal societies.³⁰ Women's chastity carries considerable weight in both Chinese and Burmese cultures, and in the Islamic cultural contexts of the Rohingya and Uyghurs, women's chastity likewise has important social meaning.³¹ In other words, this is not a value held only by the perpetrator side. It is a set of gender norms shared to a significant degree by perpetrators and victims. Precisely for this reason, perpetrators can predict the degree of harm that sexual violence will cause to the

²⁸ Nira Yuval-Davis, *Gender and Nation* 26 (SAGE Publ'ns 1997).

²⁹ See U.N. Doc. A/HRC/42/CRP.4 (2019), *supra* note 7, at ¶ 195; OHCHR, *Xinjiang Assessment*, *supra* note 8, at ¶¶ 73, 78; Uyghur Tribunal, *supra* note 16, ¶19(e); Newlines Inst., *supra* note 12, at 19; Hum. Rts. Watch, *China: Visiting Officials Occupy Homes in Muslim Region* (May 13, 2018), <https://www.hrw.org/news/2018/05/13/china-visiting-officials-occupy-homes-muslim-region>; Xinjiang Documentation Project, *Pair Up and Become Family Campaign* (结对认亲), <https://xinjiang.sppga.ubc.ca/chinese-sources/chinese-academic-discourse/jieqin-%E7%BB%93%E4%BA%B2/>.

³⁰ See Chunni Zhang, Xin Tong & Aiyu Liu, *Sociological Studies on Women/Gender in China during the Past 40 Years*, 11 *Chinese J. of Sociology* 2 (2025); Sarah Tynen, *Belonging between Inclusion and Exclusion: Dimensions of Ethno-Cultural Identity for Uyghur Women in Xinjiang, China*, 26 *Geopolitics* 1243, 1243, 1245 (2021); U.N. Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, ¶¶ 46–50, U.N. Doc. A/HRC/56/CRP.8 (2024); A/HRC/42/CRP.4 (2019), *supra* note 7, at ¶¶ 13–16; Makiko Takeda, *Women, Children and Social Transformation in Myanmar* 36–37 (Palgrave 2020).

³¹ Alina Isac Alak, Adis Duderija & Kristin Hissong, *Islam and Gender: Major Issues and Debates* 44–45 (Routledge 2020).

victimized group, and they can also predict what kinds of social and emotional responses will emerge within the victimized group. Sexual violence is therefore not a randomly selected mode of violence, but a violent means built on a highly developed understanding of patriarchal social mechanisms. Perpetrators understand very clearly that sexual violence not only harms individuals, but can also produce predictable consequences for the entire group through humiliation, stigma, and gendered discipline.

Another common point between the two governments lies in their consistent denial of the relevant atrocities and international allegations. With regard to Myanmar, officials long denied the existence of systematic human rights violations in Rakhine State and refused to cooperate fully with relevant UN mechanisms.³² The UN Special Rapporteur and fact-finding mechanisms both indicated that the Myanmar government refused or restricted access to Rakhine State and continued to deny the findings of investigations.³³ At the same time, Myanmar's official discourse and related narratives have long described the Rohingya as "Bengali" or "illegal immigrants," denying their status as an indigenous ethnic group of Myanmar and thereby excluding them from equal legal protection.³⁴ This official expression is one governance strategy through which the group is depoliticized, de-citizenized, and deprived of rights, enabling the state to rationalize oppression of the Rohingya as border management, population control, or national security measures, rather than as systematic persecution of a protected group.

The Chinese government's oppression of Uyghurs and other Turkic Muslim minorities has likewise been accompanied by sustained and systematic denial. Chinese officials have repeatedly asserted that the essence of the Xinjiang issue is "counter-terrorism, anti-separatism, and de-extremification," and have presented the relevant policies as lawful governance, vocational education and training, and poverty alleviation measures.³⁵ The Chinese official position cited in the OHCHR's 2022 Xinjiang assessment clearly states that the Chinese government emphasized that Xinjiang-related policies were intended to combat "terrorism" and "extremism," and

³² See Special Rapporteur on the Situation of Human Rights in Myanmar, *Myanmar Refuses Access to UN Special Rapporteur*, U.N. OHCHR (Dec. 20, 2017) <https://www.ohchr.org/en/press-releases/2017/12/myanmar-refuses-access-un-special-rapporteur>.

³³ *Id.*, Rep. of the Indep. Int'l Fact-Finding Mission on Myan., U.N. Doc. A/HRC/39/64, ¶¶ 4–5 (Sept. 12, 2018); Rep. of the Indep. Int'l Fact-Finding Mission on Myan., U.N. Doc. A/HRC/42/50, ¶¶ 10–11 (Aug. 8, 2019).

³⁴ A/HRC/39/CRP.2(2018), *supra* note 7, at ¶¶ 699 & 1312; The 1982 Citizenship Law, chs. II–V, Pyithu Hluttaw Law No. 4/1982 (Myanmar); U.N. Doc. A/HRC/32/18, *supra* note 5, at ¶ 9.

³⁵ Newlines Inst., *supra* note 12, at 38, 48 (2021); Darren Byler, *State Discourses and Effects of "Ethnic Extinction"* 1 (report prepared for the Uyghur Tribunal, 2021).

used “Vocational Education and Training Centres” as the central term through which those policies are externally explained.³⁶ At the same time, OHCHR observed that China’s 2019 white paper, *Vocational Education and Training in Xinjiang*, described the centres as “residential” and indicated that referral followed decisions by courts, public security organs, or procuratorial organs.³⁷ In other words, while Chinese officials denied the existence of arbitrary mass detention, they also used the language of vocational education, de-extremification, and poverty governance to rename detention and remaking measures that were coercive in character.

Similarly, in the field of birth policy, Chinese officials do not acknowledge these measures as oppression directed at the Uyghur group. They instead frame demographic change in Xinjiang through the language of women’s emancipation, gender equality, poverty alleviation, and the eradication of extremism.³⁸ The Chinese Embassy in the United States, when amplifying a state-linked account of Xinjiang policy on social media, stated that Uyghur women were no longer “baby-making machines.”³⁹ CEDAW has also expressed concern about reports of forced abortions, forced sterilizations, other forms of gender-based sexual violence, and other cruel, inhuman, or degrading family-planning practices affecting Uyghur women, while China has continued to reject such allegations and describe external criticism as inaccurate, politicized, or biased.⁴⁰ In other words, Chinese official denial is not merely a simple denial of whether detention exists. It uses a whole set of official language to restate detention as education, reproductive control as poverty alleviation and women’s liberation, and group oppression as national security and social stability.

Accordingly, whether in Myanmar or China, official responses display a highly similar structure: on one side, they deny external investigations and question the

³⁶ See OHCHR, *Xinjiang Assessment*, *supra* note 8, at ¶¶ 38–40, 91–95.

³⁷ State Council Info. Office of the People’s Republic of China, *Vocational Education and Training in Xinjiang* [新疆的职业技能教育培训工作] (Aug. 16, 2019) http://english.scio.gov.cn/2019-08/16/content_75106484.htm; OHCHR, *Xinjiang Assessment*, *supra* note 8, at ¶ 40.

³⁸ OHCHR, *Xinjiang Assessment*, *supra* note 8, at ¶¶ 106–09; State Council Info. Office of the People’s Republic of China, *Xinjiang Population Dynamics and Data* [新疆的人口发展] (Sept. 26, 2021); Helen Davidson, *Twitter Removes China US Embassy Post Saying Uighur Women No Longer “Baby-Making Machines”*, *The Guardian* (Jan. 10, 2021).

³⁹ See Davidson, *supra* note 38; *Twitter Locks Account of China’s U.S. Embassy for Post on Xinjiang*, *Al Jazeera* (Jan. 21, 2021), <https://www.aljazeera.com/news/2021/1/21/twitter-locks-account-of-chinas-us-embassy-for-post-on-xinjiang>.

Comm. on the Elimination of Discrimination Against Women, *Concluding Observations on the Ninth Periodic Report of China*, ¶ 44(d), U.N. Doc. CEDAW/C/CHN/CO/9 (May 31, 2023); China, *Comments on CEDAW Committee’s Concluding Observations on the Ninth Periodic Report of China* [中方关于联合国消除对妇女歧视委员会对中国履约审议结论性意见的立场文件] CEDAW/C/CHN/CO/9 (June 1, 2023) 2–7.

conclusions of the UN or other international institutions; on the other side, through official discourses of national security, population governance, border order, de-extremification, poverty alleviation, or vocational education, they restate oppression directed at particular groups as legitimate governance. In Myanmar, this denial and language of rightlessness are built on describing the Rohingya as “illegal immigrants.” In China, they are built on describing Uyghurs and other minority groups as potential extremists, separatists, or persons influenced by extremist thought. In both cases, official responses deny that the state is committing serious international crimes against a protected group, while recasting the relevant measures as necessary acts of order maintenance, security protection, or development policy.

If one borrows the language of the stages of genocide, this is precisely “denial,” one of the final stages of genocide: perpetrators deny the existence of atrocities, deny perpetrator intent, deny the victimized group’s status as a protected group, and obstruct investigation and evidence collection.⁴¹ Denial, however, cannot conceal the occurrence of atrocities. On the contrary, it is often a clear signal that atrocities have already occurred and that the state urgently seeks to repackage them as lawful governance. In the Myanmar and China cases, denial is therefore not only defensive rhetoric after atrocities have occurred, but an important technology of governance through which the state can continue oppression, block external intervention, and redefine the factual framework.

6.2 From the Patriarchal Phantom to Group Governance

The comparison between the Rohingya and Uyghur cases brings the recurrent function of patriarchy into view precisely because the two cases differ in their political patterns, legal frameworks, religious and ethnic histories, and mechanisms of control. Across these differences, women are repeatedly positioned at points where group honour, reproduction, and family structure become vulnerable to state intervention. Sexual violence, reproductive control, and marital intervention therefore operate beyond the level of individual harm. They draw force from pre-existing patriarchal assumptions about women’s bodies, sexuality, childbearing, and family roles, and through those assumptions acquire consequences for the group as a whole.

⁴¹ Gregory H. Stanton, *The Ten Stages of Genocide*, Genocide Watch, <https://www.genocidewatch.com/tenstages>

This section examines how patriarchy pre-configures women's positions within the group before genocidal violence becomes fully visible. Patriarchal structures repeatedly make women available as sites through which group exclusion, group remaking, and group destruction can be pursued. This helps explain why gendered attacks recur across otherwise distinct contexts, and why control over women, sexual humiliation, and intervention in reproduction can generate comparable group-level effects even where the surrounding political projects differ.

