

## THE CRIME OF GENOCIDE AND POTENTIAL NEW INTERNATIONAL CRIMES

### *Summary*

The crime of genocide was first defined by the Genocide Convention (1948), and this definition was subsequently repeated in the statutes of international criminal courts. However, in the legislation of individual states and in the practice of international criminal tribunals, there is a tendency to expand this crime so that acts such as torture, mass rape, and others are also considered genocide. This is unacceptable, as it may lead to various abuses and undermines the distinct gravity of genocide. It would be much better and more useful to distinct such crimes – crimes against humanity, which in some ways resemble genocide – as separate international criminal offenses, and even introduce completely new criminal offenses. This paper examines the place of genocide among other criminal offenses, points to the tendency to expand the concept of genocide, and considers potential new international criminal offenses. Some of these have already been criminalized in some way (such as sexual crimes and ethnic cleansing), but it would be useful to give them a new identity and independence by regulating them under a dedicated universal convention. Others are known mainly only in academic literature (such as ethnocide, democide, massacre, ecocide, biocide). The author also offers his proposal for a new crime of humanicide, by which he means the extermination of the entire human race or a significant part of it (i.e., the vast majority of people).

**Keywords:** Genocide, Democide, Humanicide, Sexual Crimes, Ethnic Cleansing, New International Crimes.

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## ZLOČIN GENOCIDA I MOGUĆA NOVA MEĐUNARODNA KRIVIČNA DELA

### *Sažetak*

Zločin genocida definisan je Konvencijom o genocidu (1948), a definicija je zatim ponovljena i u statutima međunarodnih krivičnih sudova. Ipak, u zakonodavstvima pojedinih država i u praksi međunarodnih krivičnih tribunala zapaža se tendencija proširenja tog zločina, tako da se genocidom smatraju i mučenje, masovna silovanja i dr. To nije prihvatljivo jer vodi raznim zloupotrebama, ruši prestiž genocida, itd. Mnogo bolje i korisnije je izdvojiti one zločine protiv čovečnosti koji po nečemu liče na genocid kao posebna međunarodna krivična dela, pa čak uvesti i neka potpuno nova krivična dela. U ovom radu obrađuje se mesto genocida u odnosu na druga krivična dela, ukazuje se na tendenciju proširenja pojma genocida i razmatraju se moguća nova krivična dela. Neka od njih su već na određeni način inkriminisana (seksualni zločini, etničko čišćenje), ali bilo bi korisno da dobiju novi identitet i samostalnost tako što će biti uređena posebnom univerzalnom konvencijom, dok su druga poznata uglavnom samo u naučnoj literaturi (etnocid, democid, masakr, ekocid, biocid). Autor daje i svoj lični predlog novog zločina humanicida, pod kojim ima u vidu ubistvo čitavog ljudskog roda ili značajnog dela istog (ogromne većine ljudi).

**Ključne reči:** genocid, democid, humanicid, seksualni zločini, etničko čišćenje, nova međunarodna krivična dela.

### 1. The Place of Genocide among Other Crimes

Genocide can be understood in various ways – primarily as a negative social phenomenon (genocide in the broader sense) and as a legal institution, a legally sufficiently precisely defined crime (genocide in the narrower sense).

In its broader understanding, genocide is often discussed, and various situations are qualified as genocide by individuals or groups who are interested in these issues for various reasons. Within these frameworks, no precise definition of genocide exists, nor can one exist, since such assessments are subjective and often made under the influence of emotions, bias, insufficient information, insufficient competence, and similar factors. Such assessments cannot be influenced. They

will always exist, and different actors will label the same situation in different ways - some as genocide, others a different form of criminal act, while still others may even deny that any crime has occurred.

However, genocide is primarily a legal institution, and one that originated within the domain of international law. This means that, like any legal institution, it must be understood and defined as precisely as possible. This requirement is even more pronounced in this case, as genocide is one of the most important institutions of international criminal law – and criminal law, by its nature, requires particular precision.

Indeed, the crime of genocide was first introduced by the non-legally binding UN General Assembly Resolution No. 96 (I) (1946), and was subsequently defined with legal precision in the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter: the Genocide Convention, or simply the Convention), which was adopted in 1948, and entered into force in 1951.

According to the definition contained in Article II of the Convention, genocide is: “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: a) Killing members of the group; b) Causing serious bodily or mental harm to members of the group; c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d) Imposing measures intended to prevent births within the group; e) Forcibly transferring children of the group to another.” This definition forms the foundation of all discourse on genocide, understood as an international crime.

This definition was reaffirmed in the following years through its full adoption and incorporation into the statutes of various international *ad hoc* criminal tribunals. We can find it in Art. 4 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (1993), and in Art. 2 of the Statute of the International Criminal Tribunal for Rwanda (1994), as well as in the founding documents of the so-called mixed or hybrid criminal courts – for example, in Art. 4 of Regulation No. 2000/15 of the UN Transitional Administration for East Timor (2000), and in Art. 4/1 of the Cambodian Law on the Establishment of Extraordinary Chambers in Courts for the Prosecution of Crimes Committed during the Time of Democratic Kampuchea (2001, as amended in 2004).

