

GENOCIDE: SOME REFLECTIONS ON GENERAL PHILOSOPHICAL, ETHICAL, AND LEGAL ASPECTS OF A MOST HORRIFIC CRIME

Josef Seifert*

Abstract: This paper explores the nature of crimes against humanity and the moments that distinguish such a kind of crime. It indicates that such crime is featured by a quantitative magnitude and number of victims and the qualitative "inhumanity". By this token, it contends that actions besides extermination (such as psychological persecution, torture, systematic rape, etc.), notwithstanding the horror of these crimes, constitute other types of "crimes against humanity" and do not as such constitute genocide, but augment the overall genocidal character of certain crimes.

I. What is Genocide?

GENOCIDE, "the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group", is no doubt one of the most horrendous crimes, perhaps *the* most horrific one, a crime that has been committed all too often throughout the history of mankind but possibly been carried out more frequently and more cruelly than ever before in the 20th century, particularly in Europe, Asia, and Africa.

Genocide, at least in its strictest meaning, is a form of murder. Thereby it differs not only from unintentional killing of human beings, for example in an accident, whether it be through no fault of one's own or through punishable negligence, for example by reckless driving, but also from other forms of killing human beings that we would not call murder, such as killing human beings in a just war, or administering the death penalty to a criminal. Even if we believe that death penalty for a criminal is intrinsically wrong and that no war is morally justified, we still would distinguish both of these killings from murder. Why? Death penalty differs from murder first of all because, unlike murder which anyone can commit, it cannot be administered by any individual, but only by the legitimate authority of a state or its representative, or some kind of substitute thereof, such as a jury and sheriff in the Wild West. Secondly, death penalty is preceded by the investigation into whether a given person has committed a crime worthy of death. It entails giving the indicted person the choice of defending herself or of hiring a lawyer to offer her legal defense; it presupposes laws, a judge and his sentence, etc.

None of this is part of murder that is an intentional killing of a person by an individual, a group of people, or a state (judicial murder) without there being any

*Dr. JOSEF SEIFERT, Professor, International Academy of Philosophy Spain–Instituto de Filosofía Edith Stein Granada, Spain. Email: jseifert@iap.li.

element of a just response to a crime, of punishment, of justice, or of a genuine judgment of a court. Of course also in murder, especially in judicial murder, one might organize a sham-trial, a pseudo-judge, a bogus-jury, and a mock-judgment, but then it is blunt murder mimicking the imposing of a death penalty, such as in the attempted murder of Florestan by Pizarro in Beethoven's *Fidelio*, in which Pizarro introduces himself as judge, while Florestan recognizes him as the hate-filled murderer he is, only posing as a judge.

Also killing human beings in a military action in war differs from murder except if the war lacks any real or even subjectively assumed just cause, for example if it serves merely to conquer a country over which a state has no semblance of a right and if killing people is directly intended, in which case the killing of soldiers and civilians is equal to murder. (Of course, murder committed by soldiers during even the justest of wars remains murder and is a war-crime). Instead, a war, at least a just war, does not intend directly the killing of people but pursues such goals of war as liberation from an unjust regime in the attainment of which the killings or killed persons assume the status of "casualties" that are not directly intended. For all these and other reasons killing in a war differs from murder.

Genocide, however, is no doubt murder, being the deliberate and intentional killing of civilians and innocent people, but obviously not every murder is genocide. Genocide differs from ordinary murder first in that it is a mass-murder: the extermination of a whole group or of large parts thereof and hence of many individuals. Again, not every mass-murder is genocide, as the latter entails a number of further conditions and characteristic, as we shall see. Moreover, mass-murder (for example of thirty or hundred people) rarely or never includes killing such large numbers of people as a genocide that frequently wipes out whole tribes, populations, or nations, or major parts of them, and thus normally results in thousands or millions of victims, and already for this quantitative reason is a bigger crime than simple murder or mass-murder.

The gravity of the crime of genocide does not solely depend on the evilness of murder and on the quantity of its victims, however, but also on the innocence of the children, women, and civilian population that are murdered by it and on the utter irrationality of its motives, especially when it does not result from an understandable though evil desire of retaliation and vengeance taken by a group of people that have suffered much harm in the past from the group of present victims, but from stupid and vicious racism and other similarly irrational motives. Moreover, the murder of which it consists is often augmented in its evilness by a series of other crimes that accompany most genocide: cruelty against the victims, humiliation, torture, rape, etc. Moreover, its directness against a community and multitude of persons as well as often against their culture, stains genocide with a new dimension of evilness: that of the intent to wipe out and exterminate a whole people, tribe, race, etc.

Genocide is also called a "crime against humanity," and this not only and not even primarily for the reason of the immense quantity of its victims which represent such a large portion of the human race that one might see their murder as being directed against humanity as such, but also, and even more, for the reason of its possessing, together with the multitude of its victims, a particularly "odious" and

“inhumane” quality, not just violating the moral and legal order, but also the humanity itself of both the victim and the perpetrator of the crime. The *Rome Statute of the International Criminal Court Explanatory Memorandum* states that crimes against humanity: “are particularly odious offenses in that they constitute a serious attack on human dignity or grave humiliation or a degradation of one or more human beings.” (As quoted by Guy Horton, 2005, 201; RSICC/C, Vol. 1, 360).

