

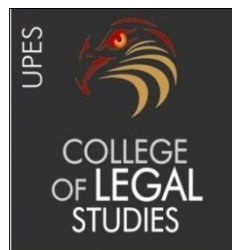
TITLE: ISSUES IN RELATION OF THE GENOCIDE OF THE YAZIDIS  
AND DESTRUCTION OF THEIR TERRITORIAL AND INDIVIDUAL  
SOVERIEGNTY IN THE PRESENT ISLAMIC STATE

BY: DHWANI SINHA

Submitted under the guidance of: Ms. Anuradha Nayak

This dissertation is submitted in partial fulfillment of the degree of

B.A., LL.B. (Hons.)



College of Legal Studies

University of Petroleum and Energy Studies

Dehradun

2015

## CERTIFICATE

This is to certify that the research work entitled “**an issue in relation of the genocide of the yazidis and destruction of their territorial and individual sovereignty in the present Islamic state**” is the work done by Dhvani Sinha under my guidance and supervision for the partial fulfillment of the requirement of **B.A., ll.b. (Hons.) Degree** at college of legal studies, university of petroleum and energy studies, Dehradun.

Ms. Anuradha Nayak

Signature & Name of Supervisor

Designation: Faculty

Date

## DECLARATION

I declare that the dissertation entitled “ **an issue in relation of the genocide of the yazidis and destruction of their territorial and individual sovereignty in the present Islamic state**” is the outcome of my own work conducted under the supervision of Ms.Anuradha Nayak at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Signature & Name of Student

Date

# CONTENTS

	Pg.no
1. Introduction .....	9
2. Background related to Genocide of Yazidis .....	11
2.1 Who are Yazidis?.....	12
2.2 What problems they are facing in present Islamic state .....	12
2.3 Law and International Law .....	12
3. Armed Conflict .....	15
3.1 what is Armed Conflict .....	16
3.2 Rights , War , Responsibility of War Crime and Genocide .....	17
3.2.1 Nuremberg trial.....	18
3.2.2 Bangladesh crisis .....	23
Establishment of international criminal tribunal Bangladesh in the year 2009 .....	26
3.2.3 Yugoslavia Crisis .....	30
Application of Genocide in Bosnia and Herzegovina.....	34
International Tribunal for Former Yugoslavia .....	34
3.2.4 Rwanda Genocide in the year 1994 .....	36
Establishment of international tribunal in Rwanda.....	38
3.2 .5 Gaza conflict in the year 2005 -2014.....	39
3.2 .6 India: .....	49
1) Kashmir conflict .....	50
2) Godhra Incident .....	52
3) North east insurgency .....	54
3.2.7 Current scenario of genocide of Yazidis in Iraq.....	55
3.3 punishments for the crime of genocide .....	56
3.4 International Human Rights Law .....	57
3.5 Persons belonging to National , Ethnic , Linguistic Minorities.....	58

3.6	Application of Humanitarian Law .....	58
4	. International Conventions.....	60
4.1	Hague convention.....	60
4.2	Geneva convention 1949.....	61
4.3	Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power New York .....	62
4.4	Genocide convention 1948.....	63
4.5	Torture and other inhuman or degrading treatment or punishment ,1948.....	63
4.6	Slavery and slave trade ,1952.....	68
4.7	World conference on racism 2001 .....	71
5	International Response.....	73
6	Conclusion.....	75
	Recommendation.....	77
	Bibliography .....	79

## **ABBREVIATIONS**

1. U.N : United Nations
2. I.H.L : International Humanitarian Law
3. ICCPR: International Covenant on Civil and Political Rights
4. Art: Article
5. IS: Islamic State
6. ICRC:International Committee of the Red cross
7. ICTY: International Criminal Tribunal for former Yugoslavia
8. EU: European Union
9. RPF: Rwandan Patriotic Front
10. ICC : International Criminal Court
11. OHCHR:Office of the United Nations High Commissioner for Human Rights
12. UNAMI: United Nations Assistance Missions for Iraq
13. PLO : Palestine liberation Organization
14. USHMM: United State Holocaust Memorial Museum
15. IMT : International Military Tribunal
16. IAF : Israel Air Force
17. PTSD: Post traumatic Stress Disorder

## **ACKNOWLEDGEMENT**

I would like to acknowledge my deep sense of gratitude to my mentor Ms. Anuradha Nayak, Faculty of college of legal studies, UPES Dehradun for her supervision, dedication and encouragement through this research work in dissertation. It is her unflagging contribution which made it possible to bring all the research work in the present form within the scheduled duration.

I am thankful to my Parents and Friends for their encouragement and moral support and for providing me necessary facilities as and when required.

No words of thanks can be enough to God, who remains Sympathetic during my hard days.

Date:

Dhwani Sinha

## **RESEARCH METHODOLOGY**

The research methodology followed in this dissertation is doctrinal in nature. The research followed is based on secondary sources such as legal documents, books and articles etc.



## 1. INTRODUCTION

Genocide is an act which is committed in order to exterminate fully or partially, a national, ethnic or religious group which is defined under Article 1 of the Genocide Convention.

