From United to Genocide:

An Examination of British Policy in Scotland Following the Jacobite Rebellion of 1745

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In 1707, the Act of Union combined England and Scotland into the Kingdom of Great Britain, effectively ending independent Scottish rule (Riding, 2016, p. 2). What followed was multiple unsuccessful Scottish uprisings in attempt to regain their independence. Following the failure of these smaller uprisings, the Highland clans joined together to form the Jacobite Army. The Jacobites were “fighting to preserve a traditional version of national political power” in Scotland (Noble, 2011, p. 3). The Jacobites brought Charles Edward Stuart, AKA Bonnie Prince Charlie or the Great Pretender, heir of the last king of Scotland, from France to legitimize their crusade, and place a Stuart king back on the throne (Plank, 2015, p. 1). After multiple battles, the rebellion ended in 1746 when the British army defeated the Jacobite’s at the Battle of Culloden (Johns, 2004, p. 383). Though the armies were matched at around 7,000 troops each (Riding, 2016, p. 240, 418), 3,000 Jacobites died on the field compared to 200 British soldiers at most (Riding, 2016, p. 446). Following this defeat, the British government directed its resources towards controlling the Scottish people, specifically the Highlanders, and preventing another rebellion. Policies were enacted that devastated the lives and culture of the Highland people.Given the actions and intentions of the British Government following the Jacobite rebellion of 1745, it can be determined that genocide was committed against the Highlanders. The limited knowledge and experience that the United Nations has when handling genocides has caused dangerous situations to escalate. By learning from the past, hopefully countries that are in need of intervention will receive the help they need.

Under the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (UN definition), genocide can consist of certain acts that are “committed with intent to destroy [a group], in whole or in part” (United Nations, 1948, Article 2). The following qualifying acts will be analyzed as they relate to British policy in Scotland: “killing members of the group”, “causing serious bodily or mental harm to members of the group”, “forcibly transferring children of the group to another group", and “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” (United Nations, 1948, Article 2).

Proving a genocide occurred or is occurring using the UN definition becomes difficult when it comes to defining intent. The UN definition states that acts are only genocidal if they are “committed with intent to destroy, in whole or in part” (United Nations, 1948, Article 2). It is impossible to prove what people are thinking, especially in this study where everyone involved is dead (Jones, 2017, p. 50). The International Criminal Tribunal for Rwanda defined intent as a perpetrator/s who “knew or *should have known* that the act committed would destroy, in whole or in part, a group” (Jones, p. 50). Using this definition, intent will be proven if the acts committed against the Highlanders by the British government would cause a reasonable person to know that the acts would contribute to the destruction of the highlanders and their culture “in whole or in part” (United Nations, 1948, Article 2).

The UN definition protects four victim groups, “national, ethnical, racial or religious” (United Nations, 1948, Article 2). It is worth noting that the Scottish people as a whole are a national group, and the subgroup of Highlanders constitute their own unique ethnic group. The laws and regulations that were passed referred to the Scottish people, however, it was the Highlanders that were most effected by them to their destruction. This is because the Scottish people who were not Highlanders were at the time living similarly to their British counterparts, shedding their national identity. The Highlanders were identified as a victim group by the British through the use of propaganda campaigns. These campaigns aimed to dehumanize the Highlanders in order to justify the atrocious acts committed against them by creating an *us versus them* mentality (Jones, 2017, p. 46). This genocidal tactic was used effectively in Nazi Germany, Stalinist Russia, and Maoist China (Jones, 2017, p. 46, 264). Propaganda against the Highlanders painted them as uncivilized people. Reports from the time “suggested that Gaelic-speaking people of the Highlands were isolated, impoverished, and slavishly devoted to their clan leaders. The Highlanders were also, almost incessantly, described as gullible and violent “ (Plank, 2015, p. 3). The British people who came into Scotland following the rebellion propagated the Highlanders as “‘savages’, ‘rude occupants’, ‘ignorant persons’” (Richards, 2007, p. 285). Agents of the British government “encouraged the idea that the Highlanders ‘murdered, ravished, burnt & destroyed all [that] come in their way, eat or lived upon human flesh” (Riding, 2016, p. 213). By painting the Highlanders as unworthy of their immense resources, as well as a threat to the lives of the non-Scottish citizens who venture into their lands, the non-Scots residing in Scotland were able to gain political support for the suppression, and eventual genocide, of the Highlanders.