Thus one might call a brutal slaughtering and inhuman torturing of a human being a crime against humanity because it does not only constitute, as each crime does, an attack against whatever is good and noble in a human being, but against the humanity of man as such; it is an eminently *inhuman* crime that exceeds in its proportion and viciousness all of which a properly human imagination and intention of evil is capable; it is a crime beyond all proportions of those crimes that, in spite of their evilness, still bear the stamp of humanity or have at least left a dim spark of humaneness in them. For this odious quality of the crimes against humanity these must be called diabolical rather than human.

While this moment of a “crime against humanity” is well described in the quote from the Rome Statute of the International Criminal Court Explanatory Memorandum, the immediately following text of the latter is puzzling:

They [crimes against humanity] are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority. However, murder, extermination, torture, rape, political, racial, or religious persecution and other inhumane acts reach the threshold of crimes against humanity only if they are part of a widespread or systematic practice. Isolated inhumane acts of this nature may constitute grave infringements of human rights, or depending on the circumstances, war crimes, but may fall short of meriting the stigma attaching to the category of crimes under discussion. On the other hand, an individual may be guilty of crimes against humanity even if he perpetrates one or two of the offences mentioned above, or engages in one such offense against only a few civilians, provided those offenses are part of a consistent pattern of misbehavior by a number of persons linked to that offender (for example, because they engage in armed action on the same side or because they are parties to a common plan or for any similar reason.) Consequently when one or more individuals are not accused of planning or carrying out a policy of inhumanity, but simply of perpetrating specific atrocities or vicious acts, in order to determine whether the necessary threshold is met one should use the following test: one ought to look at these atrocities or acts in their context and verify whether they may be regarded as part of an overall policy or a consistent pattern of an inhumanity, or whether they instead constitute isolated or sporadic acts of cruelty and wickedness.

This text mixes into the notion of “crime against humanity” a third element: that such crimes must be “part of a widespread or systematic practice” or “part of an overall policy.” But this does not seem to belong properly speaking to the crimes against humanity but links these to a specific political background which neither seems essential to the mentioned qualitative moment, nor necessarily connected to the first

element of “crimes against humanity” – their directedness against a sufficiently large group of human beings such that they in some sense “represent humanity” more than, let’s say, a family would do so. Also in this regard the element of “systematic practice” or of “widespreadness” may well be lacking, and a crime against humanity may be carried out by a single person (who, for example, leads a large group of people to a cave in which they will miserably perish or, like Stalin who killed up to ten million Ukrainians in this way, deprives them of food so that millions will die from hunger, or who singlehandedly, through poisoning all their farming fields, reaches the same effect).

In the Europe of the 20th century we have to deplore many genocides, among which the multiple genocides committed by the Nazis against 6 million Jews (Wikipedia, “The holocaust,” 2013), 220.000-500.000 Sintis and Romas (“Gypsies”), (United States Holocaust Memorial Museum, 2013), 2.4 million Poles, and at least 3.3 million Russian POW’s in Mauthausen, etc., are the most systematic and coldly planned ones. Not less terrible are the genocides that have been carried out by Stalin (Naimark, Norman M., 2010): through an artificially provoked famine against 7-10 millions of Ukrainians (Holodomor, 1932-1933), during which approximately 25000 people died daily, and others (The History Place, 2013; University of Chicago, 2013, Ukraine-Holodomor). But equally barbarous and cruel European genocides continued until recently during the Balkan war in Srebrenica and elsewhere. One must also not forget the genocides committed by Ismail Enver (Turkey, 1915-20) of 1,200,000 Armenians (1915) + 350,000 Pontian Greeks and 480,000 Anatolian Greeks (1916-22) + 500,000 Assyrians (1915-20) (Wikipedia, 2013, “The Armenian holocaust”; Scaruffi, Piero, 2006).

In Africa, between 1966 and 1970 a total of 3.5 million Igbo and other Southeasterners were murdered in Biafra by the Nigerian state and its people in the most gruesome manner anyone can imagine. It is regarded as the worst pogrom and ethnic cleansing act that has been visited on any people since the end of the World War II, and one against which the Western world has done nothing, and which, on the contrary, Britain, USSR, and Egypt even have aided and abated, supplying to Nigeria men and weapons of mass destruction. The atrocious genocide committed against the Igbo (or Hibu) Tribe in the 1960ies (followed by further crimes committed against this people until today) and the genocide which occurred in Rwanda during April 1994, during which approximately 800.000 Tutsis were systematically and brutally murdered by the Hutu Militia and approximately 500.000 women have become victims of rape and of other forms of sexual violence and mutilation, are the best known and possibly the most horrific, but by no means the only ones on the African continent (History 2013).