Yazidi is the misunderstood religion and they are estimated around 700,000 vast majority are concentrated in the Northern parts of Iraq in and around Sinjar which is target place by ISIS due to their population. Sunni Muslim militants have considered them as Devil worshippers and ancient religion has considered them as elements of Christianity, Islam, Zoroastrianism's. They are facing the problems during 17<sup>th</sup> and 18<sup>th</sup> century from Muslims and they were the victims of 72<sup>nd</sup> genocide. Recently in August 2014 Massacres took place in Northern Parts of Iraq with the observation that it lead to outcomes of Murder, Abduction and Refugee Problem. It has created white and black image of Iraq. The Threat of Yazidis in Iraq has led to the outcome of genocide has led to breach of international law. In International law this cases are involved in Jus Cogens.

International humanitarian law distinguishes two types of armed conflict International armed conflict which opposes two or more states and Non- International armed conflict which is between governmental forces and non- governmental armed groups.

After that the concept of right carries which is universal and it applies to all men but in case of war and genocide rights are violated including right to life and right to liberty. After Second World War number no of genocides and mass killings took place on the basis of caste, religion, creed and sex. It was observed that many soldiers and individuals committed war crimes and they were considered as war criminals for example Yugoslavia Crisis led to the establishment of criminal tribunal for former Yugoslavia by security council in 1992 .After that another genocide took place in Rwanda in 1994 again security council established international tribunal for Rwanda on 8<sup>th</sup> January 1994 . Both the crisis led to the outcome of the current situation in which yazidis are facing in the Islamic state. In international law Genocide is considered punishable which is under the Articles genocide<sup>1</sup> convention. International Human rights law is applied to all individuals and the rights of Human Being are laid by six duties of state and it became the

---

<sup>1</sup> ICRC treaties and state parties to such treaties, Convention on the prevention and punishment of the crime of genocide 9<sup>th</sup> December 1948, available at <https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=1507EE9200C58C5EC12563F6005FB3E5&action=openDocument> last updated (25th December 2015.)

matter of international concern after the end of Second World War. Under Article 27 ICCPR<sup>2</sup> persons belonging to persons belonging to ethnic, religious and linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practice their own religion or to use their own language. In Geneva Convention 1949<sup>3</sup> the term Humanitarian law<sup>4</sup> was not used and it is applied for armed conflicts.

International conventions<sup>5</sup> like Geneva Convention, Genocide, and torture and other cruel, Inhuman or Degrading Treatment, Slavery and Slave Trade, world conference on Racism (2001) has successfully adopted by the United Nations.

International response the countries like U.S is provided food, water and clothes by planes whereas Berlin is looking up to set the crisis centre for women who were abused by Islamic state militants and since August U.S has been carrying out airstrikes against the Islamic militants .

Call on the five permanent members of the UN Security Council (Britain, China, France, Russia, USA) and on the European Union, by sending letters to the local embassies, to act according to international law and save the Yazidis besieged on Mount Shingar, and to prevent the Islamic State organization from conquering the Yazidi enclave in the area of Shekhan north-east of Mosul. Call on the UN and its agencies by writing to the UN Secretary General Ban Ki-Moon, to create an international operation of the nations to protect the Yazidis.

---

<sup>2</sup> United Nations Human Rights, Office of the high commissioner for Human Rights \_International Standards , available at <http://www.ohchr.org/EN/Issues/Minorities/IEExpert/Pages/Standards.aspx> (last updated on December 29th 2014 )

<sup>3</sup> Jean s. pictet , commentary on the Geneva conventions 1949 , Vol 1 , International committee of red cross 1952 available at [http://www.loc.gov/r/r/frd/Military\\_Law/pdf/GC\\_1949-I.pdf](http://www.loc.gov/r/r/frd/Military_Law/pdf/GC_1949-I.pdf) (last updated 30th December 2015 )

<sup>4</sup> International justice resource centre , International Humanitarian Law , available at <http://www.ijrcenter.org/international-humanitarian-law/> (last updated 2<sup>nd</sup> January 2015 )

<sup>5</sup> Dr. H.O Aggrawal , public international law and human rights , central law publications , 19<sup>th</sup> Edition 2013 ch .58 , pg no. 822, 827 832,839 , last updated 2<sup>nd</sup> January 2015

## **2. BACKGROUND RELATED TO GENOCIDE OF YAZIDIS**

### **2.1 who are Yazidis?**

Yazidis<sup>6</sup> are Kurdish religious community and the ancient religion is linked to Zoroastrianism, Christianity and Islam. They are known as Worshippers of God. They idolize both Bible and Koran, but much of their own tradition is oral and they share many elements of Christianity and Islam. They pray to Malak Taus<sup>7</sup> five times a day and the other name was shaytan which was Arabic for Devil and after that they were labeled as Devil worshippers by the Sunni Muslims . In the Southeast Areas of Turkey towards Syrian and Iraqi Borders, their once left villages are starting back to life, the communities themselves built a new house and if they were driven out from northeast Iraq then they will settle in south-eastern Part of Turkey where they are live out peace in beliefs.

