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## THE WORLDWIDE CRIMINALIZATION OF GENOCIDE IN DOMESTIC LEGAL SYSTEM

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### ABSTRACT

Murder punishment in various nations' legal systems is the study's major focus. Comparing national legal systems and studying successful trials is the research strategy. The research reveals that domestic legal systems must criminalise genocide to stop and address these atrocities. The UN Sustainable Development Goals make stopping genocide a priority. The international legal framework for murder prosecution lacks political will and strength.

Genocide should be a crime under domestic legal systems to provide accountability and justice for victims. The research found that several nations have adopted international murder laws. Various nations have various laws, penalties, and guidelines for that may do what. The report also discusses how difficult it is to acquire evidence of genocide and how vital international cooperation is when prosecuting suspects. Importantly, the research aids the battle against murder.

**Keywords:** Genocide, international law, domestic law, crimes against humanity, prosecution

### Introduction

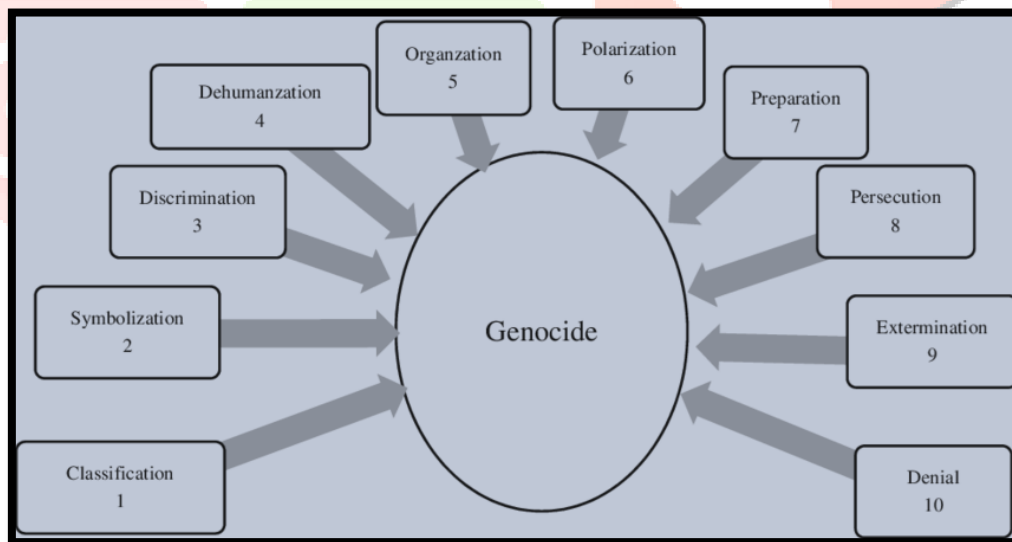
Genocide is the organized slaughter of a group based on race, culture, religion, or other considerations. The Holocaust, Rwandan, and Bosnian genocides are instances of historical atrocities. International legislation like the 1948 UN Convention on the Prevention and Punishment of Genocide and the 2002 International Criminal Court (ICC) addresses this heinous crime. However, prosecuting genocide offenders remains difficult. Some nations lack the political will to do the right thing, it's difficult to obtain evidence, and authority is unclear, and international courts lack resources. Even with these issues, fighting to make genocide a crime in domestic courts is crucial to holding perpetrators accountable and providing justice to victims and their families. This article will

examine how nations have developed international genocide laws and the challenges they confront in prosecuting genocide. This research continues the discussion on how to combat serious crimes and ensure global accountability.

## Material and methods

Wanting to murder a national, racial, ethnic, or religious group is wrong. This is genocide. Raphael Lemkin coined "genocide" in 1944. First international law treaty to criminalise genocide was the 1948 Convention on the Prevention and Punishment of the Crime<sup>1</sup>. The study examines and analyses all literature, legal documents, and case studies on making genocide a crime in all domestic legal systems worldwide. Data comes from academic publications, legal documents, international treaties, court judgements, and UN and human rights support organisation reports. The qualitative research plan gathers and evaluates relevant literature and legal systems. Comparing genocide laws and justice systems across nations is part of the study. This analysis shows similarities, disparities, and challenges in genocide law enforcement across regions<sup>2</sup>.

International treaties and agreements prohibit and penalise murder. The 1948 UN Genocide Convention is the most essential statute. This treaty defines genocide and mandates governmental prevention and punishment. Special courts have charged people with genocide and other severe crimes. The International Criminal Tribunal for the former Yugoslavia (ICTY) prosecuted war crimes, crimes against humanity, and murder throughout the conflict.



**Figure 1: The 10 stages of the genocide of a human group**

(Source:<sup>3</sup>)

<sup>1</sup>Bieńczyk-Missala, A., 2020. Raphael Lemkin's legacy in international law. *The Concept of Genocide in International Criminal Law*, pp.3-15

<sup>2</sup>Shreya, V.S., 2022. A Study on the United Nations Convention on Prevention and Punishment of the Crime of Genocide. *Issue 3 Indian JL & Legal Rsch.*, 4, p.1

<sup>3</sup>Bernath, J., 2023. *The Khmer Rouge Tribunal: Powers, Politics, and Resistance in Transitional Justice*. University of Wisconsin Press

To prosecute murder, countries must adopt foreign laws. Different governments have handled this task differently and made murder criminal in their respective countries. Many nations implement international murder rules by ratifying international treaties. Many nations have signed the 1948 UN Convention on the Prevention and Punishment of Genocide.