In Asia, the most terrible genocides have been carried out in Khmer Rouge, led by Pol Pot, Ta Mok and other leaders, organized the mass killing of approximately 1.7 million Cambodians between 1975–1979, including deaths from slave labor, and these are only a small part of the genocides perpetrated during the last century or continued into the 21st century. Piero Scaruffi (Scaruffi, Piero, 2013) gives a horrendous list of 62 genocides in the 20ieth century.

The question as to what exactly is meant by the term “genocide,” however, is not easy to answer, and the term is far from staying free of ambiguities. Raphael Lemkin (Lemkin, R., 1944) coined the term “genocide” by combining the Greek word *genos* (γένος; race, people) and the Latin *caedere* (to kill). The Wikipedia article “Genocide” defines it as “the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group”. (Funk, T. Marcus, 2012, 1; Lemkin, Raphael, 1944, ix, 79).

The first much disputed question regarding this definition has been how large a “part” of a group of victims of extermination must be killed for an action to qualify as genocide. It seems that a country, military, or terrorist paramilitary units must kill a major part of the respective group (at least inasmuch as the latter is under the sphere of influence of those who perpetrate the crime) to constitute genocide. No one would call the killing of 5 or 10 members of a certain group “genocide.”

However, almost more important than sheer numbers or percentages is the element of the “deliberate and systematic destruction... of an ethnic, racial, religious, or national group,” in order to consider a crime genocide. For as soon as this element is present, we speak of genocide or at least of a genocidal intention. One has therefore to add to this definition this further element, namely that, for a killing to be genocide, the killing must be carried out *for the reason of the victims belonging* to such a national, racial, societal or other group (which of course does not exclude that there are additional reasons and motives why a certain people or group are hated by others.)

This has been well recognized by Barbara Harff, Helen Fein and Ted Gurr in their distinction between genocide and politicide. (Harff, Barbara and Gurr, Ted, 1988; Harff, Barbara/Fein, Helen. ed. 1992, 37, 38). They defined genocide as “the promotion and execution of policies by a state or its agents which result in the deaths of a substantial portion of a group ... [when] the victimized groups are defined primarily in terms of their communal characteristics, i.e., ethnicity, religion or nationality.”

Thus, even if a whole tribe or nation is killed in a war but if the systematic killing is carried out for another reason than the belonging of certain individuals to a certain ethnic or other group, for example if they are killed because all members of that group are actively involved in a political uprising, or are soldiers of an enemy country or are being killed in military strikes dictated by war strategies, one might condemn the being cruelly killed or exterminated of a whole group of persons and find it equally monstrous as genocide, but should nevertheless not call such a crime genocide, at least not if the civilian or politically unengaged members of their families are not killed as well.

For this reason, the crimes against humanity carried out in Sudan since 2003 may have been incorrectly classified by US Secretary of State Powel as “genocide.” However, note that the question of whether a monstrous crime of ethnic cleansing or murder is genocide or another type of mass murder is of entirely secondary significance. For although a crime cannot be classified as “genocide,” it may still be a politicide, or a war crime against humanity that is not less heinous than a genocide.

This may be true about the crimes carried out by the government in Sudan since 2003, which have been called genocides. However, in January 2005, an International Commission of Inquiry on Darfur, authorized by UN Security Council Resolution 1564 of 2004, issued a report to the Secretary-General stating that “the Government of the Sudan has not pursued a policy of genocide.” Nevertheless, the Commission cautioned that:

“The conclusion that no genocidal policy has been pursued and implemented in Darfur by the Government authorities, directly or through the militias under their control, should not be taken in any way as detracting from the gravity of the crimes perpetrated in that region. International offences such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide.” (Wikipedia, “Genocide,” 2013).

Still another ambiguity touches the question as to whether only acts of attempted or real extermination and murder qualify as genocide, as the name (from the Roman word-root *caedere*, to kill, also *occidere*, *occisio*) itself suggests, or also other acts, for example, depriving members of a group of important human rights, inflicting physical or psychological harm on a group, or depriving members of the group of their children by forced abortions or by forcibly putting these children under the care of other groups, etc., qualify as genocide.

Consider, for example, the definition found in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), Article 2 of which defines genocide much more widely as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group.” (Office of the High Commissioner for Human Rights, 2 May 2008). Also Lemkin defined genocide in another passage as follows: “Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.” It seems to me, however, that such criminal acts per se, when separated from killing, are not genocides, because, as the very word-meaning suggests, genocide properly speaking, entails the killing or extermination as an indispensable moment of this crime.

In 2007 the European Court of Human Rights (ECHR) noted in its judgment in the Jorgic v. Germany case (*European Court of Human Rights*, 2007, § 47; *European*

Court of Human Rights. Judgment in Jorgic v. Germany Application no. 74613/01, §§ 18, 36, 43–46, 74) that in 1992 the majority of legal scholars took the narrow view that “intent to destroy” in the CPPCG meant the intended physical-biological destruction of the protected group and that this was still the majority opinion. But the ECHR also noted that a minority took a broader view and did not consider biological-physical destruction was necessary for genocide; rather, the intent to destroy a national, racial, religious or ethnical group was enough to qualify as genocide.

