

**CULTURAL GENOCIDE: EVALUATING PROTECTIONS IN  
INTERNATIONAL LAW BY REFERENCE TO THE AUSTRALIAN  
CASE OF THE STOLEN GENERATIONS**

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*A Introduction*

The idea of cultural genocide, within international law, is an evolving one. Arguments surrounding cultural genocide generally boil-down to a ‘varying sensitivity to the cultural dimensions of genocide’ and widespread disagreement as to what constitutes the destruction of a human group: whether physical killing is necessary, or whether killing is realised in more subtle, sophisticated, structural, systemic, and civilised ways.<sup>1</sup>

My interest in, and approach to these questions, is informed by my cultural identity and lived-experience as a man of mixed Central Arrente and English cultural heritage. My mother and her siblings were forcibly transferred from their Aboriginal families and sent to missions and foster families. They are the Stolen Generation, and consequently, the destruction of our culture, ongoing trauma, and a sense of injustice remains an ever-present feature of our day to day lives. I would not have come to study law and justice, but for these experiences.

This essay examines the contested concept of cultural genocide. Firstly, by comparing Raphael Lemkin’s original conceptualisation of cultural genocide with existing prohibitions against genocide in three sources of international law; and secondly, by evaluating those

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<sup>1</sup> Robert van Krieken, ‘Rethinking Cultural Genocide: Aboriginal Child Removal and Settler-Colonial State Formation’ (2004) 75 *Oceania* 125, 138.

protections by reference to Aboriginal experiences of Australian genocide. The protections applied are the United Nations Genocide Convention for the Prevention and Punishment of the Crime of Genocide (Genocide Convention); the treatment of *cultural* genocide claims in the International Criminal Tribunal for the former Yugoslavia and its Appeals Court (ICTY); and finally, the Genocide Convention's *travaux preparatoires*.

The balance of records show genocide, as defined within Article II of the Genocide Convention, is the appropriate legal framework for discussing the two most horrific and shameful, yet widely misunderstood aspects of Australian history - namely, the mass killing of Aboriginal people and the forced removal of Aboriginal children. Moreover, principles established in the ICTY's treatment of cultural genocide and a preferred application of strict liability, as inferred within the Genocide Convention's *travaux preparatoires*, may render some current Australian policy and legal settings tantamount to *cultural* genocide if domestically criminalised.

### B *Genocide's conception, the Genocide Convention and the ICTY*

The term *genocide* was first coined by Raphael Lemkin, a Polish jurist, who conceived it to involve:

A coordinated plan of... destruction of... the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. Genocide is directed against the national group

as an entity, and the actions involved are directed against the individuals, not in their individual capacity, but as members of the national group.<sup>2</sup>

When the United Nations (UN) sought to implement an international instrument prohibiting the conduct described above, colonial states including Australia, feared criminalisation of their ethnocidal policies and contested the conceptual legitimacy of the non-physical destruction of groups.<sup>3</sup> Consequently, Lemkin's conceptualisation of the *cultural* element of genocide was abrogated from the Convention. This was a remarkable narrowing of Lemkin's original conceptualisation, given that, in his view:

culture was an intrinsic component of individual and group well-being in human societies; thus, threats or violations to a group's culture would ultimately result in the group's disintegration, assimilation, and physical destruction.<sup>4</sup>

The Genocide Convention, as adopted by the UN General Assembly in 1948, is silent on culture and defines the crime of genocide within Article II as;

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

- a. killing members of the group;
- b. causing serious bodily or mental harm to members of the group;

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<sup>2</sup> Raphael Lemkin (1944) quoted in Robert van Krieken (2004), above n 1, 134.

<sup>3</sup> Shimiran Mako, 'Cultural Genocide and Key International Instruments' (2012) 19 *International Journal on Minority and Group Rights*, 175, 175.

<sup>4</sup> D A Moses (2008), cited in Shimran Mako (2012), above n 3.