### **2.2 What problems they are facing?**

The Yazidis are targeted by Islamic Milltians from August 2014. It is the 72<sup>nd</sup> genocide<sup>8</sup> which they are facing. In Sinjar<sup>8</sup> Islamic Militants destroyed Shiite<sup>9</sup> Shrine and demand forcefully to convert themselves in Islam and they have to pay the revenue Taxes known as Jizya. Before the Islamic militants started capturing 200,000 people out of which 40,000 Yazidi fled from the city. It created huge refugee problem and lack of water which caused starvation. US president Barack Obama authorized targeted airstrikes against Islamic militants to protect American military personnel and dropped meals and water to Yazidis. The yazidi girls in Iraq were raped and they committed suicide by jumping in the Mount Sinjar. Captured women were treated as sex slaves

---

<sup>6</sup> The independent , Sunday 29<sup>th</sup> march 2015 , Iraq ‘s Yazidis who are they and why are these devil worshippersbeing persecuted by ISIS available at <http://www.independent.co.uk/news/world/middle-east/who-are-the-yazidis-9662457.html> last updated on 29th March 29, 2015

<sup>7</sup> yezidiTruth.Org , the truth about the Yazidis , available at [http://www.yeziditruth.org/the\\_peacock\\_angel](http://www.yeziditruth.org/the_peacock_angel) last updated December 27th 2014

<sup>8</sup> Wikipedia the free encyclopedia , sinjar , available at the site <http://en.wikipedia.org/wiki/Sinjar> last updated on January 2<sup>nd</sup> 2015

<sup>9</sup> Alarabiya news, Middle east , ISIS destroys Shrines and Shiite Mosques in Iraq , AFD Baghdad , Saturday July 2014 available at <http://english.alarabiya.net/en/News/middle-east/2014/07/05/ISIS-destroys-Shiite-mosques-shrines-in-Iraq.html> last updated 26th December 2014

and they were converted to Islam and sold as Brides, those who refused to convert were tortured, raped and murdered. It was stated by United Nations in October 2014 that 5,000 has been murdered and out of which 5,000 to 7,000 who were mostly women and children were captured by the Islamic Militants.

500 Yazidis were killed in a coordinated series of bombings in Qahtaniya<sup>10</sup> that became the deadliest suicide attack in August 2007 since the Iraq War<sup>11</sup> began. In August 2009, at least 20 people were killed and 30 wounded in a double suicide bombing in northern Iraq, an Iraqi Interior Ministry official said. Two suicide bombers with explosive vests carried out the attack at a cafe in Sinjar, west of Mosul<sup>12</sup>. In Sinjar, many townspeople are members of the Yazidi minority.

Under the ottoman empire the yazidi community was declined which existed in Syria.

### **2.3 law and international law**

In international law the cases are involved in Jus Cogens<sup>13</sup> which are genocide, crime against humanity and slavery. The refugee law<sup>14</sup> will be applicable because the situation is of genocide, against the Yazidis which led to immigration and has created large number of refugee problem as we can connect with the situation of Bangladesh crisis<sup>15</sup> in the year 1971. The Arab Commission

---

<sup>10</sup>George Antonius, G P Putnam's Sons, 1946, a secret society established towards the end of 1919, not long after al-Muntada al-Adab(was an association founded in Constantinople in the summer of 1909 by a group of officials, deputies, men of letters and students, to serve as a meeting place for Arab visitors and residents in the capital, Arab cultural trust available at [http://al-hakawati.net/english/Culture\\_Traditions/al-qahtaniya.asp](http://al-hakawati.net/english/Culture_Traditions/al-qahtaniya.asp) last updated on 28th December 2014

<sup>11</sup> The editors encyclopedia Britannica , Iraq war 2011 -2013 , 2-12 -2015 , available at <http://www.britannica.com/EBchecked/topic/870845/Iraq-War> last updated on 3rd February 2015

<sup>12</sup> Mosul , from Wikipedia , free encyclopedia , available at <http://en.wikipedia.org/wiki/Mosul> last updated on 23rd December 2014

<sup>13</sup> Legal information institute , open access to law 1992 , Jus Cogens , Cornell law school, available at [https://www.law.cornell.edu/wex/jus\\_cogens](https://www.law.cornell.edu/wex/jus_cogens) last updated on December 27th 2014

<sup>14</sup> Rule of law in armed conflicts , International Refugee law available at [http://www.geneva-academy.ch/RULAC/international\\_refugee\\_law.php](http://www.geneva-academy.ch/RULAC/international_refugee_law.php) last updated on 29th December 2014

<sup>15</sup> U.S Department of state office of the historian , milestones 1969 -1976 available at <https://history.state.gov/milestones/1969-1976/south-asia> last updated on 29th December 2014

of Human Rights<sup>16</sup> was adopted for the protection of Human Rights and making recommendations and no attempt has been made towards the foundation of human rights. There was no positive result. And the observation was made that international law used the frequent word which genocide and war crimes because it has created the white and black image of Iraq and secondly the humanitarian principle<sup>17</sup> of international law has led to the responsibility to protect doctrine has led to major tool of power for to justify their illegal and brutal intervention . This threat of genocide has led to the violation Human Rights , Humanitarian Principle of international law and the responsibility of protect doctrine has turned into intervention justification doctrine<sup>18</sup>’.

