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Crimes Against Humanity

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Abstract:

Crimes against humanity are acts of violence that are committed deliberately by a state or on its behalf as part of a widespread or methodical program. These crimes are frequently directed against individuals, whether they are engaged in armed conflict or not. Because of the aggressive nature of these crimes, they are regarded as a significant violation of human rights, which is where the word "human rights violation" comes from. They differ from war crimes in that they are not isolated acts carried out by individual soldiers, but rather they are acts that are carried out in order to further a policy that has been established by a government or an organization. Individuals accused of crimes against humanity were initially brought to justice for the first time during the Nuremberg trials. After the atrocities committed during and in the immediate aftermath of the Holocaust, the United Nations General Assembly adopted a resolution known as the Universal Declaration of Human Rights. It was at first intended for widespread implementation in international law. (1948). The political pathologies that are associated with crimes against humanity are best illustrated by political groupings or nations that violate or encourage violations of the human rights standards enumerated in the Declaration of Human Rights.

Crimes against humanity are now also being investigated by a number of additional international commissions, in addition to being tried in local courts. (such as the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court). The development of international customary law has been the primary vehicle for the expansion of the legal framework governing offenses against humanity. Crimes against humanity are not currently defined in any international convention; however, the Crimes Against Humanity Initiative is heading an effort around the world to develop a treaty that would define these atrocities.

Keywords: Humanity, murder, rape, prosecute, intention, politics.

Introduction

In contrast to war crimes, crimes against humanity can occur regardless of whether or not there is armed fighting. They are neither isolated nor random, but rather a part of either a government policy (although the perpetrators need not identify with this policy) or a widespread pattern of atrocities that are permitted or accepted by a government or de facto authority. Neither of these things are random or isolated. War crimes, murder, massacres, dehumanisation, genocide, ethnic cleansing, deportations, unethical human experimentation, extrajudicial punishments including summary executions, use of weapons of mass destruction, state terrorism or state sponsorship of terrorism, death squads, kidnappings and forced disappearances, use of child soldiers, unjust imprisonment, enslavement, torture, rape, political repression, racial discrimination, religious persecution, and other human rights abuses are.

In addition, the term can be used in a broader sense when referring to criticism of crimes that, to borrow a common phrase, "shock the conscience of humanity." As a direct consequence of this, terms such as "crimes against humanity" have come to be applied to phenomena such as widespread poverty, natural disasters that have been triggered by humans, and terrorist attacks. The broader usage of the phrase may have the sole intention of recording the highest possible level of moral outrage, or it may have the intention of advocating for such transgressions to be formally recognized as legal violations. In either scenario, the goal might be to elicit the greatest amount of moral outrage that is even remotely conceivable.

The idea that individuals who either establish or implement state policy might be held accountable by the international community is embodied in the concept of crimes against humanity. Crimes against humanity can be seen either as a violation of the law or as a moral category, depending on one's point of view.

As a consequence of this, traditional notions of sovereignty, in accordance with which state leaders and those who followed them were accorded immunity, have consequently been changed. Political and legal philosophers have tried to support the premise that a challenge to sovereignty is possible in a wide variety of different ways over the course of history. An exceptionally heinous act of inhumanity is what some people consider to be the sole defining characteristic of what constitutes a crime against humanity.

Some people believe that the potential for international peace to be disrupted by mass crimes stems from the fact that such crimes are either a prelude to aggression on the part of a foreign power or have repercussions that extend beyond the borders of individual states. Because of this, they pose a risk to efforts to preserve peace and order across the globe.

Some people are of the opinion that genocide is the most important aspect of offenses against humanity. The term "crimes against humanity" was first used in a public setting in the context of condemning the Armenian Genocide, and it was first enacted into law as a response to the Holocaust. Both of these events occurred in the early 20th century. According to this line of thinking, carrying out an act of genocide against a group of people solely on the basis of their participation in that group is tantamount to denying the victims their status as human beings, which is an insult to every single person on the planet. On the other hand, there are those who do not concur with these points of view and who instead place their emphasis on the fundamental qualities that are associated with state authority.

One school of thought maintains that the legitimacy of states can only be defended to the degree that they are able to guarantee the safety of their own people. Nevertheless, when a state's powers are used in a manner that is morally reprehensible and harmful to its own citizens, the state loses all legitimacy, and those who direct and follow it become subject to the judgment and sanction of the entire human community. In this scenario, the

state no longer has any authority. However, the question of how to divide responsibility between those who guide and those who follow is one that is one that is hotly debated in both moral philosophy and legal theory.