The UN definition uses the term ‘destruction’ without definition. Genocide scholars place emphasis not only on the physical destruction of a group but the “destruction of the group *as a sociocultural unit*” (Jones, 2017, p. 39). Genocide scholar Daniel Feierstein and others promote the idea that “the destruction of social power and existential *identity* [are] the essence of genocide” (Jones, 2017, p. 39). This idea of cultural genocide was experienced throughout Scotland, and qualifies as “causing serious bodily or mental harm to members of the group” (United Nations, 1948, Article 2). It is important when analyzing potentially genocidal situations to look at how the people themselves are existing and what is emotionally, as well as physically, being taken from them. The Jacobite’s risked their lives for their independence and culture. For them, these ideas and traditions were more important than their physical lives. If a group’s culture is destroyed, regardless of how many people survive, the group is still gone. As for the perpetrators, their genocide has been successful.

The British wanted to destroy Highland culture because they viewed the Highlanders and their way of life as inferior and threatening. The British viewed the Highlanders as savages, a term reminiscent of those used to describe Australia’s Aborigines and Native Americans prior to their colonizers committing genocidal actions against them (Jones, 2017, p. 163). However, Many of the clan chiefs [...] were educated, sophisticated men, who were balancing the introduction of modest reform and modernism within their lands, in tandem with the old traditions and deep bonds of kinship so characteristic of Highland society” (Riding, 2016, p. 80). The British attitude of the time was that “you must never expect to see a total end to the rebellious spirit of this country till the Highlanders are unclanned, undressed, effectively disarmed, and taught to speak English” (Riding, 2016, p. 482). This threat of Highland violence instilled fear in the hearts of British citizens, which gave the British government reason to destroy the Highland people. The British desired to purge all that was Scottish or that was believed to be synonymous with the Jacobite cause. Painting the Highlanders as inferior allowed for the justification of their destruction through genocide.

Immediately following the Battle of Culloden, Parliament passed the Heritable Jurisdictions (Scotland) Act of 1746, affectively abolishing the clan system (Riding, 2016, p. 495-6). The Heritable Jurisdictions Act aimed to prevent another rebellion by dismantling the clans who had traditionally raised armies (Riding, 2016, p. 496). For the clans, wealth was measured by the strength and number of the army that the chief could raise, which is the socio-economic reason why the Jacobites were able to raise an army. Prior to 1746, “land-tenure in the Highlands [...] was this value of the tenant as a warrior, military requirements determined the manner in which a chief granted tacks, or leases, on his property” (Prebble, 2003, p. 5). This means that chiefs could easily rally an army against the Crown. The law stated, “An Act for taking away and abolishing the Heretable [sic] Jurisdictions in Scotland; and for making Satisfaction [sic] to the Proprietors thereof; and for restoring such Jurisdictions to the Crown” (Heritable Jurisdictions [Scotland] Act 1746). In laymen’s terms, this meant that the clans lost their land without being compensated. This act paved the way for the Highland Clearances, as it destroyed land ownership and allowed the wealthy British to take the land they wanted. This act did more than disrupt land ownership, it completely destroyed the clan system and Scottish/Highland culture along with it. In Scotch Gaelic, the word *clann* has a deep familial meaning, invoking visions of loyalty to the Highland people (Lewis, 2006, p. 43). The clans provided “social cohesion, family loyalty, self-reliance” (Lewis, 2006, p. 43). Within two to three generations, the clan system ceased to exist (Ommer, 1986, p. 121). Without the clans, the Highland people had no structure or guidance. Left without a functioning society or family support, the Highlanders had the genocidal act of immense mental harm inflicted upon them. Given that humans are social animals, the British should have known that destroying communities and families would inflicting mental harm, proving intent.

