



GENOCIDE: ONE OF THE GREATEST CRIME UNDER INTERNATIONAL LAW

By Vikramaditya Pandey
From KLE Society's Law College

ABSTRACT

Genocide is called 'crimes of crime'. In 1944 Raphael Lemkin coined the term "Genocide" by combining 'genos', the Greek word for 'race' or 'tribe', with the Latin suffix 'Cide' which mean 'to kill'. United Nations Conventions on the Prevention and Punishment of the Crime Genocide defines genocide as "any of the following acts committed with intent to destroy, in whole or part, a national, ethical, racial or religious group. , as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (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; (e) Forcibly transferring children of the group to another group. Genocide is a crime against humanity, wherever it occurred it has eradicated the targeted groups population around 60% to 97%. In India there is no law which is specifically for genocidal crime but there are provisions in Indian Penal Code, 1860 which criminalises the acts which are in nature of genocidal crime. To prevent genocide crime, it is critically important to understand the root cause of these crimes Genocidal crimes are not spontaneous act instead, they develop as a process over time, as a result of which it is possible to identify warning signs and can be prevented. There are three types of prevention at different stages 1) Up-stream 2) Mid-stream 3) Downstream. The victims

can go to the International criminal court (ICC) or International Court of Justice (ICJ) for any type of genocidal cases for justice.

INTRODUCTION:

Genocide is one of the greatest crimes under international law and also called "crime of crimes" according to Article 2 of the 1948 United Nations Conventions on the Prevention and Punishment of the Crime Genocide defines genocide as "any of the following acts committed with intent to destroy, in whole or part, a national, ethical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (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; (e) Forcibly transferring children of the group to another group¹. Genocide, whether committed in time of peace or in war is a crime under international law which they undertake to prevent and to punish. Genocidal crime can be seen in all parts of the world and whenever it had taken place it has destroyed the targeted group.

1. <https://www.un.org/en/genocideprevention/genocide.shtml>

Now how the word 'Genocide' came into existence? Raphael Lemkin, a Polish-Jewish lawyer who fled the Nazi occupation of Poland and arrived in United States in 1941. As a boy, Lemkin had been horrified when he learned of the Turkish massacre of hundreds of thousands of Armenians during World War I. Lemkin later came up with a term to describe Nazi crimes against European Jews during World War II, and to enter that term into the world of international



law with a hope of preventing and punishing such horrific crimes against innocent people. In 1944 he coined the term “Genocide” by combining ‘genos’, the Greek word for ‘race’ or ‘tribe’, with the Latin suffix ‘Cide’ which mean ‘to kill’.

GENOCIDE CASES ACROSS THE WORLD

ROMANI GENOCIDE: For centuries Romani tribe had been subject to antiziganist persecution and humiliation in Europe. They were stigmatized as habitual criminals. When Hitler came to national power in 1933, anti-gypsy laws in Germany remained in effect, Under the “Law against Dangerous Habitual Criminals” of November 1933, the police arrested many Gypsies with others the Nazi viewed as “asocial” – prostitutes, beggars, homeless, vagrants, and alcoholics and imprisoned them in internment camp .

The Nuremberg race laws were passed on September 15, 1935. The first Nuremberg Law, the “Law for the Protection of German Blood and Honour”, forbade marriage and extra marital intercourse between Jews and Germans.

The second Nuremberg law “The Reich Citizenship Law”, stripped Jews of their German citizenship. On November 26, 1935, Germany expanded the Nuremberg laws to also apply to the Roma. Romani, like Jews, lost their right to vote on March 7, 1936.

On November 15, 1943, Himmler ordered that Romani and “Part-Romanies” were to be put “on the same level as Jews and placed in concentration camps”. When ordered to come out, they refused, having been warned and arming themselves with crude weapons

– iron pipes, shovels, and other tools used for labor.

The society for threatened people estimates the Romani death approximately 220,000 to 1,500,000. The government of some Nazi German allies, namely Slovakia, Finland, Italy, Vichy France, Hungary, and Romania, also contributed to the Nazi plan of Romani extermination.

