



# Examining Examples of Crimes Against Humanity in International Law

Afsaneh Sadaghinloo 2- Fariborzpalangi - 1

Email:fariborzpalangii@gmail .com

Email:Afsanhshedaghinloo@yahoo.com

## Abstract

Crimes against humanity are committed with the aim of antagonizing a civilian population and similar goals, and what makes it frightening is that these crimes are designed by governments and other organizations that have access to military power, and the perpetrators commit them as part of the government. Crimes against humanity have a broad concept. In crimes against humanity, it is not necessary that a specific group be targeted, but rather a civilian population in general, including political groups, etc., may be the subject of this crime, and it is not sufficient that it be committed solely against one individual. However, this does not mean that the entire population of a country or territory must be affected by this attack. This criterion emphasizes the collective nature of this crime and does not include attacks against individuals and isolated acts of violence. This crime may occur both during war and in peacetime. In crimes against humanity, the perpetrator's goal is not necessarily to destroy a specific group, but rather his main purpose is to harass and harm them. Among the crimes against humanity, we can mention torture - murder - imprisonment - enslavement - extermination - sexual violence - inhumane acts - enforced disappearance - persecution of individuals for political, racial or religious reasons. Each of these cases is criminal in criminal systems, but what gives these acts a more ugly face is their systematic commission in furtherance of a state's policy. A widespread or organized attack against any civilian population is called a crime against humanity.

**Keywords:** crimes against humanity, international law, criminalization, civilian population, humanitarian law.

## Introduction

Crimes against humanity have been defined in many sources, and the most important documents that have provided a definition of crimes against humanity are the Nuremberg Charter, the Tokyo Convention, Regulation No. 10 of the Control Council, the Statute of the International Criminal Tribunal for Rwanda (Article 3), and the 1996 draft of the International Law Commission on the rules relating to crimes against the peace and security of humanity (Article 18). The Statute of the International Criminal Court is, in fact, based on these documents and also on the decisions issued by international courts on the rules relating to crimes against the peace and security of humanity (Article 18). The Statute of the International Criminal Court has, in fact, based on these documents and the decisions issued by international courts, attempted to provide a relatively comprehensive definition



of crimes against humanity. In line with their international obligations, the governments of the world have the duty to criminalize acts such as crimes against humanity and to prosecute and, where appropriate, punish the accused. In this regard, Article 7 of the Statute of the International Criminal Court states that "crimes against humanity" in this Statute means any of the following acts when committed in the context of a widespread or systematic attack against a civilian population with knowledge of the act: \* Imprisonment \* Intentional killing \* Enslavement \* Extermination \* Deportation \* Forcible transfer of a population \* Severe deprivation of physical liberty carried out in violation of the fundamental rules of international law \* Torture \* Forced prostitution \* Forced pregnancy \* Forced sterilization \* Sexual slavery \* Sexual violence \* Persecution and persecution of any group or group on political, racial, cultural, ethnic, sexual, or other grounds as defined in paragraph 3 or on other grounds universally recognized as impermissible under international law, in connection with any of the acts referred to in this paragraph or any crime for which the investigation is conducted. The Court has jurisdiction

\*Enforced disappearance of persons \* Crime of racial discrimination \* Other similar inhumane acts intentionally causing great suffering or serious injury to body or to physical or mental integrity).1(

In international law, it is one of the trends in criminal law, criminology, and international law that examines international crimes - their elements - criminal responsibility and how to punish the perpetrators of these crimes. One of the most common international crimes is crimes against humanity, which has been raised with the emergence of new topics such as criminal law, the establishment of international criminal courts, and the accession of a large number of countries to the International Criminal Statute. The importance of the discussion of crimes against humanity is that they were considered preliminary crimes and the basis for crimes against peace or war crimes. In the case of the humanitarian principle, it is seven thousand years old. These regulations have expanded over time, and violating some of them is considered a crime against humanity. These crimes initially formed part of war crimes, but over the years, they became more specific through treaties between states, international custom, general legal principles, and the writings of legal scholars. In the case of crimes against humanity, it is important that these crimes are against humanity and violate some general principles. It is a matter of concern to the international community. These crimes have numerous cases that have been mentioned in various charters and statutes) .2(