Though done to suppress rebellion, the Heritable Jurisdictions Act destroyed clan economies. Once the clans were destroyed, the economy, which had previously been based on the military strength of the clan, was ruined. The Highlanders were expected to join the British economy, which they could not enter without British currency or resources that could be exchanged for currency. Unfortunately, the propaganda that claimed the Highlanders were not using their resources efficiently was true. The Highlanders lacked the knowledge needed to successfully transition the economy to one based on their many resources. The idea of any economic system other than what they had was foreign to them. Furthermore, the British government made no attempt to help aid in the assimilation of the Highland economy into the British economy, which greatly benefitted the British. Prior to Culloden, “rents were paid in kind [sic] or services” (Prebble, 2003, p. 5). When the chiefs were stripped of their titles and powers, they changed from being warlords to landlords, meaning that instead of having fighting men as currency, they needed money (Prebble, 2003, p. 5). Since the people had no money, the tax system created an impossible economic burden on the Highlanders. Made destitute, the they were deliberately inflicted with conditions of life that aided to their destruction. Though the British government may not have been able to foresee this outcome given their limited knowledge or interest in Highland life, intent cannot be definitively proven in this case. However, the British government did not seek to remedy this situation when they saw it, and therefore should have attempted to fix the situation if they did not intend to inflict continued destructive conditions of life on the Highlanders.

Further mental harm was inflicted on the Highlanders by the Proscription Act of 1746 (Johns, 2004, p. 383). After Culloden, the British government had to decide what to do with the Highlanders. Judge Duncan Forbes, Lord President of the Courts of Session in Scotland, wrote that the Highlanders were “accustomed to the use of Arms, [and] are dangerous to the public peace; and must continue to be so, until, being deprived of Arms for some years, they forget the use of them” (Richards, 2007, p. 109). These testimonies paved the way for the passage of the Act of Proscription. Passed to prevent another rebellion, the Act of Proscription made integral symbols of Highland life illegal such as “broadswords and other weapons, their bagpipes, the teaching of Gaelic, their ceremonial gatherings, tartans and badges” (Lewis, 2006, p. 43). The act stated that “no Man or Boy, within that Part of Great Britain called Scotland [...] shall [...] wear or put on the Clothes commonly called Highland Clothes, [...] or any part whatsoever of what peculiarly belongs to the Highland Garb” (Johns, 2004, p. 383). This law made traditional Scottish dress, ceremonies, and cultural expression illegal. The Act of Proscription lasted for over 30 years (Lewis, 2006, p. 45), and during that time a great amount of Scottish/Highland culture and tradition was forever lost or tainted. Being unable to express oneself or practice one’s culture would obviously cause a group to experience foreseeable distress, proving that the British must have intended to cause the highlanders anguish and mental harm.

Another genocidal action committed against the Highlanders by the British was the forced assimilation of Highland children into British culture (United Nations, 1948, Article 2e). The UN definitions defines “forcibly transferring children of the group to another group" as genocidal (United Nations, 1948, Article 2e). Though there is no evidence that Highland children were stolen from their families, the children were forced into assimilating into British culture at the loss and destruction of their own. Being in charge of the education system, the British “vigorously and often cruelly promoted English” as opposed to Gaelic in schools (Noble, 2011, p. 3). Gaelic was seen as “an impediment to progress” by the British (Richards, 1999,p. 78), and was viewed as a way for the Highlanders to hang on to their grotesque culture. Within one generation of those who lived through Culloden, Scotch Gaelic was practically wiped out (Prebble, 2003, p. 7). Combined with being unable to wear traditional clothing and practice traditional customs, Highland children were forced into assimilating into British culture. Unfortunately, this forced assimilation was effective. As of the 2011 census, of the 5,295,403 people living in Scotland, only 1% have Gaelic language skills at any level, a number that has been steadily decreasing (National Records of Scotland, 2017). These children were forced into another group with the intent of preventing Highland children from growing into Highland adults. When no one is practicing Scottish culture, the group is effectively destroyed because it no longer exists as a physical unit. The intent of the British to destroy the existence of Highlanders is clear in how these children were treated and forcibly assimilated.