Within this structure, women are positioned through a set of social functions rather than approached primarily as rights-bearing subjects. As the preceding chapters have shown, patriarchal orders often make women bear meanings that exceed the individual body: honour, kinship, reproduction, and the boundaries of collective belonging. These meanings allow women's sexuality and reproductive capacity to be treated not only as personal matters, but as fields through which family, community, and state authority can be exercised.

Once women are placed in these positions, control over women can be interpreted as the preservation of group order. Regulation of women's sexuality, movement, marriage, and reproduction may then be framed as serving morality, collective interest, cultural preservation, or religious authority. Patriarchy becomes available for group-directed violence through this prior assignment of meaning: it determines how harm against women will be read, where shame will be placed, and how injury to an individual woman can be translated into injury to the family, community, or group.

This prior assignment of meaning affects the selection and impact of violent methods. Sexual violence, reproductive control, and marital intervention become especially capable of generating consequences beyond the individual because they act upon positions that patriarchal orders have already made socially and politically charged. Harm to women can therefore be read as harm to honour, lineage, and the boundaries through which the group imagines its future. The violence acquires its wider force through these existing meanings. Patriarchy shapes the conditions under which particular forms of harm can travel from the body of an individual woman to the social and reproductive life of the group.

Seen from this perspective, sexual violence and reproductive control in the Rohingya and Uyghur cases become legible as part of the same process through which violence against women acquires group-level consequences. Their importance in both cases derives from women's prior placement within patriarchal orders, where their

bodies, sexuality, reproductive capacity, and family roles had already been made capable of carrying meanings beyond the individual. Perpetrators could draw on these meanings to intensify harm: attacks on women damaged individual lives while also unsettling the social meanings through which the group understood its continuity across generations. The sexual violence, reproductive control, and marital intervention analyzed in Chapters 4 and 5 therefore form part of the genocidal process because they operate through patriarchal conditions that allow harm to women to become an attack on the group as such.

The same logic can also be seen beyond China and Myanmar. The Islamic State of Iraq and Syria (ISIS)'s genocide against the Yazidis offers another example of how patriarchal classification can organize genocidal violence.⁴² ISIS separated Yazidis by gender, age, perceived reproductive capacity, and perceived combat utility: women and girls were subjected to captivity and sexual enslavement; men and boys who had reached puberty were treated as military or religious threats; younger boys could be separated from their mothers and trained as fighters.⁴³ The pattern shows how women, men, girls, and boys were positioned according to the sexual, reproductive, military, and familial functions attributed to them within a patriarchal order.

The Yazidi case makes visible a prior social ordering through which violence could produce group-level effects. Its historical and institutional form differs from the Rohingya and Uyghur cases, but the underlying structure remains comparable:

⁴² ISIS, also known as the Islamic State in Iraq and the Levant (ISIL) or Da'esh, framed the Yazidis as "devil-worshippers" and "infidels" and launched a large-scale attack on the Yazidi community in Sinjar, Iraq, on 3 August 2014. The attack caused the overwhelming majority of Yazidis in Sinjar to flee, while thousands of Yazidi women and children were abducted and held captive. Many Yazidis remain missing. The atrocities committed against the Yazidis were organized through explicit gendered and age-based classifications. ISIS separated Yazidis according to sex, age, perceived reproductive capacity, and perceived combat utility. Men and boys who had reached puberty were separated from women and younger children; those who refused to convert to Islam were subjected to violence and killing, while those who converted were compelled to follow ISIS's religious rules and practices. Women and girls were subjected to captivity and sexual enslavement. Women with young children were grouped together, and pre-pubescent children below a certain age were permitted to remain with their mothers. Boys above that age were forcibly separated from their mothers and subjected to ideological and military training in order to serve as fighters for ISIS. This pattern shows that ISIS did not treat Yazidis simply as an undifferentiated enemy population. Its violence was distributed according to the social and functional roles that women, men, girls, and boys were understood to occupy within a patriarchal order: women and girls as sexual and reproductive targets, men as religious and military threats, and boys as potential future fighters. The gendered and age-based organization of violence therefore formed part of the broader genocidal project against the Yazidis. See Hum. Rts. Council, "They Came to Destroy": ISIS Crimes Against the Yazidis, U.N. Doc. A/HRC/32/CRP.2, ¶¶ 1, 19, 32–37, 92–95, 114 (June 15, 2016); Glob. Just. Ctr., *Beyond Killing: Gender, Genocide, & Obligations Under International Law* 48 (Dec. 2018); Amnesty Int'l, *Legacy of Terror: The Plight of Yazidi Child Survivors of ISIS* 13 (2020), <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE1427592020ENGLISH.pdf>.

⁴³ A/HRC/32/CRP.2, *supra* note 42, at ¶¶ 32–37, 92–95.

patriarchal role assignment gave particular bodies sexual, reproductive, military, and familial meanings, allowing harm inflicted on individuals to affect the group's boundaries, and future.

Practices such as female genital cutting also show how control over sexuality can be tied to marriageability, respectability, and communal belonging.⁴⁴ Women may participate in reproducing practices that have harmed them because the surrounding order presents those practices as conditions of honour, marriage, or social acceptance.⁴⁵ The example clarifies how patriarchal regulation can become intergenerational without requiring each act of enforcement to come directly from the state.

Gendered group attacks recur across different contexts because patriarchal role assignment is portable. Across distinct cultural, religious, and political settings, women are repeatedly positioned in relation to honour, sexuality, reproduction, marriage, and kinship. These positions allow state and non-state actors to use sexual violence, reproductive control, and marital intervention as means of acting on the group through women. Harm directed at women then moves across bodily, familial, reproductive, and boundary-making registers, allowing individual violation to affect the group's future.

This portability helps explain why similar methods of attack can acquire force in highly different contexts. The mechanism lies in the taken-for-granted presence of patriarchal norms, through which women's bodies, sexuality, and reproductive capacities come to appear socially available for group projects. Once these norms are treated as self-evident, violence against women can be made to carry meanings beyond the individual and can become a means of governing, remaking, or damaging the group itself.

⁴⁴ One of its purposes is to restrict women's sexual pleasure and autonomy, because patriarchal control depends in part on the containment of women's sexuality. Women who have not undergone cutting may be treated as failing to meet patriarchal expectations, and their marriageability may be diminished. World Health Org., *Female Genital Mutilation* (Jan. 31, 2025), <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>; UNICEF, *What Is Female Genital Mutilation?*, <https://www.unicef.org/stories/female-genital-mutilation>; UNFPA, *Female Genital Mutilation (FGM) Frequently Asked Questions* (Feb. 5, 2026), <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.

⁴⁵ UNICEF, *The Dynamics of Social Norms and Female Genital Mutilation* 12–14 (2022), <https://www.unicef.org/media/124446/file/FGM-Dynamics-Social-Norm-2022.pdf>.

6.3 Deprivation of Legal Status: The Institutional Predicate of Patriarchal Group Governance

In the process of genocide, deprivation of legal status often appears at a very early stage.⁴⁶ This step usually does not occur in isolation. It is built upon earlier group classification and stigmatization. The state or other actors first divide society into “us” and “them,” or repeatedly refer to a group by a particular name and attach negative symbolic meanings to that group.⁴⁷ The distinction imposed on Jews during the Nazi period provides a clear example. The Nazi regime constructed Jews as racial outsiders who could not belong to the German national community. Under the 1935 Reich Citizenship Law, full political membership was reserved for persons of “German or kindred blood,” while Jews were excluded from Reich citizenship.⁴⁸ The compulsory wearing of the yellow star later made this exclusion visible in everyday public life.⁴⁹ It repeatedly reminded both the majority group and the minority group of the differences between them and habituated society to special governmental regulations imposed on the minority group. The function of these practices was not limited to marking difference within society. It also allowed difference itself gradually to become a boundary with political consequences.

On this basis, governments or those in power further use discursive authority to describe the targeted group in dehumanizing language, presenting it as inferior, dangerous, dirty, threatening, or as an existence that should be dealt with.⁵⁰ In Rwanda, for example, Tutsis were called cockroaches; in Myanmar, Rohingya were called dogs; in China, Uyghurs have been compared to weeds and disease.⁵¹ The effect of this language is that it strengthens the group’s position as an “other” and gradually makes the group understood as a source of abnormality, pollution, or risk. Once a group is understood in this way, the majority group becomes more likely to believe that

⁴⁶ See Stanton, *supra* note 41.

⁴⁷ *Id.*

⁴⁸ Reich Citizenship Law, art. 2, Sept. 15, 1935, Reichsgesetzblatt I, at 1146 (providing that a Reich citizen must be a state subject of “German or kindred blood” who proves willingness and fitness to serve the German people and Reich faithfully); First Regulation to the Reich Citizenship Law, arts. 4–5, Nov. 14, 1935, Reichsgesetzblatt I, at 1333 (providing that Jews could not be Reich citizens and defining who counted as Jewish under the law).

⁴⁹ Police Decree on the Identification of Jews, art. 1, Sept. 1, 1941, Reichsgesetzblatt I, at 547 (requiring Jews over the age of six to wear a yellow star visibly on the left side of the chest while in public); see also U.S. Holocaust Mem’l Museum, *Jewish Badge: During the Nazi Era*, <https://encyclopedia.ushmm.org/content/en/article/jewish-badge-during-the-nazi-era>.

⁵⁰ Stanton, *supra* note 41.

⁵¹ *Prosecutor v. Nahimana, Barayagwiza & Ngeze*, Case No. ICTR-99-52-T, Judgment and Sentence, ¶¶ 396, 399, 970 (Dec. 3, 2003); U.N. Doc. A/HRC/39/CRP.2, *supra* note 42, at ¶¶ 704–06, 1313; Newlines Inst., *supra* note 12, at 38, 48; Cain, *supra* note 11, at 1.

excluding, regulating, guarding against, or even “dealing with” the group through more severe means protects the overall social order and the interests of the majority group.

