**GENOCIDE, WAR CRIMES AND**

**CRIMES AGAINST HUMANITY**

**By-**

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**ABSTRACT**

Genocide, War Crimes and Crimes against Humanity are the most heinous and gruesome crimes that can be inflicted upon the people. These are the severe inhumane offences which are done to the people resulting in the most brutal type of gross and grave violation of human rights laws. These crimes are dealt under the International humanitarian laws.

Genocide is the mass killing of people based on their national, ethnical, racial and religious group. It is the calculated and orderly extermination of a national, racial or cultural group. It is the mass annihilation of a whole group of people, an attempt to wipe them out of existence.

War Crimes are the serious violations of international humanitarian laws resulting in extreme wrong and injustice done to the people. A list of offences has been included under “War Crimes”. These are considered to be severe offenses against humanity.

Crimes against humanity are acts that are deliberately committed as part of a widespread or systematic attack directed against any civilian or an identifiable part of a civilian population. Just like War Crimes, a list of offences have been given under the term Crimes against humanity, however, unlike war crimes, crimes against humanity **can be committed during peace or war.**

This paper tries to expatiate on the entire notion about these crimes in detail. The paper meticulously explores every aspect related to the topic. There has been various definitions given by various authorities yet people are unaware to such crimes happening in society. The paper tries to analyze and these definitions and understand them with the help of various international cases. Thus, through this paper, an endeavor has been made to allow the readers to understand the whole idea of these Atrocity crimes.

**Keywords:** Genocides, Crimes, Humanity, Offences, Population.

**INTRODUCTION:**

Genocides, War Crimes and Crimes against Humanity are the offences that have long been recognized as crimes under the international law but not incorporated under national legislations (Section 1: Genocides, Crimes against humanity and war crimes).These are known as Atrocity Crimes. According to United Nations, “Atrocity crimes are considered to be the most serious crimes against humankind. Their status as international crimes is based on the belief that the acts associated with them affect the core dignity of human beings. The term “atrocity crimes” refers to three legally defined international crimes: genocide, crimes against humanity and war crimes” [[1]](#footnote-2)(Framework of Analysis for Atrocity Crimes, 2014).

These crimes have been known to the society for long. The world has witnessed a long history of such distressing crimes. But the journey of international legislations started when firstly the Genocide Convention was signed on December 9, 1948. After that, there has been a long series of international conventions and legislations where Genocide, War Crimes and Crimes against Humanity have been codified.

For the purpose of a systematic research, the paper has been divided into four parts. Part I provides a brief introduction about the topic as to what are Atrocity Crimes and What is Genocide, War Crimes and Crimes against Humanity? Part II would be dealing with these crimes in detail mentioning the elements of such crimes. This would be discussed with the help of some case laws. Part III would mention the factors that help international bodies in determination of occurrence of any such crime and preventing them saving lives of thousands and thousands people. Part IV, the last part deals with the conclusion and suggestions section to the paper where the author has mentioned what did she conclude at the end of this paper and after doing so much research about the same, providing suggestions thereto.

Genocide, War Crimes and Crimes against Humanity are basically extreme inhumane actions happening in all the parts of the world. Genocide is the conscious and structured devastation of a crowd of people based on their ethnicity, nationality, religion or race. War Crimes are the unjustifiable acts of hostility or viciousness or violations of international humanitarian laws. Crimes against Humanity are ingenuously gross callousness. It is a very broad term that includes a number of gruesome offences. Further, all these crimes together with all the aspects related to them are being discussed later in the paper.

**GENOCIDE-**

In general, Genocide is the deliberate and organized destruction of a mass of people because of their ethnicity, nationality, religion or race [ethnicity](https://www.merriam-webster.com/dictionary/ethnicity)[[2]](#footnote-3)(Andreopoulos).  The word “genocide” first coined by Polish lawyer Raphäel Lemkin in 1944 in his book “Axis Rule in Occupied Europe”, comprises of two words, the Greek prefix genos, meaning race or tribe, and the Latin suffix cide, meaning killing[[3]](#footnote-4)(UNITED NATIONS OFFICE ON GENOCIDE PREVENTION AND THE RESPONSIBILITY TO PROTECT ).