## History of Crimes Against Humanity

Crimes against humanity were first explicitly formulated in Article 6, paragraph (c) of the Nuremberg Charter. This Charter speaks of the crimes of "murder, enslavement, extermination, deportation and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds, in connection with any crime within the jurisdiction of the Court, whether or not they are considered violations of the domestic law of the country where the crime was committed".

In describing the history of crimes against humanity, it is first necessary to refer to the Hague Regulations of 1899 and 1907) .3(

The Hague Conventions oblige the belligerents to comply with the laws of humanity. Although the idea of criminalizing violations of the laws of humanity was not yet included in the Martinez Clause,



the term crimes against humanity was coined in 1915. France, England, and Russia used the term to refer to the Armenian genocide in Turkey. (4) Crimes against humanity are also mentioned in Article 5(c) of the Tokyo Convention, but no one was convicted under this heading in the Tokyo Tribunals. Control Council Regulation No. 10 also referred to crimes against humanity with a few additions and a fundamental change. While the Nuremberg and Tokyo Charters had made acts against humanity dependent on a war of aggression or a war crime, this addition was removed from Control Council Regulation No. 10. Thus, crimes against humanity did not come into focus until after the outbreak of World War II) .5(

Criminal responsibility for crimes against humanity was recognized under customary international law almost simultaneously with the formulation of the Nuremberg Principles, and was therefore included in the 1954 Draft Collection of Crimes against the Peace and Security of Mankind and was repeated in all subsequent drafts of the International Law Commission. (6) The criminal status of crimes against humanity has been enhanced by conventions that have addressed new methods of committing the crime, but until the 1990s none of the international criminal courts established after the Nuremberg Trials issued a ruling on the matter. However, the prosecution of crimes against humanity did not fall into complete obscurity, and one should note the trial of Adolf Eichmann in Israel and the conviction of Klaus Barbie in France. There were also trials for crimes against humanity in the Netherlands, East Germany, and Canada. It is worth noting that, despite the numerous cases of crimes against humanity, the only accused of these crimes were the Nazi criminals who had committed these acts years ago . )7(

## 1- Review of crimes against humanity in the Statute of the International Criminal Court

Crimes against humanity, according to Article 7, paragraph 1 of the Statute of the International Criminal Court, are listed only as crimes committed as part of a widespread and systematic attack directed against any civilian population. Together, these elements constitute the conditions for investigating this crime.

### Civilian population 1-1

Crimes against humanity are committed with the aim of confronting a civilian population. Therefore, the commission of a crime, even if inhumane, against an individual does not constitute a crime against humanity. At the same time, the word population does not mean that the entire population of a country or territory must be affected by this attack. In these crimes, the nationality of the perpetrator and the nationality of the victim have no effect on the formation of the crime. But who are civilians? How can we distinguish between military personnel and civilians? To determine whether a person is considered a member of the civilian population, one must consider his need for protection against the state, the army, and other organized forces. The criterion for determining the official status of the person, such as membership in the military forces or units, is not the factor that determines the official status of the person, such as membership in the military forces or units. What is important is his actual role at the time of the commission of the crime. Therefore, if the position and occupation of an individual is military, but in the circumstances of the crime he has laid down his weapons and has not taken part in the fighting, he can be considered a civilian.



## 1-2 Widespread attack

An attack means an encounter and behavior that includes violent actions. These actions include any mistreatment of the civilian population, which includes various examples. The word widespread means an attack on a large group of people. The criterion of widespread is a quantitative factor that is determined by the number of victims. We must be careful that a widespread attack is different from attacks and organized crimes.