As this perception becomes normalized, exceptional treatment of the group begins to appear reasonable and may even command emotional support from the majority population. Measures that should originally be regarded as oppressive are converted, under this narrative, into necessary, appropriate, and even responsible governance.⁵² The compression or violation of group members’ rights is less likely to be seen as injustice. It is instead understood as a suitable response under special circumstances. Dehumanizing narratives can further reduce moral criticism of infringements on this group’s rights. This exceptional treatment can then be incorporated into law and policy, because those in power have already persuaded society that a certain group constitutes a special threat to the state or the nation. Further deprivation or compression of the group’s basic rights is then described as necessary for the public interest and is no longer immediately recognized as persecution. Deprivation of legal status repackages practices that might otherwise be seen as violence or discrimination as institutionalized governance, giving them a basis through which conduct that may have been unlawful becomes legalized. In other words, once a group has been marked as not belonging to the genuine political community, restrictions imposed by the state are less likely to be seen as violations of the group’s basic rights and more easily understood as necessary management of a particular “other” population. Deprivation of legal status therefore deprives rights while also providing institutional language and a framework of legitimacy for later unequal treatment.

In *patriarchal genocide*, the deprivation of legal status affects women as members of the protected group, while also exposing them to forms of control that operate through gendered assumptions about sex, reproduction, marriage, and family life. As the group is pushed outside the ordinary sphere of equal protection, its women become more easily framed as a population whose sexual and reproductive lives require special regulation. The prior demotion of the group’s legal and political status therefore prepares the ground for a more targeted form of governance: the state can present intervention into women’s bodies, marriages, pregnancies, movement, medical care, and family formation as population management, public order, social policy, or security administration.

⁵² Stanton, *supra* note 41.

This shift is central to the operation of *genocidal patriarchy*. Measures such as non-consensual sterilization, forced abortion, restrictions on marriage, limits on the number or spacing of children, and administrative or police monitoring of marital and reproductive life do more than restrict individual autonomy. They turn the conditions through which women form families, bear children, access care, and sustain reproductive life into objects of state control. When these measures are directed at women of a protected group, sexual and reproductive rights become a route through which the state enters the group's biological and social future. What may appear in legal form as family policy, population policy, or social management can therefore operate as an intervention into the group's capacity to reproduce and continue.

In the Rohingya case, diminished legal status made patriarchal governance administratively possible. Exclusion from full national membership and equal rights protection allowed restrictions on marriage and reproduction to be treated as ordinary governance rather than as the systematic deprivation of a protected group's rights. These restrictions placed family formation and reproductive life under state control, turning legal exclusion into a pathway through which the state entered Rohingya intimate and reproductive life.

The Uyghur case followed a different institutional route. Uyghurs were governed through a security framework organized around counter-terrorism, de-extremification, and anti-separatism. Within that framework, interventions into Uyghur women's bodies, reproduction, marriage, family life, and children's placement could be presented as law-based governance, poverty alleviation, women's liberation, or social stability. Security language therefore made sexual and reproductive control appear administratively rational, while its effect was to intervene in the future of the Uyghur group.

The Rohingya and Uyghur cases proceed through different institutional arrangements, yet they converge in the way legal and political demotion makes gendered governance possible. Naming, differentiation, and stigmatization first mark the group as a population that can be governed differently. The weakening of legal status then gives exceptional governance an institutional form. Within that framework, restrictions on women's marriage, reproduction, bodily autonomy, and family life can be legalized, normalized, or presented as ordinary administration.

Women become central to this form of governance because patriarchal orders have already positioned them in relation to marriage, sexual morality, reproduction, and

family belonging. State intervention in the group's future can then proceed through the regulation of women's sexual and reproductive rights. Restrictions on the marital and reproductive rights of women in a protected group mark a deeper form of governance after legal-status deprivation: it gives the state access to the intimate and reproductive sphere through which the group is sustained.

6.4 Manipulating Visibility: From Data and Information to “Quiet Genocide”⁵³

Genocidal violence can also be organized through the management of visibility. Data, statistics, and the circulation of information shape whether a targeted group is counted, named, recognized, and made available for institutional response. When a state excludes a group from official categories, population statistics, or administrative data, the group's numerical visibility is diminished, and its standing within the institutional order is also weakened. A population that is not formally counted is less likely to have its needs reflected in budget allocation, policy planning, or administrative responsibility.

Education, health care, social welfare, infrastructure, and humanitarian resources usually depend on statistics and registration data. A group that appears only incompletely in the data, is handled through ambiguous categories, or is directly excluded from official records can therefore be made easier to ignore within institutions. For those in power, the absence of a group from official data also reduces the pressure to acknowledge its condition as a matter requiring state response. Data-level exclusion can make the compression of rights appear quiet, fragmented, and administrative, even while profoundly affecting how the group is recognized, governed, and reached by institutional response.

The situation of the Rohingya clearly illustrates this point. Before Myanmar's 2014 census was conducted, the government had initially agreed to allow respondents to self-identify their ethnic identity in accordance with international census standards, but changed its position before the census began and refused to allow “Rohingya” to be registered as an ethnic identity. UNFPA publicly expressed concern at the time, stating that this move departed from agreed procedures and human rights principles.⁵⁴ Later

⁵³ What this chapter describes as “quiet genocide” . refers to a mode of genocidal governance whose violence is mediated through information control, administrative categories, restricted movement, and limited external access, rather than through immediately visible mass killing or open expulsion.

⁵⁴ See UNFPA, *Statement: UNFPA Concerned About Decision Not to Allow Census Respondents to Self-Identify as Rohingya* (Mar. 29, 2014), <https://myanmar.unfpa.org/en/news/statement-unfpa-concerned-about-decision-not-allow-census-respondents-self-identify-rohingya>

census-related reports showed that approximately 1.09 million people who wished to self-identify as Rohingya were not enumerated.⁵⁵ Although these unenumerated persons were included in the overall population estimate, the census did not collect individual-level data on their characteristics. This produced a form of statistical inclusion without institutional legibility: the Rohingya were counted in the aggregate, yet the specific conditions attached to their exclusion could not be traced through the census data. Without such disaggregated information, the Rohingya population could be acknowledged numerically while remaining difficult to identify as a population with specific vulnerabilities and rights claims. Statistical blurring kept their situation outside the ordinary channels through which demographic information becomes policy, budgetary, or humanitarian response.

The Uyghur case presents a different form of visibility management. Information concerning Uyghurs and other Turkic Muslim minorities in Xinjiang has been shaped by a highly controlled environment in which the state retains substantial authority over the production, publication, classification, and interpretation of data. When researchers, journalists, international organizations, and victims face restrictions on access, communication, and movement, external observers are left to reconstruct the scale and character of repression through partial and indirect sources. The detention facilities in Xinjiang illustrate this problem. In the absence of open access and independent investigation, outside researchers relied heavily on satellite imagery, open-source materials, official procurement documents, construction records, and survivor testimony to identify, map, and interpret the expanding network of camps and detention facilities.⁵⁶

Birth-rate data present the same problem in another form. The OHCHR's 2022 assessment, relying on official statistics, noted that Xinjiang's birth rate fell sharply between 2017 and 2019, with an approximate decline of 48.7 percent over two years, far exceeding the national average change.⁵⁷ In a tightly controlled information environment, however, even official figures do not necessarily produce full visibility.

⁵⁵ Ministry of Immigration & Population, Republic of the Union of Myanmar, *The 2014 Myanmar Population and Housing Census: The Union Report* 32, 51–52 (May 2015); UNFPA, *Census Report: 4.25 Million People Born in Myanmar Now Live Abroad* (Mar. 28, 2016), <https://myanmar.unfpa.org/en/news/census-report-425-million-people-born-myanmar-now-live-abroad>.

⁵⁶ OHCHR, Xinjiang Assessment, *supra* note 8, at ¶¶ 3–5, 11–13, 40–41; Nathan Ruser, *Mapping Xinjiang's "Re-Education" Camps*, Austl. Strategic Pol'y Inst. (Nov. 1, 2018), <https://www.aspi.org.au/report/mapping-xinjiangs-re-education-camps/>; Austl. Strategic Pol'y Inst., *Exploring Xinjiang's Detention System*, Xinjiang Data Project (Sept. 24, 2020), <https://xjdp.aspi.org.au/explainers/exploring-xinjiangs-detention-facilities/>.

⁵⁷ See OHCHR, Xinjiang Assessment, *supra* note 8, at ¶¶ 106–09, 242–43.

External analysis remains dependent on what the state releases, how categories are organized, and whether the relevant data remain comparable over time. Public figures on Xinjiang's overall birth rate and birth population exist for certain years, but a stable, complete, and continuously public sequence of fertility data disaggregated by ethnicity has not been available. When key statistics are discontinued, categories are adjusted, or demographic changes are framed as policy success, the scale and nature of coercive reproductive governance become harder to assess independently.

Xinjiang statistical yearbooks previously provided more detailed local and ethnicity-related information on natural population change. Later yearbooks removed some of the key population tables, making county-level birth rates and population changes in minority-concentrated areas more difficult to follow over time.⁵⁸ Official figures on Xinjiang's overall birth rate or total births remain available for certain years, but they do not provide a stable basis for comparing fertility changes across ethnic groups or for assessing how particular groups were affected by policy.⁵⁹ Ethnicity-disaggregated, regionally specific, and longitudinally comparable information has become fragmented, incomplete, or available only through scattered official statements and indirect estimation. As a result, the targeted effects of reproductive governance are harder to distinguish from broader demographic trends. By controlling publication, classification, and comparability, the state shapes which forms of population change can be seen, measured, and connected to specific groups.

Data and information control shape patriarchal genocide at two levels. Within the state, the targeted group can be made less legible to institutions: its needs are less likely to appear as rights claims, budgetary obligations, or policy responsibilities, and more likely to disappear into administrative silence. At the international level, restricted data, limited testimony, and controlled access delay the formation of an evidentiary picture through which external actors can identify the scale and character of repression. The group's conditions of survival may already be under sustained attack before the

⁵⁸ Nathan Ruser & James Leibold, *Family De-Planning: The Coercive Campaign to Drive Down Indigenous Birth-Rates in Xinjiang* 25–29 (Austl. Strategic Pol'y Inst. 2021).