According to Article II of the Convention on the Prevention and Punishment of the Crime of Genocide[[4]](#footnote-5) (CPPCG), “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group[[5]](#footnote-6).”(Convention on the Prevention and Punishment of the Crime of Genocide)

Therefore, according to the United Nations, genocide is any act perpetrated with intent to destroy, wholly or partly, a national, ethnical, racial or religious group(Genocide and Crimes against Humanity).There are various definitions of Genocide given by various international bodies or laws, however, all the definitions fairly resemble to the definition given by CPPCG(Andreopoulos).Initially, Article 86 of the United States Institute of Peace (USIP) copied the definition from CPPCG, and thereafter it has been incorporated unaltered in various definitions given by various bodies (86, Section : Genocides, Crimes against Humanity and war Crimes). Article 6 of the Rome Statute of the International Criminal Court scrounges definition from this Convention and defines the crime of genocide as “ For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such[[6]](#footnote-7):

(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.”[[7]](#footnote-8) (2)

Article 4 (2)[[8]](#footnote-9) of the Statute of the International Tribunal for the former Yugoslavia also provides definition of Genocide. The definition is again inspired from the definition under Genocide Convention(4). Also, Article 2 of the International Criminal Tribunal for Rewanda [[9]](#footnote-10)(ICTR) also provides definition of ‘Genocide’ which has again stimulated from the definition of Genocide given under Genocide Convention. (Genocide)

Raphael developed the term to show his hostility towards the Nazi policies of organized murder of Jews during the Holocaust, and also in response to previous instances in history of targeted actions aimed at the destruction of people belonging to some particular group. He led the campaign to have genocide recognized and codified as an international crime.[[10]](#footnote-11) The momentum created by this led to the passage of Resolution 96-I by the United Nations General Assembly in December 1946, which made the crime of genocide punishable under international law, and of Resolution 260-III in December 1948, which approved the text of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), the first human rights treaty. [[11]](#footnote-12)

**Elements of Genocide**

According to Article – II of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), there are two main elements of Genocide:

1. A mental element or Mens Rea: the intent to obliterate, in whole or in part, a national, ethnical, racial or religious group, as such; and
2. A physical element or the Actus Reus, which includes the following five acts, itemized comprehensively
   * Killing members of the group
   * Causing serious bodily or mental harm to members of the group
   * Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
   * Imposing measures intended to prevent births within the group
   * Forcibly transferring children of the group to another group[[12]](#footnote-13)(Art II)

For an act to amount genocide there must be an established intent on the part of perpetrators to actually and physically destroy or cripple permanently a national, ethnical, racial or religious group, however, merely an intention to eradicate would not suffice, a physical act has to be done in accordance with the intent. In the case of **Sylvestre Gacumbitsi v. The Prosecutor**[[13]](#footnote-14), it was held that “[G]enocide is a crime requiring ‘specific intent.’ The Prosecution is required, under Article 2(2) of the Statute, to prove that the accused possessed the specific ‘intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”[[14]](#footnote-15)(SYLVESTRE GACUMBITSI v. THE PROSECUTOR, 2006). It is the special intent sometimes also referred to as the dolus specialist that makes the crime of genocide unique. In the case of **The Prosecutor v. Athanese Seromba**[[15]](#footnote-16), it was observed that “The constituent elements of the crime of genocide are: first, that one of the acts listed under Article 2(2) of the Statute was committed; secondly, that this act was committed against a specifically targeted national, ethnic, racial or religious group, as such, and thirdly, that the act was committed with intent to destroy, in whole or in part, the targeted group”[[16]](#footnote-17) (Trahan, 2010). In the case of **The Prosecutor v. Kamuhanda**[[17]](#footnote-18), it was noted that “The crime of genocide requires a finding of both mens rea and actus reus. The mens rea for genocide comprises the specific intent or dolus specialis described in the general clause of Article 2(2) of the Statute—i.e. the commission of a genocidal act ‘with intent to destroy, in whole or in part, a national, ethnical, racial or religious group’. And the actus reus consists of any of the five acts enumerated in Article 2(2) of the Statute, as shown above”[[18]](#footnote-19) (Trahan, Genocide, War Crimes and Crimes Against Humanity - A Digest of the Case Law of the International Criminal Tribunal for Rwanda)