Of particular importance is the fact that the international community, through the Rome Statute (1998), which established the permanent International Criminal Court, once again affirmed that it considers genocide to be precisely what is defined in the Genocide Convention. Although adopted half a century after the Convention, the Rome Statute, in Art. 6, contains the same definition of genocide. This reaffirmation occurred despite various proposals in the intervening years to

expand the definition to include additional acts – such as ethnic cleansing, cultural genocide, torture, mass rape, and others – or to recognize new protected groups, such as political, social, or gender-based groups.

For the time being, there is no internationally recognized definition of genocide that differs from that set out in the Genocide Convention. Until that definition is amended through changes to the Convention itself or until it is replaced by a new universal treaty ratified by a large number of states, it will remain the standard for determining whether a given case constitutes genocide or another criminal act.

In this regard, we must acknowledge that “the definition of genocide was not an unfortunate drafting compromise, but rather a logical and coherent attempt to address a particular phenomenon of human rights violation, the threat to the existence of what we would now call ‘ethnic’ groups,” and that it has stood the test of time and is unlikely to be changed in the foreseeable future (Schabas 2008, pp. 190).

In many ways, genocide is the closest in nature to war crimes and, in particular, crimes against humanity. Indeed, prior to the UN General Assembly Resolution 96(I) (1946) on Genocide and the Genocide Convention (1948), there was no specific criminal act bearing the name or possessing the distinct legal characteristics of genocide in either international or domestic law.<sup>1</sup>

Since the Genocide Convention entered into force in 1951, only those acts that meet all the requirements set out in the Convention regarding the specific acts committed, the existence of a specific genocidal intent, and the targeted group, can be considered the crime of genocide. These factors serve as a framework for assessing whether the crime of genocide has occurred in a specific case.

More specifically, for the crime of genocide to be established, it is necessary to prove: 1) that it was committed exclusively by way of one of the five genocidal acts listed enumerated in the Convention; 2) that there was genocidal intent; and 3) that the targeted group qualifies as an ethnic, national, racial or religious group. If even one of these elements is absent, the act in question may constitute another crime – most likely a crime against humanity or a war crime – but it does not amount to genocide.

Contrary to the view expressed in some judgments of the International Criminal Tribunal for Rwanda (Kambanda, 1998, para. 16; Serushago, 1999, para. 15), and in parts of legal literature (Schabas, 2009, pp. 49-55; Murray, 2011, pp. 589-615; Rafter, 2016) that genocide is the crime of crimes (i.e., the most serious of all crimes), genocide is not, in general, the most serious crime under international law. That designation, in principle, belongs to aggression, which aside from being one of the

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<sup>1</sup> What we mean by genocide today was included in the Nuremberg Charter (1945) as a crime against humanity; however, it was neither recognized as a separate crime or even a distinct form of crime, nor was it given a specific name, nor were its elements precisely defined.

most serious crimes in itself, creates the conditions for the widespread commission of other international crimes, including war crimes, crimes against humanity, and even genocide.<sup>2</sup>

On the other hand, while genocide is not necessarily the most serious crime in principle, it is considered the most hateful and abhorrent crime, one that provokes particular condemnation and contempt. This is because genocide involves a deliberate, systematic and planned destruction, in whole or in part, of entire social groups solely on the basis of their national (ethnic) origin or religious affiliation. The victims include both men and the most vulnerable segments of society – women, children, and the elderly.

These factors underscore the necessity of clearly distinguishing genocide from other similar international crimes.

## **2. The Tendency to Expand the Concept of Genocide**

With slight stylistic variations in their legislation, the vast majority of states have adopted the definition of genocide as set forth in the Genocide Convention. However, both within the national (domestic) legal systems of several countries and at the international level, there is a noticeable tendency to expand the scope of genocide – meaning that certain acts falling outside the framework established by the Convention are nevertheless considered to constitute this crime. This primarily concerns the introduction of new genocidal acts or the recognition of new protected groups.

