

Crime against Humanity: A Review

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ABSTRACT

Following the emergence of many concepts in the subject of criminology, criminologists have mostly neglected the most heinous of crimes, namely, crimes against humanity. Despite the fact that crime against humanity encompasses rape, murder, genocide, enslavement, torture, and persecution on political, racial, and religious grounds, it remains one of criminology's most overlooked components. State-sponsored crimes have killed more people than any other crime in the globe throughout the twentieth century, dating back to World War II and continuing now. International law dealing with these atrocities is still in its infancy, and there is a need to look at international crimes in light of the current machinery. Furthermore, this essay provides a perspective on how to bridge the gap between international law and the judicial system by establishing a fair procedural framework and comprehending the intricacies of crimes against humanity.

KEYWORDS

Crime, Court, Humanity, Sexual, Violence

1. INTRODUCTION

The criminological void stems from the fact that crime against humanity, which encompasses the most severe forms of crimes, is a neglected field of study. Initially, the crime against humanity was defined by the Nuremberg trials, which were primarily concerned with crimes and atrocities committed against civilians[1][2]. When like acts are willfully committed as part of pervasive and organised crime, forcibly prostitution, forced pregnancy, forced sterilisation, excessive structures of erotic violence, enforced abductions, apartheid, and other inhumane acts have recently been included in News piece Eight of the Rome Statute of the International Criminal Court.

A dispute raged in the twentieth century over how to define crime against humanity outside of military combat. The Intercontinental Illegal Law court was the earliest court to eliminate armed conflict as a prerequisite for a crime against humanity against any civilian population. The only provision of the ICC law that does so is Article 7, which establishes crimes against mankind for the objectives of the ICC. Article 7 was also enacted following extensive negotiations involving 160 countries[1].

As a result, Article 7 of the ICC is a comprehensive provision that supersedes any other statute's definitions. The states consenting to the definition and being aware of the outlines of the violations would then bear responsibility for carrying out the duties. For the same reason, one could anticipate a more limited definition than earlier definitions. The concept of corruption against people set forth in Article 7 of the ICC is the most extensive since it does not need a link to armed conflict, which is in line with current criminological advances. However, the ICC's presence may provide an incentive for states to create their own legal systems to trial crimes against humanity using appropriate methods.

States that want to keep their sovereignty would be able to control the prosecutions. This allows states to take the lead in

combating the threat of crime against humanity. It's also worth noting that, despite nations agreeing to abide by the ICC's duties, the ICC has yet to address state-sanctioned crimes. The International Criminal Court (ICC), by using its power to urge governments to establish their own legal systems, has also resulted in systematic and state-sponsored attacks on civilians. There has rarely been any debate on state-sponsored crimes that force citizens to flee their homes for their lives[3].

2. DISCUSSION

Under the ICC and other current legislation, it is a well-established truth that all assaults involving atrocities and cruel torture cannot be classified as crimes against humanity. The phrases "widespread" and "systematic" have been used by the states. The former entails large-scale devastation and attacks on victims, whilst the later entails systematic targeting of civilians. When it comes to broad and systematic, the major question is whether they should be utilized in isolation.

The disjunctive feature, on the other hand, has previously been explored and argued by existing authorities. Any cruel act against civilians must be conducted as a widespread and systematic attack by the perpetrators, according to the ICTR legislation, resulting in a broad definition of crime against humanity. Since any broad attack does not form a crime, which are unconnected offenses under the present authorities, any widespread attack does not constitute a crime.

Despite the fact that crime against humanity has long been a concern of international law. However, it cannot be limited to the study of international law without a deeper understanding of the nature of such crimes and how they differ from other crimes and offenses.

2.1. The following is the text of Section 7 of the Icc Statute: Taking A Look Inside The Nest

Crime against humanity is defined by A systematic or systemic attack on civilian human community with awareness of the attack is defined in Section 7 of the ICC statute. The following is an analysis of the statute's definition:

The most essential The ICC Statute makes a distinction between crimes towards people and war criminals in its definition. If the crime against humanity is linked to war crimes, the notion will be rendered obsolete and relegated to the category of armed conflict. It's also seen as out of step with the circumstances when it comes to atrocities like apartheid and genocide. The ICC makes no mention of armed conflict, indicating that armed conflict is not required for crime against humanity to occur, and that crime against humanity can occur even in times of peace and civil strife. This went a long way toward rectifying the government's crimes against citizens[4]. Another question about war crimes is whether they should be linked to any discriminating purpose. Discriminatory purpose is not necessary in all situations, whether national, political, or racial, but it is essential in the crime of persecution. Despite the fact that such a provision did not appear in the ICTR Statute, it

did emerge in the ICTY Statute. As a result, the relevant international treaties do not support this condition, and it should be rejected as a criteria.