⁵⁹ Between 2017 and 2019, the sharp decline in Xinjiang's overall birth rate can be traced in official statistics, and the OHCHR 2022 assessment also cited official figures showing a major decline in Xinjiang's birth rate during those two years. In 2020, Chinese authorities also publicly explained the decline in Xinjiang's overall birth rate and natural growth rate in 2018 and further provided figures for the birth rates of Uyghurs and Han that year. This indicates that, at least for specific years, officials did release some population-change data disaggregated by ethnicity. Information Office of the People's Government of Xinjiang Uygur Autonomous Region, "Important News: the Information Office of the People's Government of Xinjiang Uygur Autonomous Region holds a special press conference on population and family planning in Xinjiang" (5 Sept. 2020) https://gb.china-embassy.gov.cn/eng/PressandMedia/202009/t20200905_3278223.htm.

violence becomes visible in a form that international institutions are prepared to recognize as genocide in progress.

This is the sense in which the Uyghur case is described here as a form of “quiet genocide.” The term does not suggest an absence of violence. It refers to violence that proceeds under conditions of intensive information control, limited exit for victims, and restricted external observation. The erosion of a group can therefore continue with reduced visibility, fewer publicly available traces, and delayed international recognition. Data disappearance, statistical blurring, and controlled information circulation become part of the conditions that allow this low-visibility violence to persist.⁶⁰

6.5 Control over Sexual and Reproductive Health and Rights: Direct Intervention into the Conditions of Group Continuity

The preceding sections have shown how patriarchal governance places women at the intersection of sexuality, marriage, reproduction, family order, and the next generation. This section turns to sexual and reproductive health and rights (SRHRs) as the point at which that governance most directly reaches the conditions of group continuity. SRHRs are used here in their established international human rights sense, referring to bodily, sexual, and reproductive autonomy; access to reproductive health information and care; decisions concerning fertility, contraception, pregnancy, childbirth, and family planning; and freedom from coercion, discrimination, and violence.⁶¹

⁶⁰ Compression of visibility may also occur within international institutions, and its effect appears when a population cannot enter formal procedures at all and becomes institutionally invisible in international society. When a political entity is not regarded as existing within the international system, the problems faced by its people may be objectively real while still being unable to enter formal frameworks of deliberation, assessment, and response. Taiwan can serve as an example of institutional visibility being compressed at the international level. For the UN system, Taiwan does not fail to exist geographically. Rather, it has been institutionally arranged into a position close to nonexistence. Matters affecting its people cannot enter the formal procedures of the UN and its affiliated international organizations in the same way as matters affecting the people of ordinary member states, nor can they become issues that must be formally handled, formally answered, and formally tracked.

⁶¹ See Rep. of the Int’l Conf. on Population & Dev., Cairo, Egypt, Sept. 5–13, 1994, Programme of Action, princ. 8, ¶¶ 7.2–7.3, U.N. Doc. A/CONF.171/13/Rev.1 (1995) (recognizing the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so, and defining reproductive health to include a satisfying and safe sex life and reproductive decision-making); Fourth World Conference on Women, Beijing Declaration and Platform for Action, ¶¶ 94–96, U.N. Doc. A/CONF.177/20/Rev.1 (1995) (addressing women’s reproductive health, reproductive rights, and sexuality free from coercion, discrimination, and violence); World Health Org., Defining Sexual Health: Report of a Technical Consultation on Sexual Health, 28–31 January 2002, Geneva 5 (2006) (defining sexual health as requiring the possibility of pleasurable and safe sexual experiences, free of coercion, discrimination, and violence); G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable

SRHRs concern the conditions under which a woman can make decisions about sex, contraception, pregnancy, childbirth, reproductive health care, marriage, family formation, and children.⁶² These decisions are often treated as private or medical matters, but they also shape how families are formed, how children are born and recognized, and how relations between generations are sustained. When the women affected belong to a protected group, state control over these fields can reach the conditions through which that group continues itself.

When this discipline is imposed more strictly and more intensively on women of a particular “national, ethnical, racial or religious group” protected under the Genocide Convention, its legal and political significance changes. In this situation, women are disciplined through both gender and protected-group membership. Their group identity makes them a point through which the state can act upon the group as such. When differentiated discipline is concentrated on women of a protected group, the state or dominant group intervenes, through women’s bodies, sexual and reproductive rights, marital choices, and social roles, in how that group reproduces itself, and maintains its identity.

As the preceding two chapters have shown, the Chinese and Myanmar governments intervened in the reproductive conditions of the Uyghur and Rohingya groups through control over women’s reproductive capacity, marriage, family life, and relation to the next generation. The institutional forms differed, but the field of intervention was comparable. Restrictions on marriage affected who could form recognized families. Birth restrictions and reproductive interventions affected whether children could be born within the group and under conditions chosen by its members. Movement controls and restricted access to care affected pregnancy, childbirth, medical treatment, family support, and the administrative recognition of marriage or birth. Household surveillance and intervention into family life affected the relations through which children were raised, belonging was maintained, and the group carried itself into the next generation.

These measures may appear in legal, administrative, medical, or security language. A marriage rule may be presented as family regulation. A birth policy may be presented

Development, targets 3.7, 5.6, U.N. Doc. A/RES/70/1 (Sept. 25, 2015) (calling for universal access to sexual and reproductive health-care services and reproductive rights); Rome Statute of the International Criminal Court arts. 7(1)(g), 8(2)(b)(xxii), 8(2)(e)(vi) (prohibiting rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other forms of sexual violence as crimes against humanity and war crimes).

⁶² Programme of Action, *supra* note 61, at 45–49.

as population management. A reproductive intervention may be presented as health administration or poverty alleviation. Movement restrictions may be presented as public order or security control. When these measures are directed at women in a protected group, they place sex, reproduction, marriage, care, and family formation under state control in ways that affect the group's capacity to continue biologically, socially, and culturally.

Women's reproductive capacity becomes a particular focus because reproduction connects childbirth, family formation, descent, and group belonging. In patriarchal and patrilineal orders, children are often presumed to belong to the father's group, and women's sexuality and reproductive capacity are treated as sites through which lineage and community boundaries are maintained or altered.⁶³ This helps explain why rape, forced marriage, forced pregnancy, and forced birth can be expected to produce group-level effects.⁶⁴ Reproductive control has early-warning significance because it shows the state or dominant group acting on women in order to act on the group's future.

Placed after legal-status deprivation and visibility control, SRHRs show a more intimate level of governance. Legal exclusion can make a group available for exceptional treatment. Information control can make the pattern harder to see. Control over sexual and reproductive rights enters the body, the family, and the next generation. The next section turns to sexual violence, which acts on the same patriarchal terrain through bodily violation, shame, silence, stigma, marriageability, family rupture, and communal meaning.

6.6 The Implementation of Sexual Violence: Maximizing Shame, Silence, and Group Disintegration

Sexual violence against women has a particular force in genocidal patriarchy because it acts upon a prior social distribution of shame. Patriarchal order has already placed women within a normative framework in which chastity, obedience, and sexual morality are used to measure their value.⁶⁵ A woman who is subjected to sexual

⁶³ *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, ¶ 507 (Sept. 2, 1998); Albert Doja, Rethinking the Politics of Mass Rapes as a Military Strategy and Instrument of Ethnic Cleansing, in *War and Sexual Violence: New Perspectives in a New Era* 85, 119 (Sarah K. Danielsson ed., Brill 2019).

⁶⁴ Stacy Banwell, *The War Against Nonhuman Animals: A Non-Speciesist Understanding of Gendered Reproductive Violence* 107 (Springer Int'l Publ'g AG 2023).

⁶⁵ Vibhuti Patel, There Is No Honour in Honour Killing, in *Analyzing Violence Against Women* 189, 190 (Wanda Teays ed., Springer 2019); Doja, *supra* note 63, at 115.

violence is therefore made to carry more than the injury inflicted on her body and mind. She is also drawn into a moral economy that treats her as an object of evaluation.

When sexual violence occurs, this moral economy is activated quickly. Shame is shifted away from the perpetrator and attached to the victim, then travels through her kinship ties, social relations, and group membership.⁶⁶ The violence produces individual injury while also generating silence, stigma, and fracture within the group.⁶⁷ Its wider force comes from this pre-existing mechanism of humiliation: sexual violence can exceed the event itself because patriarchal shame allows harm to move from the violated woman to the family, community, and group to which she belongs.

This study argues that this distribution of shame can operate because it is built upon an order that morally punishes those who “deviate from social and legal norms.” This logic reaffirms the legitimacy of existing norms by blaming the victim, and it maintains collective order through that reaffirmation. People often participate in such blame because of three simultaneous forces: internalized identification with existing norms, conformity to group consensus, and fear of punishment and exclusion. At the legal level, unlawful conduct is subject to prosecution and sanction. At the social level, even conduct that does not constitute a crime may be publicly condemned once it is judged to violate moral norms. In some conservative social settings, premarital or extramarital sex may be treated as a violation of family honour or sexual respectability even when the parties are adults.⁶⁸ Normative pressure therefore comes not only from formal law but also from informal social sanction.

Once this order combines with patriarchy, it produces a key consequence: even when the person concerned did not act voluntarily, and even when she is clearly in a state of victimization, she may still become the object of condemnation. She is placed within a framework that evaluates women through chastity, obedience, and sexual morality. Within such a framework, sexual violence is often interpreted through victim-

⁶⁶ Debra Bergoffen, *The Genocidal Politics of Rape, Shame, and Disgust*, in *War and Sexual Violence: New Perspectives in a New Era* 15, 15 (Sarah K. Danielsson ed., Brill 2019); H. Patricia Hynes, *On the Battlefield of Women's Bodies: An Overview of the Harm of War to Women*, 27 *Women's Stud. Int'l F.* 431, 433 (2004).

⁶⁷ Bergoffen, *supra* note 66, at 2; Hynes, *supra* note 66, at 433.

⁶⁸ See U.N. Secretary-General, *In-Depth Study on All Forms of Violence Against Women*, ¶¶ 122–24, U.N. Doc. A/61/122/Add.1 (July 6, 2006); Special Rapporteur on Violence Against Women, *Its Causes and Consequences, Cultural Practices in the Family That Are Violent Towards Women*, ¶¶ 21–27, U.N. Doc. E/CN.4/2002/83 (Jan. 31, 2002); U.N. Working Grp. on Discrimination Against Women in Law & Practice, *Adultery as a Criminal Offence Violates Women's Human Rights* 2–5 (2012), <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/AdulteryasaCriminalOffenceViolatesWomenHR.pdf>

blaming narratives that attach responsibility to women's perceived failure to comply with gendered expectations of modesty, respectability, and sexual restraint.⁶⁹ Survivors may be accused of dressing "revealingly," returning home "too late," or behaving "provocatively," as if the violence were a foreseeable consequence of their departure from prescribed gender norms.⁷⁰ These narratives redirect attention from the perpetrator's act to the woman's supposed failure to observe gendered expectations. The violence is read through her alleged departure from modesty, respectability, or sexual restraint. The perpetrator's decision to violate her becomes less visible, while her moral qualification becomes the object of scrutiny.⁷¹ Subsequent social interpretation reallocates shame to the victim and gives this violence greater destructive force.