- c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. imposing measures intended to prevent births within the group; or
- e. transferring children of the group to another group.<sup>5</sup>

Protections against the cultural destruction of groups are found in various other international instruments; namely, within the UN Declaration on the Rights of Indigenous Peoples, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights.<sup>6</sup> The instrumental protections are supplemented by decisions of the International Criminal Tribunal for the former Yugoslavia and its Appeals Court (ICTY) in *Prosecutor v Radislav Krstić*<sup>7</sup> and *Prosecutor v Vidoje Blagojević and Dragan Jokić*.<sup>8</sup> In *Krstić*, the Appeals Court determined the destruction of a cultural site, in this case a mosque, evidenced an *intent* to destroy the Srebrenica part of the Bosnian Muslim group (emphasis own).<sup>9</sup> Similarly, in *Blagojević and Jokić*, the Trial Court noted the crime of genocide is not restricted to physical killing, but rather, may be committed by other acts.<sup>10</sup>

The ICTY rulings set an important precedent in establishing the nexuses between cultural destruction and the intent to destroy a group, and between the physical destruction of

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<sup>5</sup> *United Nations Convention on the Prevention and Punishment of the Crime of Genocide*.

<sup>6</sup> Shimiran Mako, (2012), above n 3, 189.

<sup>7</sup> *Prosecutor v. Radislav Krstic* (sentencing judgement) (International Criminal Tribunal for the former Yugoslavia, Trial Court, Case No. IT-98-33-T, 2 August 2001).

<sup>8</sup> *Prosecutor v. Vidoje Blagojevic and Dragan Jokic* (sentencing judgement) (International Criminal Tribunal for the former Yugoslavia, Appeal Court, Case No. JP/P.I.S./928e, 17 January 2005).

<sup>9</sup> *Prosecutor v. Radislav Krstic* (sentencing judgement) (International Criminal Tribunal for the former Yugoslavia, Trial Court, Case No. IT-98-33-T, 2 August 2001).

<sup>10</sup> Shimiran Mako (2012), above n 3, 190.

a group as an invariable consequence of cultural destruction.<sup>11</sup> Moreover, both decisions acknowledge the absence of protections within the Genocide Convention against cultural forms of genocide.<sup>12</sup> The advancement of those important precedents unfortunately remains constrained by geopolitical interests of UN member-states,<sup>13</sup> the technicalities of which are beyond the scope of this essay. However, with the Genocide Convention definitions and ICTY decisions in mind, this essay now turns to Aboriginal experiences of Australian genocide.

### *C Genocide and Australia's history wars*

Academic focus was not drawn to the examination of settler-Aboriginal relations until the 1960's<sup>14</sup>, when 'a cult of forgetfulness practiced on a national scale' was challenged.<sup>15</sup> Debate surrounding Australia's violent colonial history has since polarised historians, resulting in the 'history wars' in the early 2000s.<sup>16</sup> Genocide has been routinely invoked by so-called 'black armband', left-leaning, 'Australia-hating' historians who supposedly exaggerate the extent of Aboriginal death to undermine the moral legitimacy of the Australian state.<sup>17</sup> By contrast, diametrically opposed 'white blindfold' historians and commentators, like former Prime Minister John Howard, assert the occurrence of genocide in Australian history is an 'outrageous idea'.<sup>18</sup>

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid, 189.

<sup>14</sup> Thomas James Rogers and Stephen Bain, 'Genocide and Frontier Violence in Australia' (2016) 18 *Journal of Genocide Research* 1.

<sup>15</sup> W E H Stanner (1968), quoted in Andrew Gunstone, *Reconciliation, Nationalism and the History Wars* (24 November) The University of Adelaide [https://www.adelaide.edu.au/apsa/docs\\_papers/Aust%20Pol/Gunstone.pdf](https://www.adelaide.edu.au/apsa/docs_papers/Aust%20Pol/Gunstone.pdf), 3.

<sup>16</sup> Thomas James Rogers and Stephen Bain (2016), above n 14.

<sup>17</sup> Keith Windshuttle (2000), cited in Thomas James Rogers and Stephen Bain (2016), above n 14.

<sup>18</sup> Patratck Brantlinger (2004), cited in Thomas James Rogers and Stephen Bain (2016), above n 14.

Conservative denialists, it should be noted, have failed to comprehensively address a scholarly wave explicitly appraising ‘an Australian pattern of *genocide*’.<sup>19</sup> Rather than discuss structural and cultural forms of genocide,<sup>20</sup> revisionists prefer to speculate on death tolls in an effort to extinguish the adoption of genocide as the appropriate framework to examine Australian history. However, as is shown below, the balance of existing records suggest Australian genocides occurred in two distinct ways defined within Article II of the Genocide Convention. Specifically, (a) killing members of the group and (e) transferring children of the group to another group.<sup>21</sup> The essay will also consider how Australian courts have treated *cultural* genocide claims by reference to the principles established by the ICTY around the cultural element.