Some acts not included in the Genocide Convention but considered acts of genocide under the law of certain states include: deportation for the purpose of genocide, which extends beyond children (as stipulated in the Convention's provision on forcible transfer of children) to encompass all "persons pertaining to national, ethnic, racial or religious group" (Italian Law on Prevention and Repression of the Crime of Genocide, 1967, Art. 2); "subjection of a protected group to cruel, degrading or inhumane living conditions and practices" (Portugal Penal Code, 1982, Art. 239/1/c); sexual assault on members of the group, forcible transportation of the group or its members, any measure "aiming at the preventing the lifestyle" of the group; forcible transfer of individuals (not limited to children) from one group to another (Spanish Criminal Code, 1995, as amended, Art. 607/1); rape, sexual enslavement, enforced prostitution, forced pregnancy, enforced sterilization or

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<sup>2</sup> Although crimes against humanity and genocide can be committed in times of peace, in practice, they are often associated with armed conflicts. In contrast, war crimes are characterized by the fact that they can only be committed during periods of armed conflict (More: Krivokapić, 2023, pp. 69-70, 1187-1277).

any other form of sexual violence of comparable gravity; acts that forcibly prevent a group from settling or remaining in a geographical area it traditionally or historically recognizes as its own; widespread confiscation or seizure of property owned by members of the group; prohibition of members of the group from engaging in certain commercial, industrial or professional activities; spreading an epidemic that may cause the death of members of the group or violate their physical integrity; and prohibition, denial or obstruction in any way in providing members of the group who need humanitarian assistance to combat epidemic situations or severe food shortages (Timor-Leste Penal Code, 2009, Art. 123/1/c-e, g-j); among others.

In addition, the national legislation of certain states has expanded the scope of protected groups beyond the four protected groups provided for in the Genocide Convention (national, ethnic, racial or religious groups). For example, they have added “another comparable group” (Finnish Penal Code, 1889, as amended, 2012, Art. 6), which goes beyond the scope of the Convention and opens up room for various interpretations, errors and abuses; “specific groups determined by the disability of its members” (Spanish Criminal Code, 1995, as amended, Art. 607/1); “a group established by reference to another arbitrary criterion” (French Penal Code, 1994, Art. 211/1): “*identifiable group*” specifying that such a group denotes “any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability” (Canadian Criminal Code, 1985, Art. 318/4); among others.

On the other hand, the international Criminal Tribunals for the Former Yugoslavia and Rwanda, using overly broad interpretations and certain legal constructions, concluded that genocide can be committed through acts such as mass rape or deportation, under the concept of so-called local genocide, and even through the killing of only a few or even a single person. Interestingly, both the UN General Assembly (Resolution “Rape and Abuse of Women in the Areas of Armed Conflict in the Former Yugoslavia,” A/RES(51/115, 1996) and the Security Council (Resolution 1820, 2008) concluded that, under certain conditions, rape and other forms of sexual violence may constitute acts of genocide.

These are separate issues and will not be explored in detail here. They are characterized by the uncritical transformation of other criminal acts – primarily certain crimes against humanity – into the crime of genocide. This is unacceptable, as these are distinct categories of international criminal acts. In confirmation of this distinction, it is sufficient to note that genocide and crimes against humanity are defined separately in different articles (Art. 6 and Art. 7) of the Rome Statute.

On the other hand, the obvious tendency to single out certain crimes against humanity – such as torture, mass rape, and others – as more serious than other crimes within the same category suggests that it may be time to consider introducing

new categories of international crimes. Indeed, there appear to be certain crimes that, while similar in nature to genocide, do not constitute that crime (and should not be forcibly classified as such) and objectively, for several reasons, including their gravity, mass nature, frequency, etc., deserve to be singled out from the collective category of “crimes against humanity” as a distinct form of international crime.

### **3. New International Crimes**

There is an increasingly evident need to identify and precisely define new international crimes. This is at times dictated by life itself, and there is nothing controversial about that.

Historically, when the need arose, new categories of international crimes emerged – crimes against peace, i.e., the crime of aggression, crimes against humanity, criminal acts against internationally protected persons, the crime of apartheid, international terrorism, hijackings and other acts against the safety of civil aviation, unlawful acts against the safety of platforms above the epicontinental belt, and others. Incidentally, in much the same manner, when the conditions were deemed appropriate, the crime of genocide was itself formally recognized and defined.

Another argument in favor of clearly identifying these crimes is the objective need to recognize and distinguish them from the crime of genocide. Upon closer examination, this serves several important purposes:

- As a matter of principle, it promotes a better understanding and further development of international law by introducing new and more precisely defined categories and refining existing institutions, helping to resolve overlapping legal solutions and fill legal gaps;
- It advances the goal of achieving true justice in specific cases before international and national criminal courts;
- It acts in favor of these new crimes themselves, which thereby acquire own identity and recognizability) and, finally,
- It contributes to a better understanding and development of the institution of the crime of genocide by eliminating the reasons for mislabeling situations that objectively do not constitute genocide.

In this regard, the following section will seek to highlight certain concepts and specific criminal offenses that, in our view, should either be further developed as institutions of international criminal law, or introduced as entirely new legal solutions.

Although every murder can be reduced to the deprivation of a person's life, it is not always the same phenomenon. In this sense, for example, we speak of homicide

(murder, i.e., the unlawful taking of another's life), fratricide or sororicide (the murder of a brother or sister), regicide (the murder of a ruler); and so on. On the other hand, taking into account other criteria, the law distinguishes between ordinary murder (premeditated murder), aggravated or qualified murder, manslaughter (committed in the heat of passion), involuntary manslaughter, infanticide, and others.

