

## Genocide – the origins and meaning of the term

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### Origin

**1941** – Winston Churchill's broadcast to the world, 24 August, about his meeting with President Roosevelt:

"As [Hitler's] armies advance, whole districts are being exterminated. Scores of thousands, literally scores of thousands of executions in cold blood are being perpetrated by the German police troops upon the Russian patriots who defend their native soil. Since the Mongol invasions of Europe in the sixteenth century there has never been methodical, merciless butchery on such a scale or approaching such a scale. ...

"We are in the presence of a crime without a name." <sup>1</sup>

**1944** – The first occurrence of the term genocide was in Raphaël Lemkin, *Axis Rule in Occupied Europe* 1944. In a chapter called 'Genocide—A New Term and New Conception for Destruction of Nations':

"By 'genocide' we mean the destruction of a nation or of an ethnic group. This new word, coined by the author to denote an old practice in its modern development, is made from the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing)." <sup>2</sup>

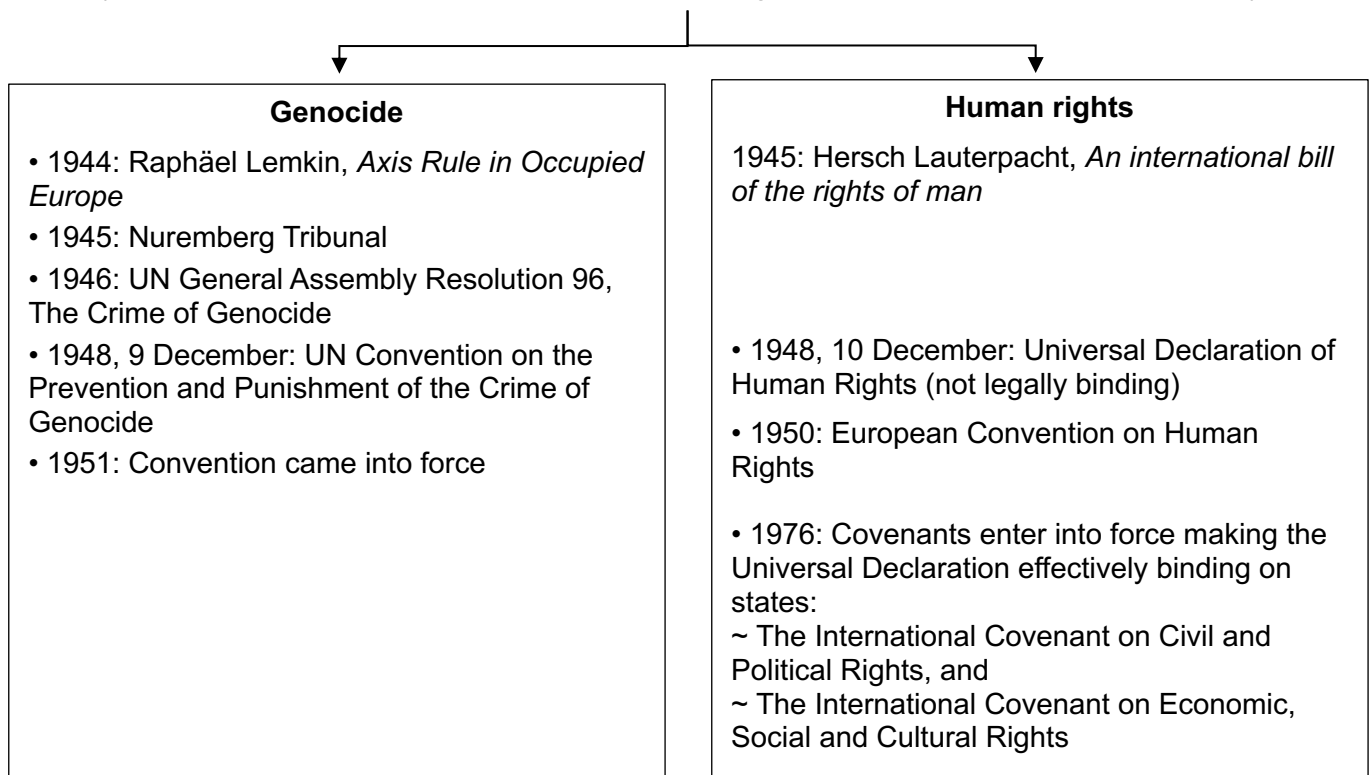
### Genocide vs human rights

Crimes against groups vs crimes against individuals

1919: The Peace Treaty of Versailles, Part I:

The Covenant of The League of Nations, Article 23

(Permanent Court of International Justice, the first global court of law, established in 1922)



<sup>1</sup> Royal Institute of International Affairs, *Bulletin of International News*, Vol. 18 No. 18, 6 September 1941

<sup>2</sup> Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Carnegie Endowment for International Peace – division of international law, 1944)

## Establishing the concept of genocide

**1919**

The covenant of the League of Nations, 1919 <sup>3</sup>

### Article 23

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

(a) will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations;

(b) undertake to secure just treatment of the native inhabitants of territories under their control;

(c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;

....

**1945**

“The United Nations' indictment of the 24 Nazi leaders has brought a new word into the language—genocide. It occurs in Count 3, where it is stated that all the defendants ‘conducted deliberate and systematic **genocide—namely, the extermination of racial and national groups**’.” (Reported in *The Sunday Times*, 21 October 1945)

**1946**

UN General Assembly Resolution 96, 11 December 1946: *The Crime of Genocide*

“**Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings**; such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations.” ....

