

# Re-evaluating and Expanding the Definition of Genocide in International Law

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**Abstract:** This chapter will provide a summary of the study because the paper critically examines the existing definition of genocide within international law, identifies its shortcomings, and proposes a more comprehensive definition to encompass a broader range of atrocities. The primary objective is to address existing loopholes that allow perpetrators to evade accountability effectively. By widening the scope of what constitutes genocide, the intention is to hold those responsible for heinous crimes against various groups accountable, thereby acting as a deterrent to such atrocities and fostering a just global legal framework.

**Keywords:** Genocide, atrocities, tribunals, perpetrators, jurisdiction, justice.

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## 1. INTRODUCTION

International law encompasses a comprehensive body of legal rules, norms, and standards governing relations between sovereign states and recognized international entities. Its primary function is to maintain global peace, order, and stability. Categorized into public and private law, international public law addresses state and citizen matters, including crimes such as genocide, crimes against humanity, war crimes, and acts of aggression. This paper seeks justice for genocide victims whose voices have remained unheard due to criminals exploiting legal loopholes and advocates for a nuanced and all-encompassing approach to legal definitions. For it is evident that crime is an omission or commission which constitutes an offence and punishable by law.<sup>1</sup>

And the crime of genocide has two elements that are intention and execution both of which have to be proved when accusations are made. The focus lies particularly on redefining genocide, which currently refers to the deliberate killing or destruction of a group, national, ethnic, racial, or religious, in part or whole. However, this crime is interconnected with various others such as war crimes and crimes against humanity, presenting a hybrid nature that demands a more inclusive legal framework. The burden of proof rests with the prosecution to establish the elements of genocide beyond reasonable doubt. If victims do not belong to these specified groups, the case falls short of genocide, highlighting the need for a more flexible legal definition.

### Background of the problem

Genocide is not just a problem because of the human suffering inherent in the phenomenon, but also how the concept of genocide, because of its position as the heinous crime, blinds us to other types of humanly caused civilian death, like bombing cities and the collateral damages of missile and drone strikes, blockages as well as sanctions.<sup>2</sup> Genocide involves issue of images of tribalism and ancient hatreds propagated in much of the African countries. Through media, it has been

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<sup>1</sup> J Murray, Oxford dictionary, 2<sup>nd</sup> edition, (1879).

<sup>2</sup> C Newbury, *Background to genocide: Rwanda*, issue: A journal of opinion vol 23, No. 2 (1995).

realised that the concept of genocide was formulated by Lemkin in the mid-20th century. Colonial expansions, particularly by European powers like the British and Spanish Empires, frequently involved genocidal acts against indigenous groups in the Americas, Australia, Africa, and Asia. Lemkin viewed colonization as inherently genocidal, a process involving the destruction of indigenous ways of life. Genocide has affected numerous ethnic groups worldwide, leaving enduring trauma and pain. However, several atrocities, like those in Israel, Palestine, Namibia, or Zimbabwe, were not officially recognized as genocide due to being perceived as political upheavals. Even the extermination of Jews by Hitler's Nazis wasn't classified as genocide, despite targeting the entire Jewish race. Recent conflicts, like Russia's actions in Ukraine, also underscore the complex nature of defining genocide and necessitate a more nuanced historical perspective.

### **Avoiding Definitional Traps**

The term "genocide" holds immense rhetorical power, yet debates over its definition and application can distract from addressing the core issues it describes. To circumvent legalistic arguments, a task force proposes the prevention of "genocide and mass atrocities," denoting large-scale, deliberate attacks on civilians. Victims are targeted based on group identification. This approach aims to take preventive measures before such massive violence occurs, emphasizing the need for a proactive international legal stance.

### **Strategic Approach**

There's no consensus on the causes of genocide, indicating its multifaceted nature. Preventing mass atrocities demands a comprehensive approach, breaking bureaucratic barriers and utilizing various analytical, diplomatic, economic, legal, and military tools. The report outlines domains like early warning, early prevention, preventive diplomacy, military options, and international action, highlighting the need for a multifaceted strategy that addresses the complexity of the global landscape.

### **Objectives of the Study**

The aim of this research is re-evaluating and expanding the definition of genocide in International Law.

### **Research question**

How does the existing international law interpret the crime of genocide crime?

## **2. LITERATURE REVIEW**

Genocide, like any other crime, requires the prosecution to prove every element of crime beyond a reasonable doubt in order to secure a conviction. The elements that must be proved in a criminal case are:

- i) An act, ( actus reus)
- ii) Which is unlawful (unlawfulness)
- iii) Causing the crime (causation)
- iv) Committed with the necessary intent or culpa (intention or negligence)

The argument raised by Israel in the International Court of Justice (ICJ), against South Africa, is that there was no intention. South Africa argues against that Israeli Prime Minister, Benjamin Netanyahu, said to his army, Israeli Defence Force, (IDF), "Remember Amalek", which is a biblical reference that meant the IDF should kill everyone, children, women and children of the Palestinians. This, argued South Africa, was an intention to wipe Palestine. It is however not an easy task to prove intention of the accused in this case. Israel was in pursuit of the enemy.

### **Key aspects: complexity of genocide definition**

The complexity of defining genocide arises from several factors, including legal, historical, political, and moral considerations. Here are some key aspects contributing to the complexity of the genocide definition:

**Legal Definition:** The legal definition of genocide is outlined in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention). According to Article II of the Convention, genocide is defined as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. These acts include killing members of the group, causing serious bodily or mental harm, imposing conditions aimed at the group's

destruction, preventing births within the group, and forcibly transferring children from the group to another. The key aspects of genocide includes:

**Intent Requirement:** One of the key elements of the genocide definition is the requirement of intent to destroy a specific group. Determining the perpetrator's intent can be challenging, as it often involves analysing their actions, statements, and historical context. Intent can be inferred from various factors, including patterns of behaviour, systematic targeting of a particular group, and evidence of premeditation.

**Scope of Protected Groups:** The Genocide Convention protects national, ethnic, racial, and religious groups from genocide. However, debates continue over the inclusion of other groups, such as political or social groups, within the definition of genocide. Some argue that broader definitions are necessary to capture other forms of mass violence and atrocities, while others contend that expanding the definition dilutes its specificity and effectiveness.