The rights of non – Muslim or ethnic religion are given under the laws of Islamic state which is not implemented statement is given by Mawdudi<sup>19</sup> about freedom of expressions all non-Muslims will have the freedom of conscience, opinion, expression, and association as the one enjoyed by Muslims themselves, subject to the same limitations as are imposed by law on Muslims. Right to liberty, Right to education and Right to life is violated. The term ubi jus ibi remedium<sup>20</sup> is used for the yazidis which they need for their protection

---

<sup>16</sup> Archivio , pace dirritti UMANI , peace human rights , Arab league institutions on Human Rights available at <http://unipd-centrodirittiumani.it/en/schede/Arab-League-specialized-institutions-on-Human-Rights/297> last updated on 22nd December 2014

<sup>17</sup> Rule of law in Armed Conflict projects , access to global database by state or territory , International humanitarian law available at [http://www.geneva-academy.ch/RULAC/international\\_humanitarian\\_law.php](http://www.geneva-academy.ch/RULAC/international_humanitarian_law.php) last updated on December 21 st 2014

<sup>18</sup> T.Modibo Ocran, the doctrine of humanitarian principle in light of robust peacekeeping , pages 1-58 , student publication homepage available at [https://www.bc.edu/content/dam/files/schools/law/lawreviews/journals/bciclr/25\\_1/01\\_FMS.htm](https://www.bc.edu/content/dam/files/schools/law/lawreviews/journals/bciclr/25_1/01_FMS.htm) last updated on 28th December 2014

<sup>19</sup> The editors of encyclopedia Britannica , Mawdudi , journalist and muslim theologian , Encyclopedia Britannica available at <http://www.britannica.com/EBchecked/topic/370311/Mawdudi-Abul-Ala> last updated on December 20th 2014

<sup>20</sup> Ubi jus ibi remedium , there is no wrong without remedy , law students helpline , <http://lawstudentshelpline.com/index.php/law-of-torts/2-uncategorised/257-ubi-jus-ibi-remedium> last updated on 2nd April , 2015

Minority rights<sup>21</sup> groups called Iraqi government to take strong commitments and immediate actions to preserve Iraq's multi-ethnic, beyond the current crisis. Firstly, Iraq should commit to the protection and re-settlement of minority IDPs created in the current conflict, and to the full restitution to minority communities of their former lands and homes Secondly, Iraq should draw up a comprehensive plan of action to implement the recent recommendations of the Committee on the Elimination of Racial Discrimination, in cooperation with minority representatives, the OHCHR and the UNAMI Finally, Iraq should accede to the Rome Statute of the International Criminal Court to guarantee accountability for present and future crimes under international law committed in Iraq

---

<sup>21</sup> Minority rights : international standards and guidance for implementation , United Nations New York and Geneva , UN human Rights office of high Commissioner available at [http://www.ohchr.org/Documents/Publications/MinorityRights\\_en.pdf](http://www.ohchr.org/Documents/Publications/MinorityRights_en.pdf) last updated on 26th December 2014

### 3. ARMED CONFLICT

#### 3.1 Armed conflict

##### What is armed conflict<sup>22</sup>?

The States parties to the 1949 Geneva Conventions<sup>23</sup> have entrusted the ICRC, through the Statutes of the International Red Cross and Red Crescent Movement, "to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof. It is on this basis that the ICRC takes this opportunity to present the prevailing legal opinion on the definition of international armed conflict"<sup>24</sup> and "non-international armed conflict"<sup>25</sup> under International Humanitarian Law, the branch of international law which governs armed conflict.

##### International humanitarian law distinguishes two types of armed conflicts, namely: ·

- International armed conflicts, opposing two or more States, and · non-international armed conflicts, between governmental forces and nongovernmental armed groups, or between such groups only.
- IHL treaty law also establishes a distinction between non-international armed conflicts in the meaning of common Article 3 of the Geneva Conventions of 1949 and non-

---

<sup>22</sup> James. G .Stewart , towards a single definition of armed conflict in international humanitarian law : A critique of international armed conflict available at [https://www.icrc.org/eng/assets/files/other/irrc\\_850\\_stewart.pdf](https://www.icrc.org/eng/assets/files/other/irrc_850_stewart.pdf) last updated 25th December 2014

<sup>23</sup>Summary of Geneva Conventions and Their Additional Protocols, American Red Cross , international humanitarian law , April 2011 available at [http://www.redcross.org/images/MEDIA\\_CustomProductCatalog/m3640104\\_IHL\\_SummaryGenevaConv.pdf](http://www.redcross.org/images/MEDIA_CustomProductCatalog/m3640104_IHL_SummaryGenevaConv.pdf) last updated 26<sup>th</sup> December 2014

2. Dr. H.O Agrawal ,International law and Human Rights ,central law publications , 19<sup>th</sup> edition 2013 Geneva Conventions 1949 , it protected the victims of war and aimed to provide safeguards , ch- 62 Pg no. 931 last updated on 12<sup>th</sup> January 2015

<sup>24</sup> Tom Farer , Humanitarian law and Armed Conflict , ‘‘International Armed Conflict’’ available at <http://www.jstor.org/discover/10.2307/1121272?sid=21106307166393&uid=3738256&uid=2&uid=4> last updated on 29<sup>th</sup> December 2014

<sup>25</sup> The law of armed conflict , Non – international Armed Conflict lesson 10 , available at [https://www.icrc.org/eng/assets/files/other/law10\\_final.pdf](https://www.icrc.org/eng/assets/files/other/law10_final.pdf) last updated on 27th December 2014

international armed conflicts falling within the definition provided in Art. 1 of Additional Protocol II.