Prominently, the victims of genocide are deliberately targeted because of their actual or apparent membership to any one of the four groups mentioned and protected overtly under the Convention i.e. national, ethnical, racial or religious group. This means that for a destruction to be categorized as Genocide, the target of destruction ought to be the group- a substantial group and not necessarily individuals.[[19]](#footnote-20)In **The Prosecutor v. Mikaeli Muhimana**[[20]](#footnote-21), it was established that “The notion ‘destruction of the group’ means the material destruction of a group either by physical or by biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group[[21]](#footnote-22).”(THE PROSECUTOR v. MIKAELI MUHIMANA, 2005)

**WAR CRIMES**

It’s a difficult task to define the term “war crime” with precision; however, recently endeavors have been made to define the term. It has been codified in some of the international statutes, such as the International Criminal Court and the war crimes tribunals in Yugoslavia and Rwanda, for use in international war crimes tribunals (Penrose).War crimes, in common parlance, is understood as unwarranted acts of violence or brutality or violations of international humanitarian laws.

“Article 147 of the Fourth Geneva Convention[[22]](#footnote-23) defines war crimes as "willful killing, torture or inhuman treatment, including ... willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person ... taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly"”. (Swart, 2019)

The term “war crimes” refer to the grave violations of international humanitarian law dedicated to civilians or adversary opponents during an international or domestic armed conflict, for which the perpetrators may be held criminally liable on an individual basis. Its latest codification can be found in Article 8 of the 1998 Rome Statute for the International Criminal Court (ICC). The [Rome Statute](https://www.icc-cpi.int/resource-library/Documents/RS-Eng.pdf)of the ICC expanded the list of crimes that constitutes war crimes. The article reads as [[23]](#footnote-24):

1. “The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, ‘war crimes’ means:
   1. Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
      1. Willful killing
      2. Torture or inhuman treatment, including biological experiments;
      3. Willfully causing great suffering, or serious injury to body or health;
      4. Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
      5. Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
      6. Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
      7. Unlawful deportation or transfer or unlawful confinement;
      8. Taking of hostages.
   2. Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
      1. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
      2. Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
      3. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
      4. Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
      5. Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
      6. Killing or wounding a combatant who, having laid down his arms or having no longer means of defense, has surrendered at discretion;
      7. Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
      8. The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
      9. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
      10. Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
      11. Killing or wounding treacherously individuals belonging to the hostile nation or army;
      12. Declaring that no quarter will be given;
      13. Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
      14. Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
      15. Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
      16. Pillaging a town or place, even when taken by assault;
      17. Employing poison or poisoned weapons;
      18. Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
      19. Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
      20. Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
      21. Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
      22. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
      23. Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
      24. Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
      25. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;
      26. Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
   3. In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
      1. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
      2. Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
      3. Taking of hostages;
      4. The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
   4. Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
   5. Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:
      1. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
      2. Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
      3. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
      4. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
      5. Pillaging a town or place, even when taken by assault;
      6. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
      7. Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
      8. Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
      9. Killing or wounding treacherously a combatant adversary;
      10. Declaring that no quarter will be given;
      11. Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
      12. Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
   6. Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.”[[24]](#footnote-25) (Rome Statute for the International Criminal Court 1998)

It is thus, clear that ICC includes a number of offences under the umbrella term “War Crimes”. In the case of **The Prosecutor v. Jean-Pierre Bemba Gombo**[[25]](#footnote-26), Jean Bemba was declared accused of the war crime of initiating campaigns of mass rape committed against civilians in the Central African Republic. In the case of **The Prosecutor v. Bosco Ntaganda**[[26]](#footnote-27), the ICC found Bosco Ntaganda (Commander of operations of the Forces patriotiques Pour la Liberation du Congo ‘FPLC’) guilty of 13 war crimes committed in Ituri, DRC, in 2002-2003 which included sexual crimes committed by members of the group against other members of the same group. (Swart, 2019)(The Prosecutor v. Jean-Pierre Bemba Gombo)(The Prosecutor v. Bosco Ntaganda)

Article 88 of the USIP has also defined War Crimes and the definition has again been derived from the definition of ICC (88 A. ). International Criminal Tribunal for Rewanda (ICTR) also defines ‘War Crimes’ under Article 4[[27]](#footnote-28) which is again in consonance with ICC.