**Scale and Severity:** Genocide is often associated with large-scale atrocities and mass killings. However, determining the threshold at which mass violence constitutes genocide can be subjective and context-dependent. Some argue that genocide should only be applied to the most extreme cases of systematic and widespread violence, while others advocate for a broader interpretation that encompasses a wider range of atrocities.

**Historical Context:** Understanding genocide requires consideration of historical context, including factors such as colonialism, imperialism, ethnic conflicts, and state-sponsored discrimination. Historical grievances, power dynamics, and intergroup tensions can contribute to the escalation of violence and the perpetration of genocide.

**Political and Ideological Factors:** The identification and recognition of genocide are often influenced by political considerations, including diplomatic relations, national interests, and geopolitical dynamics. Governments and international organizations may be hesitant to label atrocities as genocide due to diplomatic sensitivities or reluctance to intervene.

**Moral and Ethical Dimensions:** Discussions about genocide also involve moral and ethical considerations, including questions of responsibility, accountability, and justice. Recognizing genocide is not only a legal designation but also a moral condemnation of the perpetrators and a call for accountability and prevention.

Overall, the complexity of the genocide definition reflects the multifaceted nature of mass violence and atrocities, as well as the challenges inherent in legal, historical, political, and moral interpretation. Achieving consensus on what constitutes genocide requires careful analysis, contextual understanding, and a commitment to upholding human rights and preventing future atrocities. It is necessary to establish the intention of the lawmaker in enacting a law to prevent and punish the crime of genocide. It is easy to realise that the idea was to curb atrocities perpetrated by racial, national, tribal, and religious differences and other differences like political disputes.

### 3. GENOCIDE AS INTERPRETED BY THE INTERNATIONAL COURT OF JUSTICE

This chapter explains the meaning of genocide as interpreted by the International Court of Justice (ICJ) guided by the principles of international law, complexity of genocide definition and proportionality of self-defence.<sup>3</sup> The UN Charter served as the foundation for the Court. The General Assembly and Security Council of the UN elect its fifteen judges. One of the parties to a case may designate its own judge ad hoc for the duration of the case if a judge of that party's nationality is not on the Court. South Africa brought this case at the ICJ against Israel under the Convention on the Prevention and Punishment of the Crime of Genocide, also known as the Genocide Convention, of which both states are parties. Here, the judges who currently sit on the Court were selected by both Israel and South Africa.<sup>4</sup>

Israel argues that it did not have intention to kill Palestinians as alleged by South Africa. So the issue of intention as an element of the crime of genocide, is a very complex element to prove. Israel argues that it entered into Gaza in pursuit of a terrorist organisation called Hamas. Israel has a right to defend itself against terrorism of the 7<sup>th</sup> of October, 2023, where Hamas invaded Israel and killed over a thousand civilians.

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<sup>3</sup> The ICJ Statute secures (Article 9, in the composition of the court, the due representation of the main juridical systems of the world, (1945).

<sup>4</sup> The Charter of the United Nations, June (1945).

On its retaliation, Israel launched attacks against the inhabitants of Gaza, killing , children, elderly people and helpless, defenceless people in the guise of self –defence. It is not disputed that Hamas, attacked Israel and killed innocent lives. Hamas is not a military wing of Palestine, it is a terrorist organisation. The criminal activity of Hamas was visited on the wrong target, innocent civilians of Palestine.. Territorial Disputes: Israel's occupation of Palestinian territories, such as the West Bank and Gaza Strip, could be a subject of contention. South Africa might argue that Israel's actions violate international law, including the Fourth Geneva Convention, which prohibits the acquisition of territory by force.

Human Rights Violations: Allegations of human rights abuses in the Israeli-Palestinian conflict, such as settlement expansion, restrictions on movement, and violence against civilians, could be raised. South Africa might advocate for accountability and justice for Palestinians affected by these violations.

International Law: Disputes over the legality of Israel's actions under international law, including the construction of settlements, blockade of Gaza, and use of force against protesters, might be addressed. South Africa could argue that Israel's actions contravene international legal principles and norms. The fact that Hamas invaded Israel on the 7<sup>th</sup> of October, 2023 should not exonerate Israel from being held criminally liable. Israel went all out to kill innocent people enemas in its pursuit to avenge the loss of its citizens. This completely fits for all intents and purposes with crime of genocide. Genocide is not avoided by the cover of self-defence. Innocent, helpless civilians were murdered in the process.

South Africa understands the plight of Palestinians, in that for over 300 years South Africans, the Black majority reeled under the yoke of apartheid rule. So the matter was taken to the International Court of Justice, not simply because South Africa is signatory to the Genocide Convention, but the traumatic experience that South Africa suffered.

The shock that South Africa got was refusal by a great number of nations to support its cause! There are those who believed South Africa brought baseless accusations against Israel in that Israel was simply defending its citizens. This is where we have a challenge when it comes to the definition of Genocide in terms of the Genocide Convention.

Facts of the matter (South Africa v Israel, 2023)

The case of South Africa v Israel, the case at International Court of Justice (ICJ) currently.<sup>5</sup> The Republic of South Africa is claiming in proceedings before the International Court of Justice (ICJ) that Israel violated the Genocide Convention because of activities it took in Gaza; Israel disputes these claims. It takes years for the ICJ to rule on cases that are submitted before it. The parties may request provisional measures or interim remedies in the interim. The Court has now answered to South Africa's request for the Court to order nine such measures, including the end of military operations.<sup>6</sup> The Court referred to the October 7, 2023 attack on Israel that resulted in the taking of hostages and fatalities, as well as the suffering, deaths, and destruction of civilian infrastructure in Gaza brought about by Israel, in its Order of January 26, 2024.<sup>7</sup>

Contains of the ICJ court order: the judges ruled that:

- i. Israel must "take all measures within its power" to prevent the commission of acts prohibited in the Genocide Convention, including killings that cause serious physical or mental harm, the deliberate infliction of conditions of life calculated to bring about the physical destruction of the population in whole or in part, and the imposition of measures intended to prevent births.<sup>8</sup> This is Israel's obligation under the Genocide Convention with regard to Palestinians living in Gaza.
- ii. Israel must do everything within its power to stop direct and public incitement to commit genocide; it must act quickly and decisively to allow humanitarian aid to reach Gaza;
- iii. It must act decisively to prevent the destruction of evidence related to claims of acts against the Genocide Convention; and
- iv. It must report to the Court within a month on the steps it has taken to implement the Order.<sup>9</sup>

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<sup>5</sup> South Africa v Israel (Genocide Convention) (2023).