According to Article 1 of the Convention, governments must prevent and punish genocide. Approval alone won't stop genocide. Countries must adopt the Convention's provisions into their legislation. This may be done by changing or enacting new legislation. Rwanda has adopted international genocide legislation. Rwanda approved the Genocide Punishment Law in 2003. Genocide is a felony punishable by life in prison under this statute. It also created the International Criminal Tribunal for Rwanda. It prosecuted genocide and other significant offences during the 1994 genocide. In 1986, Argentina approved Law 23.512, which criminalised genocide with life in prison<sup>4</sup>. The statute established the National Criminal Court to try murder and other severe offences.

## Results

### A Comparative Analysis:

Here, legislation will be compared to prosecute genocide charges in various nations. It will also be examined how laws, penalties, judicial difficulties, and other essential things differ throughout nations. Trying genocide charges in the US is difficult since various nations have distinct laws and penalties. Genocide is illegal in the US due to a federal legislation. Other nations may have broader murdering or crimes against humanity legislation. Rwanda, for instance, has unique murder laws. The Rwandan government established the International Criminal Tribunal for Rwanda (ICTR) in 2003 to prosecute genocide and other grave crimes from 1994. The ICTR was the first UN court to prosecute genocide, crimes against humanity, and war crimes. Because of "universal jurisdiction," governments may prosecute persons for crimes committed abroad, giving the ICTR authority. This strategy was utilised since many of the individuals who massacred millions of Rwandans had fled the nation and were living elsewhere.

### B Case Studies

To assess the effectiveness of making genocide a crime in the US, examine genuine instances from other nations. Case studies of successful prosecutions or issues during local legal cases will be shown below. We'll also examine crucial murder trial choices.

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<sup>4</sup>Government.nl, 2024. <https://www.government.nl/topics/international-peace-and-security/international-legal-order/the-international-criminal-court-icc> [Accessed on: 9<sup>th</sup> February, 2024]

### Case Study 1: The Prosecution of Thomas Lubanga in the Democratic Republic of Congo

Thomas Lubanga, a Congolese rebel commander, was convicted guilty of recruiting under-15s and employing them in war. International Criminal Court (ICC) sentenced him to 14 years in 2012. This decision established a crucial international law norm for comparable offences<sup>5</sup>.

### Case Study 2: The Prosecution of Bosnian Serb Military Leaders in Bosnia and Herzegovina

In 2010, the War Crimes Chamber of the Court of Bosnia and Herzegovina convicted Drago Nikolic and Ilija Jurisic of war crimes and crimes against humanity. They got 20 and 16 years in prison. This case was significant in Bosnia and Herzegovina since it was the first to accuse war crimes from 1992 to 1995<sup>6</sup>.

### Case Study 3: The Prosecution of Khmer Rouge Leaders in Cambodia

Duch, also known as Kaing Guek Eav, committed crimes against humanity and major Geneva Convention breaches in 2011. He was convicted by the ECCC. He was sentenced to 35 years for leading the S-21 Prison, where hundreds were tortured and slaughtered under the Khmer Rouge. This was the first Cambodian court to charge someone with a Khmer Rouge crime<sup>7</sup>.

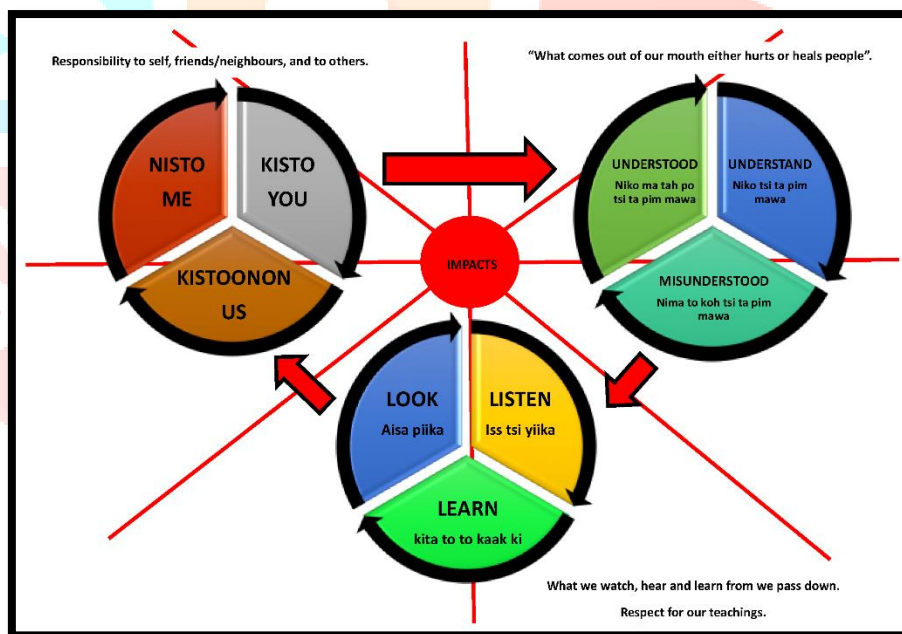


Figure 3: Sustaining Cultural Genocide

(Source:<sup>8</sup>)

<sup>5</sup>Icc-cpi.int,2024. Availableat: <https://www.icc-cpi.int/sites/default/files/CaseInformationSheets/LubangaEng.pdf>[Accessed on: 9<sup>th</sup> February, 2024].