### **3.2 rights, war, responsibility of war crime and genocide**

- A right is the sovereignty to act without the permission of others. The concept of a right carries with it an implicit: you may exercise your rights as long as you do not violate the same rights of another—rights are an absolute.
- A right is universal—meaning: it applies to all men, not just to a few. There is no such thing as a "right" for one man, or a group of men, that is not possessed by all. This means there are no special "rights" unique to women or men, blacks or white, the elderly or the young, homosexuals or heterosexuals, the rich or the poor, doctors or patients or any other group.

#### **War:**

- Oppenheim defines war <sup>26</sup>as a contention between two or more states through their armed forces for the purpose of overpowering each other and imposing such conditions of peace.
- Starke defines war in a much understood sense was a contest between two or more states primarily through their armed forces.

#### **Definition of war crimes**

War crimes<sup>27</sup> are such hostile or other acts of soldiers or other individuals as may be punished by the enemy on capture of the offenders. War crimes are the violation of certain rules of warfare and if they are committed by soldiers or by other individuals, punishment is not given by any independent forum but generally by victorious state

---

<sup>26</sup> Dr . H.O Aggrawal , International law and Human Rights , central law publications , 19<sup>th</sup> edition 2013 pg no. 563 , last updated on 12<sup>th</sup> January 2015

<sup>27</sup>Dr. H.O Agrawal , International law and Human Rights , central law publications , pg no.616 , 19<sup>th</sup> edition 2013 , last updated on 12 th January 2015



## **Responsibility for war crimes**

Those soldiers or other individuals who commit war crimes are called war criminals<sup>28</sup>. War criminals may or may not be the member of armed forces. Any person may be called war criminals if he commits an act which is regarded as war crimes. A person committing war crimes cannot raise the plea that the crime was committed in pursuance of an order of the government. the plea is not accepted by courts . The plea of the superior order may help in reducing the punishment of the person concerned. It is provided in Article 8<sup>29</sup> of the charter of the international military tribunal. The rule implies that members of the armed forces are bound to obey lawful orders only and that they cannot escape liability if in obedience to a command they commit acts which both violate unchallenged rules of warfare and outrage the general sentiment of humanity. Decisions of various war crime tribunals established after the Second World War rejected the plea<sup>30</sup> of superior order as an absolute defence. They took into account of giving punishment.

## **U.N war crime commission**

The security decided to establish a war crime commission in the year 1992 and the commission shall receive information and reports about the war crimes.

## **Genocide:**

It is an act which is committed in order to exterminate fully or partially, a national ethnic, racial or religious group.

---

<sup>28</sup> War criminals watch , a world can't wait available at <http://warcriminalswatch.org/> / last updated on 15<sup>th</sup> January 2015

<sup>29</sup> Yale law school, Lillian golden law library in memory of sol Goldman, the avlon project documents in law , history and diplomacy , constitution of military tribunal , article 8 the fact that defendant acted pursuant to order of his government or a superior shall not free him from responsibility , but it may be considered in mitigation of punishment if the tribunal requires justice so required , refer Dr . H.O Agrawal International law and human rights , central law publications , 19<sup>th</sup> edition 2013 , pg no. 617 and for charter of military tribunal refer to the site <http://avalon.law.yale.edu/imt/imtconst.asp> last updated on January 16<sup>th</sup> 2015

<sup>30</sup> Farlex , the free dictionary available at <http://www.thefreedictionary.com/plea> last updated on 29<sup>th</sup> December 2014

It is defined under article 1<sup>31</sup> of the genocide convention.

It is considered as crime under international law whether they are committed in the time of peace or time of war. The state has the duty to punish and prevent from the act of genocide

### **3.2 .1 Nuremberg Trial**

It was carried out in Nuremberg,<sup>32</sup> Germany, between 1945 and 1949 with the series of 13 trials in Nuremberg for the purpose of bringing Nazi war Criminals in Justice. The German industrialists, lawyers and doctors, were indicted on such charges as crimes against peace and crimes against humanity and the defendants were the Nazi Party<sup>33</sup>and High Ranking Military Officers. Nazi leader Adolf Hitler committed suicide when Germany was defeated in the Second World War and he was never brought to trial. The Nuremberg trials<sup>34</sup> are now regarded as a milestone toward the establishment of a permanent international court, and an important precedent for dealing with later instances of genocide and other crimes against humanity.