INDONESIAN GENOCIDE: Background-support for sukarno’s and presidency under his “Guided Democracy on his forced and unstable “Nasakom” coalition between the military, religious group, and communists. The rise in influence and increasing militancy of the communist party of Indonesia (PKI), and Sukarno’s support for it, was a serious concern for Muslims and military, and tension grew steadily in the early and mid-1960s. The third-largest communist party in the world, the PKI had approximately 300,000 cadres and a full membership of around two million.

On the evening of 30 September 1965, a group of militants, known as the 30 September movement captured and executed six of Indonesia’s top military generals. The movement proclaimed itself as sukarno’s protectors, issuing a pre-emptive strike to prevent a possible coup. After the execution of the generals, the movement’s forces occupied Mardeka square in Jakarta and the presidential palace.

A military propaganda campaign to link the coup attempt with the PKI, masterminded by the military, began to sweep the country on 5 October. Graphic images and descriptions of the murdered tortured, and even castrated generals began to circulate the country.



Despite falsified information, the campaign was successful, convincing both Indonesian and international audiences. even though the 30 September Movement killed 12 people, Suharto ultimately presented it as a nationwide conspiracy to commit mass murder.

The army removed top civilian and military leaders it thought sympathetic to the PKI. The parliamentary and cabinet were purged to Sukarno loyalists. Army leaders organised demonstration in Jakarta during and west java, over 10,000 PKI activists and leaders were arrested. Communists red sympathizers and their families and being massacred by the thousands. The killing started in October 1965 in Jakarta, spread to central and east java and later to Bali and smaller outbreaks occurred in parts of other island, including Sumatra.

The communal tension and hatreds that had built up were played upon by the army leadership who characterised communist as villains, and many Indonesian civilians took part in the killing, the worst massacre were in Aceh, Bali, Central, East Java where PKI support was at its strongest. With very few exceptions, the killing were not spontaneous but carried out with a high degree organization. The method of non-mechanised violence and killing included shooting, dismembering alive, stabbing, disembowelment, castration, impaling, strangling and beheading with Japanese-style samurai swords. Most of the killing being carried out with knives, sickles, machetes, sword, ice picks, bamboo spears, iron rods and other makeshift weapons. Islamic extremists often paraded severed head on spikes. Corpses were often thrown into rivers, and at one-point officials complained to the Army of congested rivers

that run into the city of Surabaya due to the bodies².

Before the killings had finished, the Indonesian army estimated 78,500 had been killed, while the PKI put the figure at 2 million most scholars now agree that at least half million were killed.

²<https://www.studyiq.com/blog/?s=genocide>

DARFUR GENOCIDE: The Darfur genocide refer to the systematic killing of Darfur men, women, and children which occurred during the ongoing conflict in Western Sudan. It has become known as the first genocide of the 21st century. The genocide, which is being carried out against the fur, Masalit and Zaghawa tribe, has led the international criminal court (ICC) to indict several people for crime against humanity, rape, forced transfer and torture. According to Eric reeves, more than one million children have been “killed, raped, wounded, displaced traumatized. The crisis and ongoing conflict in Sudan’s Western Darfur Region have developed from several separate events. The first, is a civil war that occurred between the Khartoum national governments and two rebel groups in Darfur; the Justice and Equality movement and the Sudan Liberation Army. The rebel group were initially found in February 2003 due to Darfur’s “political and economic marginalization by Khartoum”. A second factor is a civil war that has occurred between the Christians, the animist Black southerners, and the Arab dominated government since Sudan’s independence from the United Kingdom in 1956. The ethic conflict in Darfur has been persistent. Darfur is home to six million people and several dozen tribes. In 2013 the United Nations



(UN) estimates that up to 300,000 people had been killed. By 2015, it was estimated that the death toll stood between 100,000 to 400,000. The BBC first reported on the issue of ethnic cleaning in November 2003, and earlier that year in March. In April 2004, Human Rights Watch (HRW) released Darfur Destroyed: Ethnic Cleansing by government and Militia Forces in Western Sudan, a 77-page report compiled by HRW following 25 days spent in the region. The use of rape as a tool of genocide has been noted. This crime has been carried out by Sudanese government forces and Janjaweed (“evil men on horseback”) paramilitary group.