According to Rummel (Rummel, R.J., 1997), genocide has 3 different meanings:

1. The ordinary meaning is murder by government of certain people due to their national, ethnic, racial, or religious group membership.
2. The legal meaning of genocide refers to the international treaty, the *Convention on the Prevention and Punishment of the Crime of Genocide*. This also includes acts that are not killings but in the end eliminate the group, such as preventing births by forced contraception or abortion, or by forcibly transferring children out of the group one intends to destroy to another group.
3. A generalized meaning of genocide is similar to the ordinary meaning but also includes government killings of political opponents or otherwise intentional murder.

It may well be that all acts that correspond to any of these three meanings and include the killing of large groups of population are acceptable senses of genocide, although the abovementioned distinction between genocide and politicide (which is absent from Rummel’s third meaning of genocide) ought to lead us to restrict the acceptable meanings of genocide to the first two. Rummel and many others have attempted concrete analyses of the genocides of the 20th century and a philosophical-juridical clarification of the nature of the crime of genocide (Rummel, R.J.: March 1997; 1990; 1991; 1992; 1994).

II. What Commits and Who is Morally Responsible for Genocide?

While, in the age of the atomic bomb, one single individual could conceivably commit genocide by just pushing a button, genocide is normally a crime committed by many persons who act as a group and among whom there exists a certain gradation of responsibility and consequently of guilt, but all of whom are seriously guilty of their own crimes carried out as part of genocide.

Participating in the collectively executed crime of genocide is no less immoral than committing personally a similarly brutal crime. This remains entirely true, even though the prosecution of genocide and other crimes against humanity is usually restricted to the main culprits: heads of state, generals or high military officers, who have ordered their subjects or soldiers to commit those crimes the totality of which constitutes genocide. This may be partly the sheer consequence of limitation of human justice. For if millions of people partook in genocide, where will judges find the time and states the space to punish all of them duly? It may of course occur that a genocide is carried out by an enraged society without any higher political or military commands and that it is the cruel and bestial action of a fanaticized and frantic mass

of people in which, however, each person bears his own responsibility for committing the individual crimes, which, in their entirety, amount to genocide.

It is likewise possible, as it was in Rwanda before the genocide of the Tutsis, that the population is informed by the government and militia that any citizen who will not kill their own neighbors, will be killed himself by the military. In such a situation, notwithstanding such threats, the participation in murder remains a criminal action that cannot exculpate those who obeyed such exhortations or commands, even if those who ordered and forced them to commit those crimes bear the greater responsibility. Nevertheless, as Socrates says in Plato's *Gorgias* and *Crito*, we must never commit injustice, even against those from whom we have suffered it, or in order to avoid suffering it, and it is better, not only in itself, but also *for* any man or woman, to suffer injustice than to commit it. This shows that ethically speaking the situation of "the earnest case" (the *Ernstfall*) of genocide whose perpetrators demand our cooperation makes heroism and martyrdom a moral duty for everyone.

The fact that the crime of genocide is carried out by many and that there are normally main culprits in it, namely those who command and direct its execution, does not change the fact that ethically speaking each and every one who participates in the crime of genocide on his own accord or by obeying criminal orders, or by allowing himself to be intimidated by threats to such an extent that he commits abominable crimes, and who takes active or passive part in a genocide, is seriously guilty. For each individual member of the group that carries out a genocide, even if he is ordered to and threatened by death if he does not participate in it, has morally speaking a strict duty to refuse obedience to the unjust and evil commands of performing intrinsically evil acts such as mutilation, murder, rape, etc. and of participating in the genocidal crime against humanity. Moreover, while in history often not only fear but also a kind of infectious general blindness and mass-fanaticism that frequently underlie genocide, may reduce the responsibility and guilt of the individual in some respects, in other respects the individual crime becomes far worse and far more evil by being intended as taking part in a genocide that is a crime against humanity and is a crime far worse than even the most cruel individual murder.

III. Conditions and Motives of Genocide

Genocide normally is preceded by certain preconditions (Staub, Ervin, 2011, 8). Foremost among them is a national (anti-)culture of death (as John Paul II called it) among the perpetrators of genocide that does not recognize the high value and dignity of each human life. A totalitarian government, with an ideology of the assumed superiority of a certain culture or race, is another factor that can easily give rise to genocidal acts. If above and beyond this members of a dominant society perceive their potential victims as less than fully human: as "savages," "barbarians," "degenerates," "ritual outlaws," "racial inferiors," or as inferior for religious, ideological or political reasons: as "pagans," "unbelievers," "class antagonists," "counterrevolutionaries," and so on, such a view can easily give rise to genocide, although of course some such views do not necessarily lead to such a horrendous crime. In themselves, these ideological conditions alone are insufficient for the

perpetrators to commit genocide. Those who perpetrate such a horrendous crime normally need a strong, centralized authority and bureaucratic organization as well as madmen or criminals to govern them and to supervise and direct genocide. New states or new regimes, attempting to impose adherence to a new ideology and to a new model of society, implemented in a totalitarian way, are particularly prone to genocides. In many cases, for example in Nazi Germany, also a demagogical campaign of vilification and dehumanization of the future victims of genocide, a hate-speech full of contempt, has to be carried on for some time by the perpetrators of a genocide in order to convince a nation, or at least the collaborators in the crime, of the justification of killing the victims.