#### D *Genocide in Australia – (a) Killing members of a group*

Upon the First Fleet’s arrival in 1788, Aboriginal society comprised approximately 500 nations with distinct cultural practices, and numbering between 250,000 and 750,000.<sup>22</sup> After 123 years of Aboriginal-colonial relations, that figure had been reduced to 31,000 in 1913,<sup>23</sup> attributable to mass killings, the forced removal of children, and cultural genocide.

In Tasmania, between 3000 and 4000 Aboriginal Peoples were killed over a thirty-year period ‘*because they were Aborigines* (sic) (emphasis author’s)’.<sup>24</sup> In Queensland, where

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<sup>19</sup> Lorenzo Veracini, ‘Of a “Contested Ground” and an “Indelible Stain”: A Difficult Reconciliation Between Australia and its Aboriginal History During the 1990s and 2000s’ (2003) 17 *Aboriginal History* 224, 225.

<sup>20</sup> Tony Barta (1987), cited in Thomas James Rogers and Stephen Bain, above n 14.

<sup>21</sup> *United Nations Convention on the Prevention and Punishment of the Crime of Genocide*.

<sup>22</sup> David Horton (1994), cited in Colin Tatz, ‘Genocide in Australia’ (Research Discussion Paper No 8, Australian Institute of Aboriginal and Torres Strait Islander Studies, 1999) 6.

<sup>23</sup> Colin Tatz, ‘Genocide in Australia’ (Research Discussion Paper No 8, Australian Institute of Aboriginal and Torres Strait Islander Studies, 1999), 9.

<sup>24</sup> *Ibid*, 15.

Aboriginal people were considered ‘vermin’ and fair game for ‘sporting’ whites,<sup>25</sup> approximately 10,000 blacks were killed between 1824 and 1908.<sup>26</sup> There were hundreds of massacres in Western Australia between 1920 and 1926,<sup>27</sup> and approximately 40 per cent of the Aboriginal population in Alice Springs were shot between 1860 and 1895.<sup>28</sup> In the view of a number of genocide researchers,<sup>29</sup> the mass murder perpetrated against Aboriginal Peoples clearly constitutes ‘the killing of members of a group’ within the Article II definition. Curiously, despite protections against retroactive prosecution of criminal offences in international law,<sup>30</sup> the Australian government has not acknowledged genocide as an appropriate word to describe its acts against Aboriginal Peoples.

*E Genocide in Australia - (e) Forcibly transferring the children of one group to another group*

The task of estimating how many Aboriginal children were removed from their families is surrounded by difficulties. No records account for Aboriginal children sent to undesignated Aboriginal homes,<sup>31</sup> or those who went on a ‘holiday’ with white people but were never returned.<sup>32</sup> Some researchers suggest that from 1912-1962, possibly two-thirds of part-descent Aboriginal children ‘spent some of their lives away from their parents as a result of removal.’<sup>33</sup> The Human Rights and Equal Opportunity Commission’s (HREOC) Bringing Them Home

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<sup>25</sup> Raymond Evans, Kay Saunders and Kathryn Cronin (1975), cited in Colin Tatz (1999), above n 23, 15.

<sup>26</sup> Colin Tatz (1999), above n 23.

<sup>27</sup> Ibid, 16.

<sup>28</sup> Richard Kimber (1997) cited in Colin Tatz (1999), above n 23, 15.

<sup>29</sup> Colin Tatz (1999), above n 23.

<sup>30</sup> Stephen Hall, *Principles of International Law* (LexisNexis, 4<sup>th</sup> ed, 2014), 606 [2].

<sup>31</sup> Robert van Krieken, ‘The Barbarism of Civilisation: Cultural Genocide and the “Stolen Generations”’ (1999) 50(2) *British Journal of Sociology* 297, 307.

<sup>32</sup> Peter Read (1983) quoted in van Krieken (1999), above n 31, 307.

