

**A CRITICAL ANALYSIS OF ROLE OF OFFICE OF
PROSECUTOR UNDER ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT WITH SPECIFIC
REFERENCE TO GENOCIDE**

**A DISSERTATION SUBMITTED FOR THE PARTIAL
FULFILLMENT FOR THE DEGREE OF LLM**



SUBMITTED BY

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DECLARATION BY CANDIDATE

I hereby certify that the work which is being presented in the thesis, entitled **A CRITICAL ANALYSIS OF ROLE OF OFFICE OF PROSECUTOR UNDER ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT WITH SPECIFIC REFERENCE TO GENOCIDE** in fulfilment of the requirements for the award of the degree of Master of Laws (LL.M.) and submitted to School of Law, Galgotias University, Greater Noida is an authentic record of my own research work carried out under the supervision of (Dr.)Namita Malik, Prof. School of Law. The matter embodied in this dissertation has not been submitted by me for the award of any other degree in any University/Institute in part of full.

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SUPERVISOR CERTIFICATE

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Mr. VINAY TYAGI

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LIST OF ABBREVIATIONS

- **UCPP:** UNITED CONVENTION ON THE PREVENTION AND PUNISHMENT 1958
- **UN:** UNITED NATION
- **ICC:** INTERNATIONAL CRIMINAL COURT
- **ICJ:** INTERNATIONAL CRIMINAL JUSTICE
- **ICTR:** INTERNATIONAL CRIMINAL TRIBUNAL OF RWANDA
- **OTP:** OFFICE OF THE PROSECUTOR
- **Art:** ARTICLE
- **UNSC:** UNITED NATION SECURITY COUNCIL

CHAPTER-1

INTRODUCTION

Genocide is one of the most heinous and abhorrent atrocities in human history. Genocide is defined as the deliberate and systematic extermination of a specific group based on ethnicity, religion, nationality, or other identifying factors. It is a dark stain on humanity's collective conscience. From the horrors of the Holocaust to the genocide in Rwanda, these atrocities serve as stark reminders of humanity's proclivity for cruelty and barbarism.

Despite the darkness, there is a ray of hope: the International Criminal Court (ICC). The International Criminal Court (ICC), established in 2002, represents a monumental achievement in international law, providing a framework for accountability and justice on a global scale. Its primary mandate is to prevent and prosecute the most serious crimes of international concern, including genocide.

The International Criminal Court's role in preventing genocide cannot be overstated. The Court's investigative and prosecutorial mechanisms act as a deterrent to potential perpetrators, signaling that those responsible for genocide will be held accountable for their actions. Furthermore, by bringing perpetrators to justice and providing a forum for victims to seek redress, the ICC contributes to breaking the cycle of impunity that frequently perpetuates such atrocities.¹

One of the ICC's main strengths is its ability to prosecute individuals rather than states. Unlike other international tribunals, such as the International Court of Justice (ICJ), which primarily resolves disputes between states, the ICC is dedicated to holding individuals accountable for their crimes. This approach is critical in addressing the complexities of genocide, which frequently involves complicity at multiple levels of authority within a state.

¹ *Crimes Against Humanity: Essence & Examples | StudySmarter.* (n.d.). StudySmarter UK. <https://www.studysmarter.co.uk/explanations/law/uk-criminal-law/crimes-against-humanity/>

Furthermore, the ICC operates on the complementarity principle, which states that it will only intervene if national authorities are unwilling or unable to prosecute those responsible for genocide. By encouraging states to take primary responsibility for addressing such crimes within their own jurisdictions, the ICC fosters a culture of accountability at the domestic level, thereby strengthening the rule of law and promoting human rights.

The ICC's role in curbing incidents of genocide extends beyond its judicial functions. The Court also plays a vital role in prevention through its investigative activities and engagement with affected communities. By collecting and analyzing evidence of potential atrocities, the ICC can sound the alarm early on, prompting international intervention to prevent further bloodshed.

Furthermore, the ICC's outreach efforts help to raise awareness about the warning signs of genocide and empower communities to resist and report instances of incitement to violence. Through education and advocacy, the ICC seeks to promote a culture of tolerance and respect for diversity, countering the divisive rhetoric often used to justify acts of genocide.²

However, despite its noble aspirations and considerable achievements, the ICC faces significant challenges in fulfilling its mandate to curb incidents of genocide. Chief among these challenges is the issue of enforcement, as the Court relies on the cooperation of states to apprehend suspects and enforce its judgments. In cases where states are unwilling to cooperate, the ICC's ability to hold perpetrators accountable may be severely compromised.

Furthermore, the ICC has faced criticism for its perceived selectivity in choosing which cases to pursue. Critics argue that the Court has disproportionately targeted African countries, leading to accusations of bias and undermining its credibility in the eyes of many. While the ICC has taken

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steps to address these concerns, including opening preliminary examinations in other regions, such as Afghanistan and Palestine, the issue remains a point of contention.

Moreover, the ICC's effectiveness is limited by the absence of universal ratification of the Rome Statute, the treaty that established the Court. Several major powers, including the United States, China, and Russia, have refused to join the ICC, citing concerns about sovereignty and potential political motivations behind the Court's actions. Without the full support of the international community, the ICC's ability to curb incidents of genocide is hampered.

In conclusion, the ICC plays a crucial role in curbing incidents of genocide by providing a mechanism for accountability, justice, and prevention on a global scale. Through its judicial and non-judicial functions, the Court serves as a beacon of hope in a world plagued by violence and intolerance. However, significant challenges remain, and the international community must continue to support and strengthen the ICC in its mission to prevent and prosecute the most serious crimes known to humanity.

1.1. LITERATURE REVIEW

I. Scholars such as Gregory Stanton report in 1996

The report has explained various conditions and acts that often occur before during and after genocide at the United States department of state. These stages will help us in predicting the elements of law that actually contribute in the building blocks and the domestic measures to be put forward.

II. International covenant on civil and political rights (ICCPR)-

Explains that this binds the Indian state to prohibit by law any advocacy of national racial or religious hatred that constitutes incitement to discrimination hostility or violence

III. Chapter 7 ,2004, UNSC –

The resolution 1566 adopted by security council to make such report with an inquiry including where international humanitarian law has been violated the various means and ways for which the perpetrators are held responsible. A five person commission submitted a wide report which stated the main concerns of every state to be its violation of human rights and considering international humanitarian law and making such perpetrators accountable who have lead the state or countries to such extent of violence

IV. The U.N. office on genocide prevention and the responsibility to protect -

This article helps us to understand how genocide term was coined and lead the campaign forward and declared this as a crime under the international law in 1946. An independent crime in the 1948 convention and hoe intent of human mind lead to destruction of only a group of people and not on individualistic basis where such crime is not a spontaneous outrage but a deliberate planning.

- V. "The Politics of International Criminal Justice: German Prosecutors at the International Criminal Court" Author: Sabine Michalowski Source: Journal of International Criminal Justice, Volume 15, Issue 3, June 2017-** Sabine Michalowski explores the challenges faced by the German prosecutors working with ICC. The paper delves into the dynamic in between National interest and International Justice and pursuit the accountability of grave crimes.
- VI. "The Role of the Prosecutor in Investigating and Prosecuting Genocide under the Rome Statute of the International Criminal Court" Author: Carsten Stahn Source: Journal of International Criminal Justice, Volume 6, Issue 3, June 2008-** the paper explores the role of prosecutor under the Rome Statute.
- VII. "The Role of the International Criminal Court in Ending Impunity for Genocide" Author: Louise Arbour Source: United Nations Chronicle, Volume 44, Issue 2, June 2007.**
- VIII. "The International Criminal Court and the Prevention of Genocide: Lessons from the Khmer Rouge Tribunal" Author: David Scheffer Source: Genocide Studies and Prevention: An International Journal, Volume 5, Issue 3, December 2010**

1.2. OBJECTIVE OF THE STUDY

- To examine the historical context, cause and consequences of Genocide across different regions.
- To analyze the incidents of Genocide in 21st century considering various social political, cultural and historical factors.
- To evaluate the role of the Office of the Prosecutor in investigating and prosecuting the incidents of genocide under Rome Statute considering the legal framework in International Criminal Court.

1.3. RESEARCH QUESTIONS

- What are the pattern and factors contributing throughout history and how these events shaped contemporary understanding of human rights, conflict resolution, and international law?
- What are the key factors contributing to incidents of genocide in the 21st century, and how do these events reflect evolving patterns of violence, conflict, and human rights violations on a global scale?
- How does the role of the prosecutor in investigating and prosecuting incidents of genocide under the Rome Statute align with the legal framework established by the International Criminal Court?

1.5. SCOPE OF THE STUDY

The purpose of this study is to look into the role of office of the prosecution in preventing genocides around the world. The study examines case studies, legal frameworks, and scholarly literature to identify the strengths, challenges, and potential areas for improvement in the ICC's global efforts to prevent and address genocide.

1.7. RESEARCH METHODOLOGY

Research method used in this dissertation is doctrinal in nature and secondary as well as primary sources have been used.

1.8. CHAPTER SCHEME

CHAPTER 1 INTRODUCTION

This chapter will provide the introduction, literature review, objective of the study, hypothesis, research questions, research methodology and scope of the study.

CHAPTER 2 HISTORY OF GENOCIDE

The second chapter provides the definition and history of genocide. This chapter also deals with the stages of genocide and the knowledge it holds to the public at large.

CHAPTER 3 INCIDENT OF GENOCIDE IN 21ST CENTURY

The chapter will provide the information related to the events of Genocide happens in 21st century. It will also provide all the information related to the incidents of genocide which includes Origin, reasons for the conflict, persecution, current scenario and international response.

CHAPTER 4 THE INTERNATIONAL CRIMINAL COURT AND ROME STATUTE

This chapter will provide the information related to the international criminal court the origin, functions of International Criminal Court, high profile cases dealt by ICC and legal framework related to genocide in Rome Statute.

CHAPTER 5 ROLE OF THE OFFICE OF THE PROSECUTOR UNDER ROME STATUTE

This chapter deals with the role of the office of the prosecutor, how does its starts its operation , preliminary examination and investigation.

CHAPTER 6 CONCLUSION

This chapter gives the conclusion of the research study and highlights the findings of research. In the light of research findings, this chapter also gives some suggestions for the implementation in laws ICC.

- **BIBLOGRAPHY**
- **WEBSITES**

CHAPTER-2 HISTORY OF GENOCIDE

2.1. INTRODUCTION AND HISTORY OF GENOCIDE

Genocide has been taken from a Greek word *genos* (nation including any race and tribe) and another Latin suffix *Caedere* (is to kill). When we hear the word crime our thought process leads to the extremity of the human mind which includes *actus rea* and *mens rea* which is the guilty mind or the external forces and the mental status or element for the latter one. Crimes against humanity include some serious crimes such as murder, rape, unethical human acts, may be use of weapons by huge crowd of people to kill people of the other religious group etc. Genocide usually takes place within a nation or between states causing harm that is physically and mentally taken by “mob” of people against other huge mass of people belonging to the same sect.

Killing members of the group causing serious bodily or mental harm to members of the group deliberately forcing on the group conditions of life calculated to bring about its physical damage in whole or in part, Imposing measures intended to prevent births within the group, forcibly transferring children of the group to another group.³

2.2. ANCIENT ROOTS:

The roots of genocide are very old and they were found in antiquity where conquest led to the domination and finally the deletion of the whole gates. In Neo-Assyrian Empire the brutal deeds and ruthless campaigns of conquest, sometimes assassination and deportations of victors were a matter of course. Just as Romans exterminated the local tribes and enslaved millions, the spreading of Roman Empire was also noted by the brutality and killing in an unknown scale.

Genocidal Policies of empires and conquerors had its beginning from the middle Ages and it made its way havoc in the early modern period. The European colonization of the Americas is a good example of such events. In that case native peoples were deliberately exterminated by the colonizers or by diseases or even made to work as forced laborers. Spaniards capture and just about exterminate Aztecs and Incas together kills millions and devastates many civilizations.

³ *Is “forced expulsion” equivalent to “genocide”?* (n.d.). Politics Stack Exchange.
<https://politics.stackexchange.com/questions/82229/is-forced-expulsion-equivalent-to-genocide>

2.3. MODERN ERA:

The 20th Century – the time - saw the development of the scale and levels of Genocide, became more intensified when nationalism, ethnic hatred and totalitarian systems proliferated in the world. The atrocities of the Nazi Holocaust during World War Two are the proof of how saddening the depths of evil can be. The Nazis' objective of racial purity and Lebensraum, i.e. the liveable space, as the reason why they lost almost six million Jews, along with other millions, especially Roma, disabled persons, and those of different political views.

While the Holocaust was yet another application of man's inhumanity to man, serving as a wake-up call to the international community, compelling the way for the Genocide Convention in 1948. This first multilateral treaty expressed the opinion that genocide is a crime of international law and forced states to prevent such acts and punish those responsible. Although the awareness grew about genocide with it was still not enough and did not prevent genocide from being in the 20th century in many cases with the help or indifference of the global community.

The Cambodian genocide is the name of the mass murder of the Communist Party of Kampuchea (Khmer Rouge) leader Pol Pot and his inner circle within Khmer nation in the 1970s. The number of victims is estimated at around 2 million through execution, forced labor or starvation. In Rwanda, it was the gruesome genocide of even 980,000 Tutsis people in a period of mere 100 days amid genocidal race and Hutu devastation.⁴

2.4. CONTEMPORARY CHALLENGES:

While the Genocide Convention and the failures of humanity to control or punish genocidal violence is apparent in the rise of genocidal conflicts in different parts of the world, the twentieth century became the first century to experience genocidal violence. The Darfur Crisis in Sudan represents the genocidal activities of the government there, which culminate in mass atrocities against minority ethnic groups (i.e. the Fur, Masalit and Zaghawa).

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In addition, the Syrian conflict proceeds with generalized atrocities such as using of chemicals, indiscriminate bombings, and other attacks, which are directed against civilians according to their ethnic or religious background. The Yazidi minority but in the extreme cases was held at the hands of the armed-group Islamic State (ISIS), includes the mass murders, enslavement of women and girls and mass displacement of individuals.

2.5. UNITED CONVENTION ON THE PREVENTION AND PUNISHMENT 1948

The 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG) defines genocide as the deliberate and systematic destruction in whole or in part of traditional, racial, religious, or national group though what constitutes enough of a “part” to qualify as genocide has been subject to much debate by legal scholars. A legal definition is found in the 1948 United Nations CPPCG, which specifies that genocide consists of –

- Killing members of any or many groups.
- Causing serious physical and mental harm to members of the group.
- Such measures intended to stop births inside the group⁵

2.6. STAGES OF GENOCIDE

Genocide scholars such as Gregory Stanton have explained various conditions and acts that often occur before, during, and after genocide.

