

The Evolution of Human Rights and the Legal Framework for Genocide Prevention: From the Holocaust to Rwanda

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Abstract

Human rights are inherent entitlements that individuals possess by virtue of their humanity. Throughout history, various atrocities and inhumane acts have occurred, with the First and Second World Wars exemplifying the most severe massacres. The crime of genocide was first legally addressed in the United Nations Genocide Convention within the framework of International Law. Genocide is considered one of the gravest violations of human rights under international humanitarian law. The Holocaust during the Second World War, perpetrated by the Nazis, and the genocide in Rwanda are prominent examples that elicited significant international backlash, prompting legal sanctions against such heinous acts. This article aims to elucidate the concept of genocide and its historical evolution, examining the rulings of international criminal courts on genocide. By analyzing the Holocaust and the Rwanda genocide, the study seeks to provide a comprehensive understanding of genocide as a crime against humanity influenced by international issues, geopolitical dynamics, and colonialism.

Keywords: *Human rights; genocide; Holocaust; Rwanda genocide; international humanitarian law; United Nations Genocide Convention; international criminal courts*

Introduction

Human rights are inherent entitlements that every individual possesses by virtue of their humanity. These rights are universal and should be upheld irrespective of one's race, nationality, ethnic origin, language, or religion. They are fundamental and should supersede state legislation. It is the duty of states to protect these rights and ensure their implementation through both national and international legal frameworks. Among the gravest violations of human rights is the crime of genocide, which targets specific societies or groups within the international system. The term “genocide” entered the international lexicon in the aftermath of the atrocities and casualties of the Second World War. Concerted international efforts have since been undertaken to safeguard human rights and prevent the occurrence of genocide.

Genocide, which emerged prominently in the 20th century, is now recognized in international law as a systematic and planned act of violence aimed at the annihilation of a community. This concept has been extensively studied across various disciplines, including psychology, sociology, political science, and criminology. Throughout history, humanity has borne witness to numerous inhumane attacks, crimes, and atrocities. The profound massacres during the First and Second World Wars serve as stark examples. The Holocaust perpetrated by the Nazis during World War II, in particular, elicited significant global condemnation and necessitated legal sanctions against such heinous crimes against humanity.

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In response to these atrocities, the establishment of the Nuremberg and Tokyo International Criminal Courts, which were special tribunals with extraordinary status, marked a pivotal step towards addressing and legally sanctioning genocide. These trials were instrumental in emphasizing that genocide constitutes a crime against humanity, recognizing the existence of war crime victims, and ensuring that perpetrators are held accountable. This article will examine the crime of genocide through a detailed analysis of the Holocaust and the Rwandan genocide as case studies..

1. The Concept of Genocide

The concept of genocide was introduced and conceptualized by the Polish Jew Raphael Lemkin. Lemkin first pronounced and defined the concept of genocide in his book *Axis Rule in Occupied Europe*, published in 1944. This book describes the implementation of Nazi policies in occupied Europe and includes excerpts from previous mass murders. The term genocide describes the systematic destruction of a nation or people. The word genocide is a combination of the *geno* (meaning 'race' or 'people' in Greek) and *cide* (Latin for "to kill"). The event that brought the concept of genocide to its formation and gaining a meaning was Hitler's policy of extermination, which aimed at the wholesale extermination of the Jews by thinking that they were racially evil and harmful, and in this direction, aimed at their extermination within the framework of a cold-blooded plan. The concept of genocide was put forward by Lemkin, who was a Polish Jew, who witnessed this destructive political campaign implemented by the Nazi Government. The word genocide has been used as a descriptive term, although not as an official legal term, in the indictments in the Nuremberg trials since 1945. According to Lemkin, genocide; it was a coordinated strategy to destroy a group of people; this was a process that could be accomplished through mass extermination, as well as strategies that removed essential elements of the group's core existence, including language, culture, and economic infrastructure (Lemkin, 1944: 79).