The Highland clearances were the final nail in the coffin of traditional Scottish culture and way of life. In order to make room for the British to mass farm sheep in the Highlands, the inhabitants needed to be removed. To make room for the sheep, “bayonet, truncheon and fire were used to drive [Highlanders] from their homes” (Prebble, 2003, p. xi). This mass removal and deportation of Highland people from their ancestral homes became known as the Highland Clearances. The first clearances occurred in 1770 with the last occurring in 1870 (Noble, 2011, p. 4). It is worth noting that the British also used the need for space to raise sheep as a reason for displacing the Australian Aborigines throughout the 1800’s (Jones, 2017, p. 163). For 100 years, the Highland Clearances acted as a government approved ethnic cleansing campaign designed to “destroy, once and for all, the archaic, militaristic Clan System” (Noble, 2011,p. 1). Those who try to downplay the plight of the Scots argue that the Highlanders were *resettled*, though they never use the more accurate term, *displaced*. Highlanders were forced to walk hundreds of miles into foreign territory. This forced migration of the so called savage people draws a haunting parallel to the Trail of Tears. Some British soldiers were unable to tolerate the long treks to the shores, and would stop and leave the Highlanders to finish the walk through unknown terrain to an unknown destination (Prebble, 2003, p. 1). Horrifically, pregnant women commonly suffered miscarriages as a result of the brutal removals (Richards, 1999, p. 140). To a reasonable person, the bloody resettlement of the Highland people would definitely result in their being inflicted with conditions of life calculated to bring about their destruction, proving intent on the part of the British government.

The displaced Highlanders were sent to the shores of Northern Scotland to fish or work as kelp harvesters (Prebble, 2003, p. 205). Kelp was not a sustainable industry, and systematically kept the Highlanders “in abject poverty from generation to generation” (Richards, 1999, p. 283). To insure the labor force could be sustained, Parliament passed the Passenger act in 1803, which restricted emigration (Prebble, 2003, p. 206). Not to mention that those employed in the fishing industry had no prior experience as they had lived inland for generations, and fishing was not a year round job (Richards, 2007, p. 287). The supposedly lucky few who were permitted to stay as farm hands, were replaced the moment their work was deemed “under par” (Richards, 1999, p. 284). This system deliberately inflicted the displaced Highlanders with conditions of life that lead to their starvation and death. The system was not built with consideration to the people, and the British should have known that the lack of resources and overwork would create destructive standards of living, leading to the destruction of these people.

The Highland clearances occurred simply because money could be made from destroying the Highlanders. At the time of the clearances, Scotland was “rich in fine, fertile farmland and, [...], mineral wealth” (Lewis, 2006, p. 43). For the British, the clearances equaled economic development (Gouriévidis, 2000, p. 125). Those who promoted the clearances believed that Scotland “did not realize its potential, ‘for exportation’” (Richards, 1999, p. 282). Furthermore, the Highlanders who partook in this supposedly inefficient system were no more than “beasts of burden” that should be removed in order to make way for economic prosperity that would benefit the British exclusively (Richards, 1999, p. 282). Many genocides have occurred in part because one group desires the other groups resources. Britain, in its many permutations, has committed genocidal actions against multiple colonized groups in the quest for more resources. Examples being the artificially created famines in India and Ireland (Jones, 2017, p. 92). This desire for resources creates a situation in which objects are deemed more important than the people. When the destruction of a group is allowed for another group’s gain, it is hard to avoid charges of genocide. Overall, the clearances were successful. In “less than half a century, the Highlands became one of the most sparsely populated areas in Europe” (Noble, 2011, p.2). The British dream of an empty landscape filled with sheep was achieved, at the cost of numerous lives.

Killing members of the group, especially non-combatants became common place during the Highland Clearances. The infamous Patrick Sellar was a sheep farmer who spearheaded the government sponsored campaign to clear the Highlands of native peoples in order to begin the profitable mass farming of sheep (Richards, 1999, p. 2). For the descendants of those forced out of their homelands, “Sellar’s name is often used to evoke images of expiration, genocide, and even of the Holocaust” (Richards, 1999, p. 5). From 1809 to 1814 Sellar “committed acts of unspeakable terror against” the highlanders who’s land he wanted (Richards, 1999, p. 2). The murder of innocent Highlanders was not only perpetuated by Sellar. Many like-minded individuals followed Sellar’s dream of economic prosperity into the Highlands to the detriment of the Highlanders. Sellar’s eventual trial in 1814 charged him with “Culpable homicide, as also, oppression and real injury” including setting homes on fire, forcibly removing persons from their rightful homes, depriving “aged, infirm, and impotent [sic] persons, and pregnant women” of “shelter, to their great distress, and the imminent danger of their lives” (Richards,1999**,** p. 178). Though brought to trial by the Highlanders he tormented, Sellar was acquitted by the British court system who shared his belief that the Highlanders were worthless (Undiscovered Scotland, 2017). By acquitting Sellar, the British government allowed him and his contemporaries to continue their genocidal actions under the protection of the British government. A reasonable person knows that inflicting persons with such living conditions is detrimental to their livelihood. This proves that the people and government aids who cleared the Highlands acted with intent to destroy part of the Highland people through genocidal acts.