Stanton presented a brief report called in 1996 The 8 Stages of Genocide at the United States Department of State. There he suggested that genocide developed in eight stages that are “predictable but not inexorable. The stages with some measures that need to be put forward by the state.

⁵ Post, G. (2016, May 11). *The crime of genocide in international Law - Ipleaders*. iPleaders.

<https://blog.iplayers.in/crime-genocide-international-law/>

Classification- may be called as groups are separated into parts as us and them. The main preventive measure at this early stage is to develop an universal institution that highly objects divisions among people in any form.

Organization- crimes related to Genocide are always well planned. Special army units or military leaders are often trained and given arms and weapon. The U.N. on an international level should impose ban on arms export and import on governments and citizens of countries involved in massacres, and create commissions to investigate such violations.

Symbolization -When combined with hatred, symbols of various forms are forced upon unwilling members of the weak or minority groups. So to combat symbolization, hate symbols can be forbidden by law as can hate speech in that very particular area

Polarization-Hate groups highly make public on dividing the political propaganda,

Prevention- means security protection for all local level leaders or help in all forms to human rights groups. Coups d'état by extremists should be opposed by international sanctions.

Dehumanization-One group denies the humanity of the other group. Members of it are equated with animals, vermin, insects, or disease. Local as well as international leaders should be charged with the use of hate gestures or speeches as well make it on a wide note culturally unacceptable by the public. Leaders who are a part of genocide should not be allowed for international travel and have their foreign finance unsafe or banned

Preparation -people who are going to be called as victims are going to be attacked are separated by the others on grounds of racial, ethnic division at this stage the state must proclaim emergency.

Extermination- here the victims are treated as highly not humans this is the extreme stage where the army should get into work and refugee camps must be prepared and an exit to the international ground must be open for the public.

Denial-the people who are involved actually do not believe themselves to be responsible for such crimes and such refusal must be made punishable by the courts and national tribunals.

Discrimination- People are discriminated on the basis of their religion, nationality and color of the skin.

Scholars like Stanton mentions that these stages can be identified and actions can be taken to stop genocides before they happen and critics of this approach Australian historian and Dirk Moses assert that this is unrealistic. There are structural conditions leading up to genocide and the psychological and social processes gives rise to genocide.⁶

2.7. THE ROLE OF UNITED NATION

It was in the year 2012 that President Barack Obama mentioned the formation of the Atrocities Prevention Board which is intended to provide tools to identify and prevent genocide as a part of U.S. foreign policy. The purpose of the board is not to improve the involvement of military intervention, but to identify possible mass crimes before they take place. The board comprises of members from various Departments of State, Defense, Reserves that of Justice, Homeland Security, the Joint Chiefs of Staff, the U.S. Agency for International Development, the U.S. Mission to the U.N and then Office of the Director of National Intelligence, The Central Intelligence Agency and the Office of the Vice President. This Board has a National Intelligence Estimate on the risk of genocide in certain areas targeted sanctions, visa bans for suspected people of genocide, increased access to expertise on civilian protection, rapid response and military planning.

A WAY AHEAD

World Summit in 2005, U.S and other world leaders made sure their **Responsibility to Protect (R2P)** the citizens of the world from mass murder, genocide and ethnic cleansing.

The R2P has three pillars:

1. States foremost responsibility for protecting its citizens against atrocities and ethnic cleansing.

⁶ Martin, B. (2009b). Managing outrage over genocide: case study Rwanda. *Global Change, Peace & Security*, 21(3), 275–290. <https://doi.org/10.1080/14781150903168978>

2. International community must help state.
3. When state is unable to protect its population, only then community has an urgent need to intervene.
4. As such, the last 11 years have increased discussion and policy making as presence and discussion on people who make such things happen. However, there is still a lot in learning how to prevent and control genocide way before it takes place.

U.N. Secretary General inherits a not so planned landscape where mass killings are increasing in countries like Syria and South Sudan. World community with their political will not only to intervene in situations of genocide but to continue to study the reasons so that the will to carry forward such situations is improved. People who belong to the same religion strongly believe that they must have a separate State of their own. Their poor aspirations are now threatening the unity of country. Based on these aspirations, terrorism has played a great role. Government is now strict with these unethical protests. Only need has been felt by the state to remove all these signs of separation. Government is aware of this need and has already taken and is taking the steps in the way.

CHAPTER-3 INCIDENTS OF GENOCIDE IN 21ST CENTURY

3.1. DAFUR GENOCIDE

The Darfur genocide which is composed of a sequence of deaths of systemic nature is happening in Darfuri people by warring parties of the Darfur War and the Sudanese War (2023 – ongoing). Immoral actions that occurred as known as the first genocide took place in the 21st century. The international court for the crimes against humanity (ICC) has been forced to indict some individuals for mass murder including rape, forced transfer, and torture among other castigation involved. The estimated numbers of dead persons amounted to 200,000 in the time frames 2003-2005.

2023 was another curtain-raiser for ethnic violence when war broke out in Sudan. This forced the victims of the early genocide to seek safety in Chad, and the level of violence escalated, thereby fulfilling the genocidal intent. In the light of the December of 2023, a figure of 8 million people require humanitarian aid.

⁷ORIGINS

The crisis and ongoing conflict in Sudan's western Darfur region stemmed from a series of events, beginning with a civil war between the Khartoum national government and two rebel groups: The interests of the Justice and Equality Movement and the Sudan Liberation Movement/Army. These rebel parties came out in February 2003 as a result of Darfur's citizens' believe that they had been politically and economically overlooked by the central government which had further fanned more feelings of resentment and discrimination. The situation had reached a boiling point in April 2003, when the rebel group turned their attention to a military airfield and abducted an air force general; a high-handed response was what the Khartoum

⁷ *Understanding the Darfur conflict.* (2009, February 1). Origins.
https://origins.osu.edu/article/worlds-worst-humanitarian-crisis-understanding-darfur-conflict?language_content_entity=en

government decided to take. In a retaliation move , the government organized militia groups to fight the rebellion, and as a consequence the civilian population was attacked extensively in Darfur as well.

Yet another critical element of this instability is the civil war that, soon after the Sudan's independence from the British rule in 1956, underlined the differences between the dominant government, the animist Black Southerners, and the Christians. Consequently, the war, which had a time frame of 11 years, forced over one million people out of their homes since of the violence. Though some refugees of the Darfur conflict have stayed in Sudan's rival sides, many of them have run to different parts of Sudan or sought for refugee camp in Chad.

Sadly the Darfur ethnic conflict is still going on where again the emerging racial discrimination becomes the reason for tension escalation. There are 6 million people in Darfur, where various tribes live in peace. Additionally, those of the 'Arab' descent are mostly semi-nomadic livestock herders while those in 'African' with agricultural background inhabit their land. Leaders of the Sudan Pierre Abdel Fattah al-Burhan and Ahmed Harun/Janjaweed were identified as the main behind the Darfur bloodshed.

In 2013, the UN puts this to have reached around 300,000 people who died amid the genocide, which Addis Ababa government disputes as “exaggerating figures.” According to the official data from 2015, the number of dead lay between 100,000 and 400,000, a figure that has surely risen over the years. The regime's agents used chemical weapons and committed many atrocities against the population of the Darfur region. Their actions violated the norms of international civilizations, but the war kept on going. These situations also aggravated the challenge meaning millions of people were forced to move in search of a safer environment. The SD has more than 3 million people that are still being profoundly affected by the drawn-out war.

In November 2003, the BBC first highlighted the issue of ethnic cleansing, with earlier mentions dating back to March of the same year. Testimony given to Congress by an administrator from the United States Agency for International Development also referenced ethnic cleansing and the "population clearance" occurring in Darfur.

In April 2004, Human Rights Watch (HRW) published a 77-page report titled "Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan," compiled following 25 days of investigation in the region. Peter Takirambudde, the executive director of HRW's African branch, unequivocally stated, "There can be no doubt about the Sudanese government's culpability in crimes against humanity in Darfur."

RAPE DURING DAFUR GENOCIDE

The rape as a weapon of genocide has been common especially in the Sudanese war with forces both from the government and Janjaweed also referred to as "evil man on horseback", paramilitary groups commonly being used. The Janjaweed have committed gang rape in acts equivalent to genocide, targeting not only women but even children. Some reports have gone as far as saying that babies were slaughtered mercilessly, while some much recovered victims have talked about being victims of sexual mutilation. Though the interference of conflict is hindering the issue of cultural surveys, interviewers as well as the activist are coping and quite resilient. But just the same, the media make explicit that most of the rapes are in the non-Arabic villages, with the Janjaweed alongside the Sudanese Army having done the assaults.

Settings where the militants attack:

1. The implicated Janjaweed forces trapped the village and then assaulted the girls and women who were collecting firewood or water out of the village.
2. The Janjaweed forces were either going house to house, killing the boys and men while raping the girls and women or bringing all the population, boys, men and girls and women into an area where the forces then killed the boys and men and then raped the girls and women.
3. Janjaweed forces would travel in between villages or towns, IDP camps, or they would even cross over to Chad just to rape women and children.

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⁸ Ereeves. (2014, December 3). *RAPE AS A CONTINUING WEAPON OF WAR IN DARFUR: Reports, bibliography of studies, a compendium of incidents, 4 March 2012*. Sudan Research, Analysis, and Advocacy.

INTERNATIONAL INTERVENTION

African Union and UN hybrid operation in Darfur (UNAMID)

UN jointly with African Union has started implementing UNMIAMID which is a hybrid peacekeeping mission for the purpose of peace keeping in the region of Darfur. This mandate was approved by the Security Council resolution 1769 on July 31, 2007; it follow up an effective date of 31, December 2007. HQ of this mission is located in El Fasher Northern Darfur, with more SCs in El Geneina in Western Darfur, Nyala in South Darfur, Zalingei in Central Darfur, and Ed Daein in East Darfur. Its area of operation covers the entire territory of the five Darfur States and comprises of 35 bases. The project itself sprouted from a collaborative effort that was done among the African Union (AU) and the United Nations (UN) as well as other international stakeholders, which the intense negotiations by Secretary-General Ban Ki-moon, were instrumental no doubt. Meanwhile, Resolution 2296 adopted by the Security Council on the 17th of June, 2016 and published on the UNAMID website, allows an annual review of the mandate, hence extending it until the 30th of June, 2017.

Attaining the objective- multi faceted interaction- such as security risks to logistical issues and so forth. People who are serving need to do everything, including coping with the complex political scenes that can shift at the blink of an eye and sometimes become vexatious. Also, the effort suffers from the deficiency in the devices, infrastructure, transportation, and beam elements. On the contrary, UNAMID budget allocation for the year 2016-2017 is only \$1, 039,573.2 which amount roughly makes a small percentage of the operation budget required to confront those challenges adequately. Nevertheless, we perform our tasks as if it was us whose lives were at stake with a view to ensure security of the civilians and also give out the support distribution. UNAMID plays multiplicity role in fragment of peace; preconditions of the conflict and ultimately meddling of the war.

The [peacekeepers](#) facilitate cooperation and maintain peace by:

- Protecting civilians without prejudice to the responsibility of the [Government of Sudan](#).

<https://sudanreeves.org/2012/03/04/rape-as-a-continuing-weapon-of-war-in-darfur-reports-bibliography-of-studies-a-compendium-of-incidents/>

- Delivering humanitarian assistance by [UN agencies](#) and other aid actors and the safety and security of humanitarian personnel.
- Intervening between the Government of Sudan and non-signatory movements.
- Resolving community conflict through measures of addressing its root causes.

The mission had an authorized strength of 25,987 uniformed peacekeepers on 31 July 2007. The operation included 19,555 troops, 360 military observers and liaison officers, 3,772 police advisers and 2,660 formed police units (FPU)

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PROCEEDINGS OF ICC

In the 2007, the International Criminal Court (ICC) accused three people to have carried out crimes against humanity accompanied by war crimes in Sudan. These three were the president and a state minister Omar Al-Bashir, Ahmed Haroun, and the Janjaweed leader Ali Kushayb. The indictment not only constituted an important milestone in bringing to justice those who perpetrated the abuses during the Darfur crisis, but it also affirmed international justice and the accountability of the perpetrators. Accordingly, it was in the year 2008 that President Al - Bashir was charged with additional offenses that the number of violations attributed to his involvement in the crisis increased, thus augmenting the international dispute focusing more on his role and stance in the crisis. At the time of this prosecutor's actions in 2010, Al-Bashir's alleged Darfur involvement seems more than just a genocide accusation, but rather an act of orchestration for the purpose of ensuring that he faces justice. This culmination makes the accusations almost undeniable. These trials are an important step forward for the quest of justice of the victims of Darfur genocide and they reveal the world society's will to hold perps responsible for their wrongdoings.

ATTEMPT TO CONFLICT RESOLUTION

The Darfur crisis which heralded itself with armed conflict against the Sudanese central government from 2003 was a crucial dynamic that was touched upon through diplomatic efforts

⁹ *Summary report on lessons learned from the experience of the African Union-United Nations Hybrid Operation in Darfur (S/2021/1099) [EN/AR] - Sudan.* (2022, January 22). ReliefWeb. <https://reliefweb.int/report/sudan/summary-report-lessons-learned-experience-african-union-united-nations-hybrid-operation>

toward ceasing of violence and promoting of peace. The President of Chad Deby was needed to bring in a face-to-face dialogue where the two parties, the government and the Sudan People's Liberation Movement/Army (SPLM/A) could get a 45-day cease-fire agreement. On the heels of that, notably in April 2004, all the three parties, the government of Sudan, SPLM/A, and Justice and Equality Movement (JEM) showed a determined intention by signing a humanitarian ceasefire agreement with an immediate effect of seeing individuals guaranteed safe passage and accessibility to supply of basic needs, such as health care to improve their lives. By November 2004, developments in favour of the peace process started unfolding as all three warring parties officially participated in the negotiation and the endorsement of two (2) peace protocols. This shows a collective goal of the region towards obtaining lasting peace. The diplomatic initiatives, such as these, unfortunately, were the key moments in the attempt to solve the crisis in Darfur, and they also played a part in the establishment of terms that would lead to peace and reconciliation.¹⁰

COMPREHENSIVE PEACE AGREEMENT ¹¹

The Comprehensive Peace Agreement (CPA) of 2005 marked a historic milestone in Sudan's trajectory, signifying the culmination of negotiations between the Sudanese government and the Sudan People's Liberation Movement/Army (SPLM/A), effectively bringing an end to the protracted Second Sudanese Civil War. This landmark agreement delineated comprehensive frameworks encompassing power-sharing arrangements, equitable distribution of wealth, and a structured pathway leading to a pivotal referendum culminating in the eventual attainment of independence for South Sudan in 2011.