<sup>6</sup>Asebook.icrc.org, 2024. Available at: <https://casebook.icrc.org/case-study/icty-prosecutor-v-radovan-karadzic>[Accessed on: 9<sup>th</sup> February, 2024].

<sup>7</sup>Sirik, S., 2020. Memory construction of former Khmer Rouge cadres: resistance to dominant discourses of genocide in Cambodia. *Journal of Political Power*, 13(2), pp.233-251

<sup>8</sup>Yogendran, S. and Destrooper, T., 2020. Spotlight on Cambodia: what does the death of defendants in high-profile transitional justice cases mean for victims?(Podcast)

## Analysis of Significant Rulings or Judgments

Along with case studies, crucial judgements or judgements about convicting murderers should be examined. The major ICJ judgement in Bosnia and Herzegovina v. Serbia and Montenegro (2007) is one such example. The ICJ ruled Serbia failed to stop genocide by not ending the 1995 Srebrenica atrocity. This ruling changed how governments must halt murder and other international crimes.

## DISCUSSION

### An Effectiveness of Domestic Criminalization

Since international genocide laws become national law, genocide prevention has improved. Many disputes on how effectively this strategy works. Some governments have made genocide a crime, which has led to the imprisonment of perpetrators. The International Criminal Court (ICC) convicted Congolese bandit Thomas Lubanga of recruiting under-15s for his guerrilla organisation and employing them in warfare in 2006. This landmark case defined US standards for genocide and war crimes.

Making crimes more widespread in the US has also contributed to lawlessness. Many nations did not prosecute genocide murderers until international rules were enacted. Now, they should answer for their acts. In 2011, Cambodia's Supreme Court convicted Kaing Guek Eav, known as Duch, of killing hundreds of Khmer Rouge victims. This punishment is a huge step towards justice for the victims and their families, but making genocide a felony in the US has drawbacks. The lack of evidence is a major issue. Evidence of rural genocide is typically difficult to locate. Bystanders may be afraid to report because they fear punishment. Thus, may be difficult to argue against<sup>9</sup>.

### B Challenges and Limitations

Making genocide a crime in your nation is a big step towards ending it, but there are challenges and constraints when governments attempt to implement their laws. These issues include implementing domestic laws and prosecuting murder suspects under national law.

Countries struggle to implement murder laws due to a lack of political will and commitment. Some governments may not prioritise genocide prosecution due to political upheaval, economic issues, or conflicting interests. Changing or adding laws may take time, and opposing organisations or interest parties may resist them. Even when national legal systems prohibit genocide, prosecuting genocide suspects is difficult. Trouble acquiring evidence is a major issue. Genocide prosecutions sometimes involve long-term mass executions, making evidence difficult to obtain.

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<sup>9</sup>Yogendran, S. and Destrooper, T., 2020. Spotlight on Cambodia: what does the death of defendants in high-profile transitional justice cases mean for victims?(Podcast)

## Future Perspectives and Recommendations

These recommendations may help criminalise domestic violence:

**Strengthening International Cooperation:** Pursuing genocide charges is difficult when nations don't cooperate. Countries could strengthen collaboration by sharing information, evidence, and best practices. This may be done by having law enforcement, legal authorities, and international organisations discuss it every day.

**Increasing Public Awareness:** Understanding genocide and its effects is crucial to preventing future atrocities. Governments and civic society should educate people about genocide, its origins and consequences, and the need to prosecute perpetrators. Helping genocide victims and witnesses ensures they can offer reliable judicial testimony.

## Conclusion

On a concluding note, the main focus of this study is “various nations' legal systems” which refers an essential part. This particular study provides a comparison between national legal systems and trial of research strategies. On the contradictory, the UN Sustainable Development Goals have created the most prior framework to stop genocide a priority throughout this study. Many international murder laws also have been identified in this study for adoption of nations. Primarily this study focuses towards the battle against murder by implementing different laws against that. Lastly, various legal laws have been elaborated throughout the entire study for reduction of issues of prosecuting suspects.

## Acknowledgment

I studied the complex issue of murder criminalization worldwide in my study. Historical context and international legal principles were my starting point. Next, I examined how other nations' legal systems handle homicide. Comparing legislative measures, penalties, and regional concerns revealed discrepancies. I discussed international case studies of successful cases and local court issues. Real-life instances may teach us how successfully legal systems punish genocide perpetrators. I also examined landmark court rulings that underlined nations' obligation to prevent and punish genocide. This task showed me how difficult it is to criminalize genocide and how crucial it is to fight for global justice and responsibility.