These and similar special terms were not created to artificially enrich legal language, but to distinguish between acts that, while similar in certain respects (it is always murder), each possess distinct features – such as who commits the crime, against whom the crime is committed, and how it is punished.

From another perspective, as international criminal law continues to evolve, there is a growing recognition of the need to distinguish particularly serious crimes from those that are less serious. This has at times resulted in all particularly serious crimes classified as genocide for various reasons. Such an approach is unacceptable.

First and foremost, there is no justification for artificially expanding the concept of genocide to encompass crimes that, while unquestionably grave, do not objectively constitute genocide. Moreover, such tendencies threaten to erase the distinctive features and clearly defined legal elements of genocide, relativizing genocide and diminishing its distinctive gravity, thus creating opportunities for various abuses.

On the contrary, there are compelling reasons to clearly identify and label as distinct those situations that, although they may resemble genocide in certain respects, differ from it in some way. In what follows, we will briefly address this issue, and will also be free to propose the introduction of certain new international crimes.

#### **4. Proposal for New International Crimes**

Some of the international crimes discussed here are, in fact, not entirely new, as they are already criminalized in one form or another – for example, rape and other sexual crimes, as well as ethnic cleansing. However, there is a strong impression that it would be useful for these crimes to gain a degree of legal independence, so that, like the crime of genocide, torture and other cruel, inhuman or degrading treatment or punishment, they would be regulated under a dedicated universal convention, which would comprehensively regulate all the relevant aspects. Others crimes listed as potential new international crimes are more or less known, but mostly only in legal literature, and they are not yet widely recognized in international law and practice. Finally, we will conclude by offering a completely original proposal for a new international crime.

#### **4.1. Rape and Other Sexual Crimes**

It has already been noted that there is a tendency in the work of *ad hoc* international criminal courts, which has been materialized in the judgments of the International Criminal Tribunal for Rwanda, to classify systematic rape as an act of genocide. This concept has received support from some legal scholars and political circles.

However, we believe that this approach is incorrect, as it leads to an artificial expansion of the concept of genocide. Regardless of its gravity, rape, even when widespread and systematic, cannot be equated with genocide, which amounts to the extermination of a protected group. In addition, systematic rape and other sexual crimes are included under crimes against humanity and war crimes. In practice, perpetrators of these crimes should receive the most severe sentences – just as those convicted of genocide – but this does not justify equating these distinct, albeit equally serious, crimes.

In this regard, considering that global public opinion is highly sensitive to reports of mass rape and rightly so, it may be time for sexual crimes, including rape, to be defined under a separate convention, or at the very least, to be recognized as a distinct category of international crimes within the Rome Statute. This would give these crimes the necessary definition and recognition, while also ensuring that they are clearly distinguished from the crime of genocide.<sup>3</sup>

#### **4.2. Ethnic Cleansing**

The term “ethnic cleansing” (from the Greek *ethnos* – meaning tribe, people) refers to systematic and large-scale violence carried out with the aim of removing an ethnic population from a particular territory. Although the phenomenon itself has existed throughout history, the term “ethnic cleansing” emerged in the 1990s, during the wars in the former Yugoslavia, where such actions were carried out by all parties to the conflict (for various views on this issue, see: Conversi, 2006, pp. 320-333; Pappe, 2006; Bulutgil, 2016; Bulutgil, 2017, pp. 169-201; Ther, 2021; Garrity, 2023, pp. 469-489).

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<sup>3</sup> We refer here to legal regulation at the universal (global) level. While it is true that the Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), commonly known as the Istanbul Convention, exists, its scope and character are slightly different. Among other things, it does not refer to mass and systematic rape, and it does not refer to sexual violence against men. Furthermore, the Convention was adopted and is valid only within the framework of the Council of Europe, and remains applicable only within that regional context. Even today, fourteen years after its adoption, it has not been ratified by all member states of the Council of Europe. Notably, Turkey, the first state to ratify the Convention in 2011, withdrew from it just three years later, in 2014.

Although ethnic cleansing may involve forced relocation or deportation of a population, in practice it most commonly consists of various forms of systematic pressure – including murder, rape, intimidation, wanton destruction of property, dismissal from employment, and forced assimilation – that render continued life of a particular ethnic group in a given territory either impossible or unbearable, thereby compelling the population to leave the area. In a broader sense, ethnic cleansing implies any form of persecution targeting an ethnic group, including forced deportation. In a narrower sense, it is limited to those forms of pressure that compel members of the targeted group to abandon the relevant territory voluntarily.

Ethnic cleansing shares some similarities with genocide, which has led to its occasional designation as a “small genocide” (for further discussion on the relationship between genocide and ethnic cleansing, see: Hindman, 2005, pp. 202-211; Manashaw, 2005, 303-331; Aitchison, 2010, pp. 762-784; Sirkin, 2010, pp. 489-526; Schabas, 2014, pp. 39-60; Jacobs, 2016, pp. 444-448; Canetti, 2021, pp. 320-333; Heiskanen, 2021, pp. 1-10; Varnava, 2024).