Rome Statute of the International Criminal Court

Crimes Against Humanity According to Article 7

In the context of this Statute, the term "crime against humanity" refers to any of the following actions when they are committed as part of a widespread or systematic assault intended at any civilian population, and where the perpetrator is conscious that the attack is being carried out: torture, enslavement, genocide, and the use or threat of the use of biological or chemical weapons.

- Murder;
- Extermination;
- Enslavement;
- Deportation of people or forceful relocation of populations;
- Imprisonment or other harsh forms of restricting a person's bodily liberty in contravention of basic international law principles;
- Torture;
- Any other kind of sexual violence of equivalent severity, such as rape, sexual slavery, forced prostitution, forced pregnancy, or forced sterilisation.
- Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3; Persecution against any identifiable group or collectivity
- Disappearances of people that have been coerced;
- The horrendous act of apartheid;
- Other heinous deeds of a like kind that willfully cause considerable pain, or substantial harm to the body, or to the mental or physical health of another person.

In order to accomplish the goals of paragraph 1:

"Attack directed against any civilian population" refers to a course of conduct that involves the multiple commission of acts referred to in paragraph 1 against any civilian population, either in accordance with or in furtherance of a state or organisational policy to commit such an attack; "civilian population" refers to any population that is not a military target; "attack" refers to any act that is intended to cause harm to civilians;

Components of the criminal act

It is not necessary for there to be a state of armed conflict in order for crimes against humanity to have been committed, as stated in the first statement of Article 7 of the Rome Statute. It is also possible for these atrocities to take place during periods of peace, much like the crime of genocide. The same piece of writing contains a description of the crime that dissects it into its primary elements, which are as follows:

A physical component, which may be "any of the following activities," including but not limited to the following:

- Murder;
- Extermination;
- Enslavement;
- Deportation of people or forceful relocation of populations;
- Imprisonment;
- Torture;
- Serious instances of sexual assault or abuse;
- Persecution;
- Disappearances of people that have been coerced;
- The horrendous act of apartheid;
- Other cruel and dehumanising behaviours

An element of context: "when conducted as part of a widespread or systematic assault designed against any civilian population"; and "when perpetrated as part of an attack directed against any civilian population."

A state of mind is required, as in "with knowledge of the assault."

The context is what determines whether or not crimes against humanity involve large-scale violence in terms of the number of victims or its expansion over a vast geographical region (widespread), or whether or not they involve a systematic form of violence. The setting is what determines whether or not crimes against humanity involve large-scale violence in terms of the number of victims or its expansion over a vast geographical region (widespread). (systematic). Acts of aggression that are random, unintentional, or isolated are not included in this. In addition, in order to be considered an assault under the Rome Statute, crimes against humanity must be committed in support of the policy of a state or other organization, as mentioned in Article 7(2)(a) of the Rome Statute. This is required in order for the crime to be considered a violation of the Rome Statute. It is not necessary for the plan or strategy to be officially defined or legally recognized; rather, it can be deduced from the circumstances as a whole by looking at the bigger picture.

International Criminal Court Investigates Crimes Against Humanity

Governments across the globe often ignore the suffering of their people by denying that crimes against humanity have taken place on their land. Thousands of victims are still fighting for the justice, recompense, and acknowledgement to which they have been entitled for so long.

1. Giving aid to the victims

Through advocacy in local courts and before regional and international human rights mechanisms including the United Nations Human Rights Committee and the European Court of Human Rights, TRIAL International ensures that victims' voices are heard. The charity offers free legal aid to victims at every stage of the process, from case filing and investigation through trial and on-the-ground execution of the verdict.

2. Finding and prosecuting those responsible

To combat impunity, TRIAL International pursues legal action and financial restitution against those responsible for atrocities against humanity. The notion of universal jurisdiction allows for complaints of this kind to be filed both to international organisations and to national courts. Additionally, the pressure exerted by TRIAL on national judicial systems encourages them to look into circumstances and bring those responsible for major crimes to account.

Indian Government: Supporting Human Rights Violations

The response of India's government to the protest by the farmers has been reported by international media. This reputation was brought about as a result of police brutality against demonstrators. In order to rationalize the use of excessive force, the administration accuses protesters of treachery and anti-nationalist sentiment. By imposing restrictions on the internet and issuing public statements, the government of India has stirred up animosity and encouraged police aggression against demonstrators. Despite the fact that aiding and abetting is not defined under international criminal law, it is possible that the Indian government is responsible for these offenses. The clarification of this legislation has the potential to hold corrupt governments responsible for the abuses committed by police against minority groups.