Under this misplacement, women who are raped often become the condemned party because they are thought to have violated society's expectations of female chastity. This exclusion may even extend into legal systems. In some legal systems, rape survivors have been exposed to punishment because the reporting of rape is treated as evidence of premarital or extramarital sex. Other systems have allowed marriage between the victim and the perpetrator to extinguish or suspend criminal responsibility.⁷² The shared logic of these systems lies in the fact that what they truly seek to repair is not the victim's rights, but the social expectation thought to have been damaged. When sexual violence is understood in this way, the fact of victimization does not become the basis for sympathy. It becomes the reason for further disciplining her.

⁶⁹ See, e.g., UN Women, *16 Ways You Can Stand Against Rape Culture* (Nov. 18, 2019).

⁷⁰ See UN Women Asia and the Pacific, *Don't Blame the Clothes* (June 25, 2018); Claire Murray, *Modern Rape Myths: Justifying Victim and Perpetrator Blame*, 13 *Societies* 47 (2023).

⁷¹ This logic is particularly visible in the treatment of women in sex work, whose experiences of violence are often minimized, disbelieved, or rationalized because they have already been placed outside the boundaries of sexual respectability. Their treatment illustrates how patriarchal moral order distributes credibility, sympathy, and protection according to women's perceived sexual status. See Shiri H. Stern, *Police Perceptions of Sex-Worker Rape Victims and Their Offenders: Blame, Credibility, and Sentencing*, 37 *Journal of Interpersonal Violence* NP14189 (2022); Amnesty International, *Sex Workers at Risk: A Research Summary on Human Rights Abuses Against Sex Workers* 7–8, 12 (2016).

⁷² Comm. on the Elimination of Discrimination Against Women, *General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, ¶ 31(a), U.N. Doc. CEDAW/C/GC/35 (July 26, 2017) (calling on States parties to repeal discriminatory criminal provisions, including provisions allowing perpetrators to escape punishment by marrying the victim); Comm. on the Elimination of Discrimination Against Women, *General Recommendation No. 33 on Women's Access to Justice*, ¶¶ 26–29, U.N. Doc. CEDAW/C/GC/33 (Aug. 3, 2015) (addressing gender stereotypes, stigma, and discriminatory evidentiary and procedural rules that impede women's access to justice); See also U.N. Off. of the High Comm'r for Hum. Rts., *End in Sight for "Marry Your Rapist" Laws* (Aug. 25, 2017).

Sexual violence is especially likely to produce consequences different from those of other forms of violence. Other forms of violence may also produce stigma and exclusion, especially when they leave disability, dependency, or visible injury. Sexual violence, however, is more readily absorbed into patriarchal judgments about purity, honour, and sexual respectability. Even when no visible bodily injury remains, disclosure itself may expose the survivor to social rejection. These judgments allow sexual violence to trigger social consequences that other forms of violence are less likely to produce.⁷³

This distribution of shame brings two interconnected results. The first is the spread of group humiliation. When violence against women is understood as the shame of the entire group, sexual violence ceases to be only individual victimization and is quickly understood as humiliation, contamination, and boundary violation directed at the whole group. The second is victims' silence. Victims fear speaking not only because the trauma itself is difficult to bear, but also because once they speak, they often have to face assessments of impurity, shame, disqualification, unmarriageability, or damage to family honour, and they may also face retaliation by the perpetrators, especially when the perpetrators are the state or those in power.⁷⁴ This means that sexual violence can cause harm at the moment of the event and continue to operate through subsequent social reactions: on the one hand, it makes the group bear spreading humiliation; on the other, it makes testimony, disclosure, and accountability more difficult. For this reason, sexual violence is prone to distortion in statistics, incompleteness in evidence, and concealment in narrative. The resulting evidentiary gaps are partly produced by the very social conditions that make disclosure dangerous. These gaps then make accountability more difficult and allow perpetrators to benefit from the silence their violence has helped generate. Once perpetrators exploit this distribution of shame, sexual violence can damage the victim group's marriage, family, and community ties without depending on killing to carry out genocide.

This is also a concrete example of how the “*patriarchal phantom*” proposed in Chapter 2 is transformed into real discipline with binding force, a gender order that

⁷³ See U.N. Doc. CEDAW/C/GC/35, *supra* note 77, at ¶¶ 19, 26(c); World Health Org. & London Sch. of Hygiene & Tropical Med., *Preventing Intimate Partner and Sexual Violence Against Women: Taking Action and Generating Evidence* 24–25 (2010); Sarah E. Ullman, Aspects of Selective Sexual Assault Disclosure: Qualitative Interviews with Survivors and Their Informal Supports, 39 *J. Interpersonal Violence* 263, 263–89 (2024).

⁷⁴ U.N. Secretary-General, Conflict-Related Sexual Violence, U.N. Doc. S/2023/413 ¶11 (June 22, 2023); U.N. Secretary-General, Conflict-Related Sexual Violence, U.N. Doc. S/2024/292 ¶ 17 (Apr. 16, 2024); Int'l Crim. Ct., Office of the Prosecutor, Strategic Plan June 2012–2015, ¶ 58 (Oct. 11, 2013); CEDAW/C/GC/33, *supra* note 77, at ¶¶ 26–28.

originally appears abstract and intangible becomes concretized through collective condemnation, institutional acquiescence, and legal practice, thereby producing effects in reality that can be enforced, punished, and reproduced. Through victim blaming, patriarchy moves shame away from perpetrators and presses it onto victims, thereby creating the conditions for sexual violence to spread as a group effect. In other words, sexual violence can become a low-cost and highly effective means of group attack in some contexts because such violence has an already existing patriarchal order as its background, one that completes the transfer of shame, the spread of stigma, and the maintenance of silence. Patriarchy is therefore a condition that makes particular forms of harm appear earlier, become more easily rationalized, and more readily spill over into group destruction. Without this mediating mechanism, sexual violence would still be a serious violation, but it would be less likely to produce such strong and enduring spillover effects at the social level.

This reaches a conclusion similar to Crenshaw's discussion of Rwanda and Bosnia, which reveals how sexual violence acquires destructive meaning against the group through patriarchal imaginings of the group. She notes that the genocides in Rwanda and Bosnia included ethnically motivated rape and injuries to women's bodies.⁷⁵ These acts of violence were attacks on the women themselves and also attacks on the honour of the entire group through the humiliation of women. She also draws on UN Special Rapporteur Radhika Coomaraswamy's observation to explain that women become specific targets of this kind of violence because they are often treated as symbols of cultural honour and as reproductive and symbolic gatekeepers of the community's continuity.⁷⁶ This analysis helps explain why sexual violence should not be treated as incidental harm in genocide. In patriarchal settings, women's bodies, sexuality, reproductive capacity, marital position, and family roles are often treated as matters of collective honour, lineage, and belonging. Sexual violence therefore injures women through meanings that already exceed the individual body. The harm can move through marital, familial, reproductive, and communal relations, damaging the social ties that hold the group together.

⁷⁵ Crenshaw, *supra* note 1, at 6–7.

⁷⁶ *Id.*, at 7.

6.7 Patriarchy as an Early Mechanism of Genocide: Prevention and Resistance

Chapter 3 traced how external, internal, and institutional vulnerabilities make sexual and reproductive violence operational within genocidal patriarchy. The same framework also has preventive implications. If those vulnerabilities explain how sexual and reproductive violence becomes genocidal in effect, they can also guide attention to the earlier conditions under which such violence becomes possible before genocide is legally or politically recognized.

Article I of the Genocide Convention places prevention alongside punishment and provides the legal starting point for the preventive analysis developed in this study.⁷⁷ However, Article I does not specify how states or international mechanisms should identify genocide risks before they have fully materialized. In *Bosnia v. Serbia*, the International Court of Justice held that a State's obligation to prevent arises once the State "learns of, or should normally have learned of," the existence of a serious risk that genocide will be committed.⁷⁸ To give the obligation to prevent practical force in gendered and non-lethal contexts of genocide, the analysis must reach the conditions of genocide before mass killing, expulsion, or clear patterns of sexual and reproductive violence have already made its genocidal character visible. The patriarchal mechanisms examined in this dissertation often operate at this earlier stage. Deprivation of legal status, control over visibility, restrictions on sexual and reproductive autonomy, regulation of marriage and family life, and population administration may first appear as ordinary governance, family norms, national security policy, population management, or social practice. Within these settings, sexual violence may operate through shame, silence, and stigma, making it harder to report, harder to recognize, and more capable of producing effects beyond the individual victim. By the time these measures are reinterpreted after atrocities have occurred, the conditions through which a protected group sustains itself across generations may already have been deeply altered.

Over the past thirty years, wartime rape and other crimes of sexual violence have become central to international criminal law, and feminist advocacy has contributed to the entrenchment of sexual violence crimes in the "formal rules" of international law.⁷⁹

⁷⁷ Convention on the Prevention and Punishment of the Crime of Genocide art. I, Dec. 9, 1948, 78 U.N.T.S. 277.

⁷⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosn. & Herz. v. Serb. & Montenegro), Judgment, 2007 I.C.J. 43, ¶ 431 (Feb. 26).

⁷⁹ Heidi Matthews describes this legal and political orientation as the "feminist anti-impunity project," a project in which international criminalization became a principal means of responding to wartime rape and other sexual violations of the jus in bello. The project has achieved substantial doctrinal and institutional success: rape is now prosecutable as a stand-alone war crime and crime against humanity

Rape can be prosecuted as a war crime and a crime against humanity, and may also form the basis of torture, enslavement, persecution, and genocide.⁸⁰ Yet the inclusion of sexual violence within international legal frameworks does not mean that its role in genocide has been fully understood.⁸¹ In that legal register, sexual violence tends to be translated into discrete, individually criminal acts or specific in bello violations that can be proved, classified, and attributed after they have occurred.⁸² This legal translation is necessary, but it can narrow the analysis, making it more difficult to show how sexual violence is organized through state governance, group boundaries, population policy, shame structures, and political narratives.⁸³ Within the framework of the Genocide Convention, this fragmentation makes it harder to see how sexual violence can form part of a wider pattern of state policy, administrative control, population governance, social stigma, and attacks on the group as such.