<sup>33</sup> Rowena McDonald (1995) quoted in van Krieken (1999), above n 31, 307.

report estimated removal figures between one-third and one-tenth of all Aboriginal children, and importantly makes clear the policy affects all Aboriginal people trans-generationally.<sup>34</sup>

Removal policies were based on ‘perverse eugenic ideas, a fear of miscegenation and a desire to “breed-out” Australia’s “half-caste” population’.<sup>35</sup> The first official program for the indoctrination into European behaviour began in 1814,<sup>36</sup> with the establishment of the Paramatta Native Institution, a school for ‘educating and bringing up to the habits of industry and decency, the [Indigenous] youth of both sexes’.<sup>37</sup> By the 1820s, the idea of ‘Europeanising’ Aboriginal children through labour and forced removal from family had become a standard feature of colonial discourse in New South Wales.<sup>38</sup>

The same approaches were adopted during the first pastoral pushes into Queensland during the 1840s, and settler appetites for the practices were enhanced by the shortage and expense of labour.<sup>39</sup> Queensland became the first state to legislate the forced removal of children on purely racial grounds,<sup>40</sup> enacting a series of statutes providing for the forced removal of Aboriginal children.<sup>41</sup> Genocidal *intent* behind the practice and legislative reform is often cited within the remarks of senior colonial officials, one who in 1852 considered, ‘the connection between old and young [Aboriginals’ must be] completely severed’.<sup>42</sup>

Queensland’s initiatives influenced a wave of legislative reform across all Australian states,<sup>43</sup> some of which, like acts in South Australia and Western Australia, also provided for

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<sup>34</sup> Human Rights and Equal Opportunity Commission, *Bringing Them Home*, 1997.

<sup>35</sup> Shirleen Robinson and Jessica Paten, ‘The Question on Genocide and Indigenous Child Removal: the Colonial Australian Context’ (2008) 10(4) *Journal of Genocide Research* 501, 501.

<sup>36</sup> *Ibid*, 506.

<sup>37</sup> Governor Lachlan McQuarie (1814), cited in Shirleen Robinson and Jessica Paten (2008), above n 35, 506.

<sup>38</sup> Shirleen Robinson and Jessica Paten (2008), above n 35, 506.

<sup>39</sup> *Ibid*, 507.

<sup>40</sup> *Industrial and Reformatory Schools Act 1865* (Qld).

<sup>41</sup> *Aboriginals Protection and Restriction on the Sale of Opium Act 1897* (Qld).

<sup>42</sup> W A Duncan (1852), cited in Shirleen Robinson and Jessica Paten (2008), above n 35, 508.

<sup>43</sup> *An Ordinance for the Protection, Maintenance and Upbringing of Orphans and Other Destitute Children Act 1844* (SA); *Industrial Schools Act 1874* (WA); *Neglected and Criminal Children Act 1864* (Vic).

the removal of Aboriginal children on purely racial grounds.<sup>44</sup> Although each state legislated independently, the philosophical substance of each statute uniformly *intended* to breed-out the blackness through forced removal. Conversely, HREOC's Bringing Them Home Report also found forced removal policies tantamount to genocide within Article II (e) of the Genocide Convention.<sup>45</sup>

### *F Death as a Finality and Aboriginal genocide claims in Australian courts*

The view that removal policies do not constitute genocide is advanced by conservative commentators,<sup>46</sup> shared by members of both major political parties, and is predominantly that of the Australian public.<sup>47</sup> Denialists contend removing the element of mass murder renders genocide vacuous,<sup>48</sup> and benchmark the Holocaust and its distinct operational features as something that would necessarily have to have been replicated for genocide to have occurred in Australia.<sup>49</sup> Conservative historian, Keith Windshuttle, for example, asserts:

To compare the policies towards Aborigines...with those of Adolf Hitler towards the Jews, is not only conceptually odious but wildly anachronistic.

There were no gas chambers in Australia, or anything remotely equivalent.<sup>50</sup>

Genocide researchers argue Holocaust comparisons and a reliance on the inclusion of physical-death within the definition of genocide provide defences for past actions of administrators

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<sup>44</sup> Shirleen Robinson and Jessica Paten (2008), above n 35, 514.

<sup>45</sup> Human Rights and Equal Opportunity Commission, above n 34, 190 [3].