The similarities between ethnic cleansing and genocide lie primarily in their scale – both involve a large number of victims – and, in particular, in that the violence is directed not merely at individuals, but at an entire (ethnic) group. The immediate victims are targeted as representatives of the group, making the attack a broader assault on the group as a whole. Additionally, both crimes can be committed in times of war as well as in peacetime, etc.

However, ethnic cleansing is not equivalent to genocide. It differs from it in that it can be carried out through acts that are not included among those listed in the Genocide Convention; that even when mass killings are carried out as part of ethnic cleansing, the aim is not to exterminate the group as such, but rather to intimidate and forcibly displace its members; that the primary target of ethnic cleansing is typically an ethnic group, and not another group protected by the Genocide Convention, i.e., a national, racial or religious group.

It should also be noted that the International Court of Justice has taken the position that ethnic cleansing is not genocide. The Court emphasized that ethnic cleansing is not mentioned in the Genocide Convention; that the deportation and displacement of members of a group, even when carried out by force, cannot be equated with the destruction of that group; and that, in the context of the Genocide Convention, the term “ethnic cleansing” actually has no independent legal meaning (Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide, 2007, para. 190).

There is no generally accepted definition of ethnic cleansing, nor is it recognized as a separate international crime under international law. However, acts that essentially constitute ethnic cleansing, such as deportation or forcible transfer of

a population, persecution of any group, *inter alia*, on religious, ethnic, or cultural grounds, are classified under Article 7 of the Rome Statute (1998) as crimes against humanity, falling within the jurisdiction of the International Criminal Court.

There is, however, substantial evidence to support the view that the time has come to formally define ethnic cleansing as a distinct crime under international law. Among other benefits, this would help put an end to attempts to conflate it with genocide.

### 4.3. *Ethnocide*

Ethnocide is a relatively new term, derived from the Greek *ethnos* – meaning tribe, people, and the Latin *cedere* – meaning to cut, to kill. Although it may appear as merely another name for genocide, it is both a broader and a narrower concept than genocide (for various views on ethnocide, see: Tennant & Turpel, 1990, pp. 287-319; Clarke, 2001, pp. 413-436; Clavero, 2008; Prium, 2014, pp. 269-308; Heiskanen, 2021, 1-10).

It is broader in that it refers not only to acts aimed at the physical destruction of a group (i.e., genocide), but also to forms of violence that do not aim at the biological extermination of a group and its members, and whose goal is to eliminate the group's ethnic identity from a given territory. In other words, ethnocide includes not only genocide, but also acts such as the expulsion of members of a group from a particular area (i.e., ethnic cleansing) or forcing members of a group to renounce their identity and characteristics in favor of adopting those of another ethnic group (i.e., forced assimilation).<sup>4</sup>

On the other hand, this concept is narrower than genocide in that the crime of genocide also refers to the extermination of religious groups, whereas ethnocide, in principle, does not.

### 4.4. *Democide*

The classic concept of genocide does not include the extermination of political opposition in a country – referred also as politicide – nor the mass killing of members of one's own people or own population for any other reason – often termed autogenocide.

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<sup>4</sup> The definition of genocide in Article II of the Genocide Convention includes both national and racial groups as protected categories. However, these distinctions are not of central relevance here. Every national group is, in fact, also ethnic, and modern science asserts that human races do not exist as biologically distinct categories. As a result, the distinction historically based on the division of people into races ultimately reduces to a distinction between ethnic groups.

A typical example is the horrific crime committed by the Khmer Rouge against their own people. During their reign of terror from 1975 to 1979, approximately 1.7 million people, or around 21% of Cambodia's population, were killed. This event is frequently referred to as the Cambodian genocide (see: Hannum, 1989, pp. 82-138; Kiernan, 1993; Laban Hinton, 2005; Kiernan, 2008, pp. 468-486; Heuveline, 2015, pp. 201-218). Despite this, this does not qualify as genocide under the Genocide Convention. The systematic destruction was not directed against one of the four groups provided for by the Convention – national, ethnic, racial or religious – but rather against the regime's own population, and it was not carried out with the intent to exterminate the group as such, but rather to intimidate, subjugate and eliminate any opposition.

By some estimates, in the 20<sup>th</sup> century alone, at least 170 million, and possibly as many as 360 million people, were killed by their own governments – a figure that is more than four times greater than the number of deaths resulting from both civil and international wars (Scully, 1997).

To identify and distinguish such and similar phenomena from classical genocide, Rudolf Rummel proposed in 1994 the term “democide”, derived from the Greek *demos*, meaning the total population of a territory or state. According to Rummel, unlike genocide, which is defined as “among other things, the killing of people by a government because of their indelible membership in a group (about race, ethnicity, religion, language)”, democide is “the killing of any person or people by a government, including genocide, political murders and mass murders” (Rummel, 1994).