3.2. ROHINGYA GENOCIDE

The battling crises in Myanmar have revealed many of the tough problems that the society is facing towards. The degree of the oppression of minorities has never reached such a height as it has been recently. The Burmese, who are the only one percent of the around 54 plus million

¹⁰ *Understanding Darfur conflict - Sudan.* (2005, January 19). ReliefWeb.
<https://reliefweb.int/report/sudan/understanding-darfur-conflict>

¹¹ *Ed Understanding Darfur conflict - Sudan.* (2005, January 19). ReliefWeb.
<https://reliefweb.int/report/sudan/understanding-darfur-conflict>

inhabitants of Myanmar are the progeny of the Indo-Aryan race.¹² Along with that, mention must be made of the Bay of Bengal being an earlier prime centers for maritime commerce and culture where migrant Rohingyas dominated the region. Additionally, the Arabs had to deal with the Rohingyas, during 8th and 9th century. Consequently, religious beliefs as well as the customs and traditions of the Rohingyas traveled a wide territory. The continued disregard for human rights, of these unique groups, has brought the whole International Community meeting the grim fate. In 20th century, one of the most common events we have witnessed is minority groups being oppressed; this was the case of the killing of millions of Jewish people or the genocide in Cambodia, Rwanda and Yugoslavia. The international community has been a silent bystander of these heinous acts.

ABUSES AGAINST ROHINGYAS – HUMAN RIGHTS PERSPECTIVE

HRMC (Human Rights Monitoring Committee) actively participated in the Rakhine state by exercising its surveillance on the Human Rights violations. The Kofi Annan led commissions on Human Rights to enquire into the state of affairs, opinioned, “the Rohingyas were restricted from freedom of movement, education, employment etc, and Human Rights”, along with the reports of several Human Rights Officials describe, terming it as an Ethnic Cleansing, which is quite tangible since the crackdown on Rohingyas were orchestrated on several episodically phases (1978, 1991, 1992, 2012, 2015, 2017), one of the starkling report, by the United Nations Special investigator Yanghee Lee underlined the state sponsored propaganda to wipe out the entire Rohingyas populations, in the other side, the contention placed by the State counselor of Myanmar is that “these groups are illegal migrants from the Bangladesh having dubious track record in terms of terrorist act.”

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GENOCIDE CONVENTION 1948 AND VICTIM’S OF ROHINGYA

¹² *Who is indigenous to Burma?* (n.d.). <https://www.studycountry.com/wiki/who-is-indigenous-to-burma>

¹³ *The United Nations | Icelandic Human Rights Centre.* (n.d.). Icelandic Human Rights Centre. <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-fora/the-united-nations>

The most suitable Law in the scenario of the genocidal atrocity inflicted on the Rohingyas is the 1948 Genocide Convention. The uniqueness of the convention is that while declaring in Article 1, it states that the Genocide could happen even during time of peace.

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Additionally, it is Human Right Instrument, as the preamble of the Convention resorts to the term humanity. The group of persons subject to the Genocide Convention is under Article 2, among them being, religion. The other thing which tops the list of the essential part of the crime of genocide is *dolus* as specialised intent. Genocide is the most serious and atrocious act and Prosecutor vs. Learning of Jean Paul Kambande, it is highly incredible to act ignorant to the horrors of Rakhine state. The deciding factor of Genocide is the criminal conduct of the Article 4 of the convention, which by an act of an individual government leader the group should be destroyed either as a whole or in the part. Such an individual cannot escape for being the Country's Head due to the fact.

CITIZEN ISSUES IN MYANMAR

One of the major things in Myanmar history that has been at the heart of the case of genocide against the Rohingya people is the citizenship problems. The Rohingya are an ethnic Muslim minority which is mostly inhabiting in Rakhine State of Myanmar and for years have been struggled for their citizenship rights and human rights affairs. Burma's citizenship laws have to some extent contributed to the Rohingyas being stateless and leading to the persecutions they have faced. 1982 Citizenship Law enacted under the military rule in 1982 is a proof that the Rohingya ethnicity, being seen as impure, is not recognized, or rather introduced the regulation where stringent requirements defining citizenship based on ethnic origin are in force. The Rohingya community fail to meet the requirement according to the governments' understanding. This unjust legal exclusion has prompted misery to the Rohingya by denying them even the basic human rights such as education, health, employment and even the freedom of mobility. The lack of citizenship being the real, consistent issue has thus allowed for their

¹⁴ Kourtis, D. A. (2021, July 5). *The odious scourge of Genocide and the Limits of International Law: Part I*. *Opinio Juris*.
<https://opiniojuris.org/2021/07/05/the-odious-scourge-of-genocide-and-the-limits-of-international-law-part-i/>

further marginalization and easy targeting by the state and extreme groups. Rohingyas, in fact, have always been confronting the citizenship problem in general which is the core or very heart of the Rohingya genocide that is, in a wider sense, the reflection of the deeper and more systematic discrimination and compulsory oppression existing within the society of Myanmar.

THE RISE OF THE BUDDHIST NATIONALISM

Their efforts to revive the followers of Buddha as well as their prejudice toward the minorities have also strongly impacted the extent of the Rohingya genocide which we are witnessing in Myanmar today. Nationalist sentiments protests against of the Buddhist political groups some parts of the Buddhist monkhood have become an indispensable fuel of the tense movement that increased the anti-Muslim's rhetoric and violence directed at the Rohingya community. This nationalist vision advocates for a separated Myanmar seen as the Buddhist country. Any kind of the Rohingya's desires are viewed as non-Buddhist peoples and dangers of Myanmar ethnic and national identity or purity. Buddhist nationalist means has been widely used at hostile figures to made discrimination speeches and fuel hostiles against Rohingya who are described and recipients of social disruption. The ideological tenet of Buddhist nationhood has been used as a weapon by political elites who want to protect their power base and gain popularity at the expense of the deterioration of ethnic amity among the people and the dehumanization of Rohingya people. The rise of Buddhist nationalism underscores the complex interplay of religious identity, political dynamics, and ethnic conflict in the context of the Rohingya genocide.¹⁵

PERSECUTION AND VIOLENCE PRECEDING GENOCIDE

After such an act of terror committed by the insurgents, the Myanmar army decided to carry out a severe offensive, aiming to expel all Rohingyas with the help of Buddhist militias. During the first week, there were 130 Rohingya people from the Rohingya communities who were confirmed dead by the authorities. Due to the worsening of the situation, Rohingya are in a large number and they are seeking refuge in Bangladesh. They are aware that crossing Naf river for them would be very dangerous. The military's response includes the use of mortar shells and

¹⁵ *The Forgotten (Part 3): Buddhist directed Ethnic Cleansing/Genocide of Rohingyas in Myanmar.* (n.d.). TRANSCEND Media Service.

machine-gun bullets on escaping Rohingya people, that led to many deaths. Also, the empty boats, where the people got killed and survived, started to appear abandoned on the shore. As more people continued to die, the death toll started to skyrocket and ended up hitting more than 1000 according to the estimates. While witnessing the happening of these atrocities, the Rohingya advocacy groups; especially that of Arakan Rohingya Society for Peace and Human Rights which founded the late human rights activist Mohibullah, started documenting evidence of the ongoing brutalities. The organization's office in Cox's Bazar in Bangladesh collected stories from the victims, in details testimonies, outlining killings, numbness, injuries, rape, burning of towns, and various types of other crimes enforced in the state of Rakhine State in 2016 and 2017. Thorough documentation from over 3000 witnesses provided by them tells the story of the abuse the Rohingya victims were subject to which was severely escalated.

VILLAGE BURNING AND LOOTING

The report of U.N. independent international mission September 2018, on Myanmar stating that at least 392 Rohingyas villages in the Rakhine state has been razed to the ground since 25 August 2017. In December 2017 it had found that 354 Rohingya Villages in Rakhine state destructed by the Myanmar military the structure which was mainly used by the Rohingya muslims.

Member of Myanmar military and the Buddhist villagers of Inn Din looted the Rohingya hamlets and then burned down their houses. They took part in looting which includes Rohingya Property, Goats, Cows, Cattles etc.

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GANG RAPE AND SEXUAL VIOLENCE

Human Rights and the U.N. officials reported in November 2017, that the Myanmar military has committed widespread gang rapes and the other forms of sexual violence against the women and girls of Rohingya Muslims for the prior three months. Along with the Myanmar armed forced border guard police and the Buddhist militias of Rakhine state was also included. The report of HRW stated that Rohingya women and girls were made the targeted group because of their

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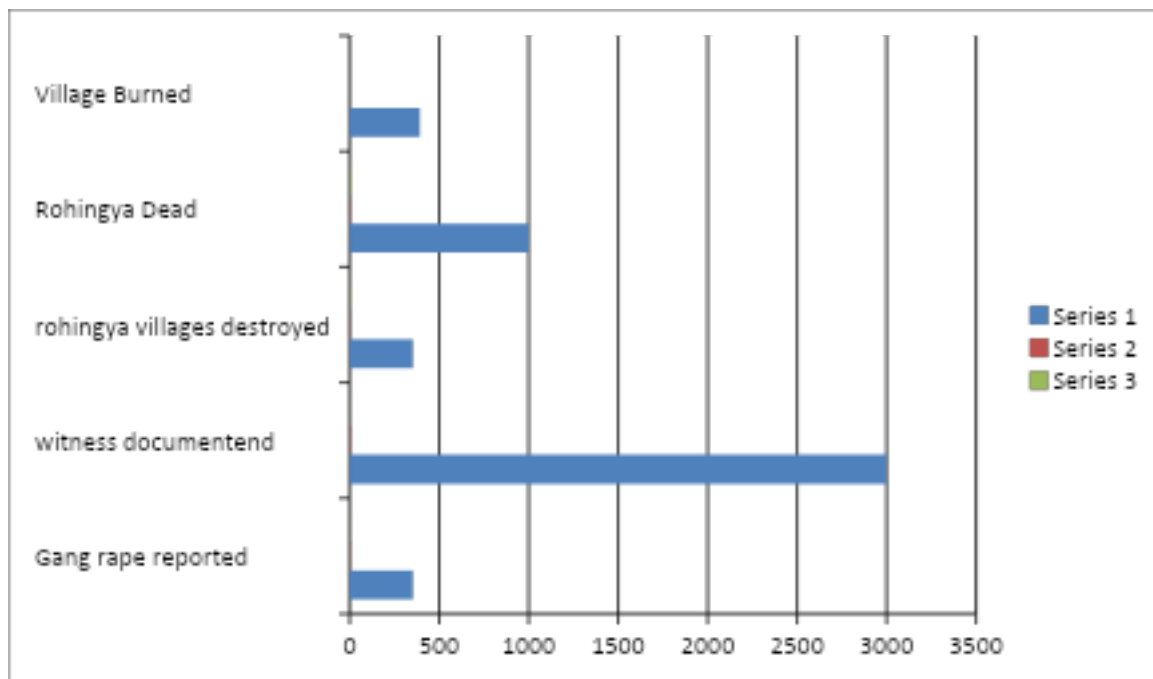
Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar (A/HRC/39/CRP.2) - Myanmar. (2018, September 18). ReliefWeb.
<https://reliefweb.int/report/myanmar/report-detailed-findings-independent-international-fact-finding-mission-myanmar>

Ethnicity, Identity and Religion. Some girls were raped to death while others were found traumatized and injured after they arrived at the refugee camp in Bangladesh.¹⁷

CENSORSHIP AND HARASSMENT OF JOURNALIST

Myanmar blocked the access of media since August 25th 2017, and visit of international bodies to Rakhine state. On December 12th 2017, two Reuters journalists were charged and imprisoned by the police for the violation of a 1923 colonial law who had been covering the refugee stories. On February 01st 2018 the Myanmar court rejected the bail application for the journalist.


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- 🎬 **Villages Burned:** 392 villages
- 🎬 **Rohingya Dead (First Week):** 130 confirmed deaths
- 🎬 **Rohingya Dead (Total):** Over 1000 estimated deaths
- 🎬 **Rohingya Villages Destroyed:** 354 villages
- 🎬 **Witnesses Documented:** 3000 witnesses

¹⁷ Press Association. (2021, March 23). Tens of thousands homeless after fire at Bangladesh Rohingya refugee camp. *BreakingNews.ie*. <https://www.breakingnews.ie/world/tens-of-thousands-homeless-after-fire-at-bangladesh-rohingya-refugee-camp-1100349.html>

¹⁸ Ed Tens of thousands homeless after fire at Bangladesh Rohingya refugee camp. *BreakingNews.ie*. <https://www.breakingnews.ie/world/tens-of-thousands-homeless-after-fire-at-bangladesh-rohingya-refugee-camp-1100349.html>

 **Gang Rape Reports:** 354 incidents of gang rape and sexual violence reported

INTERNATIONAL RESPONSE

The international response to the Rohingya genocide has encompassed a multifaceted approach, blending diplomatic initiatives, humanitarian aid efforts, and condemnation of the atrocities committed against the Rohingya minority in Myanmar. Countries and international organizations have extended crucial humanitarian assistance to Rohingya refugees who sought refuge in neighboring nations, offering essentials such as food, shelter, healthcare, and education support. Simultaneously, diplomatic pressure has mounted, with numerous nations and global bodies denouncing Myanmar's military and government for their actions against the Rohingya community, expressed through official statements, UN resolutions, and targeted sanctions. Moreover, international investigations have been launched to probe allegations of genocide and human rights abuses, aiming to ensure accountability for the perpetrators and deliver justice to the victims. Alongside calls for legal action against those responsible, including potential prosecution in international courts for war crimes and crimes against humanity, these efforts collectively underscore a commitment to addressing the complex and ongoing challenges of displacement and human rights violations faced by the Rohingya people.

PRESENT SITUATION

Within the first weeks that forward the escalation of violence in Rakhine state, nearly 700,000 Rohingya population fled to the neighborhood Bangladesh undertaking the life threatening journey to get there.

Prior to this in August, the region was already host the refugee camp for community to 200,000 people from Rohingya refugee. As of July 2022, the report of World Health Organization 925,000 Rohingya are living in Cox's Bazaar. Moreover this is not only the area where the Rohingya have sought the shelter in order to escape from the violence. Over 90,000 fled to Thailand, and over 20,000 are in India. Small group of people have made their way to other countries which includes Nepal and Indonesia. As per the report of UNHRC 1.1 Million Rohingya are internally displaced within Myanmar many times.