The preceding chapters have shown that patriarchal orders attach symbolic meanings to women and give those meanings social force. Genocidal patriarchy turns that social force into a mechanism of genocide. Violence against women can then operate through meanings already embedded in the group's social life, so that harm directed at individual bodies also affects the relations through which the protected group is sustained.

Resistance, as used in this section, means resistance to genocidal patriarchy; prevention refers to the prevention of genocide that forms within the context of genocidal patriarchy. Resistance confronts the symbolic meanings that patriarchy assigns to women and the ways in which those meanings shape the object, form, and effects of violence. It is directed at the structure that makes women vulnerable to particular forms of violence and allows that violence to produce effects beyond the individual body.

Prevention, in this context, concerns the early identification of the point at which patriarchal meanings become institutionalized, policy-based, and group-specific. Ideas that appear ordinary in social life may be carried into policy through the language of

and may also serve as the actus reus of torture, terrorism, genocide, enslavement, persecution, outrages upon personal dignity, and inhumane treatment. Heidi Matthews, *Redeeming Rape: Berlin 1945 and the Making of Modern International Criminal Law*, in *The New Histories of International Criminal Law: Retrials* 90, 90–91 (Immi Tallgren & Thomas Skouteris eds., 2019)

⁸⁰ *Id.*

⁸¹ Matthews's critique is useful here because it shows how the turn to international criminal law may make sexual violence legally visible while still organizing that visibility around criminalization, prosecution, and individual criminal responsibility. See Matthews, *supra* note 79, at 91–93.

⁸² See *id.* at 95.

⁸³ See *id.* at 92–93, 95.

tradition, protection, security, order, or cultural preservation. When such arrangements begin to govern women in a protected group and affect the conditions through which that group continues, patriarchal governance may move into the context of genocide early warning.

Resistance contributes to prevention at the level of the social conditions that make genocidal patriarchy possible. *Resistance* first has to confront the symbolic meanings attached to women under patriarchal order. Sexual violence, reproductive control, and marital intervention gain force when women are treated as bearers of honour, boundary, bloodline, and collective identity. Weakening those meanings also weakens the capacity of violence against women to travel outward through family and community relations and acquire group-level force.

The same associations can also be translated into institutional governance. Once women are treated as carriers of bloodline and reproducers of the next generation, sexual and reproductive freedom is no longer easily recognized as freedom belonging to women themselves. It is recoded as a matter of family order, descent, and the future boundary of the group. Intimate life can then become administratively governable: women's relationships, pregnancies, and children's legal or social belonging are made available for approval, restriction, allocation, or correction.

Patrilineal descent gives this governance a specific direction. Where children are presumed to enter the father's family, ethnic group, or community, women's own group affiliation can be made secondary to the group into which the child will be incorporated. Regulation of women's intimate lives then becomes a way of reorganizing the group's future. Rules that appear to govern marriage, pregnancy, or children's belonging can affect whether a targeted group continues through its own lines of descent, is diminished across generations, or is absorbed into another group.

In patriarchal settings, sexual violence may acquire group-directed force when the violation is received through social meanings already attached to women's sexuality, family position, and communal belonging.⁸⁴ Shame is not a natural consequence of sexual violence; it is produced and assigned through social response.⁸⁵ When shame is

⁸⁴ Noelle N.R., Quenivet, *Sexual Offenses in Armed Conflict & International Law* 150 (Transnational Publishers, Inc., 2005); Bergoffen, *supra* note 66, at 15; Claudia Card, *Genocide and Social Death*, 18 *Hypatia* 63, 64–69 (2003);

⁸⁵ Office of the U.N. High Comm'r for Hum. Rts., *Manual on Human Rights Monitoring: Chapter 12, Trauma and Self-Care* 5–7, U.N. Off. of the High Comm'r for Hum. Rts. (2011); Office of the U.N. High Comm'r for Hum. Rts., *Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice* 31–32, U.N. Off. of the High Comm'r for Hum. Rts. (2018).

displaced from the perpetrator onto the victim, disclosure becomes more dangerous, accountability more difficult, and the harm more able to travel through family, community, and group relations.⁸⁶

A recent example of resistance to this distribution of shame emerged from the French sexual violence case of Gisèle Pelicot, a victim who waived her anonymity and asked for the trial to be held in public.⁸⁷ Under French law, Pelicot could have requested closed-door proceedings, but she chose publicity in the hope that other women would speak and that victims of sexual assault and rape would understand that they had nothing to be ashamed of.⁸⁸ Through that decision, Pelicot challenged the assumption that sexual violation is a source of shame for the victim. Her public stance made visible how humiliation, judgment, and public scrutiny are often shifted onto the person violated, while perpetrators may benefit from the silence produced by that burden. Rather than accepting that placement of shame, she pressed for shame to be directed toward the perpetrators and the act of violation. Redirecting shame does not undo the violation or the harms that follow it. It does, however, weaken one social pathway through which sexual violence is made to continue and expand beyond the individual victim: the tendency to attach humiliation to the victim, to make disclosure dangerous, to strain family and community relations, and to allow perpetrators to benefit from silence.

The Yazidi case shows how a similar struggle over shame can operate in a genocidal context. ISIS used mass sexual violence against Yazidi women to humiliate, dominate, and fracture the group.⁸⁹ The consequences, however, did not unfold entirely on the perpetrators' terms. After the attacks, Yazidi religious leaders publicly welcomed

⁸⁶ *Id.*

⁸⁷ Gisèle Pelicot was the victim in a French criminal trial in Avignon in which her former husband, Dominique Pelicot, was convicted of repeatedly drugging and raping her over nearly a decade and of arranging for dozens of other men to sexually assault her while she was unconscious. The court sentenced Dominique Pelicot to twenty years' imprisonment, and all fifty co-defendants were convicted of rape, attempted rape, or sexual assault. Pelicot waived her anonymity and chose a public trial, a decision widely understood as shifting shame from the victim to the perpetrators. See Saskya Vandoorne, Kara Fox & Niamh Kennedy, *Gisèle Pelicot's Ex-Husband and 50 Other Men Found Guilty in Mass Rape Trial That Shocked France*, CNN (Dec. 19, 2024), <https://www.cnn.com/2024/12/19/europe/pelicot-rape-trial-france-verdict-intl>; *Pelicot Rape Trial: "I Never Regretted My Decision to Go Public," Says Gisèle Pelicot as Husband and 50 Others Found Guilty—as It Happened*, Guardian (Dec. 19, 2024), <https://www.theguardian.com/world/live/2024/dec/19/pelicot-rape-trial-dominique-gisele-verdict-france-latest-live>; *Pelicot Rape Trial: A Fair and Independent Verdict*, Le Monde (Dec. 20, 2024), https://www.lemonde.fr/en/france/article/2024/12/20/pelicot-rape-trial-a-fair-and-independent-verdict_6736290_7.html.

⁸⁸ *Id.*

⁸⁹ See Section 6.2 From the Patriarchal Phantom to Group Governance.

women who had been subjected to sexual slavery and rape back into the community, interrupting a possible path through which victimized women might otherwise have been marked as shameful, contaminated, or excluded.⁹⁰ One dimension of the group effect of sexual violence was therefore shaped by the community's response to the shame attached to the violation. When the group refused to treat victims as bearers of dishonour, one social pathway through which sexual violence could move into humiliation, exclusion, and group fracture was weakened.

Patriarchal meanings are often difficult to notice because they are woven into the ordinary layers of everyday life. Practices that govern women may be framed as common sense, tradition, morality, family ethics, population management, or ordinary administration. Their significance becomes clearer when these practices begin to operate through law, policy, social expectation, and institutional routine, and when they affect the conditions through which a protected group continues. Resistance works against the symbolic meanings and shame structures that allow violence to travel beyond the immediate act. Prevention requires attention to the earlier moment when those meanings and structures become embedded in governance. At that earlier stage, the relevant signs may not appear as a single pattern. They may remain scattered across the ordinary categories through which states, institutions, and monitoring systems describe governance, security, family life, women's rights, population policy, and minority regulation. When these dispersed signs are read from the position of women in the affected protected group, they may begin to show how patriarchal governance is entering the conditions of the group's present existence and future continuation.

6.8 Early Warning and the Position of Women in Protected Groups

Early warning of genocide may have to be read across different fields of monitoring and documentation, especially where genocidal risk is organized through gendered and patriarchal mechanisms. Public materials often distribute the same process across

⁹⁰ The significance of this reintegration is heightened by the Yazidi community's endogamous understanding of identity and the contested status of children born to ISIS fathers. Because Yazidi belonging is commonly tied to Yazidi parentage, the exclusion of women subjected to ISIS sexual violence could also affect future family formation, descent, and the conditions under which Yazidi belonging is carried forward. The community's refusal to treat the women as bearers of dishonour therefore interrupted not only stigma, but also a possible pathway through which sexual violence could affect group continuity. A/HRC/32/CRP.2, *supra* note 42, at ¶19; Timour Azhari, *Iraq's Missing Yazidis: Inside the Long Search for Islamic State Captives*, Reuters (Nov. 16, 2024), <https://www.reuters.com/investigations/iraqs-missing-yazidis-inside-long-search-islamic-state-captives-2024-11-16/>; Dana Taib Menmy, *'We Do Not Accept Those Children': Yazidis Forbid ISIL Offspring*, Al Jazeera (Mar. 24, 2021), <https://www.aljazeera.com/features/2021/3/24/wrenching-choice-yazidi-mothers-to-choose-children-or-community>.

separate institutional categories, making convergence difficult to see. The warning becomes more legible when those materials repeatedly point to the same protected group and when state measures begin to govern women's intimate and reproductive position within that group.⁹¹

Genocide Watch has already read the Rohingya and Uyghur situations within frameworks of genocide warning or genocide emergency.⁹² Its related materials also record issues central to this dissertation, including sexual violence, forced sterilization, forced abortion, detention, surveillance, and forced assimilation. The inquiry here turns to how gendered signs of genocide risk may be read across dispersed human-rights, conflict, refugee, governance, population, and reproductive-health materials.⁹³

The early warning discussed in this section is better understood as a set of lines of inquiry requiring further examination.⁹⁴ The public materials discussed above can still provide initial points of entry and indicate where further verification is needed. This reading can move in two directions. Where data indicate restrictions on women's rights, the question turns to which women are affected and whether the restrictions fall with particular force on women of a protected group. It also asks whether those measures reach the sexual, reproductive, marital, or familial conditions through which that group may be governed more specifically than women in general. Where data indicate repression of a protected group, the analysis moves in the opposite direction: it examines whether the state may be acting on that group through women's gendered positions within family, reproduction, household life, and the next generation. Cross-

⁹¹ Kimberlé Crenshaw's method of intersectional analysis is useful here because it explains why harms produced through the interaction of racialized governance and gendered subordination may be obscured when human rights analysis proceeds through single-axis categories. She argues that standard reporting and assessment tools may fail to uncover experiences that have not already been catalogued to reflect the multiple identities and burdens of marginalized women, and she emphasizes the need for contextual, bottom-up analysis and the method of "asking the other question." Her discussion of Rwanda and Bosnia further illustrates how ethnically motivated rape and injuries to women's bodies may operate both as violence against women and as assaults on the group, where women are positioned as bearers of cultural honour, reproductive continuity, and communal boundaries. Crenshaw, *supra* note 1, at 6–7, 15–16.