Some authors have focused on psychological and social processes that create a tendency toward genocide. Helen Fein – who fails to distinguish clearly between the radically different phenomena of (1) a religiously motivated negative response to Judaism that often assumes evil traits of unloving rejection, (2) a stupid racist anti-Semitism, and (3) a socially motivated anti-Semitism nourished by envy of Jewish power and wealth – argued that pre-existing anti-Semitism and systems that maintained anti-Semitic policies were related to the number of Jews killed in different European countries during the Holocaust (Harff, Barbara and Gurr, Ted, 1988; Harff, Barbara, Fein, Helen, ed., 1992, 37, 38).

Ervin Staub offered some plausible arguments that economic crises and political disorganization were starting points of increasing discrimination and violence in many instances of genocides and mass killings. A country suffering a deep economic crisis easily will engage in scapegoating a group or certain religions or ideologies that are identified as enemies and blamed for economic or political woes.

This happens more frequently against the background of a history of devaluation of the group that becomes the victim of genocide, or, as in Rwanda, of past oppression, violence or crimes committed by the group of future victims against the group that becomes the perpetrator of genocides. For if the latter has suffered injustice and psychological wounds from the former and nourishes some deep-seated grudge against its members, this will contribute to the probability that some initial understandable though evil retaliation or violence might develop into genocide. Intense and unresolved historical conflicts between groups become intractable and can thus be prone to contribute to violence and genocide.

A careful study of the historical and psychological conditions that may lead to genocide and above all good responses and reactions to potential sources of genocide provide guidance to early prevention of such tragedies: such as teaching and presenting the full human dignity of a devalued group in literature, joint schooling, integrated preschool and kindergarten, joint orchestras and cultural cooperation and events such as those organized by the Israeli-Palestinian joint youth orchestra, or the preaching of a religion and teaching of an ethics that embraces all human beings and all groups.

Some authors believe that monotheism or any conviction of metaphysical or religious absolute truths will eventually lead to genocide. In reality, however, the worst ideologies and totalitarian states that committed genocides of a magnitude never seen before have based their unjustifiable will to power and their criminal

actions on a complete relativism. It has been shown by a number of authors that both Nazism and the vicious communism of the Stalinist Soviet Union, as well as Italian fascism, were based on a complete relativism and in no way on a notion of absolute truth. This is also quite logical: For if there is no truth, everything is permitted or at least nothing is forbidden (Solzhenitsyn, 1994; Buttiglione, 1991; Seifert, 1998; 2012; Hildebrand, 1994).

On the other hand, it does not at all depend on whether somebody holds something, an X, to be absolutely true, but it entirely depends on the concrete content held to be true, whether his belief in absolute truth will lead him to commit or to reject violent crimes such as genocide. If he believes, for example, in the absolute superiority of the white race over the black race, or in the evolutionary inferiority of the Jews over the Arians, he might be motivated, by the mediation of many additional factors, to commit genocide. If, on the other hand, he is convinced of the absolute truth of the equal ontological dignity of each human person or of the true existence of objective justice, and of basic human rights including a universal right to life, he will of course reject any form of murder and genocide.

Therefore it is plainly stupid to claim, with Assmann and many others, that the monotheist religion or the conviction that there is an objective and absolute truth (part of) which we can know, led, in more or less direct consequence, to Hitler and the concentration camps. Invoking Moses in this context, and his exit from polytheist Egypt to the desert and mount Sinai, is especially ludicrous given that the absolute respect for each human life is precisely the fifth commandment received by Moses on the Mount Sinai and Pharaoh and his soldiers, with their many gods, intended to exterminate the Jews during their (previously granted) exodus from Egypt. Likewise, the claim that any belief in a religion taken to be absolutely true and revealed by God, or any judgment that other religions are not based in their entirety on truth will lead to dictatorship, oppression, and a violence against other believers, or even to the Nazi extermination camps, is both totally ahistorical and totally thoughtless, even if of course, regrettably, many Jews, Moslems, Hindus, and Christians have interpreted their religion in a way that justified pogroms or religious wars. Monotheism as such, however, or the conviction that Christ is the only Savior or that the Catholic Church is the only true Church and instrument of salvation, of themselves in no way will lead to genocide nor does relativistic adherence to many gods and religions necessarily lead to peace, as Jan Assmann, a historian who falsified the history of polytheist cultures which abound of cruelties and wars, claimed (Assmann, 1998).

IV. Genocide as a Matter of International Law and Punitive Justice

The universal acceptance of international laws forbidding genocide was achieved only in 1948, with the creation of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG). Therefore, genocidal crimes committed prior to 1948, such as taking part in the Holocaust, were prosecuted simply as “crimes against humanity,” or under the rubric of less specific crimes like murder (Funk, T. Marcus, 2012, 1; Schabas, William, 2000, 198).