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¹⁹ *The Rohingya Crisis, explained: 5 things to know in 2022.* (2023, December 15). <https://concernusa.org/news/rohingya-crisis-explained/>

3.3. ISRAEL AND HAMAS

The conflict between Arabs and Jews is a long-standing dispute from over a century regarding the ownership of the Holy land. It has led to some major destructing conflicts affecting the life of thousands of people. The latest one being the Israel-Hamas conflict of 2023. On 7th October 2023 Hamas made a surprise attack on Israel via land, air and water ways.²⁰ Hamas is basically a militant group based in the Gaza Strip which has been declared as Foreign Terrorist Organization by the United States.²¹ Before we dive into the reason behind the conflict and finding the justification for the same, it is significant to clear some basics regarding the areas and the parties involved in the conflict.

PARTIES INVOLVED

The recent conflict is popularly known as the Israel-Hamas conflict but it is important for us to know about the actual parties involved in the war. So, the parties involved are the Palestinians, Israelis and Hamas.

Palestinians are the Arabs who have majorly lived in certain parts of the Middle East throughout the history.²² In a 1967 war, Israel captured the Gaza Strip and West Bank. So, the Arab Palestinians living in both the areas came to be known as the 'Palestinians.' Majority of the Palestinians are Sunni Muslims since the area includes the city of Jerusalem and other holy lands while the others are Christians. So, Palestinians are majorly the Arab speaking Muslims.

Israeli are the nationals of modern-day Israel no matter whether they are Arabs, Jews or of another ethnicity. However, they are majorly the Jews.

Hamas stands for Harakat al-Muqawama al-Islamiya which is a militant group operating primarily in Gaza. It has already been declared as Foreign Terrorist Organization by the United States. The organization was established in 1987 as an offshoot of the Muslim brotherhood on the foundation stone of charity, religion and fight against Israel. It was a popular organization

²⁰ *Israel war on Gaza*, ALJAZEERA, 9 Oct. 2023, <https://www.aljazeera.com/news/2023/10/7/palestinian-group-hamas-launches-surprise-attack-on-israel-what-to-know> last accessed on 28 Dec. 2023.

²¹ Kali Robinson, *What is Hamas?*, COUNCIL ON FOREIGN RELATIONS, 31 Oct. 2023, <https://www.cfr.org/backgrounder/what-hamas> last accessed on 26 Dec. 2023.

²² *Who are the Palestinians?*, PCRF, <https://www.pcrf.net/information-you-should-know/who-are-the-palestinians.html> last accessed on 1 Jan. 2024.

when it was initially found because it addressed the need of the hour i.e., poverty, healthcare and education but later became infamous because of the campaigns and attacks against Israel.

REASON FOR THE CONFLICT

The conflict between Israel and Hamas is fledged by distinct factors including territorial dispute, religious and ideological differences. The main key issues include status of Jerusalem, the right of Palestinians refugees, Israeli settlement in the West Bank and blockade of Gaza Strips. Addition to this Hamas and Islamist militants group, refuses to recognizes Israel's right to exist further complicating efforts for peace.

- Territorial dispute: both Israel and Palestinians claims the ownership of Gaza Strips, the West Bank and East Jerusalem which led to conflict over border settlement and sovereignty.
- Religious and Cultural Differences: Jerusalem hold significance for both Jews and Muslims religion as it contains the holy sites such as Western Wall, Dome of Rock, and the Al-Aqsa Mosque competing to claim the control over the sites and access to these religious sites led to the dispute.
- The major point of conflict is the settlement of Israel in the West Bank and east Jerusalem. According to Palestinians these settlement are illegal in the international law.
- Since 2007 Hamas took control over Gaza Strips, Israel imposed the blockade on the Gaza Strips, restrict the movements of goods and people in and out of Gaza. This led to economic hardship, crisis among the Palestinians Population.

AREAS UNDER DISPUTE

- The first area under dispute is Israel which the Palestinians wanted to turn into their independent nation.
- The second one is Palestine where the Arabs got settled after Israel conquered most of the areas.
- The other are Gaza Strips, West Bank, and East Jerusalem which were occupied by Israel after the six-day war in 1967.

- The Gaza Strips, West Bank and East Jerusalem were collectively called as the Palestinians Territories.

INTERNATIONAL RESPONSE

The international community's contribution to find the solutions in the Israeli-Palestinian conflict has been very different over the years and had resulted in both success and failure. In diplomatic measures like the Oslo Accords and the Camp David Summit, the end that has always been attempted is the two-state solution. However, they have constantly been handicapped by continued violence, distrust, and the claims to the land by both sides. The UN, EU and the USA + other Arab countries have all pushed themselves to be somehow involved in mediation and peacekeeping missions.

CURRENT SITUATION

Currently, the situation is very dynamic; sporadic outbursts of violence offend borders and various humanitarian crises obstruct the release in Gaza Strip. Efforts for rekindling peace talks have been impeded by intransigent attitudes, inner rifts among the Palestinians and a widespread absence of trust between the sides. What has been the worst is the escalation of the most recent crises like the clashes in Jerusalem and rocket attacks from Gaza that increase the level of tensions and worry about the possibility of a larger conflict breaking out. Overall, the conflict between Israel and Hamas is a result of these roots and is very complex because the situational factors are very intricate and involve territorial disputes, religious differences and ideological variations. International community's efforts to broker peace have not yet brought a real progress. The situation is highly unstable and it is punctuated with occasional flares up of violence and humanitarian crises. The settlement of the dispute hinges on protracted diplomacy involving a willingness to compromise, resolving the reasons on the opposite side.

3.4. YAZIDI GENOCIDE

ORIGIN

The origin of Yazidi genocide can be traced back from the ancient root the rise of Islamic state of Iraq and Syria (ISIS) and its extremist ideology which sought to impose its Islamic control over

the territories in Iraq and Syria. ISIS known as Daesh, emerged as a group of Al – Qaeda but it gained independence and territorial control over Iraq and Syria.²³

The Yazidis as a religious minority in the region, became target of ISIS because their unique religious practices and beliefs which were different from the Sunni Islamist group. ISIS considered the Yazidis to be "infidels" and viewed them as legitimate targets for persecution and violence.

In mid-August 2014, ISIS militants made a well-organized attack on the Yazidi dominant town of Sinjar, situated in the north of Iraq, and ended up taking the city and holding on to it and the environs. In other words, this indicated the start of the most cruel campaign of killing, enslaving, and forced conversion of Yazidis. The reason behind the genocide was multilateral and included xenophobia, extremism, and territorial control and suppression of the nations and their culture. The objective of the ISIS was to annihilate or subjugate any group of people who did not align with its own narrow interpretation of Islam. Yazidis, owing to their ancient traditions and syncretic religious practices, happened to become a particularly easy target in this campaign. The Yazidi genocide was among the other atrocities that ISIS have committed towards the religious minorities in Iraq and Syria, for instance Christians, Shia Muslims, and others. Their relentless campaign of terror and meanness caused people all over the world and made them condemn US government. Although ISIS has been significantly weakened from its strength, the impact of the Yazidi genocide still stains the soul of the Yazidis, and the community is still in the midst of overcoming the aftermath of the crimes perpetrated against them. Bringing justice to the architects and strengthening survivors remains ongoing obstacles for the country in the course of reconstruction and recovery after the infrastructural and social devastation caused by ISIS.

PERSECUTION AND VIOLENCE

ISIS targeted men, women and children with the aim to eradicating the Yazidi community from the region. The outrages committed during the Yazidi genocide were mass killing, enslavement of children and women, sexual violence, forceful displacement leaving an ineradicable mark on

²³ Langendorf, M. (2014, July 27). The Kurds of Iraq: territorial gains, ISIS and independence. *Fair Observer*. https://www.fairobserver.com/region/middle_east_north_africa/kurds-iraq-territorial-gains-isis-independenc-e-66249/

the collective memory of Yazidi People and drawing denunciation from the international community.

The oppression of the Yazidis by ISIS is directed at them due to the group's extremist ideology that considered them as "infidels" because of their distinctive religious customs and beliefs. Adherents to the ancient faith of Yazdani follow a belief system that incorporates Zoroastrianism, Christianity, and Islam, a certain difference from the Sunni Islamist doctrine, the choice of which is proclaimed by ISIS. Therefore, this was the ultimate objective of the Islamic State which was to uproot the Yazidi population from the areas under its hands, burning their villages, and assassinating the adults. The genocidal violence, which the Yazidis had to go through was extreme and planned at the same time.

On the eighth day of August in 2014, ISIS fighters managed to mount a well-coordinated attack on Sinjar, a town predominantly inhabited by the Yazidi community, and captured the city as well as the surrounding areas. These were a series of killings that were meted on the Yazidis on the basis of their religious beliefs as the men were usually killed and the women and children were sold into slavery. Dividedly were families by leaving their parents behind with some of them persecuted at the hands of the enemy. This calls for the utmost empathy.²⁴

The practice of raping and abducting Yazidi women and girls, that involved sexual violence and slavery, which is considered to be the most horrendous part of the Yazidi genocide. The so-called ISIS hostages kidnapped several thousands Yazidi girls and women, using them as sex slaves, forced marriage objects, and rape victims. Some faced enslavement, others were sold as booty, while others were used as spoils of war, which constituted the most dangerous part of their journey. These terrorings were so devastating to the victims that they faced huge trauma and psychological imbalance(s) which stayed with them for long passing their physical liberation.

VIOLENCE AGAINST THE YAZIDI WOMEN AND GIRLS

RAPE AND SEXUAL SLAVERY

According to the report of U.N. Secretary General 2017, on conflict of sexual abuse and brutal attack on Mosul, Sinjar, Tall' Afar, and the Nineway plains in north and subjection of civilians to

²⁴ *"They came to destroy:" ISIS Crimes against the Yazidis - GIWPS.* (2019, December 18). GIWPS. <https://giwps.georgetown.edu/resource/they-came-to-destroy-isis-crimes-against-the-yazidis/>
Taliban escalate new abuses against Afghan women, girls. (n.d.). United States Institute of Peace. <https://www.usip.org/publications/2022/10/taliban-escalate-new-abuses-against-afghan-women-girls>

sexual abuse on a horrific scale mainly against the women and girls from ethnic religious and armed forces. ²⁵According to declaration 900 women and girls freed while 1800 women and girls are remained enslaved in Iraq and Syria.

ABDUCTION

ISIS abducted 400-500 yazidi women and girls in August from the area Al-Qahtania which was taken to Tal-Afar 100s to Si Basha and then Baaj. In the 4th of August when the ISIL's terrorist attack was made on the Jabal Sinjar, they kidnapped some women of Jabal Sinjar and several other villages in the region, the menfolk and womenfolk from every tribe was kidnapped. As many as 400 Yazidi women were stolen by ISIL on 6/08/2014 as a sexual enslavement. According to the reports of those who survived Yezidis, between three and six of Yazidi women and children were seized in Ba'aj and a couple of hundreds in Tal Banat visited by 20th of August. The village of Kojo, south of Sinjar, Yazidis' homeland, witnessed the abduction of more than 100 women on August 15, 2014. Some sources cite reports from survivors that between a hundred to a thousand women and children were taken in Khocho, another village in the region. According to an OHRCR/UNAMI report, there was a mass abduction of Yazidis by ISIS which mainly targeted women and children until the end of August, and it was found that the number of kidnapped tribe members could reach around 2,500. As early as in October the list of names of 4,800 Yazidi women and children who were taken captive (assuming that possibly up to 7,000 people were taken away from their homeland), compiled at the University of Chicago by Matthew Barber, a member of the Society of Yazidi Studies.²⁶

INTERNATIONAL RESPONSE:

Various efforts made by the international organizations in response to yazidi genocide from governments and intergovernmental organizations, humanitarian agencies, and civil society groups.

Humanitarians agencies provide aid to yazidi community which includes food, shelter, healthcare and psychological support. Armed forces intervene to defeat ISIS which includes the Global Coalition.

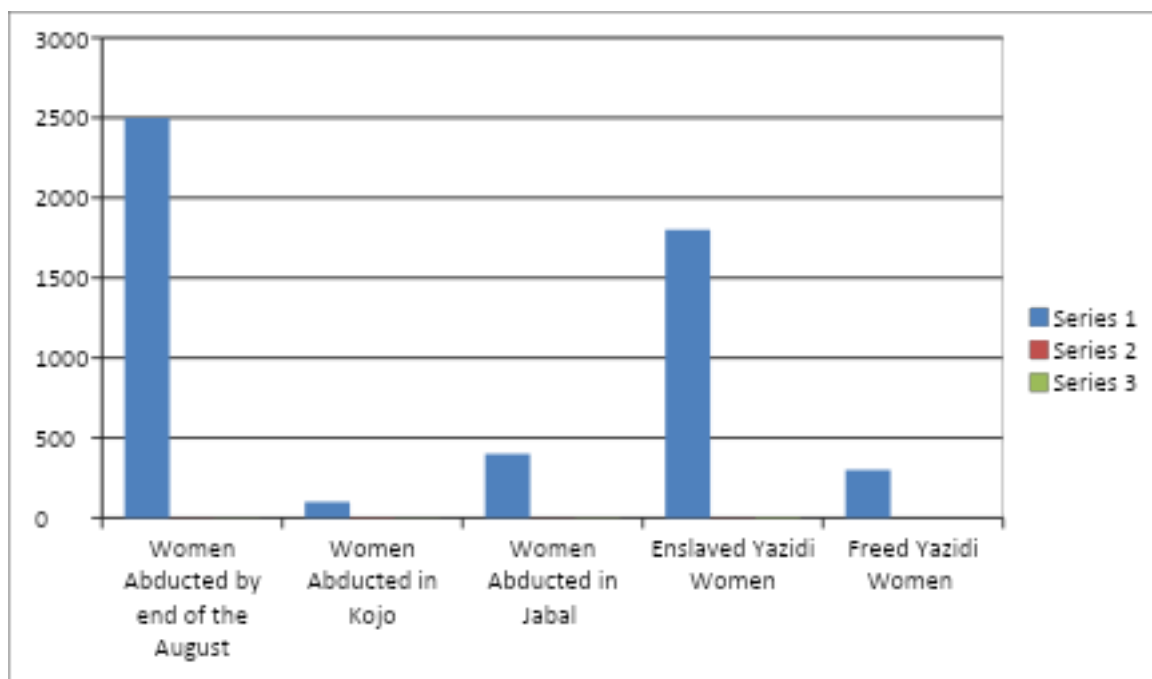
²⁵

²⁶ Belfastchildis. (2016, April 26). *Yazidis Genocide – Massacres, sexual slavery & forced exile*. Belfast Child. <https://belfastchildis.com/2016/04/26/yazidis-genocide-massacres-sexual-slavery-forced-exile/>

Efforts have been made to hold the victims of the yazidi genocide accountable through providing the legal aid which includes the International Criminal Court and National Court prosecuting involved crime against yazidi.