**Elements of War Crimes :**

According to the definition of ‘War Crimes’ under Article 8 of the Rome Statute for the International Criminal Court 1998, war crimes has two main elements:

1. A contextual element: “the conduct took place in the context of and was associated with an international/non-international armed conflict”;
2. A mental element: intent and knowledge both with regards to the individual act and the contextual element (Nations).

War crimes can be considered as the gravest crime in international law. In the case of **The Prosecutor v. Alfred Musema**[[28]](#footnote-29), a very crucial element of War Crimes ‘armed conflict’ was defined. It was held that, “The expression “armed conflicts” introduces a material criterion: the existence of open hostilities between armed forces which are organized to a greater or lesser degree. Internal disturbances and tensions, characterized by isolated or sporadic acts of violence, do not therefore constitute armed conflicts in a legal sense, even if the government is forced to resort to police forces or even armed units for the purpose of restoring law and order. Within these limits, non-international armed conflicts are situations in which hostilities break out between armed forces or organized armed groups within the territory of a single State.” (Musema, 2000) Again, in the case of **The Prosecutor v. Jean-paul Akayesu**[[29]](#footnote-30), it was held that, “The term “armed conflict” suggests the existence of hostilities between armed forces organized to a greater or lesser extent, which necessarily “rules out situations of internal disturbances and tensions.”” (Akayesu T. P.-p., 1998)

**CRIMES AGAINST HUMANITY–**

Talking about Crimes against Humanity, it is not yet lucid in what context was the term “crimes against humanity” first developed but a broad-spectrum acknowledgement is that the term is particularly used in the context of slavery and the slave trade.“The Tel-Aviv District Court, in a 1952 judgment, said a crime against humanity "must be one of serious character and likely to embitter the life of a human person, to degrade him and cause him great physical or moral suffering." The [United Nations](https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/united-nations/united-nations) (UN) Secretary-General has described them as "inhumane acts of a very serious nature."” (Humanity C. a., 2020)Crimes against humanity have not been codified yet, however, the Rome Statute of the International Criminal Court is the document that replicates the consensus among the international community on this matter and also provides an extensive list of specific acts that may constitute the crime [[30]](#footnote-31)(HUMANITY).

Crimes against Humanity are bluntly gross inhumanity. It is fairly related to Genocide and War Crimes. The Rome Statute enumerates (Article7) ten offenses amounting to crimes against humanity. A particular defendant need only have performed a single instance of the conduct to be guilty of a crime against humanity; much of the opprobrium for low-level perpetrators arises from the fact that they have participated in a large-scale attack on civilians (Neuman, 2019).

Article 7 of the Rome Statute of the International Criminal Court defines “Crimes against Humanity” as[[31]](#footnote-32)–

1. “For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
   1. Murder;
   2. Extermination;
   3. Enslavement;
   4. Deportation or forcible transfer of population;
   5. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
   6. Torture;
   7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
   8. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
   9. Enforced disappearance of persons;
   10. The crime of apartheid;
   11. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
2. For the purpose of paragraph 1:
   1. ‘Attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack[[32]](#footnote-33);”(Court, 2011)

Article 5 of the Statute of the International Tribunal for the former Yugoslavia [[33]](#footnote-34)also provides definition of “Crimes against Humanity” which is in accordance with the definition of Crimes against Humanity given by ICC. Then, International Criminal Tribunal for Rewanda (ICTR) also provides definition of Crimes against Humanity under Article 3 which is quite similar to the definition given by the International Tribunal for the former Yugoslavia[[34]](#footnote-35). (Genocide W. C.)Article 87 of the USIP also gives the same definition of Crimes against Humanity (87).In common parlance, in addition to the aforementioned acts, poverty, human-made environmental disasters, and terrorist attacks etc. are also considered as Crimes against Humanity[[35]](#footnote-36) (Vernon).