India's situation?

Farmers in India who are opposed to agricultural change have been defying the government and the police for the past several months. With the help of social media, farmers have held protests against the bills in a nonviolent manner. Several different news organizations have reported that police personnel have abused individuals. Families have reported that their loved ones who were participating in protests have been taken away by police, imprisoned for their advocacy on social media, and seriously beaten. The government of India and the state police both have the goal of silencing criticism. Because the government of India regulates the news media, it is difficult to report on instances of police brutality. In spite of this difficulty, the purpose of this essay is to demonstrate that the Indian government is implicated in crimes against humanity by analyzing its response to demonstrators, particularly its responses online and in public statements.

It is possible that Indian officials will be held accountable for the mistreatment of protestors if the International Criminal Court (ICC) upholds the Trial Judgement in Bemba et al. (paragraph 93), which was issued under Article 25(3). (c). In his exhaustive analysis of the Bemba et al. verdicts, Manuel J. Ventura contends that the standard for causation under Article 25(3)(c) should continue as having a "significant influence on the conduct of the crime," as established in Tribunal Jurisprudence. Ventura's argument is based on the fact that the standard for causation under Article 25(3)(c) should continue as having a "significant influence on the conduct of the crime." . According to Ventura, the Trial Judgement in the case of Bemba et al. significantly lowers the benchmark, bringing it down from a "considerable influence" to a "particular threshold." . Ventura asserts that the aforementioned standard will broaden the scope of Article 25(3)'s breach to include anyone and everyone who contributes even infinitesimally. Ventura raises legitimate concerns, but if successive Appellate Chambers overturn the Trial Judgement in Bemba et al., high-ranking officials such as the Indian government may be able to escape criminal accountability for inciting violence against minority groups. A "significant influence" on government officials cannot be said to have been exerted by political remarks in the absence of actual proof, which is frequently not accessible and difficult to collect.

Bills

Three new pieces of agricultural legislation were proposed to the Indian Parliament by Prime Minister Narendra Modi and the BJP. The minimum support price (MSP) scheme works to ensure that farmers receive fair compensation for their crops. Three separate bills—the Farmers' Produce Trade and Commerce Bill, the Farmers Agreement on Price Assurance and Farm Services Bill, and The Essential Commodities Bill—intend to do away with the MSP. The Indian government asserts that MSP prevents producers from receiving prices that are competitive in the market. Farmers contend that if the MSP system were to be eliminated, they would be at the mercy of businesses, which would determine the prices for their products.

In November 2020 and September 2021, farmers gathered in Delhi to demonstrate against the Bills. Despite the concessions made by the Modi administration, the protesters are demanding that the Bills be repealed. The majority of demonstrators have been peaceful, but there have been a few rowdy ones. In spite of this, the government of India and the state police are employing disturbingly coercive tactics in an attempt to stifle the collective of opinions that are opposed to it.

Cruelty

“Crimes against humanity implies any of the following actions when committed as part of a widespread or systematic assault intended against any civilian population, with knowledge of the attack,” according to Rome Statute Article 7(1). This crime is based on the Indian government enabling state police forces to jail, torture, and otherwise mistreat civilian demonstrators.

Imprisonment

Due to their coverage of the violent circumstances surrounding the demonstration in Delhi, nine journalists have been detained and will face prosecution. While the journalist Mundeep Punia was covering the farmers' demonstration, the Delhi Police detained and arrested him. After being held for 14 days, Punia was released on bond. The court was perplexed by his detention and skeptical of the accusations because official reports were contradictory and the only witnesses were officers from the police department. The court made notice of the fact that one journalist has the potential to influence any officer.

An activist by the name of Disha Ravi, who is 22 years old, was taken into custody at her residence in Bangalore, Karnataka. The farmers' protest was supported by Ravi's "toolkit," which also mentioned organizations to get in touch with. Using this toolset, the Delhi Police proclaimed that Ravi had been arrested for attempting to "fight economic, social, cultural, and regional war against India." The pamphlet includes just protest promotion advice. In the bail court, Judge Rana stated that, "considering the scant and hazy evidence on record, I can not see any tangible cause for detaining a 22-year-old in custody." The judge was referring to the evidence that was currently available.