<sup>6</sup> E. U. Ochab, *South Africa v Israel: ICJ orders additional provisional measures*, (2024).

<sup>7</sup> *ibid*

<sup>8</sup> Y Al Tamimi, *Implications of the South Africa v Israel for the third states*, (2024).

<sup>9</sup> *Ibid*

Judges Sebutinde (of Uganda) and Ad Hoc Barak (of Israel) voted against the adoption of Orders 1, 2, 5, and 6 above. The judges' vote was 15-2. Judge Sebutinde was the only judge who did not vote for Orders 3 and 4. The Court expressed its great concern for the captives' fate and demanded their immediate release, while also pointing out that all parties are subject to international humanitarian law. The question of whether or not genocide has occurred has not been decided by the Court. The Court hasn't even determined if it has the authority to consider the court case. The International Court of Justice (ICJ) was only required to determine if it had prima facie jurisdiction, or initial jurisdiction, as well as:

#### **Tenacity of the provisional measures order**

If there was a connection between the rights protected by the case and the requested actions; if the underlying argument was at least tenable;

whether delaying action would cause the case to suffer irreversible harm; whether it was an urgent problem. Recalling that the duties under the Genocide Convention are *erga omnes*, meaning they affect the whole international community, the Court further determined that South Africa had prima facie "standing" to pursue the case.

#### **The effectiveness of International Court of Justice**

The fundamental purpose of the ICJ is to settle legal disputes submitted to it by states and provide advisory opinions on legal questions in accordance with international law.<sup>10</sup> The ICJ predominantly deals with legal disputes and questions referred to it by authorized United Nations organs and specialized agencies.<sup>11</sup> Structural features of the ICJ includes 15 judges who are elected for terms of office of nine years by the United Nations General Assembly and Security Council. It is assisted by a Registry, its administrative organ and its official languages are English and French. The seat of the ICJ is at The Hague, Netherlands. Hence it has power to resolve the dispute between South Africa and Israel.<sup>12</sup>

The question of justification for Israeli attacks on Gaza is a complex and contentious issue, often viewed differently depending on one's perspective and interpretation of international law, human rights, and regional geopolitics. Here are some perspectives on this matter:

**Security Concerns:** Israel argues that its military operations in Gaza are necessary to protect its citizens from rocket attacks, terrorism, and other security threats originating from the Gaza Strip.<sup>13</sup> Hamas, the militant group controlling Gaza, has been responsible for launching thousands of rockets into Israeli territory, posing a significant threat to civilian lives and infrastructure. Israel maintains that it has the right to defend itself against such attacks and to take action to dismantle terrorist infrastructure in Gaza.<sup>14</sup>

**Self-defence:** Under international law, states have the inherent right to self-defence in response to armed attacks. Israel justifies its military operations in Gaza as acts of self-defence against ongoing aggression and violence perpetrated by Hamas and other militant groups.<sup>15</sup> Israel contends that it is acting in accordance with its obligations under international law to protect its citizens from harm and to maintain peace and security within its borders.

**Deterrence:** Some argue that Israel's military operations in Gaza are aimed at deterring future attacks and weakening the capabilities of Hamas and other armed groups. By targeting militant infrastructure, weapons caches, and command centres, Israel seeks to degrade Hamas's military capabilities and reduce its willingness to engage in hostilities against Israel.<sup>16</sup>

**Responsibility of Hamas:** Critics of Hamas argue that the group bears primary responsibility for the violence and humanitarian crisis in Gaza due to its ongoing rocket attacks, terrorist activities, and refusal to recognize Israel's right to

<sup>10</sup> R Giladi & Y Shany, *Assessing the effectiveness of the international court of justice*, (2023).

<sup>11</sup> R Giladi & Y Shany, *Assessing the effectiveness of the international court of justice*, (2023).

<sup>12</sup> Ibid.

<sup>13</sup> A Shtuni, *The Israel-Hamas conflict: threats and security implications for the western Balkans*, (2023).

<sup>14</sup> ibid

<sup>15</sup> OpinionJuris: Israel's war in Gaza is not a valid act of self-defence in international law, 2023

<sup>16</sup> R Satloff, *Restoring Israel deterrence is critical to both security and peace in the Middle East*, (2023).

exist. Hamas's use of civilian areas for military purposes, including launching rockets from densely populated areas, has resulted in civilian casualties and contributed to the cycle of violence.

**Humanitarian Considerations:** Critics of Israeli military actions in Gaza raise concerns about the disproportionate use of force, civilian casualties, and the humanitarian impact of the conflict on the civilian population. Israel's blockade of Gaza, restrictions on the movement of people and goods, and military incursions have exacerbated humanitarian conditions in the territory, leading to widespread suffering and deprivation among Palestinians.

**International Law:** The legality of Israeli military actions in Gaza is a subject of debate and scrutiny under international law. Critics argue that Israel's blockade of Gaza, restrictions on freedom of movement, and military operations may constitute violations of international humanitarian law, including the principles of proportionality, distinction, and the protection of civilians during armed conflict.

Ultimately, perspectives on the justification of Israeli attacks on Gaza are deeply polarized and influenced by political, ideological, and historical factors. Achieving a lasting resolution to the Israeli-Palestinian conflict requires addressing the underlying grievances and root causes of the conflict, promoting dialogue and negotiation, and upholding the principles of human rights, justice, and international law for all parties involved.

If we were to analyse how the ICJ might handle a case involving South Africa and Israel, it would depend on the specific legal issues at hand, the claims made by each party, and the relevant international law applicable to the dispute. Here are some general considerations for such an analysis:

**Jurisdiction:** The ICJ would first need to establish whether it has jurisdiction over the dispute between South Africa and Israel. Both parties would need to consent to the court's jurisdiction, either through a specific agreement or treaty provision or through a unilateral declaration accepting the court's jurisdiction.<sup>17</sup>

**Legal Claims:** The legal claims made by South Africa and Israel would likely revolve around alleged violations of international law, such as human rights violations, breaches of international treaties or agreements, or disputes over territorial sovereignty. Each party would present arguments and evidence to support their claims, and the ICJ would assess the merits of these claims based on applicable legal principles and precedents.