When Adolf Hitler<sup>35</sup> came to power as chancellor of Germany in 1933, he and his Nazi government started with the implementation of policies designed to persecute German-Jewish people and other perceived enemies of the Nazi state. His policies grew increasingly repressive and violent and resulted, by the end of World War II (1939-45), in the systematic, state-sponsored murder of some 6 million European Jews including 4 million to 6 million non-Jews.

---

<sup>31</sup> Convention on the prevention and punishment for the crime of genocide , adopted by resolution 260 ( iii ) A of the united nations general assembly , 9<sup>th</sup> December 1948 pg no .1 available at [http://www.oas.org/dil/1948\\_Convention\\_on\\_the\\_Prevention\\_and\\_Punishment\\_of\\_the\\_Crime\\_of\\_Genocide.pdf](http://www.oas.org/dil/1948_Convention_on_the_Prevention_and_Punishment_of_the_Crime_of_Genocide.pdf) last updated on 29<sup>th</sup> December 2014

2. Dr. H.O Agrawal , international law and Human Rights , central law publications, pg no.822 , international conventions on inhuman acts , 19<sup>th</sup> edition 2013 , last updated on 29<sup>th</sup> December 2014

<sup>32</sup> Welcome to Nuremberg , available at [http://www.nuernberg.de/internet/stadtportal\\_e/](http://www.nuernberg.de/internet/stadtportal_e/) last updated on 29<sup>th</sup> December 2014

<sup>33</sup>Nazi Party , article available at <http://www.history.com/topics/world-war-ii/nazi-party> last updated on 28<sup>th</sup> December 2014

<sup>34</sup> Dr H.O agrawal, international law and human rights , central law publications 19<sup>th</sup> edition 2013 pg no.617 last updated on 23<sup>rd</sup> December 2014

<sup>35</sup>Adolf Hitler , military leader dictator 1889 to 1945 available at <http://www.biography.com/people/adolf-hitler-9340144> last updated on 27<sup>th</sup> December 2014

In December 1942, the Allied leaders<sup>36</sup> of Great Britain, the United States and the Soviet Union the first joint declaration was issued for the mass murder of European Jewry and resolving to prosecute those responsible for violence against civilian populations according to the United States Holocaust<sup>37</sup> Memorial Museum (USHMM). Joseph Stalin (1878-1953), the Soviet leader, initially proposed the execution of 50,000 to 100,000 German staff officers. British Prime Minister Winston Churchill (1874-1965) discussed the possibility of summary execution (execution without a trial) of high-ranking Nazis, but was persuaded by American leaders that a criminal trial would be more effective. The criminal proceedings would required documentation of the crimes charged against the defendants and prevent later accusations that the defendants had been condemned without evidence.

The Nuremberg trials was the legal and procedural difficulties to overcome for setting it up . Firstly, there was no precedent for an international trial of war criminals. There were earlier instances of prosecution for war crimes, such as the execution of Confederate army officer Henry Wirz (1823-65) for his maltreatment of Union prisoners of war during the American Civil War (1861-65)<sup>38</sup>; and the courts-martial held by Turkey in 1919-20 to punish those responsible for the Armenian genocide of 1915-16<sup>39</sup>. However, these were trials conducted according to the laws of a single nation rather than, as in the case of the Nuremberg trials, a group of four powers (France, Britain, the Soviet Union and the U.S.) with different legal traditions and practices.

---

<sup>36</sup> World war 2 , the allied powers , available at

[http://www.ducksters.com/history/world\\_war\\_ii/ww2\\_allied\\_powers.php](http://www.ducksters.com/history/world_war_ii/ww2_allied_powers.php) last updated on 29th December 2014

<sup>37</sup> Holocaust Encyclopedia , Introduction to Holocaust available at

<http://www.ushmm.org/wlc/en/article.php?ModuleId=10005143> last updated on at 16<sup>th</sup> December 2014

<sup>38</sup> American Civil war available at <http://www.history.com/topics/american-civil-war> last updated on 17th December 2014

<sup>39</sup> Armenian Genocide available at <http://www.history.com/topics/armenian-genocide> last updated on at 16th December 2014

The laws and procedures for the Nuremberg trials with the London Charter of the International Military Tribunal (IMT)<sup>40</sup> with the help of Allies, issued on August 8, 1945. Among other things, the charter defined three categories of crimes: crimes against peace (including planning, preparing, starting or waging wars of aggression or wars in violation of international agreements), war crimes (including violations of customs or laws of war, including improper treatment of civilians and prisoners of war<sup>41</sup>) and crimes against humanity (including murder, enslavement or deportation<sup>42</sup> of civilians or persecution on political, religious or racial grounds). It was determined that civilian officials as well as military officers could be accused of war crimes.

The Nuremberg trials was the best known Trial of Major War Criminals, held from November 20, 1945, to October 1, 1946. The format of the trial was a mix of legal traditions: There were prosecutors and defense attorneys according to British and American law, but the decisions and sentences were imposed by a tribunal (panel of judges) rather than a single judge and a jury. The chief American prosecutor was Robert H. Jackson (1892-1954), an associate justice of the U.S. Supreme Court. Each of the four Allied powers supplied two judges—a main judge and an alternate.