The four Allied abilities, Paris, the Eastern Bloc Union, the United Kingdom, and the United States, formed the International Army Tribunal at Nuremberg in 1945, and gave it jurisdiction to try seized Nazi rulers for three types of crimes: "crimes against peace" (Article 6(a)), "war crimes" (Article 6(b)), and "crimes against humanity"(Article 6(c)).

As a result, the Nuremberg Trial is closely connected with the notion of crimes against humanity. However, it would be erroneous to believe that the concept had no antecedents prior to that period. Its origins may be traced back over the ages. To trace those origins, one must first provide a realistic meaning of "crimes against mankind," instead than a technical description as a global criminal, in the widest or *ou pas* sense. In essence, there are three parts to the concept:

- The existence of a criminal by a superior, basic, inherent, or global law that is applicable to everyone, regardless of their position or standing, and irrespective of any optimistic or local legislation to the contrary.
- This higher law applies at all times to all individuals of all countries and could indeed be overruled by any government.
- Individual criminal responsibility can be imposed on perpetrators of such acts by courts that apply the higher law directly, not just the local law of a specific state.

The idea that some actions are illegal and punished, even when carried out by a monarch or a Head of State over his or her own citizens beneath the guise of local law or government power, is a distinctive, although not essential, feature of the idea of crimes towards humanity. This nebulous idea of crimes against humanity is said to have gone through four historical stages[5].

2.2. In The Light Of Criminology, A Study Of Crime Against Humanity

During and after WWII, there was a surge of criminologists research in Nazi war crimes, although it were primarily jurisprudential than sociological science. Sheldon Glueck, the Harvard Law School's Roscoe Pound Emeritus of Morphology and Criminal Law, argued for an International Proclamation of Human Rights, which was a huge success in the postwar world. The war crime courts were created and trials were completed in the aftermath of the war discoveries about how the Nazis handled the population. The focus of criminological attention shifted away from crimes against humanity after that.

The framework of international relations changed dramatically between 1948 and 1960. The Cold War superseded the post-World War II war crimes. This transition was echoed in many national programs, and criminology's attention turned to national crimes in general. The failure of the international criminal court to create a technology that could be used to prosecute crimes against humanity has resulted in a slew of problems in enforcing the law to prevent such crimes. As a result, a thorough and detailed international instrument addressing crimes against humanity must be drafted.

According to recent studies, crimes against humanity have been a consistent issue over the last many years. And insurgents' use of civilians as a weapon of war, necessitating a strategic convention on victims and victimization as part of criminological research. The killing fields of Cambodia; ethnic cleansing in the former Yugoslavia; forcible, sexual mutilation, and torture in Liberia, the Democratic Republic of the Congo (DRC), and Uganda; compelled abductions in Latin America; and attacks on citizens by all Israel and Jamaat all through the Israeli-Palestinian conflict are just a few examples of crimes against humanity[6].

Each of these scenarios has led in a mix of civilian deaths, relocation, torture, sexual assault, and other cruel crimes. International tribunals have been formed, national courts or truth commissions have been constituted in collaboration with foreign civil society, and international observers have produced reports accusing the conduct of crimes against humanity. Unfortunately, there are only a few examples.

In today's wars, civilian deaths are more popular than soldiers' deaths. The offenders' brutality is so awful that even the harshest observers see it as a crime against humanity in its most horrific form. Women are raped, People are aimed cos of of one's real or evident linkage to the "wrong" group, whether ethnicity, faith, socioeconomic class, or pogrom; kids are abducted, compelled to murder relatives, and then compelled to battle as child soldiers; dissenters are abducted, imprisoned, tortured, and murdered; and individuals are abducted, incarcerated, brutalised, and assassinated. If these crimes occur during an armed conflict, they may be deemed war crimes., but not if they occur during peacetime.

The simple sense of the word "assault on civilian population" suggests the possibility of a political component. Any systematic and coordinated attack against the people has to include a political component. However, many authorities fail to notice the political element, which makes prosecution extremely difficult. The policy element has been on the surface for crimes against humanity since the Nuremberg Charter. The term "terror policy" refers to a policy of repression, torture, rape, persecution, and murder of civilians. Even the military tribunal trial demonstrates that the state's policy aspect is critical in the commission of crimes against humanity[7].