The mass murders and extermination policies that have occurred in the history of the world have been met with sadness by the societies and have inflicted unforgettable wounds, but these acts of genocide have survived to the present day. The crime of genocide can be expressed as the most brutal act of human rights violations. Genocide; By violating a person's right to life, it also targets the group that the person belongs to. The traces of the genocide left an indelible impact on people and damaged the cultural heritage of humanity, and it is against the moral rules and the spirit of the UN. For this reason, the definition of genocide was accepted with the UN final declaration, which stated that the crime of genocide should be punished. During the Second World War, with Hitler's rise to the world stage and the implementation of the discriminatory policies of the German government, anti-Semitism movements in Nazi Germany led to the extermination of millions of Jews (Duong, 2006: 1). The Second World War, in which crimes against humanity were committed, once again brought the importance of the awareness that world peace can only be preserved with the joint support and surveillance of nations to the agenda of the international community. Although the brutality and mass murders of Nazi Germany in concentration camps against Jews were very sad, these events also contributed greatly to the development of international human rights law and international criminal law. In addition, the oppression, violence and inhuman treatment applied by the Germans in the occupied countries caused a violent reaction in all countries and led to a widespread thought and expectation that war criminals should be punished in the world.



2. International Genocide Regulations: Post-War Developments and the International Criminal Court

Following the First and Second World Wars, despite the introduction of international regulations aimed at preventing war crimes, crimes against humanity, and genocide, massacres continued to occur. It was not until after 1990 that effective regulations concerning the crime of genocide were implemented. Article 6 of the Genocide Convention stipulates that individuals who commit the crime of genocide should be tried in international courts. Nevertheless, when an international tribunal was finally established 45 years after the convention came into force, it became evident that the Genocide Convention contained several weaknesses and omissions. The atrocities in Rwanda and Yugoslavia underscored the necessity for an international tribunal to halt genocidal acts. Consequently, the International Criminal Court was established to prosecute actions that result in violations of fundamental human rights.

2.1 Nuremberg and Tokyo International Criminal Courts

Following the atrocities committed in Germany during the Second World War, the International Military Tribunal at Nuremberg was established to prosecute war criminals and adjudicate members of the Nazi regime for their crimes. As elucidated by Şen (2010: 170), the tribunal was instituted by the four signatory states of the London Agreement of 8 August 1945: the United States, France, Great Britain, and the Union of Soviet Socialist Republics (USSR). The Nuremberg Tribunal was endowed with the jurisdiction to prosecute acts of murder, extermination, enslavement, deportation, and other inhumane acts or persecutions perpetrated on political, racial, or religious grounds against any civilian population, both prior to and during the war, as crimes against humanity (Seymen Çakar, 2012: 171).

Commencing in 1945, the Nuremberg Trials adjudicated 24 high-ranking Nazi officials over the span of one year. The tribunal sentenced 11 of these individuals to death, imposed life imprisonment on 3, sentenced 7 to long-term imprisonment, and acquitted 3 (Şen, 2010: 171). The Nuremberg and Tokyo Tribunals were characterized as *ad hoc* and extraordinary judicial bodies created specifically to address wartime atrocities. As Tezcan, Erdem, and Önok (2017: 289) expound, these military tribunals were established with the sole purpose of prosecuting the war-related crimes of the vanquished states.

2.2 International Criminal Court for Rwanda

The International Criminal Tribunal for Rwanda (ICTR) was established in 1994 following the internal conflicts that devastated Rwanda, a nation that had previously been under Belgian colonization. The origins of the conflict can be traced back to the colonial era, during which Belgium's administration imposed a bipolar ethnic classification between the Tutsi and Hutu populations. This classification was primarily based on physical appearance and socio-economic status, leading to entrenched divisions and tensions between the two groups.

According to Öztürk (2016: 38), “Between April and June of 1994, within an estimated one hundred days, Hutus in Rwanda initiated systematic and planned killings against Tutsis, who constituted 14% of the total population of the country. Between 500,000 and 1 million people were killed and disappeared.” These figures are alarming and represent a severe violation of human rights. The colonial powers, Germany and Belgium, exacerbated ethnic tensions by

favoring the Tutsi minority, which ultimately led to conflict. The assassination of the Rwandan and Burundian heads of state in a plane crash on April 6, 1994, escalated the violence into genocide.