## Political element 1-3

Is it necessary that a crime against humanity was committed for political reasons? There is no mention of the political element in customary international law to limit crimes against humanity, and since the Nuremberg trials, most definitions of crimes against humanity have lacked a political criterion.

## Psychological element 1-4

Article 7, paragraph 1, of the Statute of the International Criminal Court, in accordance with customary international law, explicitly stipulates that the perpetrator must knowingly attack a civilian population. However, it is not necessary for the perpetrator to be aware of the details of the plan or policy of the state or organization.

1-5 The following cases are considered examples of the material element of these crimes, as they are generally considered to be examples. In principle, to define the material element of a crime, general conduct is defined, and it is the judge who must determine whether the conduct that occurred in a specific incident complies with this definition or not. However, in crimes against humanity, due to the limited number of cases that occurred, its examples are generally defined.

## 1-6 Sexual violence

Committing crimes against humanity through sexual violence in the order mentioned in the Statute of the Court is included in the Nuremberg Charter. The crime of sexual rape was recognized as an independent crime in the Statutes of the International Criminal Tribunals for Rwanda and Yugoslavia after it was not mentioned in the other inhumane acts but was explicitly mentioned in the general title in Regulation No. 1 of the Control Council. However, other forms of sexual violence are not mentioned in these documents and can only be listed as other crimes against humanity or through the general title of other inhumane acts. Article 7, paragraph 1 (g) of the Statute of the International Criminal Court takes an important step in explaining and explaining the different forms of violence by categorizing the crimes of sexual violence.

## Apartheid 1-7

Article 7, paragraph 1 (j) of the Statute of the International Criminal Court deals with the crime of apartheid. Apartheid has been described as a crime against humanity in several international instruments. Article 1, paragraph (b) of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity expressly includes inhumane acts resulting from the policy of apartheid as crimes against humanity. The International Convention on the Suppression and Punishment of the Crime of Apartheid (UN Apartheid Convention) establishes that



apartheid is a crime against humanity. This crime is the subject of the International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted in 1973, which was ratified by the Islamic Consultative Assembly in 1983. Part of Article 1, paragraph 1 of this Convention states that the States Parties to this Convention declare that it violates the principles and international law, in particular the purposes and principles of the United Nations) .8(

and are also considered a serious threat to international peace and security. Article 2 of this Convention also states the various forms of this crime. According to Article 4 of this Convention, the States Parties to this Convention undertake: a. To adopt such legislative or other measures as may be necessary to prohibit and to prevent any encouragement of the crime of apartheid or of policies similar to racial segregation or their manifestations. b. To adopt such legislative, judicial and administrative measures as may be necessary to prosecute, try and punish persons responsible for or accused of the acts defined in Article 12 of this Convention, whether such persons are resident in the territory of the State in which the Convention is established, are nationals of that State or of another State, or are stateless. (9) As can be seen, this Convention obliges all Parties, including the Government of Iran, to take all legal, judicial and administrative measures, including universal jurisdiction, to prosecute and try the perpetrators of the crimes referred to in it. The commission of inhumane acts of the type mentioned in paragraph 1 through An institutionalized regime and the systematic pressure and domination by one racial group over another racial group or groups and the commission of those acts with the intention of preserving and maintaining that regime. Such a crime is not foreseen in domestic legal systems alone, and there is no international document to criminalize it except for the Apartheid and Genocide Conventions. It should not be overlooked that there are other international documents and documents that prohibit discriminatory behavior against individuals without determining penalties for this act. The word apartheid in Afrikaans means separation, which dates back to the policy of racial segregation and discrimination in South Africa after 1948, and includes one of the following six acts with discriminatory intent and intention:

- Depriving members of a racial group of the right to life and liberty
- Imposing conditions on racial groups with the intention of physically destroying them
- Enacting laws with the intention of preventing racial groups from participating in the political, social, economic and cultural life of the country
- Taking measures to racially separate the population
- Abuse of racial labor