Additionally efforts have been made by the international organization to assist the survivors of Yazidi genocide in resettling, rebuilding their lives, accessing education, employment, and other services.

Although achieving progress in the Yazidi community issue is partially achieved, there remain obstacles, such as the continuous security problems, the need for sustainable support systems and turning crimes committed within the community into justice.



- Freed Yazidi Women and Girls: 900
- Enslaved Yazidi Women and Girls: 1800
- Women Abducted in Al-Qahtania: 500
- Women Abducted in Jabal Sinjar: 400
- Women Abducted in Kojo: 100
- Total Women Abducted by End of August: 2500

3.5. SYRIA WAR

ORIGIN OF THE WAR

The Syrian civil war has its origin in the framework of colonization as well as the war in Iraq and the ethnic tensions. The civil war that is happening right now can be traced back to Bashar al Assad's election in 2000 and the beginning of the rise of ISIS (Polk, 2013). Assad may have been

a legal president, but the Syrian people never had the freedom to enjoy their civil liberties. It was in the year 2011 that pro democracy rise were seen as a result of a systematic persecution in Assad's regime, this thus led to the civil war in Syria.²⁷ Even by the time of 2012, Syria was already drowned in the civil war and everywhere rebel groups all over Syria existed, and Syrian government's forces used to kill civilians as they beat each other in the towns, cities and countryside. He didn't fulfill the basic requirements of the civilians. In late August, 2015 already more than the quarter of million people was killed from the Syrian civil war. As reported by the UN commission on Syria, both the rebels and the government have used sieges to limit the supply of food, water and medical care as military methods of war and caused various suffering to civilians. ISIS along with other rebel groups was operating in a terroristic manner.²⁸ They made very severe law to the person who neglected to obey their laws and crossed their boundaries. The punishment included mostly brutal and public executions accompanied by the amputations of hands and feet. They murdered our enemies, including security agents, farmers and hostages, beheaded their heads and members of the religious minorities as well Westerners.

REASONS BEHIND THE CONFLICT

The Syrian war since it started in 2011 as well as the Arab Spring revolts is one of the many conflict issues as its cause is the tangled political, social, economic and regional issues. In the first place, the rebellion was begun against the Assad family which governed the country as autocracy; thus, they suppressed political associates and corruption was also generalized. As a result, the Syrians living inside the country were discontented. Particularly among the youth unemployment, inequality, and a declining both in opportunities and benefits as a result are an aggravating factor of social tensions hence the uprising. Consequently, secular Syrian society is composed of a multitude of religious and ethnic groups like Sunni and Alawites along with ethnic groups as Kurds and Christians. The history of their coexistence is enough to be described as problematic.

The Sunni Muslims have been the chief victims of marginalization and oppression accompanied by the over the suffocating rule of the Alawites under the governing regime of Al-Assad for

²⁷ Marks, J., & Marks, J. (2023, August 25). *Why is there a civil war in Syria?* HISTORY. <https://www.history.com/news/syria-civil-war-assad-rebels>

²⁸ Ed Marks, J., & Marks, J. (2023, August 25). *Why is there a civil war in Syria?* HISTORY. <https://www.history.com/news/syria-civil-war-assad-rebels>

decades. This caused the spread and intensifying of the sectarian divisions among the affected populations. The harsh repression of the peaceful rallies and their incitement of the unlawful violence and the abuse of the human rights heightened discord, provoking the party into a full-fledged war. The stake of regional and foreign actors in the rebellion, each one holding appropriate interests, aggravated the conflict's complexity. A failure to achieve a settlement involves the neighboring countries such as Turkey, Iran, and the Gulf States, as well as global powers such as Russia and the United States, who are exploited in a proxy way by supporting various factions protracted effect and intensification of the war. With wider geopolitical rivalries and tremors of powerplay, resolving the Syrian crisis proves to be more elusive as the conflict has been included in the list of the arduous and the most complicated crisis of the 21st century.

PERSECUTION AND VIOLENCE

The situation in Syria, which started in 2011, marked with deathly opposition and acts of persecution. The torture and atrocities are as a result of a complex interaction of reasons, such as the dynamics of a civil war which evolved initially from people protesting Assad's regime. Multiple parties including the Syrian government, opposition forces, the Kurdish militants, and terrorist groups have been fighting brutally to obtain power and this led to serious chaos and huge loss of lives. The Assad regime's inhumane actions including the acts of arbitrary arrests and torture of innocent civilians as well as indiscriminate air attacks on peaceful communities has fueled the conflict more and violated numerous human rights which have been monitored by various international organizations. Also the fact that Syria is politically diverse increases separatism, as various groups are usually the target of acts of violence.

External intervention by regional and international actors, including Russia, Iran, Turkey and the United States, among others, has only fueled militarization, further prolonging the conflict in this already complex issue, which requires lasting peace. The ongoing violence has sent millions of Syrians running away from, which in turn instigated a refugee crisis that has jeopardized the neighboring countries' capacity and created unfathomable humanitarian problems.²⁹ Indeed, the series of persecution and cruelty in Syria have created a horrible situation for civilians, which

²⁹ Mese, I. H. (2024, March 8). *Syrian Non-State Actors and the Turkish National Security*. International Policy Digest.
<https://intpolicydigest.org/the-platform/syrian-non-state-actors-and-the-turkish-national-security/>

lead many people killed, missplaced and suffering extremely, especially when things get so complicated and attempts to find a solution so difficult, due to the parties' own interests involved.³⁰

INTERNATIONAL RESPONSE

The international efforts of intervention that Syria has received have been multitasked, with diplomacy and humanitarian along with military support being vaccinated. Diplomatic initiatives such as those being put forward through the partial U.N.'s participation through its Special Envoy for Syria and the Geneva process of peace talks seek an efficient political solution. Nevertheless, the main hurdles in this process are the, among others, the lack of agreement among relevant partners and Regime's unwillingness to participate in the negotiations seriously. As to contain the humanitarian crisis, the United Nations, the Red Cross/ Red Crescent as well as NGOs started to provide assistance for the millions of Syrians affected by the conflict. However the fight for the goods delivery remained difficult because of access and security restrictions and fund shortage. The hinter of NPT countries by different powers creates an evaluation problem in the PRI situation.³¹

Support by Russia, which has proven to be a significant factor in the Syrian Army regaining lost lands, for Bashar Al-Assad's regime is noteworthy. At the same time, America and its allies have supported the insurgency groups, that the Kurds belong to, and these groups are specifically fighting against ISIS. In the context of the current Syrian conflict, Turkey has also deployed military operations in the northern part of Syria with the aim of reducing the Kurdish presence.

The efforts of some countries and entities to enforce the arms embargo on the Syrian government and its allies through the application of economic sanctions to the goal of ending the bloodshed and fighting position of the government in political negotiations is another point. On the other hand, the efficacy of these policies is constrained, furthermore, they create 'unintended

³⁰ *Understanding the logic behind the Syrian regime's violence.* (n.d.). Middle East Institute. <https://www.mei.edu/publications/understanding-logic-behind-syrian-regimes-violence>

³¹ Syria: Overview of the humanitarian response. (2014). In *CRS Reports*. <https://www.everycrsreport.com/reports/R43119.html>

consequences' for a civil population. Besides, various countries are pursuing settlement arrangements for the displaced Syrian refugees, allowing them to be secure and have chance of making fresh start.³²

Nonetheless, the assurance given in future years used to be less than the actual scenarios, and the refugees continue to suffer from integration problems in the midst of the host country. Primarily, the world's reaction towards the Syria crisis has consisted of diplomatic activities, humanitarian aids, military actions & weapons embargo, international sanctions, and readmission of Syrian refugees.

CURRENT STATUS

The Syrian Army of the regime or the Baeshar al-Assad won a lot of territory with the help of the Russian and Iranian military. On the other hand, the whole of Syria could not see the government's control since Kurdish fighters also had some territory in the northeast, with some rebel groups and Islamist militants also showing some control. The war has caused an enormous human damage to the Syrian people, whose more than two million have moved within the country and over seven million others have left it. Humanitarian situation leaves people be overwhelming, with famine, distortions in services and a ceasefire leading to worse suffering among the people.³³ ISIS had significant territorial losses in the regions of Iraq and Syria especially in 2017 and 2018 which are when the Syrian Democratic Forces (SDF) and the U.S. coalition both overtook the offensive to gradually push ISIS out.³⁴ Notwithstanding the fact that ISIS has lost most of the territorial lands, it remains alive and well in some regions, and hence, it is still steadily carrying out a guerila warfare, insurgency, and other illegal activities.

³² McDonald-Gibson, C. (2013, May 28). Syria arms embargo lifted: Britain and France force EU to relax ban on supplying weapons to rebels | The Independent. *The Independent*. <https://www.independent.co.uk/news/world/politics/syria-arms-embargo-lifted-britain-and-france-force-eu-to-relax-ban-on-supplying-weapons-to-rebels-8633597.html>

³³ The Editors of Encyclopaedia Britannica. (2024, April 8). *Syrian Civil War | Facts & timeline*. Encyclopedia Britannica. <https://www.britannica.com/event/Syrian-Civil-War>

³⁴ Ed33 The Editors of Encyclopaedia Britannica. (2024, April 8). *Syrian Civil War | Facts & timeline*. Encyclopedia Britannica. <https://www.britannica.com/event/Syrian-Civil-War>

3.6. YEMEN CIVIL WAR

The Yemen Civil War is known as the world's worst humanitarian crisis. Entering its fifth year of conflict, Yemen stands on the brink of being erased from the world map.

By the end of 2019 about 100,000 of the Yemenis have perished as a result of the death from starvation and war-related issues.

Sharing data on the locality of armed conflict, and numerous events where hot-blooded people were taking silly lives was about 20,000 last year in 2019. Civilian casualty was 12,000, and 12,000 buildings hit successively by direct strike during this war.

ORIGIN

The roots of the war in Yemen could be found in the political chaos and upheaval that developed after the protests of 2011 which were a part of the Arab Spring campaign. However, it's worth noting that the conflict intensified when the Houthi rebels, who are followers of Zaidi Shia Islam, the minority Shia sect in Yemen, took control of the capital, Sana'a, and forced President Abdrabbuh Mansur Hadi to flee the country in 2014. This marked the beginning of a war of words that eventually culminated in the situation whereby a military-led coalition of Arab states, mainly Saudi Arabia and the United Arab Emirates along with their allies, supported the internationally recognized government of President Hadi. Since then, the conflict has evolved to the complex and protracted nature, including a variety of internal and foreign actors from the regional powers, terrorist groups to the proxies.

THE YEMEN CIVIL WAR : HOW AND WHY

The war in Yemen erupted out of this period of turmoil that occurred in the aftermath of the Arab Spring in 2011, the spark of which was the widespread protests against the rule of Ali Abdullah Saleh. In the month when the world was taking up the matter of human rights and freedom against authoritarian regimes, Saleh, the Yemeni president of twenty-two years, abdicated on the twenty-fifth day of that February, succumbing to the incessant pressure from the civilian demonstrations. The uprising was built on a combination of factors including low transparency in government, stringent job markets and political uncertainties that had characterized the Saleh administration. Among the major political groups demanding the change of power are Beizup

loyalists and the resurgents of South Yemen. This was obviously happening since the Houthis are a Shia Muslim minority from northern Yemen and have been at war with the Saleh government for quite a long time because they wanted to pose their concerns and defend their rights. Saleh stepped down on the 23rd of February, following which power was transferred to Abdrabbuh Mansur Hadi, the former Vice-President. Nevertheless, the administration of Hadi was not able to hold the balance of power in the fractured climate of the political game. Tensions heightened with a federal-regional equal division proposal that caused the protracted opposition from the Houthis and Southern Separatists who felt marginalized and sidelined. Nevertheless, the players, such as AQAP and Daesh took advantage of the existing conditions to be able to appeal to this new threat in Yemen, hence, leading to the constraining situation. As the political conceptions of the Hadi Government began to unravel, the Houthis developed a coalition with Saleh, their former opponent. They used his military assistance against the Hadi Government and its own agenda. This coalition including the fighters recruited and sent by Iran, thus, sought to destroy the Sunni dominated government because its members felt that the government harassed them based on their religious identity of Shia and practices. In September 2014 the conflict has escalated as the Houthis seized control of the city of Sana'a, the capital, and the same night they captured Aden where Hadi resided.

INTERNATIONAL RESPONSE IN AIDING THE SURVIVORS

The international response to Yemen civil war which was began in 2014, involves military interventions, diplomatic efforts, humanitarians aids.

MILITARY INTERVENTION

The collation intervened in 2015 to support Yemini government against the Houthi rebels who are backed in Iran. The military intervention led by Saudi Arabia, which formed a coalition includes UAE, Kuwait, Egypt, Morrocco and Jordan. The US provided logistical support to Saudi. This includes arms sales, aerial refueling and intelligence sharing.

DIPLOMATIC EFFORTS

UN played a very crucial role to resolve conflicts. The UN special Envoys for Yemen peace talk though these was often unsuccessful. The UN has also facilitated humanitarian aid and called for ceasefire. The security council of UN has passed several resolutions regarding Yemen including Resolution 2216 which imposed an arms embargos on Houthis and called for withdraw from

seized the areas. Peace talk takes place in areas such as Geneva, Kuwait, and Sweden. The main aim to establish the peace talk is to ceasefire and find a political solution to the conflict.

HUMANITARIAN AID

International organization like UN, Red Cross and various NGOs have been providing aids to the survivors which includes food, medicine and shelter homes. The WFP has been a crucial player in delivering food aid to Yemen, facing challenges due to access restrictions and security concerns. Several donor conferences have been held to raise funds for humanitarian efforts in Yemen. Countries like Saudi Arabia, the UAE, the United States, and European nations have pledged significant amounts of aid.

CURRENT SITUATION IN YEMEN AFTER THE WAR

Currently, as of May 2024, there exists a quite grim situation in Yemen although there has been a certain progress in recent years. The country is experiencing challenges that arise from a prolonged war that lasted for almost a decade and the effects of war that have affected 18 million people. 2 million people—victims of humanitarian emergencies. The conflict between forces loyal to the internationally recognized Government of Yemen and the Houthi rebels that is supported by a Saudi-led coalition is ongoing and is claiming much suffering and is very destabilizing the country. Gaza war could end up further worsening the situation in Yemen.