In other words, when a state kills a portion of their entire population, it is referred to as democide; when it kills minorities, the term used is genocide. Thus, genocide can be understood as a subset of democide (Scully, 1997).

Democide, as understood in this context, is narrower than classical genocide in one particular respect: it includes only murders, and not the other forms of genocidal act listed in the Genocide Convention, and applies exclusively to the population of the state itself (Rummel, 1998). At the same time, it is also broader in that it includes the groups not protected under the Genocide Convention, such as political opposition.

Although the initiative to introduce the crime of democide is conceptually interesting, it remains insufficiently developed, and the concept itself is marked by gaps and contradictions. Its proponents are not lawyers but primarily political scientists, which is evident from the definition they propose – starting with the conflation of “the murder of any person or people” as equivalent acts. In this sense, we do not believe that the killing of a single person, even if that person is a political, religious, or other prominent leader, can reasonably be termed democide or placed on the same level as mass murder committed against a specific population group.

Nevertheless, the idea itself merits further consideration, as does the proposed term. After all, the term “democide” appears to have gained some traction in both academic and journalistic discourse, being used both for theoretical issues and to designate specific situations.

At times, the term “autogenocide” is used interchangeably. While both these terms can be found in political and legal literature, neither has achieved universal acceptance.

#### 4.5. *Massacre*

Massacre (French: *massacre*, meaning slaughter, butchery; derived from the Old French *mecacre*, meaning slaughterhouse) refers to the mass killing of members of a particular group. In a narrower sense, the term denotes the unlawful mass killing of opponents during wartime – such as the mass shooting of prisoners of war or civilian hostages.

Massacres may occur not only during armed conflict but also in times of peace, for instance, during violent crackdowns against political opposition or targeted violence against members of certain social strata, such as the oppressed classes or particular ethnic, religious, or other groups.

Owing to the gravity of such acts – including the large number of victims, often civilians, and the fact that they are usually planned and organized, a massacre may resemble genocide. Consequently, the same events are at times characterized as either a massacre or a genocide, depending on the perspectives.

However, although both these acts are among the most serious international crimes and share numerous similarities, they can be provisionally distinguished – at least at first glance – by the number of victims. While there is no universally accepted quantitative measure, in practice, a massacre is typically associated with the killing of dozens, hundreds, or even thousands of people, whereas genocide is generally linked to the extermination of hundreds of thousands or even millions.

A more significant and precise distinction concerns the intent underlying the crime. In the case of genocide, the defining element is the intent to destroy a particular social group as such. In contrast, a massacre does not necessarily involve such intent; rather, it is often motivated by retaliation against prisoners or civilians.

Finally, one of the conditions for the existence of genocide is that the targeted group must be one of the four groups protected by the Genocide Convention. In contrast, a massacre may also be committed against a broader range of groups – including prisoners of war, political opponents, strikers, and others.

Among the most well-known accounts of massacres is one described in the Old Testament, in which all male newborns were killed by order of King Herod of Judea.

The killing of all, or a large portion, of the population of a conquered city – regardless of their ethnicity or religion – was a relatively common practice in both the ancient world and the Middle Ages. Thus, in 335 BC, following his conquest of Thebes, Alexander the Great ordered the execution of 6,000 men, the enslavement of the remaining inhabitants, and the total destruction of the city. One of the most horrific massacres occurred during the First Crusade in 1099, when Crusaders entered Jerusalem and killed everyone in turn, including women and children, annihilating the city's population – the death toll totaling between 40,000 and 70,000 people.

Examples from more recent history include the Katyn Forest massacre of 1940, in which approximately 22,000 captured Poles were executed, with the victims being primarily officers, but also civilians, such as doctors, lawyers, and other intellectuals who held reserve officer status;<sup>5</sup> the mass shootings carried out in Serbia in 1941 by the German occupying forces, who implemented a brutal reprisal policy: for every German soldier killed by the resistance, 100 Serbian civilians were executed; for every wounded soldier, 50 hostages, i.e., Serbian civilians, were killed; the massacre at My Lai village in Vietnam on 16 March 1968, during which a platoon of American soldiers under the command of Lieutenant William L. Calley killed 504 of approximately 700 inhabitants in the village – unarmed civilians, mostly elderly and children<sup>6</sup> – within the span of some 15 minutes, for which no one was ultimately held accountable;<sup>7</sup> and others.