**Applicable Law:** The ICJ would apply relevant principles of international law to the facts of the case, including customary international law, treaties, conventions, and general principles of law recognized by civilized nations. The court would consider established legal doctrines and precedents from previous cases to determine the appropriate legal framework for resolving the dispute.

**Equitable Considerations:** In addition to legal arguments, the ICJ may also take into account equitable considerations, such as fairness, justice, and the interests of third parties or affected populations. The court may seek to balance competing rights and interests in reaching its decision and may issue orders or recommendations aimed at promoting peace, stability, and respect for human rights.

**Enforcement:** While the ICJ's judgments are legally binding on the parties involved, enforcement mechanisms are limited, and compliance with the court's decisions depends on the willingness of the parties to abide by them. The ICJ may rely on diplomatic pressure, international sanctions, or other measures to encourage compliance with its judgments.

Overall, analysing how the ICJ might handle a hypothetical case between South Africa and Israel would require a detailed examination of the specific legal issues, factual circumstances, and applicable international law principles involved in the dispute. Some of the factual circumstances involves:

**Intent and Motivation:** Genocide requires a specific intent to destroy a group, which distinguishes it from other forms of mass violence or human rights violations. However, discerning genocidal intent can be challenging, as perpetrators often conceal their motives, and genocidal acts may occur in complex political, social, or military contexts where multiple factors influence decision-making.

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<sup>17</sup> C.A. Grywalsky, the ICC has jurisdiction where war crimes, crimes against humanity or genocide are committed within the territory of a state party. Can it also prosecute those who plan or order a state order such crimes if they do so outside the territory of a state party and if they are not nationals of state party? (2004).

**Recognition and Acknowledgment:** Recognizing and acknowledging genocide is a complex and politically sensitive process that involves legal, historical, and moral assessments. Political considerations, power dynamics, and diplomatic relations may influence the willingness of states and international actors to label specific events as genocide, leading to debates and controversies surrounding the classification of past and ongoing atrocities.

**Memory and Trauma:** Genocide leaves a profound impact on survivors, victims' families, and affected communities, shaping collective memory, identity, and historical narratives. The complexities of memory and trauma complicate efforts to document, understand, and address genocidal atrocities, as survivors may experience stigma, silencing, and denial that hinder acknowledgment and healing.

**Prevention and Accountability:** Defining genocide is essential for prevention efforts, accountability mechanisms, and international responses to mass atrocities. However, addressing genocide requires a multifaceted approach that encompasses legal, political, educational, and societal measures aimed at promoting justice, reconciliation, and the prevention of future genocides.

The complexity of the genocide definition reflects the multifaceted nature of this crime and underscores the need for nuanced legal, historical, and ethical analysis to understand and address genocidal atrocities effectively. Despite the challenges involved, clarifying and applying the genocide definition is crucial for upholding human rights, promoting accountability, and preventing future atrocities.

Broadening the definition of genocide involves expanding the legal and conceptual framework to encompass a wider range of acts and contexts that constitute genocide. This process requires careful consideration of the complexities and nuances inherent in genocidal atrocities, as well as the evolving understanding of mass violence, human rights violations, and historical injustices. Here are several strategies for broadening the definition of genocide:

**Inclusion of Additional Protected Groups:** While the current definition of genocide under the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide includes national, ethnic, racial, and religious groups, there are calls to expand the scope to include other vulnerable groups, such as political or social groups, indigenous peoples, LGBTQ+ communities, and persons with disabilities. Recognizing the vulnerability of these groups to genocidal violence and persecution is essential for addressing the full spectrum of genocidal atrocities.

#### **How international community should resolve the cases of genocide**

Resolving genocide requires a comprehensive approach involving legal, humanitarian, diplomatic, and social measures. A key priority is promoting justice and accountability by investigating, prosecuting, and punishing those responsible for genocide. The international community can support national courts, special tribunals, and international institutions such as the International Criminal Court (ICC) to ensure perpetrators are held accountable regardless of their position or status.

Truth and reconciliation processes are also essential in addressing the legacy of genocide. These initiatives help survivors and affected communities heal, encourage dialogue, and reduce the likelihood of future violence. Support for truth commissions, memorialization projects, and community reconciliation programs can contribute to long-term peace and understanding.

Preventing future genocides requires strong early warning and prevention systems. The international community can monitor human rights violations, identify risks of mass atrocities, and intervene diplomatically or humanitarily before violence escalates. Institutions dedicated to genocide prevention can help coordinate these efforts.

Humanitarian assistance is equally important, as genocide often causes displacement, trauma, and severe humanitarian crises. Providing healthcare, education, psychosocial support, and livelihood assistance can help affected populations recover and rebuild their lives.

Finally, education and awareness play a crucial role in prevention. Teaching about the causes and consequences of genocide, promoting tolerance and human rights, and combating discrimination and hate speech can foster a culture of peace, empathy, and respect, reducing the risk of future atrocities.

#### 4. GENOCIDE THAT TOOK PLACE IN SUDAN (DARFUR GENOCIDE)AS WELL UKRAINE,

This chapter will explicate genocide that took place in Sudan (Darfur genocide)as well as Ukraine, there is evidence of war crimes committed by Russian forces in their war against Ukraine<sup>3</sup> including torture, some of it with brutality that led to death and rape of woman aged up to 83 years old.<sup>18</sup> Ukraine v Russian Federation: 32 states intervening 2023. This was an act of aggression by Russia on Ukraine, for whatever reason, this was clear genocidal attack. Russia went on the onslaught to cower Ukraine into submission. It is interesting that South Africa did not see this as genocide, a violation of the Genocide Convention!

The conflict between Russia and Ukraine, commonly referred to as the Russo-Ukrainian War, has its roots in the complex historical, political, and cultural dynamics of the region. The conflict escalated significantly following Russia's annexation of Crimea in 2014 and the outbreak of fighting in eastern Ukraine, particularly in the Donetsk and Luhansk regions, which are collectively known as the Donbas. The act was similar to what transpired in Sudan called the Darfur genocide.

##### Genocide in Sudan (the Darfur genocide)

The issue of genocide in Sudan is deeply troubling and has garnered significant attention from the international community due to the severity of the atrocities committed against various ethnic groups. Here are some key points regarding genocide in Sudan:

**Darfur Genocide:** The most widely recognized instance of genocide in Sudan occurred in the Darfur region in the early 2000s. The conflict in Darfur began in 2003 when rebel groups, drawn largely from the region's non-Arab ethnic minorities, launched an insurgency against the Sudanese government.<sup>19</sup> In response, the Sudanese government, under President Omar al-Bashir, launched a brutal counterinsurgency campaign targeting civilian populations suspected of supporting the rebels.

