

BARTOLOMÉ CLAVERO

**GENOCIDE OR ETHNOCIDE,
1933-2007**

How to make, unmake, and remake law with words



Milano - Giuffrè Editore

CONTENTS

Introduction. Genocide or Ethnocide: Shoah, Maafa, Pachakuyuy, Porrajmos, and So Forth	3
I. Madrid, 1933: A New Kind of Serious Transgressions Arising from Terrorism	13
II. Washington, 1944: Two Original Names for One Old Offense, Genocide and Ethnocide	29
III. Paris, 1948: The Virtual Exclusivity of a Crime, Genocide as Mass Murder	45
IV. Geneva, After 1948: The Blind Spot of the United Nations Human Rights Bodies	63
V. Rome, 1998 / The Hague, 2002: The Missed Opportunity to Reassess the Description of a Crime among Crimes	77
VI. Before and After Genocide: Crimes with No Name save Ethnocide and Holocaust	89
VII. The Creation and Recreation of Words and Deeds:	111
VII.1. The Return Journey from Ethnocide through Democide	111
VII.2. Non-Murderous Policies as a Form of Genocide.	123
VIII. Crimes, Words, and Rights:	143
VIII.1. Laying the Foundations: The Human Rights Declaration and the Genocide Convention	147
VIII.2. Rights at Stake: From the Right to Life to the Right to Polity via the Right to Culture	158
VIII.3. Responsibilities Pending: Historical Devastation and Present Reparation	173
VIII.4. Behind Chutzpah: Indigenous Peoples and Practical Denial	193
IX. Beyond Genocide? Away from Denial?	213
X. And So Forth and So Long?	227
POSTSCRIPT: Indigenous Issues and Cultural Genocide.	241
APPENDIX: Texts, 1947-2008	245
I. 1947 United Nations Draft Convention on Genocide, Articles 1, 2, 7, 8, 9, and 10	247

II.	1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, Articles 1, 2, 3, and 4	249
III.	1966 Covenant on Civil and Political Rights, Articles 1.1-2 and 27	249
IV.	1966 Optional Protocol to the International Covenant on Civil and Political Rights, Article 1	250
V.	1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, Articles 1 and 2	250
VI.	1973 Principles of International Co-operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes Against Humanity, Provisions 1, 2, and 3	251
VII.	1989 Convention Concerning Indigenous and Tribal Peoples in Independent Countries, Articles 1 and 4.1-2	251
VIII.	1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Articles 1.1, 2.1 and 4, 3.1, 8.3, and 9	252
IX.	1993 Declaration on the Elimination of Violence Against Women, Articles 1, 2, and 5	253
X.	1998 Statute of the International Criminal Court, Articles 6, 7, 11.1, 25, 28, 29, 30, 33, and 75.1	254
XI.	1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Articles 1, 7, 10, 16, and 18.	259
XII.	2006 United Nations General Assembly Resolution on the Human Rights Council, Provisions 1-4 and 5. <i>d</i> , <i>f</i> and <i>e</i>	260
XIII.	2006 Convention for the Protection of All Persons from Enforced Disappearance, Articles 5, 6, and 31.1	261
XIV.	2007 Declaration on the Rights of Indigenous Peoples, Articles 1, 3, 7, 8, 28, 41, and 42	262
XV.	2008 Permanent Forum on Indigenous Issues Recommendations on Indigenous Languages, Recommendations 1 and 2	264
	TABLE OF INTERNATIONAL INSTRUMENTS	265