**Elements of Crimes against Humanity-**

As per Article 7 (1) of the Rome Statute, crimes against humanity need not necessarily be associated to an armed conflict and can also arise in times of tranquility and harmony. The Article provides a definition that contains the following main elements:

1. A physical element, which includes the commission of any of the following acts:
   1. Murder;
   2. Extermination;
   3. Enslavement;
   4. Deportation or forcible transfer of population;
   5. Imprisonment;
   6. Torture;
   7. Grave forms of sexual violence;
   8. Persecution;
   9. Enforced disappearance of persons;
   10. The crime of apartheid;
   11. Other inhumane acts.
2. A contextual element: when committed as part of an extensive or methodical assail aimed against any civilian population; and
3. A mental element: with knowledge of the attack

The contextual element determines that crimes against humanity involve either large-scale violence with respect to the number of victims or its extension over a wide geographic area or a methodical type of violence. In the case of **The Prosecutor v. Jean Mpambara**[[36]](#footnote-37), it was observed that “the chapeau requirements for a crime against humanity must also be satisfied. First, the crime must have been committed as part of a widespread or systematic attack. “Widespread” is defined as massive or large scale, involving many victims; “systematic” refers to an organized pattern of conduct, as distinguished from random or unrelated acts.13 Second, the attack must be carried out against a civilian population on “national, political, ethnic, racial or religious grounds”[[37]](#footnote-38) (The Prosecutor v. Jean Mpambara, 2006). In the case of **The Prosecutor v. Jean Paul Akayesu**[[38]](#footnote-39), discussing Crimes against humanity, it was held that, “This category of crimes may be broadly broken down into four essential elements, namely : (i) the act must be inhumane in nature and character, causing great suffering, or serious injury to body or to mental or physical health; (ii) the act must be committed as part of a wide spread or systematic attack; (iii) the act must be committed against members of the civilian population; (iv) the act must be committed on one or more discriminatory grounds, namely, national, political, ethnic, racial or religious grounds.”[[39]](#footnote-40) (Akayesu, 1998)

In the case of crimes against humanity, specific intent is not important. A simple intent to commit any of the acts listed would suffice, with the exception of the act of persecution, which requires additional discriminatory intent. The perpetrator must also act with knowledge of the attack against the civilian population and that his/her action is part of that attack[[40]](#footnote-41). (Rome Statute of the International Criminal Court). In the case of **Feidinand Nahiman, Jean-Bosco Barayagwiza, Hassan Ngeze v. The Prosecutor**[[41]](#footnote-42), it was observed that, “According to the Kunarac et al. Trial Judgment, an attack "can be described as a course of conduct involving the commission of acts of violence". This characterization was endorsed by the Appeals Chamber of ICTY, which added the following: “The concepts of "attack" and "armed conflict are not identical. Under customary international law, the attack could precede, outlast, or continue during the armed conflict, but it need not be a part of it. Also, the attack in the context of a crime against humanity is not limited to the use of armed force; it encompasses any mistreatment of the civilian population”. This position is reiterated in the Kordit and Cerkez Appeal Judgment and was adopted in a number of ICTY Trial judgments. According to the Kayishema and Ruz indana Trial Judgment: “The attack is the event of which the enumerated crimes must form part. Indeed, within a single attack, there may exist a combination of the enumerated crimes, for example murder, rape and deportation.”[[42]](#footnote-43) (Ferdinand Nahinana, 2007)

Crimes against Humanity refer to the crimes committed against a large scale targeting civilians irrespective of their nationality or belonged group. These kind of atrocities, include the most egregious violations of human dignity and therefore, the gravity of the acts have the potential to damage international peace.

**FACTORS THAT HELP IN PREVENTION OF ATROCITY CRIMES:**

According to the Framework of analysis for Atrocity Crimes[[43]](#footnote-44), “risk factors” are the conditions that enhance the risk or susceptibility to pessimistic and depressing effects. They include behaviors, circumstances or elements that create an environment conducive to the commission of atrocity crimes, or indicate the potential, probability or risk of their occurrence. Risk factors are of various types.