The leaders of the organizations that were going to participate in the demonstration have been arrested by the state police. KSS leaders were detained by the Gujarat Police because they were organizing a protest trip to Delhi. These officials have described being housed or locked up overnight for no apparent reason in their accounts. According to one version of events, a leader was held captive for a period of 37 days. As a result of the actions taken by law enforcement, individuals have been locked up despite the absence of any justification or protections provided by the legal system.

Torture

Under Article 7(2)(e), torture must inflict pain and suffering to one or more people while in the offenders' control or custody and not be inherent in or incidental to authorised penalties.

Haryana detained activist Nodeep Kaur for promoting women's and farmers' rights. Kaur was detained for no criminal offence. According to Kaur's sister, cops openly attacked her at the protest site before dragging her into a vehicle and beating her with sticks and shoes. Kaur was badly beaten again in jail. Medical evidence contradicts Haryana Police. For attempted murder, theft, and extortion, Kaur was released after 46 days in prison. Haryana Police tortured Kaur.

Other Abuse

Last but not least, additional cruel acts are referred to as residual clauses and include deeds that result in excruciating agony or cause damage to one's physical or mental health. Additional heinous offenses may have been committed if people were subjected to severe beatings, horrific confinement conditions, and the act of seeing other people being beaten. (para 2744). Numerous videos and accounts show police using tear gas, water cannons, and/or physical brutality to prevent demonstrators from reaching Delhi, particularly in Haryana. These videos and accounts focus on the situation in Haryana. The Indian state police can be seen on these recordings abusing citizens of the country.

It would appear that the activities that are prohibited are connected to the silencing of critics of the Indian administration. Each unlawful act involved the presence of state police forces either on the front lines of the demonstration or attacking individuals within their respective states. There is also participation from the Gujarat Police, the Bangalore Police, and the Haryana Police. The police forces of India are working together to keep dissidents at a distance.

However, Modi's insinuations indicate that he is aware of the unlawful police techniques, even though his statements are limited to asking farmers to study the proposed Bills and communicating with the Indian government. According to what Modi said in front of Parliament, police tactics will continue until those accountable for "andolan jeevi" are brought to justice. Protesters are referred to by Modi as "andolan jeevi's" for their disruptive behavior. According to Modi, these individuals are responsible for creating instability in India and obstructing the country's development; therefore, they need to be apprehended as soon as possible. He continues by saying that India needs to be guarded against "foreign poisonous ideology." He is of the opinion that people from the West, such as Rihanna and Greta Thunberg, who are critical of the Indian government ought to defend the general population. The fact that Modi has been making references to "andolan jeevi's" satisfies the requirement of Article 7 that the "perpetrator sought to escalate such an assault," which is why he wants to apprehend them and prevent them from collecting.

Accountability

Article 25(3)(c) holds criminals liable for assisting International Human Rights abuses. Since Indian government officials encouraged and enabled protestor mistreatment, this provision establishes responsibility.

Under the third condition, the ICC has not considered whether the perpetrator must have a considerable influence on the crime. The Trial Chamber VII in *The Prosecution v Bemba et al.* found that the contribution threshold does not have a minimum contribution threshold, however the Appeals Chamber did not consider this issue on appeal (1146). ICC standards are unclear without Appeals Chamber instruction. This article will assess whether Ventura's proposal that the criteria remain "substantial influence upon the perpetration of the crime" would hinder government accountability.

India's states have police forces. The management of social media accounts and the dissemination of misinformation via social media and public speeches show that some officials of the Indian government have conspired with state police forces to abuse demonstrators.

Social Media Control

The administration of Prime Minister Modi is actively using social media in an effort to identify individuals who are opposed to the government. The argument that has arisen between Twitter and the Indian government illustrates how the government improperly exercises its authority to restrict expression. Following the unrest that occurred in India on Republic Day, the Ministry of Information Technology sent Twitter a list of accounts and messages that needed to be suspended. Twitter originally consented, but after further investigation, it decided to reactivate the accounts. Twitter found no evidence of any violations in any of the accounts or messages. Additionally, it uncovered tweets that were of significance.

This action infuriated the Indian government, which threatened Twitter with legal action and jailing staff members who disregarded orders to comply with the law. The government claimed that the tweets were part of a "motivated campaign to abuse, inflame, and create hostility in society on unfounded grounds" as the reason for removing them. Twitter has made the decision to suspend more than 500 accounts and limit communication access in India. The Indian government was informed by Twitter that the platform would not deactivate professional accounts belonging to activists, lawmakers, journalists, or media companies. This discussion demonstrates that the government of India targeted individuals for their opinions that they expressed on social media.