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<sup>5</sup> At the Nuremberg Trials, the massacre was initially attributed to the German forces, and several defendants were convicted in relation to it. Although it is occasionally claimed that the Nuremberg Tribunal did not prosecute anyone for this crime, such assertions are incorrect; the massacre was explicitly included as a separate count in the indictment, and the verdict affirmed convictions on all counts. Subsequently, particularly after the collapse of the Soviet Union, the responsibility for the crime came to be widely attributed to the Soviet NKVD. However, in more recent years, a number of Russian historians have sought to prove that the massacre was, nevertheless, carried out by the German forces (Krivokapić, 2023, pp. 1012-1013). The version according to which the Poles had suffered at the hands of the German forces received new confirmation in 2024, when the Russian Federal Security Service (FSB) declassified archival documents relating to this event (TASS, 2024). Leaving all disputes to historians, it must be concluded that, whoever was ultimately responsible, the event constituted a grave crime, a massacre, though not a genocide.

<sup>6</sup> Of the 504 civilians killed by the US forces in the village of My Lai, 210 were children, 50 were under the age of three, 69 were between four and seven years old, and 91 were between eight and twelve.

<sup>7</sup> The My Lai massacre provoked a widespread outrage within the US and internationally, prompting legal proceedings against 26 US soldiers and officers. However, only Lieutenant Calley was ultimately convicted. Although he was initially sentenced to life imprisonment, his sentence was later commuted, and he served only three and a half years under a form of house arrest.

Despite all the inhumanity and cruelty in the above and similar cases, even when children were killed *en masse*, these were massacres, and not acts of genocide. This is because the crimes were motivated by retaliation and repression, rather than an intent to destroy the population concerned as such. Indeed, the killings were indiscriminate, without specifically targeting members of any ethnic, national, or religious group, which is a characteristic of genocide.

The distinction between massacre and genocide becomes much clearer when the victims are exclusively prisoners of war – that is, adult males. In contrast, in the case of genocide, all categories within a protected group are killed – men, but also women, children, and the elderly. An example is the crime committed in Srebrenica in 1995, which, despite the rulings of the International Criminal Tribunal for the former Yugoslavia, various decisions by UN bodies, and widespread recognition in global media, was not an act of genocide for many reasons, one of which being that only prisoners were executed, while civilians, especially women and children, were not targeted (Krivokapić, 2019, 245-186).

The above discussion pertains solely to the legal qualification of the act. In terms of punishment, there can be no doubt that the planners and perpetrators of massacres must held accountable and must be sentenced with the utmost severity, just as the planners and perpetrators of genocide.

In this regard, the question remains whether it is necessary to formally recognize massacres as a new and distinct category of international criminal offense, separate from genocide, yet, objectively, more grave than most other crimes against humanity.

#### **4.6. Ecocide and Biocide**

The terms “ecocide” and “biocide” are occasionally referenced in the media, public discussions, and even in legal science.

While ecocide (derived from the Greek *oikos* – meaning house, or place of residence) can carry a range of meanings, in the present context it refers to the deliberate, large-scale and irreversible destruction of the natural environment, often entailing harm to human populations. Such actions typically result in the disruption of the ecological balance, the extinction of plant and animal life, soil and water contamination and degradation, and other forms of severe environmental harm – all of which inevitably has profound negative impacts on the local population.

A notable example is the Vietnam War, during which the United States employed herbicides and other chemical agents over vast areas of forests and agricultural land, causing irreversible environmental destruction, while also poisoning the local population. The consequences included death, cancer, severe hereditary

diseases, an abnormally high rate of miscarriages, and numerous congenital anomalies in children (Krivokapić, 2023, pp. 542-543).

In some cases, the environmental practice of individual states has also been scrutinized under the concept of ecocide, which is defined as severe environmental degradation leading to health and ecological disasters. For example, it has been reported that in the former Soviet Union, air quality in at least 103 cities with a total population of approximately 70 millions, was deemed unfit for breathing, and an estimated 75% of the water sources were polluted (Feshbach & Friendly, 1993).

Ecocide, as understood in this context, cannot be equated with the crime of genocide for several reasons. Most notably, ecocide is not an attack aimed at destroying a specific group protected under the Genocide Convention. Rather, human casualties – typically all the population of the affected area – is just one of the consequences of severe damage to nature.

In a broader sense, the term *biocide* (derived from the Greek *bios* – meaning life) is sometimes used to describe the use of specific weapons, such as atomic and hydrogen bombs, that cause mass destruction, including mass loss of human life. In these cases, humans are the primary target of the attack, while the destruction of the environment is incidental.

In a narrower sense, biocide refers to the mass destruction of people through the use of neutron bombs, biological, chemical, and other weapons specifically designed to kill humans while leaving other elements of the environment intact (Кудрявцев, 1999, pp. 131-133). This means that someone who has destroyed the population of a given area can repopulate it with their own population, occupy abandoned homes and exploit abandoned factories, businesses and transport infrastructure.

Biocide, as defined above, can be related to genocide, though not as a synonym, but rather as a method or means by which genocide, i.e., the extermination of a particular group, may be carried out.

However, while such a possibility cannot be entirely excluded, it is important to note that biocide acts are typically directed against enemy populations, or against foreign civilian populations, rather than specifically targeting a national, ethnic, racial, or religious group. Furthermore, it is difficult to conceive a sufficiently large geographical area – assumed in most definitions of biocide – inhabited in a uniformly compact and monolithic way by one of the groups protected under the Genocide Convention.