The ICTR was a response to these atrocities, aimed at delivering justice for the victims and holding those responsible accountable. This tribunal was one of the first of its kind, following the precedent set by the Nuremberg and Tokyo tribunals established after World War II. The ICTR was tasked with prosecuting individuals responsible for genocide and other serious violations of international humanitarian law committed in Rwanda and neighboring states between January 1 and December 31, 1994.

One of the landmark cases of the ICTR was the Akayesu case. Jean-Paul Akayesu, a former mayor, was the first individual to be tried and convicted of genocide by the tribunal. This case was significant not only because it was the first conviction for genocide by an international court but also because it set important legal precedents. It was in this case that the tribunal recognized rape as a form of genocide, highlighting the use of sexual violence as a systematic weapon of war and ethnic cleansing.²

Since 1997, numerous suspects of the genocide have been arrested and tried by the ICTR. The tribunal has been instrumental in developing international criminal law, particularly concerning the definitions and prosecution of genocide, crimes against humanity, and war crimes. On September 4, 1998, another significant milestone was achieved when former Rwandan Prime Minister Jean Kambanda pleaded guilty to genocide and was sentenced to life imprisonment. This marked the first time in history that a head of government was convicted of genocide, setting a powerful precedent for international justice.

The ICTR's work has had a profound impact on the field of international law and the global fight against impunity for mass atrocities. It has contributed to the establishment of the International Criminal Court (ICC) and influenced the development of legal standards and practices in international criminal justice. The tribunal's legacy includes its contributions to the jurisprudence on genocide and its role in promoting accountability and reconciliation in Rwanda.

However, the ICTR also faced numerous challenges, including logistical difficulties, limited resources, and political pressures. Despite these challenges, the tribunal succeeded in bringing many perpetrators to justice and providing a measure of redress for the victims of the Rwandan genocide. Its work underscores the importance of international cooperation and the need for robust mechanisms to prevent and respond to mass atrocities.

In summary, the establishment of the ICTR was a crucial step in addressing the horrific events of the 1994 Rwandan genocide. Through its prosecutions and legal rulings, the tribunal has played a key role in the development of international criminal law and the global efforts to combat genocide and other serious crimes. The ICTR's legacy continues to influence contemporary international justice and serves as a reminder of the international community's responsibility to prevent and punish acts of genocide.

² For a comprehensive summary of the Akayesu case, refer to the International Crimes Database. (n.d.). Akayesu. Accessed January 17, 2022, from <http://www.internationalcrimesdatabase.org/Case/50/Akayesu/>



2.3 International Tribunal for Crimes Against Humanity

The establishment of a permanent international tribunal to adjudicate crimes against humanity, genocide, and war crimes was decided upon, culminating in the court's completion on 1 July 2002. The primary objective of the court's establishment is to ensure that international crimes which disrupt the global social order do not go unpunished and that those responsible are held accountable. This court does not grant any privileges, including to heads of state.³ Investigations have been initiated against various nations, including the Democratic Republic of the Congo and Uganda (2004), Sudan and Darfur (2005), and the Central African Republic (2007). As Beşiri notes, “As a result of the investigations opened, Sudanese President Omar al-Bashir was tried for war crimes and crimes against humanity, and an arrest warrant was issued for him” (2013: 202).

3. The Crime of Genocide: Exemplary Cases of the Holocaust and Rwanda

Following the Second World War, history witnessed one of its darkest periods characterized by egregious crimes against humanity within both national and international spheres. Legal statutes were disregarded, and human rights along with international agreements were systematically violated. War crimes included the maltreatment of individuals, extrajudicial executions, and widespread destruction of civilian areas. Furthermore, heinous crimes against humanity were perpetrated through acts such as racially, linguistically, religiously, and ideologically motivated murders, as well as through violence and massacres. The majority of casualties from the Second World War were civilians. Factors contributing to this included urban warfare, the deployment of atomic bombs, aerial bombardments, disease outbreaks, and the genocidal actions of the Nazi regime against the Jewish people.