When the mentioned UN Convention on the Prevention and Punishment of the Crime of Genocide was drafted, it was already envisaged that it would apply not only to forms of genocide existing at the time, but also “to any method that might be evolved in the future with a view to destroying the physical existence of a group”. And no doubt the official recognition by International law of genocide as a severely punishable crime was an important step towards a new and better world order and world peace, even though some of the most horrible perpetrators of genocide, for example in Nigeria (Biafra), remained virtually unpunished and continue remaining so. Genocide is now a crime under international law regardless of whether committed in time of peace (such as Stalin’s extermination of 7 to 10 million Ukrainian farmers by means of an artificially produced famine) or in time of war (such as those genocides committed by the Nazis on 3.3 million Russian POW’s in Mauthausen or those committed during the “Balkan war” in the territory of the former Yugoslavia in Srebrenica and elsewhere). (Prosecutor v. Radislav Krstic, 2004, § 6) The preamble to the CPPCG states that “genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world,” and that “at all periods of history genocide has inflicted great losses on humanity.”

Today, irrespective of the context in which it is committed, genocide is an internationally recognized and most severely punishable, though rarely actually punished, crime.

V. Should the Revelation or Denial of the Historical Truth about the Occurrence of Certain Genocides be Banished and Prosecuted by the Law?

Revisionist attempts to deny or challenge claims of genocides are illegal in some countries. For example, several European countries ban denying the Nazi Holocaust, whilst in Turkey it is, quite on the contrary, illegal to refer to mass killings of Armenians, Greeks and Assyrians by the Ottoman Empire towards the end of the First World War as a genocide.

It seems clear that any telling of the truth about a genocide ought not to be punished and everyone should be free to tell the truth on such important matters as the occurrence of genocides and about the perpetrators of it, about the nations that indirectly cooperated with genocides by delivering weapons to governments engaged in genocides, or the lack of legal sanction against criminals involved in them.

The question whether a denial of the historical truth of the occurrence of genocides ought to be punished is more difficult to answer. Given the fact that millions of victims died in these genocides and that the historical facts about them are established without a shadow of reasonable doubt, it does indeed seem to be not only mad, but an offense against the victims and their families, to deny such truths as the holocaust, such that an interdiction of denying these genocides and even a punishment for denying them in public seems in order. Nevertheless, it seems to be questionable to punish a person who is not a neo-Nazi and who neither supports committing a genocide or similar crimes, nor committed any of them, nor cooperated with them, for not believing the extent of the atrocities of a given genocide. This seems especially pharisaical if many of those who perpetrated or supported genocides (for example in

Nazi Germany) are in no way punished for their horrendous crimes or cooperation with them, while others who, while condemning these crimes, perhaps in virtue of a foolish belief in the goodness of the German people who “could not have done such a thing,” or because of phony historical documentations about an alleged concerted lie about the holocaust, express their doubts not about the wrongness, but about the actual occurrence of a holocaust. I am inclined to think, that only when the perpetrators and collaborators of genocide are drawn to account for their crimes, also the punishment of those who deny blatant historical facts, thereby offending the families of victims of genocide, is right.

VI. The Moral Duty of the World-Community and of Individual State to Prevent Genocide or to Stop It Starts to occur

A major criticism of the international community's response to the Rwandan Genocide was that it was reactive, not proactive and that the international community has developed a mechanism for prosecuting the perpetrators of genocide but has not developed the will or the mechanisms for intervening in a genocide as it happens.

In the light of our grasp of the nature of genocide it is obvious that there exists a duty of the world community and of individual states never to participate actively in genocide, and far more: It is clearly a duty of each state that is able to do so to become active in stopping or preventing genocide if its imminent occurrence is foreseeable or if it has begun. The objectives of the moral, political or military battle against genocide do not merely consist in paying attention to the first warning signals of an imminent genocide, with the intention to prevent the mass murder of certain groups, or to safeguard the very existence of a community of certain threatened human beings, and to affirm energetically the most elementary principles of humanity and morality. Rather, each state and the world community have the additional duty to protect concretely groups against diverse forms of inhuman oppression, enslavement, privation of rights and of life support, and against verbal assaults and humiliations that easily may give rise to genocide. Moreover, it is definitely a duty of the world-community, based on a global solidarity of mankind profoundly elaborated by Max Scheler, to protect groups that are being slaughtered, against genocide (Seifert, 1997), if necessary, through military intervention.