## Slavery 1-8

The word slave conjures up a traditional concept in our minds, one in which the perpetrator treats the victim as a commodity, but what falls under the crime against humanity is a different concept from the traditional representation of slavery and the slave trade. Today, the criteria for slavery include control and ownership, the threat or control of freedom of action, freedom of choice or freedom of movement of a person, and the collection of benefits from these issues for the perpetrator. These acts are often carried out by threat or use of force or other forms of coercion such as fear of violence, deception or psychological abuse or socio-economic conditions. For example, in the case of Konarak,



the authors of the Yugoslav Court held two young Serbian women for months in an abandoned house and completely controlled their lives, and, among other things, repeatedly raped them

### 1-9 Forced Labor

Forced labor is often included under slavery, but it can also be considered a separate crime. During the Nazi era and World War II, about eight million workers in the German Reich and its occupied territories were forced to work.

### 1-10 Human Trafficking

Since the beginning of the 1990s and after the dissolution of the Warsaw Pact, the trade in women in Europe has been carried out under the name of white slavery, and large gangs are engaged in this profitable trade. Human trafficking, especially women and children, is a form of slavery that considers women and children as similar to goods, each of which has a certain price as a source of pleasure.

### Enforced Disappearance of Persons

Article 7(2) of the Statute of the International Criminal Court defines “disappearance of persons” as the arrest, detention or abduction of persons by a State or a political organization, or with their authorization, support or acquiescence, and subsequent refusal to acknowledge the deprivation of liberty of such persons or to provide information as to their fate or whereabouts, with the intent to place them outside the protection of the law for a prolonged period. The crime of enforced disappearance is a compound crime and a continuous crime.

### Deportation or forcible transfer of a population 1-11

Forcible transfer or expulsion is a set of measures that cause persons to leave a place where they are lawfully present without international justification. The transfer of persons from one territory to another is a conduct that constitutes this crime. The difference between deportation and forcible transfer of a population is only in the border criterion. Deportation means the transfer from one country to another and the crossing of international borders, while forcible transfer means the transfer from one point to another in a specific territory. In any case, the transfer or expulsion of individuals must be recognized as unauthorized under international law, and therefore deportation or any other forced measure to protect national security or public health does not fall within the definition of this crime) .10(

### Crimes against humanity in public international law

Crimes against humanity in public international law refer to acts of atrocities committed against human beings, which are considered the highest legal crimes against humanity in international law. The Rome Statute explains that crimes against humanity include crimes that diminish human dignity and violate the dignity and worth of the human person) .11(

### Cases of use of the laws of crimes against humanity in international law

The first use of human rights laws -





On May 24, 1915, after the Armenian genocide, the allied governments of Britain, France and Russia jointly raised an issue in which crimes against humanity were discussed for the first time. Regarding these new crimes of Turkey against humanity and Armenian citizens, the allied governments publicly declare to the Supreme Authority of the Ottoman Empire that they are personally responsible for this crime. The people we are addressing include all members of the Ottoman Empire, in addition to those who acted as agents of the great ones to carry out this massacre.

### - Nuremberg Tribunal

The London Charter of the International Military Tribunal provided for the application of the rules and procedures established at the Nuremberg Tribunal after World War II. The Charter explained that the crimes of the European Allies during World War II could be prosecuted through this tribunal. Article 6 of the Charter states that the tribunal was established for the purpose of prosecuting and bringing to justice the perpetrators of the major war crimes of World War II.

### United Nations -

The United Nations has been directly responsible for punishing perpetrators of inhumane crimes and crimes against humanity since the Charter was drafted in 1948. The United Nations is where the modern methods of prosecution, developed by the Rome Statute (ICC), were to be pursued. The International Criminal Court assumed the legal right to hear cases of crimes against humanity. It mandated the United Nations to refer such cases to the court after this task, because the United Nations does not have the power and jurisdiction to hear these cases. The recent cases examined by this court were related to the Darfur massacre, during which Sudanese President Omar al-Bashir was prosecuted for genocide. Of course, the then president of the court, Judge Joseph Kish, stated about the International Criminal Court: This court does not have the power to arrest these people. It is the responsibility of the United States and other countries to do this. Without arresting these people, we will not have a real court here either. The United Nations has not referred any cases related to crimes against humanity to the International Criminal Court since 2005.