Moreover, history has recorded numerous massacres and genocides driven by political and economic motivations. In particular, African nations have endured prolonged exploitation of their natural resources, enslavement of their populations, and persistent ethnic conflicts. Countries such as Rwanda and regions like Darfur have been especially afflicted, where colonial legacies and racial tensions have led to extensive loss of life through large-scale attacks.

3.1 Holocaust

Hitler gained the support of the German people by taking advantage of the economic crisis the country was in and saying that he would strengthen the economy. For Hitler, establishing a society of Aryan race was paramount, and this policy of the Nazis was above all individuals and institutions. After Hitler came to power, law, politics, education, economy passed into the hands of the Nazi administration. The country has changed from democracy to one-man regime. Adolf Hitler to ensure that his people also adhere to the Nazi system restricted individual freedoms. Hitler also had the notion that propaganda had a great impact on the public. According to Nirun: “With the aim of creating a superior race, Hitler's basic principle was that “foreign policy is only a means to an end, and the main aim is the preservation and observance of the race” (2016:66). Hitler's dream of creating a superior race and the policies he followed dragged the world into a great massacre and caused the massacre of millions of people and a serious violation of human rights. According to the Nazi system, the ideal

³ Rome Statute article. 98

German Aryan race was a nation of blond, blue-eyed, tall and healthy people. Mentally and physically disabled, sick and elderly individuals were useless according to the Nazi system and were great threats to the theory of creating a pure aryan race. Thousands of sick people were killed as part of the euthanasia program. It was thought that hereditary diseases could also be passed on to children. Many individuals, including young children and disabled infants, were systematically exterminated through lethal drug injections, neglect, medical experimentation, and starvation in hospitals. The remains of the victims were incinerated in large furnaces known as crematoriums. During the Nazi regime, hundreds of thousands were murdered in concentration camps and gas chambers, which were specifically designed for mass extermination. These atrocities constitute severe human rights violations and are a stark reminder that no human being should ever endure such suffering.

Following the conclusion of the Second World War, the Allied forces established the Nuremberg Tribunal with the objective of prosecuting war crimes. The Nuremberg Court occupies a pivotal position within the international legal framework, having rendered landmark decisions that serve as precedents. This *ad-hoc* tribunal possesses a narrowly defined and specific jurisdiction, limited to crimes committed before and during the war, particularly within the realm of humanitarian law. Given that the concept of genocide had not yet been codified in legal terminology at the time, the atrocities committed by the Nazis during the Second World War were adjudicated under the classification of “crimes against humanity.” As delineated in the introduction, the term “genocide” was incorporated into legal discourse in the 1940s. Furthermore, the Nuremberg Tribunal played a seminal role in the formulation of the Genocide Convention (1951), the Universal Declaration of Human Rights (1948), and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1968). The Nuremberg Trials have thus significantly influenced the development of international human rights law.

3.2 Rwandan Genocide

Rwanda's main source of livelihood is agriculture and animal husbandry, as in most African countries. Subsistence and nutrition is a fundamental problem in the country, as the arable land is small but the population is high. While the Tutsis, who are a minority in the country, were mostly engaged in animal husbandry, the Hutu were engaged in agriculture. While economic conditions had an important effect on determining social status, dealing with animal husbandry in the country was a sign of superior status and wealth. According to Zorlu: “Tutsi, who constitute 14% to 17% of the country's population, were at the top of the social status” (2016, 116). The country was mostly composed of Tutsi and Hutu, politically and militarily, and there was no clear distinction between tribes in the past. They spoke the same language. E.g; When the number of animals of a Hutu engaged in agriculture increased, he could pass to the Tutsi tribe. At the same time, tribes could marry other tribes other than themselves. However, Belgium's establishment of colonies, classification of people according to their physical characteristics, and the necessity of identity cards for some of them made the communities completely separate races and caused hostility. When Hutus came to power, it was perceived as a revolution against Tutsis. The civil war that took place in Rwanda, the ethnic grouping and the events of the Western states caused the bloody genocide as a result of the provocative actions. In the 1970s, other problems began to occur in addition to the above-mentioned problems. The Tutsis, who lived in the neighboring country of Burundi and took refuge there, killed the Hutus who opposed their rule. For this reason, the Hutu people