⁹² Genocide Watch, *Country Reports by Region*, <https://www.genocidewatch.com/copy-of-country-reports-by-region> (listing China under East Asia and Myanmar under South-East Asia).

⁹³ For examples of public sources through which such dispersed materials may be accessed, see Uppsala Conflict Data Program, UCDP, <https://ucdp.uu.se/>; Armed Conflict Location & Event Data Project, ACLED, <https://acleddata.com/>; U.N. High Comm'r for Refugees, Refugee Data Finder, <https://www.unhcr.org/refugee-statistics/>; Universal Human Rights Index, U.N. Off. of the High Comm'r for Hum. Rts., <https://uhri.ohchr.org/>; Varieties of Democracy, V-Dem Dataset, <https://www.v-dem.net/>; World Bank, Gender Data Portal, <https://genderdata.worldbank.org/>; U.N. Dep't of Econ. & Soc. Affs., SDG Indicators Metadata Repository, Indicators 5.6.1 and 5.6.2, <https://unstats.un.org/sdgs/metadata/>. These sources are cited as illustrative examples of dispersed public materials rather than as an exhaustive database review.

⁹⁴ See Crenshaw, *supra* note 1.

reading between these two directions may indicate where relations overlooked by existing data systems require closer verification.

Genocide-warning significance emerges when dispersed signs begin to converge around women in the same protected group. Sexual violence, reproductive restrictions, family regulation, and patriarchal narratives become relevant when they are read together with the governance of that group's legal status, movement, family formation, children's belonging, demographic position, social visibility, and conditions of survival.

The early warning discussed in this section is better understood as a set of lines of inquiry requiring further examination.⁹⁵ The public materials discussed above can still provide initial points of entry and indicate where further verification is needed. Early-warning reading can proceed in two directions. When data indicate restrictions on women's rights, the analysis should ask whether those restrictions fall disproportionately on women of a protected group and whether they reach the intimate and reproductive conditions through which the group is sustained. When data indicate repression of a protected group, the analysis should ask whether women's sexual, reproductive, and familial positions have become the route through which the state acts on the group's future.

Rights violations must be read within a broader context. In the Rohingya case, sexual violence needs to be read alongside de-citizenization, marriage restrictions, birth registration, movement controls, and forced displacement. These dimensions may be dispersed across humanitarian materials, human-rights reports, conflict records, refugee data, or documentation of gender-based violence, and they may not be marked as parts of the same genocidal process. If read in isolation, sexual violence may be understood as individual violence or as an incidental consequence of armed attack. Placed within the context of Rohingya exclusion, removal, and deprivation of legal status, it also becomes part of a wider disruption of marriage, birth, family formation, and the social relations that sustain Rohingya communal life.

The Uyghur case requires a different movement of reading, because the relevant signs often appear through administrative, reproductive, and intimate governance before they appear as publicly visible mass violence. If these categories are read

⁹⁵ In drawing on Mari Matsuda's method "asking the other questions," Crenshaw indicates that racial domination should lead to questions about gender, and that gender oppression should lead to questions about class, colonialism, region, and other structures of power. *Id.*, at 16.

separately, forced sterilization, contraceptive measures, household surveillance, or assimilation policies may each appear as governance issues in different fields; when placed within the context of the state's transformation of the Uyghur group, they jointly point to women's fertility, household position, family relations, and the continuation of the next generation.

These materials provide dispersed points of entry into genocide risk. Their significance becomes clearer when they are read from the position of women in the same protected group, especially when governance of sex, marriage, reproduction, family life, and children's belonging begins to affect the group's present existence, social organization, and future continuation. Read in this way, violations of women's rights and repression of a protected group can be traced to the points where they meet in the governance of the group through women.

Chapter 7. Conclusion

Genocide is often understood through images of mass killing, bodies, burned villages, collective executions, and scenes of violence that can be immediately recognized as exterminatory. This imagination has strong visual and moral force, since killing is one of the most direct and visible ways of destroying a group. Yet the definition of genocide in the Genocide Convention has never depended on killing alone. Article II of the Convention also includes causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about the physical destruction of a group in whole or in part, and imposing measures intended to prevent births within the group.¹ These provisions allow legal analysis under the Genocide Convention to identify the significance of a protected group's destruction before that destruction appears in the form of bodies, collective executions, or mass death.

This dissertation has focused on genocidal acts and destructive processes that are more easily underestimated by law, politics, and public imagination. Its central claim is that sexual violence and reproductive violence, under specific conditions, may operate as means of committing genocide rather than merely as accompanying atrocities within a genocidal context. Sexual and reproductive violence are often recorded as wartime atrocities, human rights violations, women's experiences of victimization, torture, persecution, or collateral harms of conflict. These classifications have legal and evidentiary significance, but they may also fragment the group-destructive character of the violence. When sexual and reproductive violence are directed against women and girls of a protected group, and when they occur within a broader context of exclusion, stigma, population governance, expulsion, detention, family destruction, and reproductive control, they cannot be understood only as injuries borne by individual bodies. These forms of violence may enter the conditions of marriage, kinship, birth, family formation, communal honour, cultural transmission, and future generations, thereby becoming ways of attacking the group's capacity to continue.

This dissertation proposes "*genocidal patriarchy*" as an analytical framework for understanding this process. Genocidal patriarchy refers to a distinct logic of genocide in which perpetrators mobilize patriarchal norms and gender symbolism to weaponize women's bodies and socially ascribed identities as instruments of group destruction. The concept recognizes the disproportionate harm suffered by women in genocide while also explaining how gendered hierarchies themselves can be transformed into

¹ Convention on the Prevention and Punishment of the Crime of Genocide art. II, Dec. 9, 1948, 78 U.N.T.S. 277.

mechanisms of destruction. When women are constructed as bearers of honour, chastity, reproductive continuity, family belonging, and group boundaries, attacks on women may also become attacks on the group as such. *Genocidal patriarchy* therefore provides a way for legal analysis to explain how sexual and reproductive violence, under intersecting conditions, may become a means of committing genocide.

The Rohingya and Uyghur cases show that *genocidal patriarchy* may unfold through different state projects and different forms of violence. The Rohingya case shows that sexual and reproductive violence during the military operations of 2017 emerged within a longer structure of de-citizenization, movement restrictions, regulation of marriage and childbirth, segregated governance, and the construction of the Rohingya as a removable population. The Uyghur case presents a different configuration. In the Xinjiang Uyghur Autonomous Region, the state has acted upon the Uyghur group through mass detention, surveillance, ideological re-education, household intrusion, reproductive intervention, population governance, forced or coercive labour, and the reorganization of intimate life. Measures directed at Uyghur women directly affect childbirth, contraception, sterilization, marriage, family formation, separation from children, co-residential surveillance, and interethnic intimate arrangements. In comparison with the Rohingya case, where military attack, village destruction, and cross-border expulsion occupy a more visible place, the Uyghur case exposes the limits of a killing-centred imagination with particular clarity: genocide may also operate through administrative and assimilationist forms of governance.

The differences between the Rohingya and Uyghur cases clarify the structural features of *genocidal patriarchy*. It is a legal and social logic through which sexual and reproductive governance may be transformed into a means of group destruction. The logic of *genocidal patriarchy* can operate across different forms of violence and governance. It may operate through military attack and forced displacement, as well as through forms of governance that appear bureaucratic, medicalized, administrative, or assimilationist. The analysis focuses on how state power, group exclusion, patriarchal role allocation, and institutional neglect become interconnected, so that women's bodies and reproductive lives become sites through which the destruction of the group is pursued. If legal analysis separates killing, expulsion, detention, forced sterilization, sexual violence, family separation, and birth prevention into unrelated legal and evidentiary categories, it becomes harder to see the structure of genocide as a whole. When these acts and measures repeatedly target the same protected group and gradually affect that group's bodily integrity, conditions of life, reproductive capacity, family formation, and intergenerational continuity, they need to be understood within the same genocidal process.

Building on feminist international legal scholarship that has called for genocide to be examined through a gender lens and for women's experiences to be brought back into the analysis of group destruction, this dissertation reads Article II(b), Article II(c), and Article II(d) of the Genocide Convention according to the Convention's existing legal structure.² The analysis begins from categories already contained in the Convention and asks why they have often remained less visible than killing in legal practice, political recognition, and public imagination. It then shows how sexual and reproductive violence may constitute conduct falling within those existing categories when directed against members of a protected group in a manner connected to the destruction of the group.

At the conceptual level, this dissertation builds on feminist international legal scholarship that has challenged the marginalization of women's experiences and sexual violence in the analysis of genocide and mass atrocity. Its more specific contribution is to ask how patriarchal meanings affect three legal and preventive questions: the identification of genocidal acts, the inference of genocidal intent, and the interpretation of early warning indicators. The framework of *genocidal patriarchy* explains why violence that takes a gendered form may contribute to the genocidal destruction of the group.