Twenty-four individuals were indicted, along with six Nazi organizations determined to be criminal (such as the “Gestapo<sup>43</sup>,” or secret state police). One of the indicted men was deemed medically unfit to stand trial, while a second man killed himself before the trial began. Hitler and two of his top associates, Heinrich Himmler (1900-45) and Joseph Goebbels (1897-45), had each committed suicide in the spring of 1945 before they could be brought to trial. The defendants

---

<sup>40</sup> Yale law school , Lillian Goldman law library in memory of sol Goldman, the Avalon project , documents in law , history and diplomacy available at <http://avalon.law.yale.edu/imt/imtconst.asp> last visited December 23rd 2014

<sup>41</sup> Prisoners of war , from Wikipedia , free encyclopedia available at [http://en.wikipedia.org/wiki/Prisoner\\_of\\_war](http://en.wikipedia.org/wiki/Prisoner_of_war) last visited 24th December 2014

<sup>42</sup> Dr. H.O Agrawal , International law and Human Rights , Central Law Publications , 19<sup>th</sup> Edition 2013 , Ch-19 , pg no-272 last visited 18<sup>th</sup> December 2014

<sup>43</sup> Gestapo , the German state secret police during the Nazi regime organized in 1933 , available at <http://dictionary.reference.com/browse/gestapo> last visited 29th December 2014

were allowed to choose their own lawyers, and the most common defense strategy was that the crimes defined in the London Charter were examples of *ex post facto*<sup>44</sup> law; that is, they were laws that criminalized actions committed before the laws were drafted. Another defense was that the trial was a form of victor's justice—the Allies were applying a harsh standard to crimes committed by Germans and leniency to crimes committed by their own soldiers.

As the accused men and judges spoke four different languages, the trial saw the introduction of a technological innovation taken for granted today: instantaneous translation. IBM provided the technology and recruited men and women from international telephone exchanges to provide on-the-spot translations through headphones in English, French, German and Russian.

In the end, the international tribunal found all but three of the defendants guilty. Twelve were sentenced to death, one *in absentia*, and the rest were given prison sentences ranging from 10 years to life behind bars. Ten of the condemned were executed by hanging on October 16, 1946. Hermann Goring (1893-1946), Hitler's designated successor and head of the "Luftwaffe"<sup>45</sup> (German air force), committed suicide the night before his execution with a cyanide capsule he had hidden in a jar of skin medication.

The city of Nuremberg (also known as Nurnberg) in the German state of Bavaria was selected as the location for the trials because its Palace of Justice was relatively undamaged by the war and included a large prison area. Additionally, Nuremberg had been the site of annual Nazi propaganda rallies; holding the postwar trials there marked the symbolic end of Hitler's government, the Third Reich.

---

<sup>44</sup> Farlex , the free Dictionary , available at <http://legal-dictionary.thefreedictionary.com/ex+post+facto> last updated on 30<sup>th</sup> December 2014

<sup>45</sup> The German air force , farlex , the free dictionary available at <http://www.thefreedictionary.com/Luftwaffe> last updated on 31st December 2014

The Trial of Major War Criminals, there were 12 additional trials held at Nuremberg. These proceedings, lasting from December 1946 to April 1949, are grouped together as the Subsequent Nuremberg Proceedings. They differed from the first trial in that they were conducted before U.S. military tribunals rather than the international tribunal that decided the fate of the major Nazi leaders. The reason for the change was that growing differences among the four Allied powers had made other joint trials impossible. The subsequent trials were held in the same location at the Palace of Justice in Nuremberg.

These proceedings included the Doctors Trial (December 9, 1946-August 20, 1947), in which 23 defendants were accused of crimes against humanity, including medical experiments on prisoners of war. In the Judges Trial (March 5-December 4, 1947), 16 lawyers and judges were charged with furthering the Nazi plan for racial purity by implementing the eugenics <sup>46</sup>laws of the Third Reich. Other subsequent trials dealt with German industrialists accused of using slave labor and plundering occupied countries; high-ranking army officers accused of atrocities against prisoners of war; and SS officers accused of violence against concentration camp inmates. Of the 185 people indicted in the subsequent Nuremberg trials, 12 defendants received death sentences, 8 others were given life in prison and an additional 77 people received prison terms of varying lengths, according to the USHMM. Authorities later reduced a number of the sentences. The Nuremberg trials were controversial even among those who wanted the major criminals punished. Harlan Stone (1872-1946), chief justice of the U.S. Supreme Court at the time, described the proceedings as a “sanctimonious fraud” and a “high-grade lynching party.” William O. Douglas (1898-1980), then an associate U.S. Supreme Court justice, said the Allies “substituted power for principle” at Nuremberg. Nonetheless, most observers considered the trials a step forward for the establishment of international law. The findings at Nuremberg led directly to the United Nations Genocide Convention (1948) and Universal Declaration of Human Rights (1948), as well as the Geneva Convention on the Laws and Customs of War (1949). In addition, the International Military Tribunal supplied a useful precedent for the trials of Japanese war criminals in Tokyo (1946-48); the 1961 trial of Nazi leader Adolf Eichmann (1906-62); and the

---

<sup>46</sup> Paul Lombardo , university of Virginia , eugenic sterilization laws available at <http://www.eugenicsarchive.org/html/eugenics/essay8text.html> last updated on 29th December 2014

establishment of tribunals for war crimes committed in the former Yugoslavia (1993) and in Rwanda (1994)

### **3.2.2 Bangladesh crisis**

In 1971, an internal crisis in Pakistan resulted in a third war between India and Pakistan and the secession of East Pakistan, creating the independent state of Bangladesh. These events altered the relationship between the United States and the region.