<sup>46</sup> B Atwood (2005) and P R Bartrop (2001) cited in Rowan Savage, 'The Political Uses of Death-as-Finality in Genocide Denial: The Stolen Generations and the Holocaust' (2013) 12(1) *Borderlands* 1, 9.

<sup>47</sup> R Manne (2001), cited in Rowan Savage, 'The Political Uses of Death-as-Finality in Genocide Denial: The Stolen Generations and the Holocaust' (2013) 12(1) *Borderlands* 1, 9.

<sup>48</sup> Inga Clendinnen (2001), quoted in Rowan Savage, 'The Political Uses of Death-as-Finality in Genocide Denial: The Stolen Generations and the Holocaust' (2013) 12(1) *Borderlands* 1, 11.

<sup>49</sup> Rowan Savage, 'The Political Uses of Death-as-Finality in Genocide Denial: The Stolen Generations and the Holocaust' (2013) 12(1) *Borderlands* 1, 7.

<sup>50</sup> Windschuttle (2011) quoted in Rowan Savage (2013), above n 49, 11.

which usefully ‘disappear’ the genocide, shore-up the state’s moral legitimacy,<sup>51</sup> and ensure Australians (in the words of John Howard) remain ‘relaxed and comfortable’ about the historical treatment of Aboriginal Peoples.<sup>52</sup> Unsurprisingly, the Howard government rejected HREOC’s findings that removal policies constitute genocide. Its parliamentary responses contended the policies were inconsistent with the definition of genocide since less than ten percent of children were removed, the requisite *intent* to destroy a group was absent, and that HREOC’s finding of genocide is inconsistent with High Court decisions in *Kruger v Commonwealth*<sup>53</sup> and *Cubillo v Commonwealth*.<sup>54</sup>

In *Kruger*,<sup>55</sup> a number of Aboriginal plaintiffs challenged the constitutional validity of the *Aboriginals Ordinance 1918* (NT) on the basis its provisions sanctioned genocide. Gaudron J, in dissent, determined it was ‘clearly correct’ that removal policies and legislation ‘had authorised gross violations of the rights and liberties of Aboriginal Australians’.<sup>56</sup> However, the majority held the relevant legislation was valid, since the Genocide Convention, although ratified, had not been implemented through domestic legislation.<sup>57</sup> The majority did not consider the Commonwealth’s ratified obligations under the *Genocide Convention Act 1949* (Cth), and the legal implications arising from the continuance of forced removal until post-ratification 1960, or pre-existing customary law prohibitions against genocide.<sup>58</sup>

Two other claims that Commonwealth Ministers engaged in genocide of Aboriginal Peoples were concurrently heard by the Federal Court in *Nulyarimma v Thompson*<sup>59</sup> and

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<sup>51</sup> Tony Barta (1985) cited in Rowan Savage (2013), above n 49, 14.

<sup>52</sup> John Howard (1996) quoted in Rowan Savage (2013), above n 49, 11.

<sup>53</sup> *Kruger v Commonwealth* (1997) 190 CLR 1.

<sup>54</sup> *Cubillo v Commonwealth* [2000] FCA 1084.

<sup>55</sup> *Kruger v Commonwealth* (1997) 190 CLR 1.

<sup>56</sup> *Ibid*, 102.

<sup>57</sup> Cassidy, Julie, ‘Unhelpful and Inappropriate?; The Question of Genocide and the Stolen Generations’ (2009) 14(1) *Australian Indigenous Law Review* 114, 120.

<sup>58</sup> *Ibid*.

<sup>59</sup> *Nulyarimma v Thompson* [1999] FCA 1192.

*Buzzacott v Hill*.<sup>60</sup> Nulyarimma argued the Howard Government's Ten Point Plan was *designed to separate the connection* between Aboriginal people and their lands, and thus authorised *cultural genocide*.<sup>61</sup> The Full Federal Court accepted the Genocide Convention's universal jurisdiction as a *jus cogens* norm, and Wilcox J acknowledged that historically, Aboriginal Peoples have indeed been subject to genocide as defined within Article II. However, his honour determined the requisite *intent* was not established within the circumstances of either case and, ultimately, even if intent had been proven, the court cannot 'create crimes' by enforcing customary international law without domestic legislation.<sup>62</sup> Wilcox J concluded, with Whitlam J in agreement, the prosecution of the crime of genocide at common law requires prohibition within domestic provisions.<sup>63</sup>