The Houthis also became more active in the Red Sea, and started engaging in attacks against shipping. Such actions are designed to contribute to the greater regional tensions over Yemen and the Yemeni Gulf sea trade. More than half of the Yemeni population is experiencing humanitarian crisis. The causes of crisis are economic decline, increased impoverishment, decline in public utilities, displacements and climate-induced disasters. There is food insecurity in place therefore evident in cases of high rate cases of malnourishment among such vulnerable segments like women who are pregnant or lactating or children. Haitian cholera epidemic and other diseases in the rainy season contribute more to the humanitarian problems.

The United Nation and other humanitarian agencies have come out with emergency needs to fund the assistance which is one of the largest in the world. However, frequent deficits may put at risk the continuation of critical programs. By early May 2024 an amount of \$2 (two) must have been attained. The report revealed that fund mobilization for the 7 billion plan had fallen short by several millions of dollars – a situation that is likely to escalate to larger global catastrophe if international support is not sustained. Though there are numerous concerns and considerable obstacles, attempts to settle the conflict and establish peace are still made. The UN Special Envoy for Yemen has called the shelling in Yemen counterproductive and underlined the need to communicate with each other and concentrate on politics. It is important to note that for years the international bodies continue to play a significant role in the Yemen conflict to both alleviate the lives of the affected people and to maintain the country's peace and stability.

CHAPTER-4 THE INTERNATIONAL CRIMINAL COURT AND ROME STATUTE

4.1. INTERNATIONAL CRIMINAL COURT

It was formed in 2002 as an independent judicial body and aims to arrest and prosecute individuals for grave international offenses such as war crimes, genocide, and crimes against humanity. It vindicates the principles that govern civil injustices and acts as a reminder to the perpetrators of large scale political wrongdoings. Established on 1 July, 2002 after acquiring over sixty ratifications, the Court was to start holding its sittings immediately. Its head office is in the Netherlands with specific offices located at the Hague region. The ICC is distinct from the ICJ in that the ICC deals with prosecution of individuals while the ICJ serves as a court of resolution for cases inter-State. In terms of geographical jurisdiction the Court only heard cases of offences which took place after 1 July, 2002 and could have been committed either by a citizen of the state that ratified the agreement or the state itself.

However, since the inception of the court it has had its own challenges and has not received support from the world powers such as china, united nations among others Russia and has been facing the challenges of increasing rate of human rights abuses around the globe thus the mandate of the ICJ, is proving both horrifying and more imperative than what the founders of the court planned for it. While very much appreciated, the Rome Statute remained rather unpopular among Middle Eastern or Asian countries; by the time it came into force, only 140 countries had appended their signatures to it.

Origin of International Criminal Court

After the second world war, it is about International Military Tribunal that addressed and punished key Nazi officers in the famous Nuremberg Trials. Ideally, before 1990s, governments never came up with direction of setting permanent court to pinpoint the individuals responsible for the world's heinous crimes. More specifically, in order to punish the war crimes committed in former Yugoslavia and Rwanda, the United Nations had established the ad hoc international criminal tribunals which have been described as being ineffectual and insufficient by many legal scholars of the international law. Within the United Nations a commission was urged by Trinidad and Tobago to address the formation of a permanent court as early as in 1989. More efforts in this regard have been observed over the decades, particularly in the European and African

regions. The European Union escalated its political profile in relation to the ICC by adopting a binding policy in 2011. The International Chamber of Commerce was inaugurated in Rome in July 1998 when the Charter establishing it was signed by the UN General Assembly. The Rome Statute came into force on 1 July, 2001 once it was accented by sixty-five nations and above.

4.2. FUNCTIONS OF THE INTERNATIONAL COURT

The ICC is located in the Netherlands more specifically in The Hague city, often referred to as the world of justice and maintains offices in some of the countries. The investigation conducted by the court is performed through the Office of the Prosecutor, where there is a person called Fatou Bensouda, a lawyer from Gambia. The Supreme Court is composed of eighteen Judges all of whom are elected by the member States and each of the Judges is a national of a different member State. The ICC states that it is necessary for members of the court to try to get a gender balanced bench and that it also nominates judiciary from one of the five regions of the United Nations. It will be observed that the judges and prosecutors are elected for a term of 9 years and it is non renewable meaning that the electors cannot remove the judges and prosecutors from office even if the electorate and the governed dislike...The two Vice Presidents and the President of the Court are; These officials are elected from among the judges of the Court and are instrumental in the administration of the Court in collaboration with the registry. Hearing jurisdiction of the court involves the following categories of crimes under international law:

- genocide, or the intention to destroy a national, ethnic, racial, or religious group in whole or in part;
- war crimes, or heinous breaches of the laws of war, including the prohibitions placed by the Geneva Conventions' on torture and attacks on civilian targets, such as schools or hospitals;
- crimes against humanity, or the violations committed through large scale attacks against the civilian populations, or violations committed as part of large-scale attacks against civilian populations, including rape, slavery, torture, imprisonment and murder; and
- crimes of aggression, or the use or threat of armed force by a State against the territorial integrity, sovereignty, or political independence of another State, or violations of the UN Charter.

The court can start investigation into the crimes in one of three possible ways: the situation may be a situation that is within the territorial jurisdiction of a member country may bring such a

situation to the Court; or the UN Security Council may bring a situation to the Court; or the prosecutor may on his own motion, on the basis of information available that there is a situation in a member country investigate the matter. This means that the court has the authority to have suspects from non member states if the offences as in the above allegations were committed in the member state's territory and if the non member state country agreed to the jurisdiction of the court or with the permission from the Security Council. As per the code the prosecutor has to ensure that the crimes alleged are of 'sufficient gravity', and although the prosecutor may satisfy himself thereof after preliminary hearing after the investigation is opened, ahe may satisfy herself / himself thereof after preliminary examination called.

During the investigations which entails both collection of evidence and detection or identification of an offense, the prosecutor will send an investigator or other staff, as the case may be. The arrest warrant or summons for a suspect must be reviewed and authorized by the judiciary on the basis of information that have been presented by the prosecutor. It was by a group of pretrial judges on whether, given certain circumstances, a case should be taken to trial. In criminal trials, defendants are required to be represented by a counsel and they can also engage the services of another counsel to represent them. If needed, the expense of the counsel is met by the court. In a bench trial, it is mandatory that at least of the three judges must vote in order to warrant the conviction and sentencing. In case a convicted person has grounds to believe that the ICC committed an error in his/her case, the characteristic kind of appeal is possible to the Court of Appeal bench that includes five Appeal judges. It can be clearly seen that the ICC is not meant to supplant the national courts but rather work alongside them. Only that is when ICC can step into action when national courts have been seen to be either unwilling or incapable of presiding over a case.

4.3. CASES UNDER INTERNATIONAL CRIMINAL COURT

Muammar al-Gaddafi: The situation in Libya was referred to ICC by the Security Council in 2011, on the basis of the allegations that during the Arab Spring Protests, the Libyan Leader was responsible for killing unarmed civilians. The Court issued arrest warrants for Qaddafi as well as his brother-in-law and his son in June, 2011, but he went into hiding and before he could be apprehended, he was killed. Saif al-Islam (Qaddafi's son) remains a fugitive.

Omar al-Bashir: Bashir, the first sitting president was indicted by the ICC for allegations of genocide, war crimes and crimes against humanity in Sudan's Darfur region. He is accused of planning deportations of members of ethnic groups and mass killings. Bashir avoided arrest by travelling abroad after the assurances of foreign leaders that they won't turn him in. The Sudanese military in April, 2019 ousted Bashir and placed him under arrest due to anti-government protests but they said that they won't extradite him. Sudan' has recently signaled that Al Bashir might appear in the ICC.

Uhuru Kenyatta: The ICC opened an investigation into violence in 2010 that killed more than 1000 people. Kenyatta and five other major political leaders were named as suspects of crimes against war and humanity. The investigation continued as Kenyatta won the presidency in 2013 with another ICC suspect William Ruto as his running mate. The charges against Kenyatta were dropped by the ICC in 2014 and the charges against Ruto were dropped in 2016. Further, the

prosecutor's office claimed that the Kenyan government was uncooperative and the tampering of witnesses made the case fall out.

4.4. LIMITATION OF ICC

It was formed as an international criminal court whose task is to try and punish perpetrators of atrocity crimes, but its capacity is still very restricted. This means that the ICC is actually an organization that implements rules created by member countries and these countries are also subjected to these laws. The ICC has kompeten for only those member states of the world which have joined it voluntarily or those who have been referred to it by the UN Security Council. Also, the ICC has jurisdiction to try persons that committed the crimes after the date the ICC came into force, July 1, 2002. The ICC is however endowed with some limitations, the following being among the key limitations: The ICC has no police force and cannot arrest individuals. It is the responsibilities of the member states to apprehend individuals whenever the ICC finds it appropriate to issue an arrest warrant because the trials cannot take place when the accused is unavailable. As of late, Russia has been captured in the middle of crimes against humanity in Ukraine, warranting an arrest warrant for President Putin through the ICC. However, since both countries are not members of the ICC, the court is ahead of many challenges comes across. SIS Professor Chris Rudolph noted that "Although Ukraine has agreed to accept the jurisdiction of the court concerning the existing situation", it is impossible for Putin to be arrested and be arrested for trial in The Hague. Rudolph then states that Russia is not willing to hand over Mr. Putin to ICC for trial as it would be quite daring for another country to capture him under the arrest warrant if he were to cross through their country. " He stated that ICC history is unimpressive in matters of this nature mentioning the case of Sudan's Omer al Bashir, former president who was not apprehended when he visited South Africa, an ICC member state. For this reason, Rudolph asserts that currently the work of the ICC is to document and assemble instances of criminality in the hope of a trial in the future.

4.5. THE ROME STATUTE

ELEMENTS OF LAW

Some of the important mentions have been clear cut given and explained that we need to understand genocide with various articles given which explain in a more clear way. Where people acting know for a reason that it is a systematic attack towards similar groups of any kind.

35

The word unlawfulness found in the Statute or in other parts of international law as a part of the international humanitarian law, is not mentioned in the elements of crimes. The elements of crimes are accordingly-

³⁵ The Elements of Crimes are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002 (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.B

(a) elements of crime focus on the conduct, consequences and circumstances related with each crime.

(b) A mental element is listed after the affected conduct, consequence or circumstance.

(c) Contextual circumstances are always last in order.

Again the term perpetrator has a mutual relation as to blame or goodness. The elements including the apt mental elements usually apply to a mutatis mutandis those whose criminal responsibility may fall under articles 25 and 28 here.

Particular conduct may involve one or even more crimes.

The need for a mental element provided for in article 30 and recognizing that knowledge of the circumstances will usually be addressed in proving genocidal intention the mental element regarding this circumstance is to be decided by the Court on the basis of merits.

Article 6- Genocide

First, the crime of genocide could be described as having several features that make it distinct: Firstly, the crime of genocide implies specific intent to destroy a group in its entirety or in part, selected on the basis of its nationality, ethnic, racial or religious identity. This act of destruction can be done by several steps, including in this case, the assassination of some of the group members. Furthermore, genocide also entails other acts that result in physical or psychological suffering of the members of the group that is targeted. It also encompasses the utilization of other living conditions that are designed and known to lead to the extermination of the group, in whole or in part. Also, genocide can be committed by utilising measures meant for preventing cases of births within the given group, all in a bid to ensure that the group in question is barred from naturally reproducing. One way of carrying out genocide is through forced assimilation where children from the targeted group is forced to be taken to another group thus eliminating their cultural and lineage background. This broad definition expresses the systematic, rigorous character of genocidal actions and reflects the attempts at the sheer physical and existential obliteration of the targeted groups.

GENOCIDE AND THE KINDS WE DEAL WITH HAVE BEEN STATED UNDER THE STATUTE

Article 6 (a)-Genocide is by killing

The person killed one or more persons. Such person or persons belonged to the same ethical national religious group. The perpetrator intention is to remove that national, ethnical, racial or religious group. The destruction took place in the context of a manifested patterns of conduct directed against that group.

Article 6 (b) Genocide can be caused due to serious body or mental harm

The perpetrator has caused serious harm to the body and mental health to the crowd. People belong to the same ethical, religious, national groups. The perpetrator's intention was to destroy any part of that national, ethnical, racial or religious group.

Killing and Causing Death?

The term killed is not like-minded with the term caused death. This criteria includes killing but is not restricted to acts of torture, rape, sexual violence or inhuman acts.

Art 6 (c)-Genocide to bring about physical destruction

The conditions of life were so to bring about the physical destruction of that very group. This took place in the context of controlled behavior of similar kind manifested and directed against another group to give effect to such destruction.

Art 6 (d) Genocide caused by measures to prevent births

Imposing certain measures to a group of people who belong to the same national, religious groups. Practice was so to prevent births in that very particular group only. The measures are taken into to destroy that very particular group with some manifested plans and conditions.

Art 6 (e)-Genocide by forcibly transferring children

The doer without consent transfers persons. Such people again belong to a particular national, ethnical, racial or religious group. The perpetrator's aim is to remove that national, ethnical, racial or religious group. The term "conditions of life" may include, but is not necessarily restricted to, deliberate deprivation of resources for survival such as food or medical services and systematic expulsion from homes. The term "forcibly" is not only about physical force, but also includes force or coercion that is caused by fear of violence, detention, psychological or abuse of power against such people or by taking advantage in such environment.

Transfer of children who are below the age of 18 years. They knew that the person or persons are 8 years.

Art 7 Crimes against humanity

These are crimes which concern the international community warrant and an individual criminal responsibility and requires steps which is under generally applicable international law as explained by the principal legal systems of the world. The Rome Statute defines fifteen different specific crimes against humanity, emphasizing the severity and the scope of such acts. Some of these offenses include murder as well as rape in that they are a DIRECT AND VIOLENT violations of persons. Detention and forced disappearances are also under the same category,

which are extreme violations of freedom and protection. Another sinful act is enslavement, both of women and children, sexual slavery, and forced subjection of men, women and children thereby dehumanizing them. The statute also embraces torture, which is a way of gaining information through severe pain or suffering. Apartheid known as race discrimination by one racial group over other groups is prohibited internationally and is deemed a crime against humanity. Furthermore, being displaced or forcibly evicted is included as well as deportation or removal of populations, which addresses the magnitude of suffering experienced by persons displaced from their homes. These crimes, in all forms are; demonstrate the need for the ICC in an effort to pin and right wrongs in large scale and systematic continual assaults on civil populations.