**Atrocities and Ethnic Targeting:** The Sudanese government, along with allied Arab militias known as the Janjaweed, systematically targeted non-Arab ethnic groups, including the Fur, Masalit, and Zaghawa, among others. The campaign involved mass killings, rapes, torture, forced displacement, and the destruction of villages.<sup>20</sup> Human rights organizations and the United Nations estimated that hundreds of thousands of people were killed, and millions were displaced during the conflict.

**International Response:** The Darfur genocide prompted international outrage and condemnation, with many countries and organizations labelling the atrocities as genocide. The United Nations Security Council referred the situation in Darfur to the International Criminal Court (ICC), which indicted Sudanese government officials and Janjaweed leaders for war crimes, crimes against humanity, and genocide.<sup>21</sup>

**Ongoing Conflict:** While the intensity of the violence in Darfur has diminished in recent years, the region continues to face insecurity, human rights abuses, and humanitarian challenges. Armed conflict between various rebel groups, intercommunal violence, and disputes over land and resources contribute to the ongoing instability in Darfur and other parts of Sudan.<sup>22</sup>

**Other Regions:** In addition to Darfur, Sudan has experienced ethnic violence and atrocities in other regions, including the Nuba Mountains, Blue Nile, and South Kordofan. These conflicts have often been driven by political, economic, and social grievances, as well as competition over resources and power.<sup>23</sup>

**Transition to Civilian Rule:** Sudan underwent a significant political transition in 2019 following months of mass protests against the government of President Omar al-Bashir. A transitional government, comprised of civilian and military leaders, was established with the goal of leading the country towards democratic governance and peace. However, challenges remain

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<sup>18</sup> J Keaten, *UN rights experts decry war crimes by Russia in Ukraine and loo into genocide allegations*, (2023.)

<sup>19</sup> H Travis, *Genocide in Sudan, the role of oil exploration and the entitlement of the victims to reparations*, (2008)

<sup>20</sup> *ibid*

<sup>21</sup> E Lederer, *ICC prosecutor: There are grounds to believe Sudan's warring sides are committing crimes in Darfur*, (2024).

<sup>22</sup> *ibid*

<sup>23</sup> S Totten, *African rights, facing genocide: the Nuba of Sudan London: African rights, genocide studies and prevention : An international journal, volume 4, issue 1*, (2009)

in addressing the legacy of past conflicts, including accountability for past atrocities and promoting reconciliation among Sudan's diverse ethnic and religious communities.

In summary, *Ukraine v Russian Federation: 32 states intervening 2023*. This was an act of aggression by Russia on Ukraine, for whatever reason, this was clear genocidal attack. Russia went on the onslaught to cower Ukraine into submission, the determination as per President Vladimir Putin was to demilitarise and denazification on the Ukrainian government.

Whereas, the genocide in Darfur represents one of the most egregious instances of mass violence and human rights abuses in Sudan's recent history. While the situation in Darfur has improved in recent years, addressing the root causes of conflict, promoting accountability for past atrocities, and fostering reconciliation among Sudan's diverse populations are essential for achieving lasting peace and stability in the country.

### Escaping Genocide Liability Through Definition Technicalities

Escaping liability for genocide through definition technicalities refers to situations where individuals or entities responsible for committing acts that would otherwise constitute genocide evade accountability by exploiting ambiguities or limitations in the legal definition of genocide.<sup>24</sup> Here are some ways this can occur:

**Narrow Definition:** The legal definition of genocide, as outlined in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, requires specific elements to be met, including the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.<sup>25</sup> Perpetrators may exploit ambiguities in proving genocidal intent or argue that their actions do not meet the strict criteria outlined in the definition.<sup>26</sup>

**Legal Technicalities:** Perpetrators may exploit legal technicalities or procedural hurdles to avoid prosecution for genocide. This could include jurisdictional challenges, immunity claims, or arguments based on the statute of limitations. Additionally, political interference or lack of political will to pursue accountability can hinder efforts to prosecute individuals or entities responsible for genocide.<sup>27</sup>

**Denial and Obfuscation:** Perpetrators of genocide may engage in denial and obfuscation tactics to downplay or distort their role in committing atrocities.<sup>28</sup> This could involve manipulating historical narratives, spreading misinformation, or shifting blame onto other actors. By casting doubt on the occurrence or nature of genocide, perpetrators seek to undermine efforts to hold them accountable.<sup>29</sup>

**Selective Prosecution:** In some cases, perpetrators of genocide may seek to deflect attention from their own actions by highlighting atrocities committed by other parties.<sup>30</sup> They may argue that other actors, such as opposing factions or rebel groups, are equally responsible for violence and should also be held accountable. This tactic aims to dilute culpability and create confusion about the true perpetrators of genocide.

**International Relations:** Geopolitical considerations and diplomatic relations can influence efforts to hold perpetrators of genocide accountable. Perpetrators may exploit diplomatic alliances or geopolitical interests to shield themselves from prosecution or international condemnation.<sup>31</sup> Powerful states may prioritize strategic interests over accountability for genocide, leading to a lack of effective action against perpetrators.<sup>32</sup>

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<sup>24</sup> A. C. Asuncion, *Pulling the stops on genocide: the state or the individual*, European journal of international law, volume 20, issue 4 (2009).

<sup>25</sup> The Genocide Convention on the prevention and punishment of crime of genocide, (1948)

<sup>26</sup> *ibid*

<sup>27</sup> J. S. Morton, *The international legal adjudication of the crime of genocide*, vol. 7:329, (1994).

<sup>28</sup> V Verlid, *Responsibility for displacement: Between denial and obfuscation*, (2016).

<sup>29</sup> *ibid*

<sup>30</sup> G Rubinstein, *Selective enforcement and remedial vagueness*, (1987).

<sup>31</sup> Genocide and international relations.

<sup>32</sup> U Umit Ungor, *Martin Shaw, genocide and international relations: changing patterns in the transitions of the late morden world*, (2015).