#### **4.7. Humanicide**

We are free to propose the introduction of a new international crime, as well as appropriate terminology to describe it. Although the crime in question has not

yet occurred, and has not yet been defined by international criminal law, its conceptual contours appear to be emerging. Even if this is not the case, the possibility that this crime could be planned and attempted, or even partially executed in the future cannot be dismissed in principle.

There have been persistent claims that those who rule the world from the shadows intend to reduce the world's population to no more than one billion in the next few years. This figure would include themselves and the people who they need to serve them.

Given that, as of the beginning of 2025, the global population stands at approximately 8.21 billion and continues to grow at a rate of around 0.85%, which is equivalent to approximately 70 million people annually (Current World Population, 2025). This means that the plan is to eliminate more than 7 billion human beings. This hypothetical reduction could be pursued through the orchestration of wars, engineered pandemics, mass poisoning through air, water, food and medication, and manipulation of climate and other disasters.

When this narrative began to emerge in public discourse a few years ago, it was widely dismissed by the media as yet another so-called conspiracy theory. However, there is substantial evidence to suggest that such plans may indeed exist in the minds of some very powerful and disturbed people. Notably, Russian President Vladimir Putin, who is undeniably a serious and well-informed statesman, has alleged on several occasions that there are those whose goal is the survival of the "golden billion" (TACC, 2022).

In principle, it may be irrelevant whether someone is actually working to exterminate all humans, leaving only a select few. The mere possibility of such an intent is cause for concern.

What is indisputable is that there are extremely powerful and wealthy individuals, many of whom are closely connected in various ways, through shared financial interests, membership in the same secret societies and similar, and that for most of them, ordinary people are just an unnecessary burden, unproductive masses constantly looking for something, while simultaneously destroying natural environment.

On the other hand, it is well known that science and technology are advancing at an incredible pace. What once seemed fiction is the present-day reality. Moreover, not everything that scientific and technological progress brings is always for the benefit of humanity. On the contrary, a good part of it may be misused for various criminal purposes. In this light, even setting aside the "golden billion" narrative, one cannot dismiss the possibility that, at some point in the future, someone will indeed decide to exterminate the majority of the human population.

This brings us to the core rationale for raising this question.

If, hypothetically, someone were to exterminate all of humanity in a certain way, there would be no criminal accountability for the simple reason that there would be no surviving parties to fulfill the roles of prosecutor, judge, or even defendant. However, if someone who intended to destroy the world but was prevented in time or simply failed to exterminate all the people were to be brought to trial, what would such a person be tried for?

At first glance, it may seem appropriate to prosecute such a person under the charge of genocide. However, this would not constitute a conventional case of genocide for several reasons:

- the scale of the planned extermination far exceeds any precedent in history and cannot be compared to any genocide, not even the number of victims of all genocides combined;
- the acts intended to implement this monstrous plan would likely include a vast array of actions extending well beyond the scope of genocidal acts established in the Genocide Convention;
- the targeted population cannot be identified with any of the protected groups identified in the Genocide Convention, because it includes, if not all, then certainly the vast majority of people and human groups, regardless of their specific national, ethnic or religious characteristics.

In summary, if today we are mostly faced with the concept of genocide often artificially extended to situations that lack something to constitute the true crime of genocide, in our case, the situation is exactly the opposite: the existing institution of the crime of genocide would not be sufficient to encompass the crime in question as it would surpass all previously known crimes.

Accordingly, in such an extraordinary scenario, fortunately only imaginary, it would be necessary to formulate a new international crime. This crime would be the most serious crime of all, surpassing even the crimes of aggression and genocide. As such, it would have to be regulated through a dedicated universally binding international legal instrument, which would precisely define all its elements.

Finally, if we are to consider the emergence of a new global crime, it is clear that it must be designated by a distinct term, one that clearly differentiates it from genocide. In this regard, we would propose that it be *humanicide* (derived from the Latin *humanitas* – meaning humanity, civilization).

It goes without saying that the author sincerely hopes that everything discussed herein will remain at the level of (science) fiction, i.e., that nothing similar would ever occur, nor even be attempted. Nevertheless, even as a hypothetical, the legal issue exists.

## 5. Conclusion

Based on the preceding discussion, it is evident that we advocate the timely separation and precise legal regulation of new international criminal offenses. This is necessary for a number of reasons.

In particular, in light of the problematic tendency to expand the definition of genocide, we must once again emphasize that instead of such tendencies, it would be much better and more useful to introduce new distinct international criminal offenses, such as sexual violence, ethnic cleansing, democide, forced assimilation, and others. However, this must be grounded in rigorous analysis, given the far-reaching consequences such developments would entail. In particular, these new legal solutions must not be imposed; rather, they must arise through broad international consensus.

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