The obvious conclusion that can be drawn from the arrests of activists like Ravi, which took place nearly 2,000 kilometers away from the rally in Delhi, is that the Indian government sent names of activists who were regarded as a threat to its authority to state police forces. Roughly five days after the Indian government instructed Twitter to remove threatening accounts, Ravi was taken into custody. Access to the internet is occasionally restricted by the Indian government, in addition to its monitoring of activists and censorship of material.

Propaganda

As was previously stated, Modi rarely commented on the demonstrators. The only protesters he discusses are those known as "Andolan jeevis." After hearing that the prime minister had officially issued a "search warrant" for those demonstrators who refused to disperse, the police may have been prompted to approach the KSS officials. Security officials in Haryana monitored social media in an effort to maintain "law and order," as stated. The fact that Modi is reluctant to confront the violence that police are using against demonstrators may constitute complicity in the crime.

The Home Minister of India, Amit Shah, has made substantial changes to the meaning of the protest. In order to demonstrate that the level of violence was exaggerated, Shah edited recordings showing police officers assaulting protesters. When a video showed the entire interaction, Twitter immediately labeled Shah's post as "manipulated media," and they were accurate. Both Modi and Shah have been successful in justifying or denying the use of excessive force by police.

This statement caused a great deal of harm to the protesters. Stones and petrol bombs were thrown at demonstrators by approximately two hundred Hindu fundamentalists, who also destroyed agricultural tents. These individuals yelled "Desh ke gaddaron ko, goli maaro saalon ko" (which translates to "Shoot the traitors of the country"), "Khalistaniyon ko bhagao" (which translates to "Chase away the Khalistanis"), and "Delhi police lath bajao, hum tumhare saath Vigilantes exploit Indian politicians' language. By actively searching for "andolan jeevi's" and playing down the violence committed by police as an exaggeration, Modi's propaganda effort is successful, but it is also having a negative impact on peaceful protesters.

Personal Accountability

The third element for aiding and abetting is inconsistent in case law, which makes it difficult to establish individual liability under Article 25(3)(c). If the International Criminal Court follows the methodology proposed by Ventura, it may be challenging to prove that governments had a "substantial influence upon the perpetration of the crime." Even if the comments were contentious, the political discourse may not have been the source of the violence among police; rather, it may have been the police subculture.

In the case of Bemba et al., the Trial Chamber comes to the conclusion that the Statute "does not need the fulfillment of any specified threshold" and that it is sufficient for a criminal's assistance to have "furthered, advanced, or facilitated the commission of such act." (para 94). The fact that Modi's remark against the "andolan jeevi's" reiterated a police motive to aggressively accost demonstrators, particularly social media activists, means that it easily satisfies this prerequisite. The political statements made by Modi have served as a catalyst for violence against other minority groups. During a campaign gathering, Prime Minister Narendra Modi made a promise that his administration would eradicate illegal "termites" from India's Muslim population. So long as it makes a negligible contribution, the administration of Prime Minister Modi will escape responsibility. Those who aid and abet criminal activity, as opposed to actually committing the offense themselves, are granted a lesser degree of criminal responsibility. (656). As a result, the standard established in the Bemba et al. Trial Judgement provides a reliable measurement of contribution. Because of Ventura's standard, it is impossible to hold Modi and his administration accountable for the way protestors were treated; however, they were complicit in the problem.

Conclusion

Incorrectly detained protesters are subjected to brutal beatings and other forms of abuse while in police detention. At the site of the demonstration, numerous journalists have posted photos, videos, and reports online after being mistreated by protesters. State police forces in India are working together to carry out illegal activities against demonstrators in order to target dissidents who are viewed as a threat to the Indian government. The Indian police's desire to stifle dissent and bring down the government is the driving force behind their strategy of committing crimes against humanity.

However, it can be challenging to demonstrate that Indian officials are to blame for misconduct committed by police. Although Ventura's warnings against Article 25(3)(c) capturing every arbitrary act associated with a crime are justified, a higher threshold will make it harder to hold government entities liable for aiding and abetting crimes, especially when they stem from hostile public speeches or invasive internet surveillance. The decision reached by the Trial Chamber in the case of Bemba et al. may demonstrate that officials from the Indian government encouraged this behavior. If this criterion were applied to the Indian government, it would also discourage other individuals in authority from inciting civil unrest on social media or in public statements.

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