Overall, escaping liability for genocide through definition technicalities highlights the challenges and limitations of international legal frameworks in holding perpetrators accountable for mass atrocities. Addressing these challenges requires robust legal mechanisms, international cooperation, and a commitment to upholding justice and human rights standards.<sup>33</sup>

The definition of genocide at its current state leaves a lot of loopholes. As already established, it is a mammoth task to prove the element of genocide called the intent. It will save humanity a lot of stress if this crime fell under strict liability offences. The groups that fall under genocide should also be increased to include political groups

## 5. CHALLENGES OF ADDRESSING GENOCIDE

### International challenges of genocide

The challenges of addressing genocide are numerous and complex, spanning legal, political, social, and humanitarian domains. Some of the key challenges include:

**Legal Hurdles:** Prosecuting individuals or entities responsible for genocide can be challenging due to legal complexities, including issues related to jurisdiction, evidence collection, and the definition of genocide under international law. Additionally, some countries may lack the legal framework or political will to pursue accountability for genocide.<sup>34</sup>

**Political Obstacles:** Political factors, including geopolitical interests, diplomatic relations, and power dynamics, can hinder efforts to prevent and address genocide. Perpetrators of genocide may have political support from allies, making it difficult to hold them accountable or intervene effectively to stop the violence.<sup>35</sup>

**Resource Constraints:** Responding to genocide requires significant resources, including funding, personnel, and logistical support. Many countries and international organizations may lack the resources or capacity to provide adequate humanitarian assistance, protect vulnerable populations, and support efforts to rebuild communities affected by genocide.<sup>36</sup>

**Prevention and Early Warning:** Identifying the early signs of genocide and preventing its occurrence pose significant challenges. Factors such as discrimination, hate speech, political instability, and armed conflict may contribute to the risk of genocide, but effectively addressing these underlying causes requires coordinated efforts and early intervention.<sup>37</sup>

**International Cooperation:** Addressing genocide often requires international cooperation and collective action. However, achieving consensus among states and international organizations on how to respond to genocide can be difficult due to competing interests, divergent priorities, and geopolitical tensions.<sup>38</sup>

**Cultural and Historical Factors:** Cultural norms, historical grievances, and identity politics can exacerbate tensions and contribute to the perpetration of genocide.<sup>39</sup> Addressing these underlying factors requires long-term efforts to promote reconciliation, social cohesion, and respect for human rights.<sup>40</sup>

**Psychological Trauma:** Survivors of genocide, as well as affected communities, may experience profound psychological trauma and long-lasting effects on their mental health and well-being. Providing adequate psychosocial support, counselling, and mental health services to survivors is essential but often challenging in post-conflict settings with limited resources.<sup>41</sup>

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<sup>33</sup> J Lindert & I Kawachi, *The long-term health consequences of genocide: developing GESQUQ-a genocide studies checklist*, (2019).

<sup>34</sup> O Brydon, *The legal challenges of proving and prosecuting genocide: An analysis of Russia and Ukraine*, (2023).

<sup>35</sup> L. R. Beres, *Genocide and power politics: The individual and state*, (1987).

<sup>36</sup> D. Moshman, *Conceptual constraints on thinking about genocide*, (2001).

<sup>37</sup> S McLoughlin, *The evolution of mass atrocity early warning in the UN secretariat*, (2003).

<sup>38</sup> M.J. Kelly, *Prosecuting corporations for genocide under international law*, (2012).

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> H Reider & T Elbert, *Rwanda-lasting imprints of a genocide: trauma, mental health and psychosocial conditions in survivors, former prisoner and their children*, (2013).

Transitional Justice: Achieving justice and accountability for genocide victims and survivors is a critical component of the recovery and reconciliation process.<sup>42</sup> However, implementing effective mechanisms for transitional justice, such as truth commissions, reparations programs, and criminal prosecutions, can be complex and contentious, particularly in contexts where perpetrators remain in positions of power or where there is resistance to accountability efforts.<sup>43</sup>

Addressing the challenges of genocide requires sustained commitment from the international community, as well as from national governments, civil society organizations, and affected communities. It requires a multifaceted approach that includes legal, political, humanitarian, and socio-cultural dimensions, with a focus on prevention, protection, accountability, and healing.

### Legal transformation on genocide

Legal transformation on genocide refers to changes and advancements in legal frameworks, mechanisms, and practices aimed at preventing, punishing, and addressing the crime of genocide. Over time, international law has evolved to strengthen the legal mechanisms for prosecuting perpetrators of genocide, promoting accountability, and providing justice for victims.<sup>44</sup> Some key aspects of legal transformation on genocide include:

**International Legal Instruments:** The foundation of international law on genocide is the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly in 1948.<sup>45</sup> This convention established genocide as an international crime and outlined the legal definition of genocide, as well as the obligations of states to prevent and punish genocide. Since then, other international legal instruments, such as the Rome Statute of the International Criminal Court (ICC), have further codified and expanded the legal framework for prosecuting genocide.<sup>46</sup>

**International Criminal Tribunals:** The establishment of international criminal tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR),<sup>47</sup> has been instrumental in prosecuting individuals responsible for genocide, war crimes, and crimes against humanity. These tribunals have contributed to the development of jurisprudence on genocide and have set important precedents for holding perpetrators accountable.<sup>48</sup>

**National Legislation:** Many countries have enacted domestic legislation to implement the provisions of the Genocide Convention and other international legal instruments related to genocide. This includes incorporating genocide into national criminal codes, establishing specialized war crimes units or tribunals, and adopting measures to prosecute individuals suspected of committing genocide, regardless of where the crimes were perpetrated.<sup>49</sup>

**International Criminal Court:** The ICC, established in 2002, has jurisdiction to prosecute individuals for the most serious crimes of international concern, including genocide. The court's establishment represents a significant advancement in the fight against impunity for genocide and other international crimes.<sup>50</sup> While the ICC's effectiveness has faced challenges, including limitations in its jurisdiction and issues related to cooperation and enforcement, it has played a crucial role in promoting accountability for genocide.<sup>51</sup>

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<sup>42</sup> Genocide- transitional justice after Arush: Gacaca justice in post genocide Rwanda 2003-2022

<sup>43</sup> Ibid.

<sup>44</sup> T Putnam, Tracing international legal change in genocide prevention, (2023).

<sup>45</sup> The Genocide Convention on the prevention and punishment of crime of genocide, (1948)

<sup>46</sup> The International Criminal Court (ICC) (1998).