The settings in which these attacks occurred: the Janjaweed forces surrounded the village and then attacked girls and women who left the village to gather firewood or water. The Janjaweed forces went to house to house killing boys and men’s while raping the girls and women’s by bringing them to a central location.

The United Nations issued a hybrid United Nations-African Union mission (UNAMID) to maintain peace in Darfur. It was established on 31 July 2007 with the adoption of Security Council resolution 1769. The Mission has 35 deployment locations throughout the five Darfur states. The African Union (AU) and the United Nations produced a framework document for intensive diplomatic and political peacekeeping efforts. The peacekeeping mission is confronted with several challenges from security to logistical constrained. The troops that have been deployed operate in unforgiving, complex and often a hostile political environment. Also, the mission is faced with many

shortages in equipment, infrastructure, transportation and aviation assets.

GENOCIDE IN INDIA

In India there is no law which is specifically for genocidal crime but there are provisions in Indian Penal Code, 1860 which criminalises the acts which are in nature of genocidal crime. India is a Secular country and its also written in its Preamble, the Articles of Indian constitution gives various rights to its citizens which protects minorities, religions and castes from any type of discrimination and also prevents genocidal crimes from occurring, even after that India has faced some genocidal massacre like Direct Action Day (1946), Exodus of Kashmiri Pandits from Kashmir (1990), anti-Sikh riots(1984), Kashmiri Hindus killing (1990), Bombay riot (1992), Gujrat riot (2002)

PREVENTION

Preventing atrocity crimes is far preferable to responding when the crimes are ongoing or after they have been committed, there are times when it has committed and after that many actions have been taken by various international organisations and court but failed to stop or took many years to stop it³.

To prevent genocide crime, it is critically important to understand the root cause of these crimes. Genocidal crimes are not spontaneous act instead, they develop as a process over time, as a result of which it is possible to identify warning signs that they may occur sooner or later and that is the time to take preventive actions immediately and be prepare in advance for all the situation that may in the state. There are three types of prevention at different stages:



Upstream measures: this step must to be taken before a genocide occurs to prevent from occurring. There are also ongoing efforts like 'Early Warning Project' it is an early warning tool developed by United States Holocaust Memorial Museum and Dartmouth college. This early warning system was a "first of its kind" designed to aid policy makers in determining the risk that a state faces for genocide. The Early Warning Project aids policy makers by determining which states are the most likely to experience a genocide. From this, preventive steps can be taken against states that pose a risk to falling into genocidal actions.

Mid-stream prevention: Mid-stream prevention takes place when a genocide is already taking place. The focus of the Main-stream prevention is to end the genocide before it progresses further, taking more lives. This type of prevention mostly involves military intervention, it's very expensive and has unintended consequences.

3.

https://en.wikipedia.org/wiki/Genocide_prevention

Downstream prevention: it takes place after a genocide has ended. Its aim is to prevent any other genocide in future, thus rebuilding and restoring the community is the goal. Justice for the victims also plays a major role in repairing community to prevent any further genocide in future. There is also a Genocide Task Force which is created in 2007, with the purpose of developing a strategy to prevent and stop future genocides⁴.

CONCLUSION

Genocide is a crime against humanity, where ever it occurred it has finished the targeted groups population about 60% to 97%. We should take lessons from all the countries who faced this and we should prepare and prevent every genocide when can occur in future. There are still some countries where genocides are going on, we should take right actions to control it, and do justice the victims. The victims can go to the International criminal court (ICC) or International Court of Justice (ICJ) for any type of genocidal cases. All members of the 'United Nations' are party to the International court of Justice, its jurisdiction is all over the world except few regions whereas International Criminal Court has jurisdiction to some countries, it can prosecute individual for the crimes of genocide, crimes against humanity, war criminals. Genocidal crimes can be identified earlier than they occur so administrations should always be alert to catch the warning signals and take actions