The ICTY decisions establishing the nexus between cultural destruction and an *intent* to destroy a group in *Krstić*<sup>64</sup> and *Blagojević and Jokić*<sup>65</sup> were not considered by Australian courts in *Kruger*, *Nulyarimma*, or *Buzzacott*. It could be suggested ICTY decisions certainly seem suitable for import to Aboriginal genocide claims in Australian courts, since many decisions<sup>66</sup> in Australian courts acknowledge customary international law automatically flows into the law of the land.<sup>67</sup> The question of *intent* to commit genocide does not rest only upon those decisions. As Tony Barta points-out, the Genocide Convention's *travaux preparatoires* clearly establish acts of genocide are impervious to state objectives.<sup>68</sup> The implication to be

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<sup>60</sup> *Buzzacott v Hill & Ors* [1999] FCA 1192.

<sup>61</sup> Julie Cassidy (2009), above n 57, 121-122.

<sup>62</sup> *Nulyarimma v Thompson* [1999] FCA 1192, 154 [3].

<sup>63</sup> Julie Cassidy (2009), above n 57, 121-122.

<sup>64</sup> *Prosecutor v. Radislav Krstić* (sentencing judgement) (International Criminal Tribunal for the former Yugoslavia, Trial Court, Case No. IT-98-33-T, 2 August 2001).

<sup>65</sup> *Prosecutor v. Vidoje Blagojević and Dragan Jokić* (sentencing judgement) (International Criminal Tribunal for the former Yugoslavia, Appeal Court, Case No. JP/P.I.S./928e, 17 January 2005).

<sup>66</sup> *Polites v Commonwealth* [1945] 70 HCA 3; *Dietrich v The Queen* [1992] HCA 57; *Minister for Immigration and Ethnic Affairs v Teoh* [1995] HCA 20; *Kruger v Commonwealth* (1997) HCA 27; *Al-Kateb v Godwin* [2004] HCA 37; *Coleman v Power* [2004] HCA 39.

<sup>67</sup> Julie Cassidy (2009), above n 57, 115.

<sup>68</sup> Tony Barta, 'Sorry, and Not Sorry, in Australia: How the Apology to the Stolen Generations Buried a History of Genocide' 10(2) *Journal of Genocide Research* 201, 207.

drawn is the Genocide Convention debates suggest member-states preferred a construction of the crime of genocide that criminalises the conduct whether or not genocide was the *intended* result.

### G *Concluding Remarks*

Lemkin's original conceptualisation of genocide, which includes cultural destruction of a group, not merely biological, was abrogated from the Genocide Convention. Subsequently, the establishment, recognition and enforcement of prohibitions against *cultural* genocide within international and domestic law have remained constrained by geo-political interests of member-states.

In Australia, the balance of available records clearly suggest mass killings and forced removal of children perpetrated against Aboriginal Peoples is tantamount to genocide within Article II definitions. Having said that, the national consciousness does not consider genocide an appropriate framework for discussing modern Aboriginal history, and nor are the full protections of international law domestically enforced. Australian courts treating Aboriginal genocide claims have given limited recognition to Article II, but emphasised the cultural element of the crime of genocide cannot be established without proving intent. There are, however, sources of international law proscribing and alternative construction. Enhanced development and international recognition of the crime of genocide, including cultural elements and the application of absolute liability, may render some current Australian laws genocidal if protections within customary international law were domestically enforced to the full extent of international law.

Many Stolen Generations persons are of the view that state government compensation schemes go some way toward repairing the gross historical injustices perpetrated against Aboriginal

Peoples. For others, government statements of acknowledgement of injustices, such as Keating's Redfern speech and the Rudd Apology, are of more restorative value than monetary compensation; acknowledgement can heal the spirit. In my view however, domestically enforced protections against cultural genocide would be the ultimate acknowledgement, would ensure the injustices could not lawfully be repeated, and would promote collective healing for my family, community, and other Stolen Generations survivors.

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### **D. International Instruments**

*United Nation Convention for the Prevention and Punishment of the Crime of Genocide Convention*

*United Nations Declaration on the Rights of Indigenous Peoples.*

*Universal Declaration of Human Rights.*

*International Covenant on Economic, Social and Cultural Rights*