ATTACK DIRECTED AGAINST A CIVILIAN POPULATION

To mean a process of conduct involving multiple commission of acts as mentioned to in Statute against any population where an organizational policy to commit such attack. It is not necessary that it involves a military attack. The policy to commit such attack requires that the State or organization actively promote or encourage such an attack against a group.

Article 7 (1) (a) Crime against humanity of murder – which involves murder and killing a human

Art 7 (1) (b) explains Crime against humanity of extermination-The perpetrator killed people including by inflicting conditions of life calculated to bring about the destruction. The conduct constituted, or took place as part of mass killing of members, and committed as part of a widespread or systematic attack directed against a civilian population. Where the one who planned knew it was a systematic one.

Article 7 broadly explains some other crimes that are planned against humans are-

CRIME AGAINST HUMANITY OF TORTURE-

Torture as crime against humanity Crimes against humanity involving torture comprises of practices that inflict severe physical or mental suffering upon individuals as a part of a planned policy directed against any civilian population. This type of torture is not an exception, but rather a regular occurrence that takes place within a context of oppression and/or violence which may be a part of a state-sanctioned campaign, or at least endorsed by the state, or by an organized group. Such acts are generally committed for purpose of threatening, frustrating, or to elicit

information or statements and it is done in a way that is inhuman and degrading to the victim. Torture, as one of the heinous offenses against humanity, is delineated by the Rome Statute of the International Criminal Court thus showcasing the international community's willingness to bring the culprits to justice and provide retribution for the gross violations of human rights through such inhuman treatments.

CRIME AGAINST HUMANITY OF RAPE

A person by conduct resulting in penetration of any part of the body with a sexual organ, or of the anal or genital opening of the victim with any object. Such crime is by threat of force or coercion such as that caused by fear of violence or say duress, detention or taking advantage of any beneficial environment or the conduct was committed against a person not in a state of giving consent.

CRIME AGAINST HUMANITY OF SEXUAL SLAVERY-

It can be explained as attaching to the right of ownership where persons by purchasing, selling, lending or by imposing on forcefully reducing a person to a servile status as defined in the Supplementary Convention on the Abolition Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956. The conduct involves trafficking of women and children.

CRIME AGAINST HUMANITY OF ENFORCED PROSTITUTION-

Enforced prostitution as a crime against humanity is defined as the intentional act and use of force, threats, or deception to make persons engage in sexual activities against their will to be benefited by others. This crime is perpetrated as a part of war or alternatively as a campaign of terror targeting civilians and is often sanctioned or at least condoned by authorities or other organized bodies. Coerced intercourse violates the rights, identity, body and mind integrity of the victims who are subjected to repetitive violence and domination. As defined by the Rome Statute of the International Criminal Court, enforced prostitution as a crime against humanity helps to establish the severity of the sexual exploitation within the framework of the systematic infringement upon human rights and violations of individuals' dignity. There is global law that aims to bring the culprits of such grievous injustices to book as well as give the survivors of these heinous acts their due justice and compensation.

CRIME AGAINST HUMANITY OF FORCED PREGNANCY-

Forced pregnancy as a crime against humanity means unlawful confinement of any woman who has been forcibly made pregnant, for the purpose of altering the ethnic structure of one or the

other population, or for practicing one or the other sinister violations of the principles of the international law. This evil deed is so far provided for in the Rome Statute of the International Criminal Court. The primary feature of forced pregnancy is the forcing of women to complete pregnancies regardless of their consent by rape or other acts of sexual violence, and subsequent detention so as to prevent them from accessing abortion services or evading their captors. The purpose of this crime may involve changing the ethnic ratios in a specific territory or society, asserting dominance over certain populations or to inflict on them extreme anxiety and physical trauma. Perpetrators of forced pregnancy have been brought to justice as a crime against humanity; this helps comprehend the blatant disregard for women's rights and their bodies, as well as the determination of the international community in the fight against such barbarous actions. Based on this heuristic model, enforced sterilization as crime against humanity means something like the unlawful removal of a person's reproductive capacity, against his or her will, in the course of a mass or organized action against a non-combatant population. This evil act seeks to surgically sterilize people and in the process, they remove their reproductive organs without their consent, especially among persons selected from ethnic, racial, or social minorities for demographical or eugenical purposes.

CRIME AGAINST HUMANITY OF ENFORCED STERILIZATION-

Forced sterilization is one of the types of crimes that will be punished according to the Rome Statute of the International Criminal Court as it is considered a violation of the basic human rights to physical integrity. Enforced sterilization victims experience severe physical and psychological consequences, and the crime is one of the most significant violations of personal security and rights. Resolution to deem enforced sterilization as a crime against humanity by the members of the international community underlines the dedication of individuals to safeguard from inhuman and forceful actions and affirm the responsibility of the offenders accordingly.

CRIME AGAINST HUMANITY OF SEXUAL VIOLENCE-

The doing of an act of a sexual nature against a women population or an act of a sexual nature by force threatened of force or coercion, such as that caused by fear of violence, psychological force or The conduct was committed as part of a widespread or systematic attack directed against a civilian population. Basically a systematic planned attack

CRIME AGAINST HUMANITY OF OTHER INHUMANE ACTS-

Such act includes suffering where the perpetrator know that his measures and intention is to make a civilian population suffer be it mentally and physically and in such form that is beyond. One of the main roles of the UN Special Advisers on the Prevention of Genocide and on the Responsibility to Protect is to mobilize action for the prevention of crimes. The first and most

compelling reason for this focus is to preserve human life. Such crimes against humans are on a large scale that needs to be prevented which will avoid large loss of human life and physical, psychosocial and psychological damages. However, there are also other significant reasons to focus on prevention.

Some arguments suggest that the U.S. and the international community lack the political will to control genocide, whereas globally formal institutions necessary to prevent and punish acts of genocide also are unable to control such crimes. Coordination and political powers seem to have taken a turn for the better in the last decade. Recognition of the factors that trigger early warning systems, political will and international cooperation are positive basis in the real prevention of genocide.

CHAPTER 5 ROLE OF THE OFFICE OF THE PROSECUTOR UNDER ROME STATUTE

5.1. ORGANIZATION OF THE OFFICE OF THE PROSECUTOR

This distribution of the structure of the Office of the Prosecutor reflects significant careful discussions with recognized and experienced professionals in many different fields concerning the Office's work during the creation phase of the first year of the Court. Another presupposition made during this process was to concentrate investigations and prosecutions of the International Criminal Court by reference to the leadership responsibility, as mentioned above. This vocation can only be accomplished with a best practice as the foundation of the organization rather than replicating the past criminal justice paradigms that are generally equipped to handle bulk of not-so-much dissimilar and frequently petty offences. The Court does not have jurisdiction or standing with respect to any particular country or region of the globe, which means that the investigatory and analytical processes involved with respect to the facts of a case and its background will vary based on the circumstances in each case. Such a conclusion can be made only if changed for a project-oriented rather than a static structure of an organization's organization. Thus, the nature of Investigative Procedures suggests that the composition of Investigation Teams must reflect the needs and facts of a specific case. Very bureaucratic organization based on post levels and strict hierarchy would be quite unproductive. The structure of the Office of the Prosecutor described below forms the nucleus of a fully operational international prosecution service: this general body of permanent employees measures, defines and establishes the standards of quality for the organization, responsibility for the formulation and implementation of its policies while incorporating and utilizing additional external staff hired on a need basis. This table should allow the Office of the Prosecutor to have a maximum of two simultaneous Preliminary Examinations or Evaluation Teams and a maximum of three investigations of situations – on the basis that one situation is likely to involve several cases of concern.

5.2. OFFICE OF THE PROSECUTOR

OTP is an independent organ of the court it was established to perform the legal function of investigation and prosecution. It is tasked with the function of identifying cases within the jurisdiction of the Court in regards to which genocide, crimes against humanity, war crimes and aggression have alleged to have been committed and where conducts the investigations and the prosecution of the individuals who are considered to bear the greatest individual responsibility for the said crimes. It is the first time in history that an international Prosecutor has ever been entrusted with such a task and responsibility of selecting situations for investigation on his/her own/ single handedly where atrocity crimes have been perpetrated or are in process of being

perpetrated on the territories of such States or by their subjects. The Prosecutor and Deputy Prosecutors are appointed by the ASP for non-renewable term of nine years following a voting system just like the Court judges.

5.3. THE CRIMES

First, the crime of genocide could be described as having several features that make it distinct: Firstly, the crime of genocide implies specific intent to destroy a group in its entirety or in part, selected on the basis of its nationality, ethnic, racial or religious identity. This act of destruction can be done by several steps, including in this case, the assassination of some of the group members. Furthermore, genocide also entails other acts that result in physical or psychological suffering of the members of the group that is targeted. It also encompasses the utilization of other living conditions that are designed and known to lead to the extermination of the group, in whole or in part. Also, genocide can be committed by utilizing measures meant for preventing cases of births within the given group, all in a bid to ensure that the group in question is barred from naturally reproducing. One way of carrying out genocide is through forced assimilation where children from the targeted group is forced to be taken to another group thus eliminating their cultural and lineage background. This broad definition expresses the systematic rigorous character of genocidal actions and reflects the attempts at the sheer physical and existential obliteration of the targeted groups.

Second, International Criminal Court (ICC) has the power to proceed on crimes against humanity that include severe violations that are committed as a part of planned attack against civilian population. These egregious offences which are spelt-out in Rome Statute are also many and diverse implying the various categories of crimes against humanity that can be perpetrated against people. The Rome Statute defines fifteen different specific crimes against humanity, emphasizing the severity and the scope of such acts. Some of these offenses include murder as well as rape in that they are DIRECT AND VIOLENT violations of persons. Detention and forced disappearances are also under the same category, which are extreme violations of freedom and protection. Another sinful act is enslavement, both of women and children, sexual slavery, and forced subjection of men, women and children thereby dehumanizing them. The statute also embraces torture, which is a way of gaining information through severe pain or suffering.

Apartheid known as race discrimination by one racial group over other groups is prohibited internationally and is deemed a crime against humanity. Furthermore, being displaced or forcibly evicted is included as well as deportation or removal of populations, which addresses the magnitude of suffering experienced by persons displaced from their homes. These crimes, in all forms are; demonstrate the need for the ICC in an effort to pin and right wrongs in large scale and systematic continual assaults on civil populations.

Third, the ICC jurisdiction for war crimes are considered serious violations of the Geneva Conventions in connection with armed conflict. These are some of the grave breaches of international humanitarian laws, and they are many and include several horrendous acts. The war crime that the ICC can handle includes listing children to engage in hostilities, this includes forcefully recruiting or enlisting persons below the age of 15 years, it deprives them of their childhood and exposes them to serious risks. Also, violation of medical services and personnel, as well as the killing or torture of protected persons – non-combatants and prisoners of war or individuals that are incapacitated and no longer able to fight are some of the acts that are against the principles of human dignity, and the laws of armed conflict.

Another broad area of war crimes relates to deliberately launching attacks on non-targets, which represents persons or objects innocent under humanitarian law. This includes such facilities as hospitals that are homes to the wounded and sick; historical and cultural landmarks, which are significant due to their history; and the buildings that are used for religious, educational, artistic, scientific or charitable purposes that are essential for the social and cultural life of people in communities. The fact that these extremities go out of their way to attack such protected areas is a blatant attempt to not only kill civilians and destroy infrastructure, but to chip away at the cultural and moral fabric that people hold dear. But war crimes do not only comprise of the mentioned acts but includes many other that are against the laws of war and humanity.

These crimes explain the role of the ICC as an institution that supports international humanitarian law, to ensure that people who perpetrate these types of violations face justice for their actions, and for the victims to seek justice when they have been affected by these heinous acts. It is crucial for war crimes to be pursued so as to uphold the principles of international law

and to safeguard the commonly enshrined principles of humanity amidst conflict.

5.4. HOW DOES OTP STARTS ITS OPERATION?

Under article 13 of the Rome Statute, there are three ways the exercise of the Court's jurisdiction can be triggered where crimes under the Court's jurisdiction appear to have been committed. In all three instances, the Prosecutor must carry out an independent and impartial evaluation before deciding to proceed:

- a) ³⁶A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14
- b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or – this happened in the situation of Dafur Sudan
- c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15- this happened in the case Kenya

Another way is for A State not Party to the Statute in which the crime was committed may also come and accept jurisdiction for exercise on an ad hoc basis by filing a declaration under article 12(3) of the Rome Statute. An ad hoc declaration, as certain commentators have noted, is not equivalent to a referral and still, calls for the activation of the Court's jurisdiction – which may be triggered by one or more States Parties referring a situation or by the Prosecutor requesting the authorization of the judges.

The Court, under its jurisdiction, may address any member of the Rome Statute crime taking place in the territory by the nationals of state party. The same would apply where a State not Party to the Statute submits an application with the Court.

The only situation that does not cover above is where the UNSC referred a situation under Chapter VII of the Charter of the United Nations: which encompasses any situation involving any member state and this may include situation with regard to the territory of a state not a party to the Rome statute.

5.5. PRELIMINARY EXAMINATIONS

The OTP conducts preliminary examinations to determine whether there is a reasonable basis to proceed with an investigation based on criteria such as jurisdiction, admissibility, and the interests of justice (**Article 53**).

National jurisdictions remain principally accountable, in the first place, for investigating and sanctioning the culprits of mass crimes. The Court will thus conduct investigations solely when the national authorities have been regressive to this core mandate as prescribed in the Rome Statute and in the absence of authentic national proceedings.

³⁶ Schabas, W. A. (2010). The International Criminal Court : A commentary on the Rome Statute. In *Oxford University Press eBooks*. <https://doi.org/10.1093/law/9780199560738.001.0001>

5.6. INVESTIGATIONS

In general, the OTP dispatches missions – mainly comprising investigators, cooperation advisers, and if applicable, prosecutors – to the affected countries, gathers and reviews various types of evidence, and interrogates a list of persons which may form the accused, victims, and witnesses. For these activities, OTP relies on support and cooperation of the States Parties, International and Regional organizations/ institutions, and civil society. OT Institutional procedure in the collection of evidence: In an attempt to single out the most serious cases and those most guilty for these crimes, the OTP begins the entire process of compilation of evidence. The OTP has a responsibility to collect both the evidence which points to the guilt of a person and the evidence that shows the innocence of that person to get to the bottom of certain circumstances.

