

# IS RESISTING GENOCIDE A HUMAN RIGHT?

By David B. Kopel,<sup>1</sup> Paul Gallant<sup>2</sup> & Joanne D. Eisen<sup>3</sup>

## ABSTRACT

Closely examining the Darfur, Sudan, genocide, and making reference to other genocides, this Article argues that the genocide prevention strategies which are currently favored by the United Nations are ineffective. The Article details the failures of targeted sanctions, UN peacekeepers, and other anti-genocide programs. Then, the Article analyzes the Genocide Convention and other sources of international human rights law. Because the very strong language of the Genocide Convention forbids any form of complicity in genocide, and because the Genocide Convention is *jus cogens* (meaning that it prevails over any conflicting national or international law), this Article concludes that the Genocide Convention forbids any interference, including interference based on otherwise-valid laws, against the procurement of defensive arms by groups which are being victimized by genocide.

---

1 Research Director, Independence Institute, Golden, Colorado. [www.davekopel.org](http://www.davekopel.org). Author of *The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies?* (1992). Co-author of *Gun Control and Gun Rights* (NYU Pr. 2002). Editor-in-Chief of the *Journal on Firearms & Public Policy*. In 1981-82, Kopel served as head of the Brown University chapter of Oxfam-America, an international aid and relief organization. His writings on international firearms issues have appeared in the *S.A.I.S. Review* and the *Small Arms and Human Security Bulletin*.

2 Senior Fellow, Independence Institute. [www.independenceinstitute.org](http://www.independenceinstitute.org). We would like to thank Peter Allen and Eugene Volokh for their helpful insights.

3 Senior Fellow, Independence Institute. [www.independenceinstitute.org](http://www.independenceinstitute.org). Co-author (with Kopel and Gallant) of numerous articles on international gun policy in publications such as the *Texas Review of Law & Politics*, *Engage*, the *UMKC Law Review*, *National Review Online*, and *Brown Journal of World Affairs*.

The authors would like to dedicate this Article to the memory of Alan G. Eisen, a devoted husband who admired and supported Joanne's scholarship, and whose love of freedom and truth continues to inspire us.