Many authorities see the policy component of a crime against humanity as obligatory. However, other authorities have argued against the need of a government policy element. Many similar policy-related disputes have been resolved by the ICC. This policy problem has also been addressed by the ICTY and the ILC, with the ICTY and the ILC stating that all crimes against humanity must be committed by the government, any group, or any organization[8].

There must be a relationship between the group or organization perpetrating crimes against humanity and the government. Previously, it was assumed that there must be a policy component, and that the policy must be of the state. However, customary international law has evolved to the point where pointing to State policy alone would be too restrictive a description; currently, the involvement of a specific set of organizations is a required condition for committing such crimes.

The ICTR Statute also addresses the acknowledgment of a state's policy of committing crimes against humanity. There, it is said that systematic assaults necessitate more organizational tactics, but the ICTY argues that the policy required is much more flexible, in contrast to the systematic policy for attacks on civilians[9].

2.3. Jurisdiction in Cases of Human Rights Violations

The International Criminal Court (ICC) is established by the Rome Statute of the International Criminal Court, which establishes the ICC as a permanent criminal court with jurisdiction over people accused of committing the most severe crimes of international concern. The ICC is a valuable addition to national criminal justice systems. The International Criminal Court's (ICC) authority is confined to the most severe offenses that concern the international community as a whole. As a result, it has jurisdiction over crimes such as genocide, crimes against humanity, war crimes, and acts of aggression.

The Presidency, Judicial Divisions, Office of the Prosecutor [OTP], and Registry are the four major organs of the ICC. The

ICC's Judiciary is divided into three sections: Pre-Trial Division, Trial Division, and Appeals Division. Referrals and any proven information on criminality under the ICC's jurisdiction are reviewed by the OTP. The Office of the Prosecutor evaluates these recommendations and information, conducts investigations, and prosecutes cases in court.

The OTP follows a set of protocols when doing its duties. First and foremost, the OTP conducts a preliminary examination of all referrals and criminal information it receives in order to assess if they fulfill the jurisdictional criteria for an investigation. When the OTP finds that the issue fulfills the jurisdictional criteria, it launches an inquiry. The OTP applies to the Pre-Trial Chamber [PTC] for the issuance of a warrant or a summons to appear when the investigation reveals adequate evidence to warrant the issuance of a warrant of arrest. The OTP brings the charges and evidence against the defendant to the PTC once the accused/defendant has been apprehended or summoned to court voluntarily, and it is the PTC's responsibility to choose whether to confirm the charges. If the charges are confirmed, the OTP prosecutes the defendant.

The PTC performs a key role in the initial step of court proceedings, deciding whether or not to confirm the defendant's allegations. Following the confirmation of accusations, the Trial Chamber [TC] prosecutes the accused, establishes his or her innocence or guilt, and sentences the guilty. The penalty might involve the offender paying money to the victims as compensation, restitution, or rehabilitation. The Appeals Chamber [AC] hears and decides appeals from the prosecutor or the convict against the TC's judgment. The outcome of the appeal might include a judgment to overturn the TC's decision, alter the decision or punishment, or order a fresh trial before a different TC[10].

The International Criminal Court (ICC) has the authority to try and punish those accused of crimes against humanity. For the ICC to exercise its jurisdiction, a situation must exist in which a State Party believes one or more of the crimes of genocide, crimes against humanity, war crimes, or crimes of aggression has been committed, and this situation must have been referred to the prosecutor in accordance with Article 14 of the Rome Statute. Furthermore, the ICC has jurisdiction in situations where one or more of these crimes appear to have been committed in regard to a State and are submitted to the prosecutor by the Security Council in line with UN Chapter VII. In line with Article 15 of the Rome Statute, the prosecutor can start investigations into offenses within the ICC's jurisdiction on his own initiative.

3. CONCLUSION

The United Nations' attempts to combat crimes against humanity are laudable in the extreme. However, in recent years, organizations that deal with crimes against humanity have grown dysfunctional due to a lack of fundamental structure, enough supplies, and other resources. The first step must be to acknowledge that state courts are ill-equipped to prosecute extraterritorially all perpetrators of crimes against humanity as specified by Article 7 of the ICC Statute.

The primary rationale for the establishment of international tribunals was the inability to depend on national courts. However, the mere establishment of such tribunals without any action on their side will generate no consequences. The ICC's

jurisdictional flaws and inadequacies make it all the more difficult to handle crimes against humanity. As a result of the prosecution by states that lack appropriate laws to implement in the event of such crimes as those stated above, and the states themselves being the offenders, injustice prevails in the state. The first goal of the twenty-first century is to eradicate crimes against humanity and establish a tribunal that can serve as a model for the rest of the world in the field of human rights.

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