Methodologically, the framework of "*triple vulnerability*" explains how sexual and reproductive violence may acquire genocidal significance through the interaction of external, internal, and institutional conditions. Externally, women are targeted as members of protected groups subjected to exclusionary governance, demographic engineering, and coercive state control. Internally, patriarchal norms construct women as bearers of honour, chastity, reproductive continuity, family belonging, and collective survival, making them strategically targetable and giving violations against them a foreseeable collective impact. Institutionally, legal and political recognition processes often privilege harms that are immediately visible, quantifiable, and lethally demonstrable, thereby reducing the legibility of sexual and reproductive violence as evidence of genocidal acts, genocidal intent, or genocide risk. This framework helps explain why such violence may be documented while its relation to the destruction of a protected group remains under-recognized.

This approach also affects how early warning is read. A women's rights violation, a population policy, or an incident of sexual violence may acquire genocidal warning

² Genocide Convention, art. II; see Elisa von Joeden-Forgey, Gender and the Future of Genocide Studies and Prevention, 7 *Genocide Stud. & Prevention* 89 (2012); Erin Farrell Rosenberg, *Gender and Genocide in the 21st Century: How Understanding Gender Can Improve Genocide Prevention and Response* (Newlines Inst. 2021).

significance when it forms part of a wider pattern directed at the same protected group, especially where that pattern begins to affect marriage, childbirth, family formation, sexual autonomy, bodily integrity, and intergenerational continuity. The Rohingya and Uyghur cases show how difficult this pattern can be to recognize in real time. Before genocide became an available or accepted description, many relevant materials were already present, but they appeared across different fields of documentation: human rights reporting, population policy, refugee data, security governance, and records of gender-based violence. Within those separate fields, the materials could be read as distinct policy problems or individual rights violations. Their significance changes when they are read across the same protected group and in relation to the roles assigned to women within that group. Warning signs may be present, but their preventive force depends on whether they are read as part of the same developing pattern.

Even where the evidentiary record is already substantial, warning may remain at the level of reports, statements, and expressions of concern without being converted into preventive action. Prevention under Article I of the Genocide Convention requires action before genocide has fully materialized. Gender awareness affects whether states, international organizations, and monitoring bodies can recognize gendered forms of destruction as relevant to genocide risk. Once warning signs have been identified, the remaining difficulty is often whether they are acted upon.

The same problem also appears in post-atrocity accountability. When sexual and reproductive violence are treated only as discrete offences, background harms, or individual injuries, accountability processes may fail to see how different acts directed at women belong to the same genocidal structure. Rape, reproductive control, forced sterilization, family separation, stigma, exclusion from marriage, and the disruption of childbirth or family formation may be recorded in separate legal, evidentiary, or factual categories. Without an analysis of genocidal patriarchy, these acts may appear fragmented rather than connected. Their relation to one another becomes clearer when they are read as gendered means through which perpetrators attack the same protected group: by targeting women's bodies, reproductive lives, family roles, and symbolic positions, they affect the conditions through which the group continues. Accountability may then recognize that women suffered serious bodily or mental harm, while still missing how that harm operated through patriarchal structures to advance the destruction of the group. A legal record that treats these acts as isolated injuries therefore risks preserving only part of the genocidal context.

When those connections are recognized only after the fact, accountability can still clarify the record, but the opportunity to prevent the harms may already have been lost.

Accountability remains necessary for confirming responsibility, recognizing victimization, preserving records, developing legal standards, and limiting denialism. Yet it cannot substitute for the preventive work required before sexual and reproductive violence has already altered the lives of survivors and the conditions of group continuity. Bodily and mental trauma, family rupture, displacement, and intergenerational effects may already be deeply embedded in individual and communal life before law intervenes.

The Rohingya and Uyghur cases also show that the operation of international law is always shaped by jurisdiction, access to evidence, geopolitics, and institutional priorities. In the Rohingya context, international judicial and criminal processes have created important legal pathways. At the same time, they demonstrate how jurisdictional foundations, case construction, and evidentiary choices affect whether sexual and reproductive violence can be placed at the centre of genocide analysis. In the Uyghur context, state control over information, political power structures, and limited avenues for international accountability make formal judicial accountability more difficult. These limitations make precise conceptual naming, evidence preservation, political pressure, and early warning interpretation even more important. When formal adjudication has not yet emerged, is delayed, or is obstructed, the ability to understand the structure of violence still shapes how the international community records, responds to, and remembers these harms.

This analysis also bears on the inference of genocidal intent. Because genocidal intent often appears through patterns rather than direct statements, the choice of violence, the structure of policy, the positioning of the victim group, and the effects produced by the acts all matter to legal interpretation. In the Rohingya and Uyghur cases, the conditions that made destruction possible developed before the most intense moments of violence. Legal analysis therefore needs to read sexual and reproductive violence within that broader sequence. Such violence may show more than severity or cruelty when it is repeatedly directed against the same protected group and connected to birth, family, marriage, bodily integrity, social honour, and intergenerational continuity. In that context, sexual and reproductive violence can become part of the evidentiary material through which destructive intent is understood. The threshold of genocidal intent remains intact; the analysis asks whether gendered orders help explain how the acts were selected, organized, and directed toward the destruction of a protected group.

The scope of this study is shaped by the cases and materials on which it relies. The Rohingya and Uyghur cases make it possible to examine how sexual and reproductive

violence may become connected to genocide through exclusionary governance, patriarchal meanings, and institutional under-recognition. They do not, however, represent the full range of ways in which genocide may be carried out. In other contexts, destruction may be organized primarily through killing, forced assimilation, child transfer, famine, detention, deprivation of medical care, or other forms of control over conditions of life. The meaning of sexual and reproductive violence will also depend on the histories, religions, legal statuses, colonial experiences, modes of state governance, gender orders, and international visibility of the groups concerned. For that reason, genocidal patriarchy and triple vulnerability are best understood as context-sensitive analytical tools. They help identify how patriarchal roles, sexual violence, and reproductive control may become legally relevant to genocide, while leaving the legal assessment dependent on evidence, intent, and the specific structure of each case.

Data limitations also shape the scope of this study. The Rohingya case has generated substantial United Nations reporting, survivor testimony, international investigative materials, and judicial records. Even so, many forms of sexual and reproductive harm may remain under-documented because of stigma, displacement, interruption of medical care, difficulties in obtaining testimony, and the need to protect survivors. The Uyghur case is affected by state control over information, a pervasive surveillance environment, the inability of victims inside the territory to testify safely, the opacity of official data, and restrictions on international investigation. Existing materials are sufficient to support serious legal and early warning analysis, but the incompleteness of the record must still be acknowledged. Sexual and reproductive violence is already prone to underreporting. In highly repressive, surveilled, or displaced settings, that underreporting becomes even more severe. This dissertation therefore addresses the patterns revealed by available materials rather than the full quantity of harms that have actually occurred.

The development of international proceedings also constitutes a limitation of this study. Rohingya-related proceedings remain ongoing, and the legal questions, evidentiary scope, and case theories that the International Court of Justice, the International Criminal Court, and other accountability mechanisms can address have not yet been fully determined. The Uyghur context, by contrast, lacks an equivalent level of formal judicial process because of geopolitical and jurisdictional constraints. This means that the legal analysis in this dissertation must proceed between existing factual materials, international legal norms, and institutional responses that remain incomplete. This limitation requires caution. Analysis should neither avoid legal judgment simply because proceedings are unfinished nor present issues that have not been judicially confirmed as settled conclusions. This tension itself reflects the

difficulty that sexual and reproductive violence presents within genocide law. Many of the signs that most urgently require early recognition may already have caused irreversible harm before formal judicial conclusions appear.

This dissertation also leaves several questions for future research. The framework of *genocidal patriarchy* requires further testing and refinement across a wider range of cases, including contexts shaped by colonial governance, civil war, forced assimilation, child transfer, population engineering, detention, famine, or other forms of control over conditions of life. Such comparisons may help distinguish the core conditions of genocidal patriarchy from features specific to the Rohingya and Uyghur cases. Because this dissertation focuses on women and girls, it also leaves open the question of how sexual violence against men, boys, and children might be analyzed within the same framework. Patriarchal structures may operate through other gendered and age-based positions, including sexual humiliation, destruction of family roles, child transfer, and enforced disappearance, where these harms are connected to group honour, kinship order, intergenerational transmission, and social reproduction.

Future research may also examine how early warning tools could better capture gendered risks within protected groups. Existing materials are often dispersed across conflict warning, human rights monitoring, refugee data, women's rights, public health, demographic statistics, minority governance, religious freedom, sexual violence documentation, and state violence databases. Their value for prevention depends on whether they can be read in relation to the same protected group and to the roles assigned to women within that group. Indicators related to marriage, childbirth, family formation, sexual autonomy, movement, health care, child separation, detention risk, and social stigma may help make dispersed patterns visible earlier, while still requiring contextual analysis. Further work on survivor agency and communal resistance would also deepen this framework by showing how Rohingya and Uyghur women participate in testimony preservation, cultural transmission, family maintenance, advocacy, memory work, and reconstruction. This would allow legal analysis to account not only for destruction, but also for the ways victimized groups continue to sustain themselves.

The duty to prevent arises when a State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.³ In the Rohingya and Uyghur cases, the risk emerged through an accumulation of measures that affected the conditions through which the protected group could continue. If those measures are read only after the pattern has fully unfolded, prevention has already lost much of its

³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Montenegro), Judgment, 2007 I.C.J. 43, ¶ 431 (Feb. 26).

force. Where state power begins to control women's sexuality, bodies, reproduction, and family life along the boundaries of a protected group, the question is whether those measures disclose a serious risk of genocide before their destructive effects have fully materialized. If prevention is to come before mourning, and if accountability is to do more than document harm after the fact, sexual and reproductive violence and the patriarchal structures through which it operates belong within the analysis of how protected groups are destroyed.

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Annex I

Convention on the Prevention and Punishment of the Crime of Genocide

Entry into force: 12 January 1951, in accordance with article XIII

The Contracting Parties ,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world,

Recognizing that at all periods of history genocide has inflicted great losses on humanity, and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided :

Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article II

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.

Article III

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

- (a) Signatures, ratifications and accessions received in accordance with article XI;
- (b) Notifications received in accordance with article XII;
- (c) The date upon which the present Convention comes into force in accordance with article XIII;
- (d) Denunciations received in accordance with article XIV;
- (e) The abrogation of the Convention in accordance with article XV;
- (f) Notifications received in accordance with article XVI.

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.