fleeing the conflicts in the country; They fled to Rwanda and increased the anger and violence of the Hutu population in Rwanda against the Tutsis. After these events, Hutus started to distance Tutsis from social life and most institutions and organizations. Attacks were made against Tutsis living in more rural areas. In this way, polarization and disintegration in an environment of chaos were further fueled. In 1973, General Juvénal Habyarimana came to power after a coup. It can be seen that there was a state of civil war in the country just before the genocide. There was complete insecurity and chaos in Rwanda, and they were going through a period of deep crisis with the government's failure to maintain control. In Rwanda, which entered a more chaotic and violent process, Habyarimana's plane was shot down in April 1994, when he returned from the peace talks (Sencermen, 2009: 54). Immediately after the aircraft attack, the killing actions started. People participated in the killings. Upon this situation, the UN began to withdraw from the country. The Genocide started in April 1994 and lasted for about 5 months and ended in July 1994. According to unofficial data, it is stated that the people killed were between eight hundred thousand and one million, and that those killed were Tutsis and moderate Hutus. It has been reported that 1 million people lost their lives and 150,000 to 250,000 women were raped as a result of violence in Rwanda (UN, n.d.). The Rwanda International Criminal Court was established to investigate and prosecute violations of law in Rwanda. One of the aims of the Rwanda International Criminal Court is to ensure a peaceful environment in the country by reaching reconciliation, and the court covers not only the events that took place in Rwanda, but also crimes against humanity and genocide committed in neighboring countries. This court is an international court established to prosecute those who committed genocide. It was also the first court to define rape as an instrument of genocide in international criminal law (UN ICTR, n.d.). In summary, exploitation of natural resources, ethnic conflicts, diseases, slave trade constitute the main problems of Africa. These various problems have led to civil wars and mass murders. The pain experienced in Rwanda is an example of human rights violation.

4. Conclusion

In conclusion, the examination of human rights and the crime of genocide reveals a complex interplay between historical events, legal frameworks, and socio-political movements. Human rights, fundamentally inherent to every individual, transcend race, nationality, and religion, demanding protection and enforcement by state mechanisms and international laws. The concept of genocide, as introduced by Raphael Lemkin, underscores the systematic and intentional destruction of specific groups, a crime that has left indelible marks on human history through events such as the Holocaust and the Rwandan Genocide. The establishment of international tribunals, including the Nuremberg and Tokyo Courts, as well as the International Criminal Court for Rwanda, marked significant strides in prosecuting these heinous acts and reaffirming the international community's commitment to human rights. However, despite these efforts, the persistence of such atrocities highlights the ongoing challenges in preventing genocide and ensuring justice for victims. Continued vigilance, legal innovation, and international cooperation remain imperative in addressing and mitigating the scourge of genocide and safeguarding human rights globally.

Genocide is recognized as a crime against humanity and is often regarded as the gravest of such crimes. This issue holds significant importance within international mechanisms and remains a frequently debated topic in contemporary discourse. Consequently, international law has achieved a consensus among numerous countries on the necessity of preventing and

punishing the crime of genocide. In addition to punitive measures, there exists an obligation to prevent the occurrence of this crime. Genocide, being a serious offense, transcends national boundaries and poses a threat to international peace and security. Disciplines such as psychology, law, philosophy, criminology, economics, and sociology must engage with the issue of genocide, grounded in the universality of human rights. Genocide represents a profound political problem, as evidenced by the case of Rwanda, where external states, pursuing their own interests, exacerbated civil conflict and facilitated mass atrocities. This was more readily achieved due to Rwanda's colonial history. When addressing human rights violations and the peace and security of the international community, it is imperative to prevent genocide and hold perpetrators accountable to avoid its recurrence. Ultimately, the right to life stands as the most fundamental of human rights.

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