In view of the most basic human goods and rights that are involved when genocide occurs, the UN and the world at large have recognized after world war II in 1948) that the legal and moral obligations regarding genocide do not restrict themselves to refraining from genocide, but also consist in a far more active involvement: of watching world-wide for warning signals of imminent threats of genocide or similar crimes against humanity, and of protecting groups in danger. Moreover, both of these obligations that have their root in natural moral law and prepositive human rights, are to be recognized as obligations the world-community and sufficiently powerful states have *erga omnes*. In other words, the International Community and certain powerful states, if persecuted people and victims of genocide cry out for help, do not only have a strict duty of protecting any endangered group on

their proper territory and sphere of immediate influence against genocide. Rather, the international community, whether it is organized in the UN or not, has in regard to real or threatening genocide an “obligation *erga omnes*,” i.e., an obligation precisely also towards any real or potential victim of genocide world-wide. The world-community has most frequently failed to live up to this obligation, sometimes because of the pacifistic conviction that any war and armed intervention is evil, other times because states did not feel entitled or even permitted to send their own sons into battle and potentially into death for a foreign nation. As to the first reason: no doubt, if ever a war can be just, then a war to prevent genocide. As to the second one: if a state does not hesitate to send its troops to potential death in order to prevent Argentina to take possession of its neighboring island, the Malvinas, or to defend a similarly insignificant military or economic advantage for one’s nation with one’s life, how much more should a country be ready to rush to aid other peoples exposed to death and to the most gruesome cruelties of crimes against humanity, if the victims implore them to defend them

VII. Stages of Genocide and Measures to Prevent It

In 1996 Gregory Stanton, the president of *Genocide Watch*, presented a paper on “The 8 Stages of Genocide” at the United States Department of State (Stanton, Gregory, 2013). In it he suggested that genocide develops in eight stages that are “predictable but not inexorable”. The Stanton paper was presented at the US State Department shortly after the Rwanda genocide and much of the analysis it contains is based on why that genocide occurred. Stanton also suggested preventative measures that the United States could implement directly, or use their indirect influence on other governments, to have them implemented. The Wikipedia article “Genocide” renders Stanton’s theory thus (see also Stanton, Gregory, 2013):

Stage	Characteristics	Preventive measures
1. Classification	People are divided into “us and them”.	“The main preventive measure at this early stage is to develop universalistic institutions that transcend... divisions.”
2. Symbolization	“When combined with hatred, symbols may be forced upon unwilling members of pariah groups...”	“To combat symbolization, hate symbols can be legally forbidden as can hate speech“.
3. Dehumanization	“One group denies the humanity of the other group. Members of it are equated with animals, vermin, insects, or diseases.”	“Local and international leaders should condemn the use of hate speech and make it culturally unacceptable. Leaders who incite genocide should be banned from international travel and have their foreign finances frozen.”
4. Organization	“Genocide is always organized... Special army units or militias are often trained and armed...”	“The U.N. should impose arms embargoes on governments and citizens of countries involved in genocidal massacres, and create commissions to investigate violations”
5. Polarization	“Hate groups broadcast polarizing propaganda...”	“Prevention may mean security protection for moderate leaders or assistance to human rights

		groups...Coups d'état by extremists should be opposed by international sanctions."
6. Preparation	"Victims are identified and separated out because of their ethnic or religious identity..."	"At this stage, a Genocide Emergency must be declared. ..."
7. Extermination	"It is 'extermination' to the killers because they do not believe their victims to be fully human".	"At this stage, only rapid and overwhelming armed intervention can stop genocide. Real safe areas or refugee escape corridors should be established with heavily armed international protection."
8. Denial	"The perpetrators... deny that they committed any crimes..."	"The response to denial is punishment by an international tribunal or national courts"

In April 2012, it was reported that Stanton would soon be officially adding two new stages, Discrimination and Persecution, to his original theory, which would make for a 10-stage theory of genocide.

Both Stanton's analyses of these stages of genocides and of their characteristics, and his proposals of how the USA and the world community ought to react at each stage seem to be excellent, although some points would bear a critical examination. One can only hope that the criteria of Stanton or similar ones will be further studied and above all concretely applied in time and that the measures Stanton proposes as national and international responses will be given immediately in order to help to prevent in the 21st century horrors similar to the genocides of the last century.

VIII. Live for the Survivors and Perpetrators of Genocide: Justice and Mercy; Planning Retaliation or Begging Pardon and Forgiveness

There exists another moral and human problem of immense proportions: how can the life of a society continue after genocide? How can the survivors of the group of victims of genocide continue to live door to door, in the same village, with the murderers of members of their family, with their rapists, etc.? This problem exists especially after a genocide in which a whole tribe or large portions of the general population participated, as it was in Rwanda, where now many Tutsis live in the same country or village in which the murderers of their children or husbands, or their rapists and the rapists of their wives live. How is this humanly and psychologically speaking possible? What are the moral implications? There seems to exist four main roads which can be taken by the survivors of the group victimized by genocide and by its perpetrators: two of them, in different degrees, are noble and good, but the two others, again by different degrees, are morally speaking negative:

(1) The first path would be that of an ice-cold separation and barrier which either will, if the genocide was committed by inhabitants of the same country, lead to the partition of the country into two states, or to a complete social and possibly geographic separation.

(2) The second road is worse: it is that of a spiral of evil and violence, it is the way of planning vengeance and retaliation or of attacking immediately, as far as possible, the perpetrators of the genocide by criminal acts directed against them, with

the strong possibility of the other side, now having turned into victims of crimes, will likewise react with hatred and retaliation.