1853 brought the Massacre of the Rosses, a prime example of how British policy resulted in the murder of non-combatants. In order to clear the area around the Carron River for sheep farming, members of the British militia went to the townspeople to deliver papers instructing the people to prepare to leave (Prebble, 2003, p. 186). They were met by a group of Highland women, who refused to comply (Prebble, 2003, p. 186). By all accounts they acted non-violently, and simply burnt the summons that the British Sheriff had brought (Prebble, 2003, p. 187). The second attempt to deliver the summons was met with immense slaughter. The British policemen were met by around 300 Highland women “armed with sticks and stones” (Prebble, 2003, p. 189). It is important to remember that the Disarmament Acts passed between 1746 and 1753 had left the Highlanders defenseless, as well as targeted them as a victim group (Plank, 2015, p. 6). Though these women fought back against the British in the only way they could, they are not disqualified as victims of genocide given that the UN definition does not disqualify those who try to protect themselves. These women were brutally killed simply because they did not want to face the same destructive fate that so many Highlanders before them experienced once removed from their ancestral homes. There is no justifiable reason to kill non-combatants who pose no threat unless one is acting with intent to destroy the group. There were many other places the sheep could have been placed, and the fact that the British choose to murder these women for profit and property proves that the British viewed the Highlanders as disposable and deserving of physical destruction.

Where there is genocide, there is denial. Laurence Gouriévidis’ (2000) article, "Representing the Disputed past of Northern Scotland: The Highland Clearances in Museums" examines how collective memory plays into the modern day understanding of Scotland’s history. His article highlights how much is unknown about the Highland clearance, but fails to make the connection between how what little evidence exists and how extensively the British filtered and destroyed evidence in the wake of their genocide. Had the cleared Highlanders had the resources to record their experiences, they would have. But being subject to abject poverty for generations silenced their voices. Denial is “the final stage of genocide”, and marks the point where the actions have ended, but the effects still haunt the group (Jones, 2017, p. 169). Denying genocide creates an acceptance that the actions occurred, while downplaying the situation (Jones, 2017, p. 169).

Scottish culture today is a reconstructed identity. Scots today proudly display family tartans and play the bagpipes, making it seem as if Scottish culture is alive and well in and outside of Scotland. Proscription finally ended when the British government deemed the Jacobite threat to be gone (Curzon, 2016). However, this was not done as a kindness to the Scottish people. British Royals began wearing tartans as a fashion statement, appropriating them, and their meaning (Curzon, 2016). These fashion kilts were designed from imagination as opposed to being historically accurate. This appropriation and recreation allowed a falsified culture to survive, that serves simply to mask the cultural genocide that took place.

By committing genocidal actions against the Highlanders, the British effectively destroyed traditional Scottish culture. Had they occurred today, the killings, forced assimilation, living conditions, and mental harm that was inflicted by the British on the Highlanders would have been deemed genocidal by the United Nations. In order to accurately analyze potentially genocidal situations, it is important to look at past situations in order to create a working profile of what and how it happens. Genocide happens in unique ways. Many genocides focus on killings. However, the cultural destruction of a group should be considered a red flag of genocide just as the physical destruction is. Knowing how different genocides can be, can prevent victims from being ignored because their situation is not the poster child for genocide. These debates waste time and lives, and need to be avoided at all costs. It is important to put behind artificially constructed ideas of what genocide must be in order to impartially look at a situation and determine if what is being done is right or wrong. If it is wrong, no definition should stand in the way of justice. The Highland people did not have the United Nations to protect them. There is no reason why countries today should ever experience genocide as long as the United Nations exists to protect them.

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1. \* Jesse Willingham, a student at Notre Dame of Maryland University, tied for second place in the Delta Epsilon Sigma annual scholarly research undergraduate national writing competition. [↑](#footnote-ref-1)