There are eight factors which are common to all crimes. The common risk factors are intended at the identification of the probability of atrocity crimes overall, without necessarily identifying the type of crime. It is based on the assumption that in the initial stages of monitoring, it is not always possible to identify which specific crime is most at risk. This becomes clearer as the process leading to atrocity crimes progresses. They are: (1) situations of armed conflict or other forms of instability; (2) record of serious violations of international human rights and humanitarian law; (3) weakness of State structures; (4) motives and Incentives; (5) capacity to commit atrocity crimes; (6) absence of mitigating factors; (7) enabling circumstances or preparatory action; (8) triggering factors.

The specific risk factors, on the other hand, result from the fact that every crime has elements and pioneers that are not common to all three crimes. The risk factors specific to the crime of genocide are: (9) intergroup tensions or patterns of discrimination against protected groups; and (10) signs of intent to destroy in whole or in part a protected group. The risk factors specific to crimes against humanity are: (11) signs of a widespread or systematic attack against any civilian population; and (12) signs of a plan or policy to attack any civilian population. The risk factors specific to war crimes are: (13) serious threats to those protected under international humanitarian law; and (14) serious threats to humanitarian or peacekeeping operations [[44]](#footnote-45)(Welsh, 2016).

The indicators are not exhaustive but intended to assist in determining the presence of any unfavorable activity that might prove to be very helpful in prevention of such crimes saving a large number of human lives from being destroyed.

**CONCLUSION AND SUGGESTIONS :**

Criminal Law is often thought of as a means of maintaining tranquility and human order to a restricted geographic region which is not true. And this can evidently be seen and understood with the examples of Atrocity Crimes. The concept of Genocide and War Crimes have been part of International Law since ages, however, the concept of Crimes against Humanity is relatively new. The status of these Atrocity Crimes as international crimes is mainly based on the conviction that all the acts which are allied to them have a profound impact on the core dignity of human beings.

Approaching towards the end of the paper, having analyzed various legislations and causes related to Genocide, War Crimes and Crimes against Humanity, the author believes that the definitions given to all the three crimes are quite comprehensive and self-explanatory including every aspect related to it. Whether it be Genocide or War Crime or Crime against humanity, all of these are heinous crimes against the society, having the gravity of stringent punishment being imposed against the offender. These can be referred to as the crimes against humankind and injuries to humanness [[45]](#footnote-46)(Luban, 2004).

These crimes are concerns of International community and all the civilized societies need to condemn it together and stand together against it. These crimes continue to be perpetrated in many places across the world. The first thing we can do is to be more alert and pay attention to the warning signs. Atrocity crimes take place on a large scale, and are not spontaneous or isolated events; they are processes, with histories, precursors and triggering factors which, combined, enable their commission to save lives and prevent societies from collapsing and descending into horrific violence.

These crimes are the ugly faces of mankind. When talking of India particularly, India is a country of varieties. So many religions and cultures are there and it is not strange to us that communal riots have been occurring in India since ages. We have witnessed a list of communal violence from 2002 Hindu-Muslim riot to Sikh riots or killing of Kashmiri pandits. There is no domestic legislation in India to deal with such atrocity crimes (Guru, 2015). The author believes that a tool or machinery is important for dealing with such crimes which will meticulously keep an eye on such activities and work for prevention of such crimes. Evading from responsibility cannot be the solution because accountability needs to be conferred. Such crimes do not occur instantaneously. It takes long for the grounding, therefore, if there would be an instrument such heart-wrenching incidents can be avoided and a significant loss of human lives can be prevented.

The world is having a long history of violence and serious violations of international human rights and humanitarian law or atrocity crimes. But now, since, there are sufficient legislations in the international arena for such crimes, the need is to properly implement such laws. The national and international bodies should together work as it is not just moral or ethical duty, but a responsibility imposed by the international human rights laws. The most important measure to be taken to prevent such crimes is alertness and cautiousness. Prevention is an ongoing process which mainly involves identification of warning signs and requires a setting up of a complete system for the purpose. If this could be done, the risk of atrocity crimes can be reduced and significant number of human lives accompanied with all the other types of damage and losses can be prevented from happening and then this entire world would be a safer place to live.

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