<sup>47</sup> M Humphrey, *International intervention, justice and national reconciliation: the role of the ICTY and ICTR in Bosnia and Rwanda*, (2010).

<sup>48</sup> Ibid.

<sup>49</sup> C. C. Joyner, United States: genocide convention Implementation Act of 1987, international legal materials, vol. 28, No. 3 (1989).

<sup>50</sup> The International Criminal Court (ICC) (1998).

<sup>51</sup> ibid

Legal transformation regarding genocide focuses on strengthening laws and mechanisms to prevent, prosecute, and address genocide. Key preventive measures include early warning systems, conflict prevention strategies, peacebuilding initiatives, and efforts to tackle underlying causes such as discrimination, hate speech, political grievances, and human rights violations. Promoting accountability and reinforcing international norms against genocide are also essential in reducing the risk of such crimes.

Despite progress, the legal framework governing genocide contains several limitations. A major challenge is the strict requirement to prove specific intent to destroy a protected group, which is often difficult because perpetrators may conceal their motives. The Genocide Convention protects only national, ethnic, racial, and religious groups, excluding political and social groups that may also face systematic persecution. Additionally, the convention does not explicitly recognize cultural genocide, leaving acts aimed at destroying a group's cultural identity outside its scope.

Other challenges include difficulties in establishing state responsibility, weak enforcement mechanisms, and problems in attributing responsibility when multiple actors are involved. Although genocide has no formal statute of limitations, practical barriers such as loss of evidence, death of witnesses, and changing political circumstances can hinder prosecution. Addressing these weaknesses requires expanding legal protections, improving evidence collection, strengthening international cooperation, and tackling the root causes of genocide to ensure greater prevention and accountability.

## 6. RESULTS AND FINDINGS

**Address Structural Injustice and Root Causes:** Genocide often occurs within contexts of systemic discrimination, inequality, and impunity, fuelled by factors such as racism, xenophobia, ethno nationalism, and political repression. The international community can address the root causes of genocide by promoting inclusive governance, respect for human rights, rule of law, and democratic institutions, and addressing structural injustices that perpetuate violence and marginalization. This may involve supporting efforts to strengthen democratic institutions, promote good governance, advance transitional justice, and address the underlying grievances and inequalities that contribute to conflict and violence.

**Foster International Cooperation and Solidarity:** Resolving cases of genocide requires collective action, cooperation, and solidarity among governments, international organizations, civil society, and affected communities. The international community can foster dialogue, collaboration, and mutual support to address the complex challenges posed by genocide and strengthen global norms, institutions, and mechanisms for preventing and responding to mass atrocities. This may involve promoting international legal frameworks, multilateral diplomacy, and multi stakeholder partnerships to advance shared goals of justice, peace, and human rights for all.

By taking these steps, the international community can play a crucial role in resolving cases of genocide, promoting justice and accountability, preventing future atrocities, and supporting the rights and needs of survivors and affected communities. Efforts to address genocide require sustained commitment, collaboration, and solidarity to build a more just, peaceful, and inclusive world for all.

### **Proportionality in self –defence (Criminal defence)**

Proportionality in self-defence refers to the principle that the force used in self-defence should be commensurate with the threat faced. It is a fundamental concept in international law and domestic legal systems governing the use of force in response to an imminent attack. Here's a breakdown of proportionality in self-defence:

- i. **Necessity:** Proportionality is closely linked to the concept of necessity, which holds that force may only be used in self-defence when it is necessary to repel an imminent threat. The defender must demonstrate that the use of force was necessary to protect themselves or others from harm.
- ii. **Immediacy:** The threat must be imminent or ongoing to justify the use of force in self-defence. Proportionality requires that the response be immediate and necessary to address the threat as it unfolds.
- iii. **Degree of Force:** Proportionality requires that the degree of force used in self-defence be reasonable and proportional to the threat faced. This means that the defender should use no more force than is reasonably necessary to neutralize the threat and prevent harm.
- iv. **Avoidance of Excessive Force:** Proportionality prohibits the use of excessive force or retaliation beyond what is necessary to repel the attack. It requires the defender to exercise restraint and avoid escalating the situation unnecessarily.

- v. Evaluation of Circumstances: Proportionality takes into account the circumstances surrounding the threat, including the nature and severity of the attack, the capabilities of the aggressor, and the defender's ability to respond effectively. It requires a careful assessment of the situation to determine the appropriate level of force.
- vi. Balancing Test: Proportionality often involves a balancing test, weighing the necessity of using force to protect oneself or others against the potential harm caused by the use of force. This balancing test seeks to minimize harm while maximizing the effectiveness of self-defence.
- vii. Objective and Subjective Elements: Proportionality may involve both objective and subjective elements. Objectively, the force used must be reasonable in relation to the threat perceived by a reasonable person in the defender's position. Subjectively, the defender's perception of the threat and their response to it may also be considered in assessing proportionality.
- viii. Ongoing Assessment: Proportionality requires an ongoing assessment of the threat and the response to ensure that the use of force remains justified and proportionate as the situation evolves. If the threat diminishes or ceases, the use of force should be discontinued accordingly.

### **Acknowledgment of Structural and Systemic Genocide**

Broadening the definition of genocide involves recognizing that genocide can occur not only through direct mass killings but also through structural and systemic violence, discrimination, and oppression that create long-term inequalities and injustices. An expanded understanding includes examining factors such as racism, colonialism, authoritarianism, and social exclusion. Intersectional analysis is important because it highlights how overlapping identities, including race, gender, class, disability, and sexuality, can increase vulnerability to violence and persecution. Understanding genocide also requires considering historical, political, social, and cultural contexts, including colonial legacies, armed conflicts, and state-sponsored discrimination. Survivor-centered approaches emphasize listening to victims and affected communities to ensure their experiences inform justice, accountability, and reconciliation efforts. International collaboration among governments, civil society, scholars, and advocacy groups is essential for strengthening genocide prevention and response mechanisms.

Disputes over genocide often arise due to differing interpretations of historical events, political interests, and legal complexities. Common areas of disagreement include whether certain events should be officially recognized as genocide, legal classification under international law, and questions of responsibility and accountability. Governments may also use genocide recognition or denial to advance political objectives. Disputes can extend to memorialization, education, reparations, and reconciliation processes. Addressing these challenges requires open dialogue, historical research, respect for diverse perspectives, and a commitment to truth, justice, remembrance, and the prevention of future atrocities.