### The UN Security Council -

The UN Security Council is tasked with preventing genocide and protecting the world's citizens from having a safe environment to live in, which is the responsibility of this sub-part of the UN, according to the 2005 UN resolution) .12(

### European Union -

On 30 April 2002, the European Union's Committee of Ministers issued recommendations to its member states on the protection of women against violence, which, in the section on additional criteria relating to violence in conflict and post-conflict situations, states in Article 69 that member states must punish the degradation of women - sexual slavery - forced pregnancy - forced sterilization and other forms of sexual violence that are contrary to human rights, as crimes against humanity and armed acts against humanity) .13(

### Conclusion



The advances made in the scientific, industrial and technical fields in the present century, especially after the end of World War II, have gradually transformed the global community, values and hopes of humans. The development of audio and visual mass media, as well as the rapid growth of transportation, in turn, has made communication between countries and their citizens easy and fast. Undoubtedly, one of the common values of peace, tranquility and security and the benefits resulting from it in the global community is peace, tranquility and security. For all citizens of the world, regardless of race, religion and nationality, enjoying a life of peace and security, which is the primary condition for their survival and the realization of scientific and industrial advances, is considered a vital value. However, the bitter historical trade, including the global armed conflicts of the first half of the twentieth century and especially the continuation of local and regional armed conflicts in the last few decades, whose scope has extended to the present time, has turned peace into an unattainable dream and goal for humanity. The protection of common human values requires, first of all, the establishment of internationally binding rules and regulations, and then efforts in To pave the way for their observance by all nations and states. Just as a state or government based on law and rights enjoys greater legitimacy and respect in the eyes of its domestic public opinion, a legal and legal-oriented global community will undoubtedly have greater legitimacy in the eyes of global public opinion and will pave the way for growth, creativity, and the realization of human aspirations. In addition to the expertise and experience of its members, the International Law Commission should also inject into its arteries the legal knowledge and political experience of lawyers, academic societies, statesmen, and non-member armed diplomats in order to enrich and accelerate its work in the field of law-writing and regulation-making.

## References

Statute of the International Criminal Court, adopted in 1998 1-

2- Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948

3- Second Hague Convention on the Laws and Customs of War on Land, 29 June 1899, and Fourth Hague Convention on the Laws and Customs of War on Land, and its Annex, 18 August 1907

4- Declaration of 28 May 1915, reprinted in United Nations War Crimes Commission (ed). History of the United Nations War Crimes Commission and the Development of the Laws of War (1948). p.

.J.T. Brand, 28 Oregon Law Review (1949). p.93 .5-

1958 Draft Code, Art. 2 (II): 1991 Draft Code, Art. 21 and 1996 Deaft Code, Art. 18 6-

7- S.Meseke.The nature of crimes against humanity after the war

8- Sak Kiti Chaisari K. 2008- International Criminal Law, translated by H. Aghaei Janat Makan, Tehran - Jangal Publications, page 441

Pourbafarani, Hassan (2012), International Criminal Law, Tehran, Jangal Publications, page 397 9-

10- Allameh, G., Crimes against Humanity in International Law, first edition, Mizan Publications, Tehran, 2005





- 11- Mir Mohammad Sadeghi, H., International Criminal Law (Collection of Articles), First Edition, Mizan Publishing House, Tehran, 1998
- 12- Beikzadeh A. (1998), A Study of Genocide and Crimes Against Humanity in the Statute of the International Criminal Court, Journal of Legal Research, No. 21 and 22
- 13- Francion, J. (1996) War Crimes and Crimes Against Humanity, Translated by Dr. Mohammad Ali Ardebili, Journal of International Law, No. 7