The above mentioned clearing information is also part of the case proceedings to be provided to the Defence teams. However, once the OTP believes that it has amassed enough proof that can be presented before the judges to demonstrate an individual's liability for a crime within the jurisdiction of the Court, the Office will apply for a warrant of arrest or a summons.

5.7. APPLYING FOR ARREST WARRANT AND SUMMON TO APPEAR

Based on the investigation the Prosecution officer submit a request to ICC Judges asking them to issue warrant or summon to appear under **Article 58** of the Rome statute.

If the judges find out that there is credible proof that a certain individual engaged in criminal activity within the jurisdiction of the Court, then an arrest warrant can be issued. This measure is taken to ensure several critical objectives: ensuring that the individual is available for trial, whether or not they will play an active role in proceedings; to protect not only the investigation and Court processes, but the individual from potential disruption and threats of interference; and to try to eliminate the chances of the individual continuing with the criminal activities under consideration. It follows that the issuance of an arrest warrant is one of the most critical tools of the judicial process in maintaining the decency of judicial procedure and the preservation of justice. It helps to see that the accused endures the trial, does not deter the progress of justice and is discouraged from perpetrating other crimes.

Whereupon, it is left within the power of the judges to issue summons in a certain case to appear within court, so long as the judge is satisfied that there are grounds that would warrant a belief

that the summons will be sufficient to compel the person to attend court. When defendants are served with summonses to appear in Court they require to attend Court of their own accord. While these defendants are also defendants in a criminal case, they are not arrested but rather served with a summons which is a less punitive method than an arrest warrant. When issuing a summons, the Court assumes good-faith of the defendants with regards to the issued order to appear before the court and engages in the proceedings without resorting to confinement. Beyond that, this approach also means that the Court believes that the defendants are going to cooperate willingly and it also reflects the reasonable usage of the judicial power primarily that arrests should be used when a summon seems insufficient for making people to follow the court's instructions.

5.8. PROSECUTIONS

When the suspect facing an arrest warrant or has a summons to appear before the court is apprehended or comes to court willingly, the OTP has to advance reasons before the judges during the Pre-Trial phase arguing that there is sufficient reason to move the case to the next stage, which is the trial. Thus, at the present stage, the Chamber of Appeals judges are tasked with analysis of the given evidence and decision-making on whether the OTP charges against the defendant are to be confirmed, dismissed, or sent back to the Appeals Chamber. In the next step, it is further referred as a case to the trial when the judges approve the charges against the persons. The OTP has the primary burden of an accusation when the community is undergoing the trial phase of the prosecution. The evidences that would determine the innocence or guilt of the accused lie on the OTP and they should prove beyond any reasonable doubt that the accused is guilty. In this regard, the OTP can tender any of the following: documents, real evidence and/or records, and other forms of testimonial evidence.

As with any case presented by the OTP, the Defense is granted the opportunity to cross-examine the witnesses to guarantee an intense investigation. Similarly, the witnesses of the Defense can be subjected to questioning by the OTP and facilitate comprehensive assessment of the circumstances. During its work in the judicial process, the OTP is expected to provide information that may be adverse to or in favor of the accused to the Defense. This requirement shows that during OTP investigation, it is supposed to collect all information that could be connected to investigating case in order to reveal the truth concerning the circumstances of some

event. Publishing of such information makes certain that the Defense has all the details as they defend against the charges preferred against them by a Prosecution. As it has been established earlier, after the OTP has delivered all its proofs and witnesses, then it is the turn of the Defense to present their case. However, during their defense, the accused can present their own evidence, call the witnesses and interrogate OTP allegations.

5.9. CHALLENGES AND CRITICISMS

1. **Political Pressure and Selectivity:** One of the major criticisms of the OTP is the perception of selectivity and susceptibility to political pressure. Some states and commentators argue that the OTP's case selections have been influenced by geopolitical considerations, leading to accusations of bias, particularly against African states. For example, the OTP's focus on African situations has been a point of contention, despite arguments that these cases were referred by African states themselves or by the United Nations Security Council.
2. **Resource Constraints:** The OTP often operates under significant resource constraints, which impact its ability to conduct thorough investigations and prosecutions. Limited funding and personnel resources can affect the efficiency and effectiveness of the OTP's work. This is particularly challenging given the complexity and scope of international criminal investigations.
3. **Cooperation from States:** The effectiveness of the OTP is heavily dependent on the cooperation of states, which can be inconsistent. States are crucial for the provision of evidence, the arrest and surrender of suspects, and the protection of witnesses. Lack of cooperation, as seen in the cases against Omar al-Bashir and other high-profile fugitives, hampers the OTP's ability to fulfill its mandate.
4. **Balancing Justice and Peace:** The OTP often operates in conflict zones where the pursuit of justice can be seen as conflicting with peace processes. This tension is exemplified in situations like Uganda and Colombia, where the OTP's actions have been scrutinized for their potential impact on ongoing peace negotiations. The challenge is to pursue accountability without undermining peace efforts.

CHAPTER 6 CONCLUSIONS AND SUGGESTIONS

Genocide can be traced back to prehistoric era of human history and some reason has been mostly fostered with the zeal for power and control. The participants in the early state systems of organization pursued different forms for practicing genocide throughout the centuries from the extermination of entire nations and peoples to the more systematic ethnic cleansing during the colonization of different countries. At the same time, genocidal violence is not an issue of the past only; today's world threatens with genocide, proving the fact of the problem's timeliness. This section focuses on the analysis of genocide with references to historical and modern cases, exploration of the UN Convention aiming at prevention and punishment of genocide and continuing challenges to prevent this catastrophic crime. Thus, through the consideration of the case of Darfur genocide and providing recommendations on the resolution of the problem, this section seeks to stress the significance of alertness and preventive measures in stopping genocide cases in the future. The barbaric act of exterminating certain groups has been a common occurrence in society with genocide as the principle act.

Throughout history, many ancient civilizations, such as the Roman Empire, Egyptians, or Mongol Empire, which consisted of thousands of people, used genocide as a method to control and tame Potential foes. These early occurrences provided precedent for the systematic and ruthless wiping out of groups which were considered unfavorable by the rulers. It needs to be noted that the modern genocides have been motivated on ideological, racial and ethnic bases whereby we have observed referential genocides like the Armenian Genocide, the Holocaust and the Cambodian Killings Fields. Such acts of cruelty show that mass killings do not remain a singular occurrence but instead require effective prophylactic strategies. The genocide afterword of the modern society remains a burning issue due to nationalism, ethnic intolerance, and autocratic power endorsement of genocide by regimes all over the world In this respect, there is a dire need for an optimistic international reaction against genocide more so in forthcoming dispensations.

The United Nations convention on the prevention and punishment of the crime of genocide 1948 is considered unique in the world. The Convention recognizes legal concepts that lead to the definition, prevention, and punishment of genocide also setting the international community against the committing of this abominable crime. While the previous definition of genocide is

quite vague and has been used to delay more concrete measures, it defines genocide as acts with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, which gives the international justice a clear and practicable starting point. As vital as this Convention may be, complications often arise in enforcing it due to sovereignty, political interests, and an absence of efficient legal framework. Considering these challenges that follow the acts of genocide, the international community is occasionally able to implement methods to prevent and punish genocidal acts effectively.

The Darfur Genocide: The conflict in Darfur that began in the beginning of this century also brings out a great concern into the attempts by the international community in handling genocide. Emerged from political, economical and social factors the genocide in Darfur was one of the most severe crimes in the beginning of the 21th century and claimed hundreds of thousands lives and forced millions of civilians to flee. Denial of services by the Sudanese government to the citizens of Darfur as well as favoritism they showed to the Arab groups made the non-Arab vernacular ransack and shift towards violence. The tensions rooted by ethnic hatred that was encouraged by the government in order to promote authority resulted to the conflict; government supported militias known as the Janjaweed who are notorious for the racial violence against non-Arab population. International structures focused on early prevention and investigation of this crime, characterized by delays and inefficiency, exposed the shortcomings of existing approaches. even though the UN made lots of resolutions and sanctions, the effective intervention by the various actors was not possible due to political influences, and lack of unity of action. The Sudanese genocide of the Darfur region is a good example why timely and proactive intervention by the international community of human rights organizations is essential to stop such evil acts.

6.1. HELPING TO OVERCOME GENOCIDE IS NOT AN EASY TASK.

Providing help in tackling genocide is a very complex process. Ironically, still decrying inadequacies in international legal frameworks, problems with enforcement and lack of accountability; coupled with national self-interest, and the politics of power compromise efforts

to halt genocidal violence. The implementation of provisions of the UN Convention encounters some problems, one of which is reluctance from national governments and lengthy processes of assembling appropriate evidence for prosecution. Second, the efforts towards prevention of genocide as well as punishment of those who engage in genocidal actions are compounded by the political impact of the global polity. National interests merge with responses towards them, which makes such actions erratic and often insufficient in counting down genocidal regimes. The two genocides one in Rwanda and the second in Bosnia shows how drastic global responses were inadequate and delayed putting into account the cost of human lives as well as the physical and emotional suffering of the victims. Having noted these challenges, there is need for intensified and efficient approaches to combating genocide at the international level.

Early warning and prevention of any misuse for a specific facility is very crucial for two reasons as discussed below. The first reason is that an early warning act as an alert for organizations and its management on the level of the misuse incorporated to a particular facility.

A breakthrough in formulating guardrail mechanisms to stave off genocide is the capacity of reliable early warning. These mechanisms entails the observation of factors of risk leading probable genocidal violence, political instabilities, social tensions, human rights violations among others. Proactive and quick supply of information within the international community of states and international organisations will greatly affect the abilities to address genocide. This is necessary due to the fact that exchanges related to the collection and distribution of information concerning potential threats are critical in the development of timely intervention measures. The concept of early warning system thus underlines the idea that genocide can be prevented if the international community responds to it rapidly whenever features of genocide appear. Non-military, economic, and if the case may be military should be used in order to respond to any emerging threats. As the successful case of Macedonia in the beginning of 2000s, when an early intervention was possible, it is clear that genocide can indeed be prevented by using early intervention policy coordinated by the international community and other states.

The UN Convention on the Prevention and Punishment of the Crime of Genocide needs to be made more effective, to bring improvements in its functions. This could have resulted in entering new clear provisions for the interferences and applying types of follow-up and enforcement with reference to the members, as well as refining and cementing more bilateral and multilateral partnerships among the members of the Convention. Moreover, guaranteeing that global courts like the ICC is supported appropriately and improving the status of these courts as to prevent them of being inefficient in prosecuting or investigating alleged offenders is significant. One of the crucial aspects of combating the above-mentioned phenomena, which has not yet been paid sufficient attention, is the necessity for the member states of the United Nations to actively cooperate in sharing information, in providing resources in order to implement the Convention, as well as in organizing delegations to address emerging threats. The accountability of states, including reporting of non-compliance in the prevention and punishment of genocide, mechanisms for the review and other facets and penalties for non-compliance with the outlined initiatives should also be established.

6.2. ROLE OF EDUCATION AND AWARENESS EDUCATION AND AWARENESS HOLD A PARAMOUNT PLACE IN THE CONSERVATION AND SUSTAINABILITY OF NATURAL RESOURCES IN TODAY'S WORLD.

Since one of the contributory factors of genocide is lack of awareness resulting from lack of education, then there is need to educate the populace and the world at large the signs of genocide, the causes and the impacts of such incidents if they recur. Some of the interventions that can be taken through awareness campaigns include; Open Awareness: The communities become aware of early intervention signs. Incorporation of genocide studies to teaching curricula of learning institutions at different levels is essential in enhancing individuals awareness on factors leading /to genocide and the need to prevent such occurrences. This education may also generate positive effects such as empathy and a believe in human rights. In this sense, the media and public campaigns are especially valuable since they contribute actively to raising awareness of genocide as well as disseminating information on historical and current genocides, making people aware of prevention methods and putting political pressure on the international community to improve the situation.

According to George Mukabi, it will be important for organisations involved in the combating of genocide to foster strong cooperation. Despite the difficulties, there is no doubt that international organisations, governments and non-governmental organizations (NGOs) have to act in order to prevent genocide from occurring in the first place as well as to be ready with adequate reaction in case it becomes a threat. The partnership between international organizations like the United Nations, International Criminal Court, and various other players can create better synergism in prevention and possible intervention. There are essential collaboration activities, which include a sharing of information and efforts in jointly pursued projects. One of the ways through which the capacity of man, nations and organizations in preventing or responding to genocide can be boosted is through the sharing of best practices and resources through exchange of information, trainings and technical assistance.

6.3. SUPPORTING VICTIMS AND SURVIVORS

Promoting well-being of the victims and survivors of genocide is important to facilitate their recovery and rehabilitation. The need for post-disaster support of any kind can encompass psychological assistance through the means of counseling and therapy to assist in the healing of traumatized individuals and monetary assistance to help rebuild the lives of affected individuals. There is therefore the great need for the development and implementation of comprehensive rehabilitation and reintegration programs and support structures aimed at helping survivors reconstruct their lives and renew the fabric of their societies through gainful employment, education, counseling and other support. One of the key points remains to offer legal help to the victims and help them get justice and indemnification. Other intervention modalities that can further be considered are community agencies such as community centers and support group organizations whose aim would be to help in the recovery process.

6.4. SUGGESTIONS

New technologies, including data analytics and AI, can be a considerable contribution to the prevention of genocide occurrences. These technologies can augment existing early warning systems, identification assessment, and reinforcement of intervention mechanisms. Big data and Machine learning can help in making pattern analysis of a large amount of data and map possible genocidal violence and take early action when governments and intergovernmental organizations can stop it. There should be emphasis on changing Information and communication techniques in international diplomacy including preventive diplomacy and peace building. These should involve conflict solving and bring about reconciliation, as it promotes the maintenance of peace and human understanding.

Overall, it can be stated that the issue of genocide is very multifaceted to be solved solely by the efforts of one country or organization, that is why the effective response to this problem demands enhanced international cooperation, legislation, increase in consciousness among people, and use

of technologies. The journey which has been made in Darfur clarify the problems' endurance and stress the significance of early and vigorous international intervention. To address the issue of genocide, there is a need to be aware all the time, be always on the lookout for the next act of genocide and develop measures as well as make certain that the world is out there to defend human rights and shield the genocidal targets. Demands international cooperation to fortify continued existing initiatives directed towards the aid of victims and survivors, also to establish a long lasting culture comprising of zero tolerance to instances of human rights abuses. Thus, it is possible to contribute to the cessation of further mass killings and render justice to victims, as well as to appeal to the mainstream values and principles of society and state, which are oriented on protecting people from mass atrocities.

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