### **Complexity of genocide definition**

The definition of genocide is complex because it involves legal, historical, political, and moral considerations. Under the 1948 Genocide Convention, genocide refers to acts committed with the intent to destroy, wholly or partially, a national, ethnic, racial, or religious group. A major challenge is proving intent, as perpetrators often conceal their motives, requiring investigators to rely on patterns of behavior and contextual evidence. Debate also exists over the scope of protected groups, since political and social groups are not included in the legal definition. Additionally, determining when mass violence reaches the threshold of genocide can be subjective and dependent on the scale and severity of atrocities. Historical factors such as colonialism, ethnic tensions, and discrimination often contribute to genocidal violence, while political interests may influence whether governments or international organizations officially recognize genocide. Beyond legal considerations, genocide carries significant moral and ethical implications, emphasizing accountability, justice, and prevention.

The Amhara are one of Ethiopia's largest ethnic groups and mainly inhabit the Amhara Region. They speak Amharic, Ethiopia's official language, and have a rich cultural heritage influenced by the Ethiopian Orthodox Church. Historically, the region was central to Ethiopian civilization and political power. Agriculture is the primary economic activity, with crops such as teff, wheat, and barley widely cultivated. Despite its cultural significance and heritage sites like Lalibela, the region faces challenges including poverty, food insecurity, limited infrastructure, and periodic ethnic conflicts.

### **Ethiopia's Amhara conflict (Genocide Acts/ Article 6 of the Rome Statute)**

The question of whether the Amhara people have suffered genocide is a complex and contentious issue. While there have been instances of violence and atrocities targeting individuals or communities of Amhara descent, particularly in the context of Ethiopia's complex ethnic and political dynamics, it is debatable whether these incidents meet the legal definition of genocide as outlined in international law.

The United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. These acts include killing members of the group, causing serious bodily or mental harm, imposing conditions aimed at the group's destruction, preventing births within the group, and forcibly transferring children from the group to another.

While there have been reports of violence, discrimination, and displacement affecting the Amhara people, particularly in regions where they are a minority or in areas affected by interethnic conflicts, the characterization of these acts as genocide requires careful examination of the specific circumstances, including the perpetrators' intent and the systematic nature of the violence.

It's important to note that accusations of genocide against the Amhara people are often intertwined with Ethiopia's complex political history, which has been marked by ethnic tensions, civil conflicts, and changes in government. Various ethnic groups in Ethiopia have experienced violence, displacement, and discrimination, and addressing these challenges requires a comprehensive approach that promotes reconciliation, justice, and respect for human rights for all communities.

## 7. CONCLUSION AND RECOMMENDATIONS

The crime of genocide has caused untold sufferings in many parts of the world. This dissertation sought to highlight the challenges caused by the definition of the crime. It was established that the definition of genocide in its narrow scope excludes groups like the political groups, massacres caused by political differences.

Excluding political groups from the legal definition of genocide presents several challenges and raises important ethical and practical considerations. Some of the challenges include:

**Underestimating the Scope of Genocidal Violence:** Excluding political groups from the definition of genocide may result in an incomplete understanding of the full scope of genocidal violence. Political affiliations or beliefs are often central to identity and can be a significant factor in targeted violence and persecution. Failing to recognize political groups as potential victims of genocide may lead to the omission of important cases where political motives drive mass atrocities.

**Ignoring Historical Examples:** Throughout history, political persecution and violence have been perpetrated against specific political groups or movements, leading to mass killings, forced displacement, and other forms of violence. Ignoring or downplaying these historical examples of political genocide may hinder efforts to learn from past atrocities and prevent similar crimes in the future.

**Limiting Legal Protections:** Excluding political groups from the legal definition of genocide may limit the legal protections available to individuals and communities targeted for their political beliefs or affiliations. Without recognition as victims of genocide, survivors may face challenges in accessing justice, reparations, and other forms of redress for the harms they have suffered.

**Fostering Impunity:** Excluding political groups from the definition of genocide may contribute to impunity for perpetrators of political violence. If certain forms of mass violence are not classified as genocide, perpetrators may escape accountability for their actions, undermining efforts to hold them responsible for human rights violations and crimes against humanity.

**Fuelling Discrimination and Marginalization:** Excluding political groups from genocide recognition may perpetuate discrimination and marginalization against individuals or communities based on their political beliefs or affiliations. It may send a message that certain groups are less deserving of protection under international law, reinforcing patterns of discrimination and oppression.

**Political Interference:** The exclusion of political groups from genocide definitions may be influenced by political considerations or power dynamics, rather than objective assessments of the nature and scale of violence. Political interests may shape legal definitions and classifications, potentially undermining the pursuit of justice and accountability for all victims of mass atrocities.

We looked at the Zimbabwe issue of Gukurahundi which left over 20 000 people dead in what was described by the then President, Robert Mugabe as “a moment of madness”. These atrocities were never considered by the United Nations as genocide, because these bordered on political rivalry between Zimbabwe African People’s Union (ZAPU)<sup>52</sup> and Zimbabwe

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<sup>52</sup> Political party led by Joshua Mqabuko Nkomo

Africa National Union (ZANU)<sup>53</sup>. These rivals had a protracted cat and mouse bloody squabbles dating back to the formation of ZANU in 1963.

The irony of this is that these political parties fought side by side to dethrone the white minority rule of Ian Douglas Smith leading to majority rule in 1980.<sup>54</sup>

If political groups were included in the definition of genocide, this would have helped in bringing perpetrators of these atrocities to book. This similarly is the problem faced by international community in curbing this crime. To address the challenge, the definition must be broadened.

While acknowledging the complexity of the definition of genocide in its current position, broadening it may also pose some challenges. Criminal procedure requires legality in that alleged offenders must be accorded fairness, by way of avoiding creating a crime that did not exist. The question is, where do we begin to adjust and transit from narrow view to broader view of this crime of genocide? Issues of rule against retrospectively in law could arise. There could be a delicate path to balance between justice for victims and the rights of the accused. This genocide issue requires a concerted effort by all stakeholders in the form of international community to say this heinous crime must stop.' Never again' should be an international buzz phrase to mobilize all and sundry against this crime. Humanity should be rescued from this wanton destruction of lives.

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