“**The General Assembly, therefore,**

“**Affirms that genocide is a crime under international law** which the civilized world condemns, and for the commission of which principals and accomplices – whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds – are punishable;

“Invites the Member States to enact the necessary legislation for the prevention and punishment of this crime;

“Recommends that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide, and, to this end,

“**Requests the Economic and Social Council to undertake the necessary studies, with a view to drawing up a draft convention on the crime of genocide** to be submitted to the next regular session of the General Assembly.”

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<sup>3</sup> Integrated into the Treaty of Versailles and all other peace settlements signed in Paris after World War I.

**1948**

Convention on the Prevention and Punishment of the Crime of Genocide

Ratified by General Assembly resolution 260 A (III) of 9 December 1948 Entered into force: 12 January 1951.

**Article I**

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

**Article II**

In the present Convention, **genocide means 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 group.

**Article III**

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Genocides officially commemorated on UK Holocaust Memorial Day (in addition to the Shoah):

- Cambodia (Kampuchea), 1975-79 – well over 2 million people murdered;
- Rwanda, 1944 – 1 million Tutsis and moderate Hutu murdered;
- Bosnia and Herzegovina, 1992-95 – over 100,000 died, 2 million displaced;
- Darfur, 2003-2005 – 200,000 murdered, 2.5 million displaced (new conflict erupted on 25 April 2023).

Other genocides:

- Islamic State genocide against the Yazidi people in Iraq, 2014-15 – over 5,000 killed, 8,000 women and girls forced into sex slavery (recognised as a genocide by HMG in August 2023)
- Rohingya Muslims in Myanmar, 2016 onwards – about 1 million refugees in Bangladesh, persecution and violence against the 600,000 who remain in Myanmar.\*
- Uyghur Muslims in Xinyang Province, China, 2017 onwards – over 1 million imprisoned in “re-education camps” and others subjected to intense surveillance, religious restrictions, forced labour and forced sterilizations.

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\* Human Rights Watch reports that the refugees fled “to escape the military’s crimes against humanity and possible genocide.” In January 2020 the International Court of Justice ordered Myanmar to take steps to prevent genocide.

## Early objections to the concept of genocide

'Lemkin met again with Jackson [Robert Jackson, US-appointed Nuremberg Chief Prosecutor] at the end of June [1946], this time to persuade him to argue for genocide as a distinct crime. He faced political objections in the United States and in Britain, arising respectively from historic American treatment of blacks and British colonial practices. There were practical difficulties evoked by Lauterpacht: How did one actually prove the intent to destroy a group? And there were objections of principle, of the kind evoked by Leopold Kohr, that Lemkin had fallen into the trap of 'biological thinking', focusing on groups in a manner that gave rise to anti-Semitism and anti-Germanism. The hurdles remained high.' Philippe Sands, *East West Street: on the origins of genocide and crimes against humanity* (Weidenfeld & Nicolson, 2016), p.407

## The controversies continue

### a. National sovereignty and international law

On 11 November 2012, the Policy Exchange published *The Impact of the Human Rights Act 1998 in Twenty-Five Cases*. In an endorsement, Sir Patrick Elias, a former Lord Justice of Appeal, wrote:

"The focus on human rights in English law following the Human Rights Act has undoubtedly increased the power and influence both of the ECHR and the English judiciary. This paper provides a powerful argument, based on numerous authorities, that this has been detrimental to the proper development of English law. Agree with them or not, the authors raise serious issues which cannot simply be ignored."

### b. Genocide and crimes against humanity

From Philippe Sands, *East West Street* (2016): p.459

'An informal hierarchy has emerged. In the years after the Nuremberg judgement, the word genocide gained traction in political circles and in public discussion as the 'crime of crimes', elevating the protection of groups above that of individuals. Perhaps it was the power of Lemkin's word, but as Lauterpacht feared there emerged a race between victims, one in which a crime against humanity came to be seen as the lesser evil. That was not the only unintended consequence of the parallel efforts of Lauterpacht and Lemkin. Proving the crime of genocide is difficult, and in litigating cases I have seen for myself how the need to prove the intent to destroy a group in whole or in part, as the Genocide Convention requires, can have unhappy psychological consequences. It enhances the sense of solidarity among the members of the victim group while reinforcing negative feelings towards the perpetrator group.'

### c. Genocide and "permanent security"

A Dirk Moses, *The Problems of Genocide: Permanent Security and the Language of Transgression* (Cambridge University Press, 2021)

'The core thesis of this book is stated clearly at the outset: the concept of genocide as the "crime of crimes" produces a hierarchy of mass death that organizes and distorts thinking about civilian destruction, and blinds us to the immense harm of other forms of mass killing of civilians, including the bombing of cities and drone strikes. It would be far more preferable, in Moses' view, to recognize and privilege attention to the crimes of "permanent security."' (Review by David O. Friedrichs, Rutgers University website, September 2021)

## Remember Amalek

'Thus said the God of Hosts .... Now go and strike down Amalek, and put under the ban (*cherem*) everything he has. You shall not spare him, and you shall put to death man and woman, infant and suckling, ox and sheep, camel and donkey.' I Samuel 15:2-3