(3) The third possible answer demands the execution of justice as condition of the realization of any objective moral and just order and of a peaceful coexistence based on the high value of justice and on truth. Peace and harmony among people are impossible on the basis of a lie or a simple repression of what has happened, as we have already seen above.\

(4) The fourth road would be that of asking for forgiveness and of forgiving, a road of mercy and of pleading for mercy. It is the only path that can lead to an authentic new community and to more than a just and peaceful order of society.

The first two ways, though not being noble and even evil, seem to come more naturally to the human race. The second two, however, are noble and praiseworthy. The way of establishing justice flows from an insight into the high value of justice and into the impossibility of achieving true peace without true justice and without criminals receiving the deserved punishment or doing, as far as possible, amend for their crimes. For it is evident that initiating such horrendous crimes or cooperating in them deserves severe punishment. As long as punitive justice is not done and no attempts at (a largely impossible) restitution are made, a profound moral and metaphysical disharmony will float over a country like a dark and ominous cloud which renders authentic human community impossible and will lead again and again to new conflicts and crimes. This fourth way, which does not suspend but presupposes the way of justice, however, is the most sublime and noble, but also the most difficult one to achieve. I recall here an admirable example of it: a young and beautiful medical doctor in Columbia, South America, spoke publically of the unspeakable evils and crimes committed against her after she had fallen in the hands of a terrorist group: her body and face had been cut with knives by her torturers, she had been repeatedly raped and mistreated in countless and most humiliating ways. Years after her liberation, one of her worst torturers came to her, fell on his knees and asked, under tears, for her forgiveness for the horrible things he had done to her. And she responded with complete forgiveness of the evil he had done her. Through these acts of begging pardon and pardoning peace and perhaps even some kind of love and friendship between them became possible.

Her forgiving was no doubt a free gift; he had no right to it. Her forgiveness did not declare his acts to be harmless or innocent. No, without recognizing his freedom and the evilness of his acts, she could not have forgiven him because there would not have been any injustice and evil to forgive the evildoer; there would not have been anything to forgive. Forgiving him, she also saw that he was a free agent who had freely abused his will to rape and torture her. She could not have forgiven a machine or marionette that would have hurt her and not even a human being totally determined by his genes and upbringing: she could only forgive a free agent who had wronged her and was responsible for criminally abusing her. By her forgiving, she could of course not dissolve the disharmony of the morally evil act itself, nor forgive the man who mistreated her so gravely, his great sins. She could only forgive him for having done her a great objective evil for her.

This merciful forgiving is not contrary to justice, however, which it presupposes: forgiving her assaulter presupposed her insight that truly a horrible wrong and injustice had been committed against her through the man who asked for her forgiveness and whom her whole natural instincts and inclinations and justified outrage drove her to hate and to hold in utmost contempt. She also realized that in virtue of having been a victim of his crimes she had a kind of spiritual and in her case also a legal claim against her cruel and unjust prison guard. Without understanding all of this, she could not have forgiven him properly.

Moreover, the victim of these crimes had to recognize the fact that the criminal man, with his present free will, took back and disavowed the wrong he had done her even if he could not make his deed undone or delete the consequences of his actions: her scarred body and the psychological and physical evil he had done her. But through forgiveness, she could as it were tear up the objective claim she held in her hands against him; she could even renounce the wish that he would give her as much as he could of what he owed her to make restitution and amend his deeds and reduce her demands against him. Above all, she became able to affirm the value of his person and the goodness of his retracting and regretting his deed.

The strength of such forgiveness and the mercy it contains can hardly be possible without love and charity that far exceeds the level of justice and even the level of what ordinary human beings are capable of doing. The forgiveness this doctor showed to her torturer went far beyond justice, in affirming the value and dignity of this criminal person, a value and dignity he possesses in spite of his evil deeds (Crespo, Mariano, 2002). Forgiveness, like love, does not nail the other person down to the evil he committed, does not identify the person with his evil deeds. Forgiving the man, she did not only acknowledge the dignity he possessed notwithstanding his deeds, but also the good will his pleading for pardon entails. She was no doubt also moved to forgive by recognizing this value of his feeling sorry for what he had done and of the humility of his asking for pardon. (Hildebrand, Dietrich von, 2009, ch. 3; 11).

This last and most noble way to respond to the horrors inflicted and committed by genocide cannot be realized by a state or by international law but only by persons who perform morally good acts. It requires profound and humanly speaking extremely difficult acts from both sides: the perpetrators of the crimes must acknowledge, in all humility, that they have offended in horrible ways against the dignity of the victims, that they have done them great wrong, are responsible for the multiple evils they have done to them and their families and for all the atrocities they have committed. And those who can forgive have to overcome all feelings of hatred and vengeance. They even have to transcend their thirst for justice and have to be able to look beyond the evil deeds of a person to a dignity and to values which he possesses in spite of his deeds.

I would suggest that, without going beyond the order of justice, necessary and important as it is, and without reaching that fourth and highest level of the response to the perpetrators of genocide and to their victims, healing, profound peace and a solution to the incredible wound genocide leaves in a society, both in perpetrators and victims, is unreachable.

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