The partition of India in 1947 created West and East Pakistan, two noncontiguous territories that shared a dominant religion of Islam but were very different in terms of language, ethnicity and culture. In the 1970 parliamentary elections, an overwhelming number of East Pakistanis voted for a political party that advocated autonomy for the East, but it was blocked from governing by the army and the existing Pakistani government, and its leader was jailed. The resulting mass protests in the East were brutally suppressed by the Pakistani army, which caused a massive refugee movement into neighboring India. East Pakistani guerilla forces, supported by India, fought with the Pakistani Army in the late autumn of 1971. West Pakistan responded with air attacks on India, resulting in open war between the two powers beginning on December 3.

The regional situation was already complex. India signed a treaty of mutual assistance with the Soviet Union in August, 1971, and the People's Republic of China was friendly to Pakistan and had fought a war with India in 1962. However, Pakistan was a valuable diplomatic partner, and its government helped the United States achieve a rapprochement with the People's Republic of China in the early 1970s. President Richard Nixon's visited in 1969; the U.S. Government had resumed selling Pakistan military equipment, a process that had been disrupted by the previous 1965 India-Pakistan War. Washington avoided a second war between Pakistan and India, but also feared that Pakistan would be greatly weakened if its eastern province seceded, and so supported Pakistan initially. However, the action against the mass protests in East Pakistan was well-publicized and widely condemned, which limited the extent to which the U.S. Government was willing to help the Pakistani Government prevent the division of its country.

India's relationship with the Soviet Union ensured that the United Nations would not intervene, and helped deter China from opening a second conflict on India's northern border. Defeated on both fronts, Pakistan was forced to accede to the establishment of an independent Bangladesh in place of East Pakistan. Bangladesh was admitted to the United Nations in 1974.

The Bangladesh War of Independence or the Bangladesh Liberation War referred to an armed conflict between West Pakistan (now Pakistan) and East Pakistan (now Bangladesh) that lasted for roughly nine months in 1971. The war resulted in Bangladesh's independence from Pakistan.

Pakistan's partition from India in 1947 had arisen from the 'two-nation' theory that Muslims and Hindus in India were both 'nations' whose people could not live together. Pakistan was the first modern-state founded solely on the basis of religion, since although India had a Hindu majority its population, with Muslims, Sikhs, Jains and Christians was multi-religious and its constitution was secular. When East Bengal was included in the partition, many thought this mistaken because of the cultural differences between Bengal and the peoples of what became West Pakistan. When the West tried to impose Urdu as the official language in the East, a linguistic-cultural opposition movement began.

Bangladesh would be founded on the basis of cultural and linguistic identity. Muslims, Hindus, Christians, Buddhists and animists, united by a common language and a common culture, struggled for their freedom. Few families were unaffected by the war. Most lost relatives. Bengali have been conquered by others but have not had a history of aggression. They have traded, written poetry, sung songs and have developed a rich cultural tradition of which they are proud. However, denied equal rights with West Pakistan and the right to form a government even though the largest number of seats in Pakistan's Parliament was held by East Pakistani members, they bravely asserted their right to self-determination. The atrocities committed by Pakistani soldiers during this war were regarded as genocide.

During the Partition of India, Pakistan, as a country, gained independence on August 14, 1947 following the end of British rule over South Asian countries. The division was made based on religion. Pakistan was created out of Muslim majority territories in the West and East, and India was created out of the vast Hindu majority regions in the center. The Western zone was popularly (and for a period of time, also officially) called West Pakistan and the Eastern zone



(modern-day Bangladesh) was called East Bengal and later, East Pakistan. The capital of Pakistan was established in Karachi in West Pakistan and then moved to Islamabad in 1958.

The period 26 March 1971 to 16 December 1971 or the period March 26, 1971 to December 03, 1971. The main issue arises from the validity of the declaration of independence on 26 March.

No country accepted Bangladesh's independence declaration and hence the region contemplated continued to be East Pakistan. So, the war was a civil war in effect.

India referred to the war on the Western Front as the Indo-Pakistani War. The Indian Parliament recognized the People's Republic of Bangladesh as an independent country on the December 6, 1971. There is no verifiable definite claim from the Pakistan Army or Government. Bangladesh clearly uses only the terminology Liberation War of Bangladesh for the war on Bangladeshi territory.

The proponents of this terminology also question validity of declaration of independence of Bangladesh since there was no foreign government that acknowledged the independence. So, according to them, the war was effectively between Indian Army and Pakistan Army.

The Bangladesh liberation war witnessed widespread atrocities committed mainly on the Bengali population of East Pakistan, at a level that Bangladeshis maintain is one of the worst genocides in history. The actual extent of the atrocities committed is not clearly known, and opinions vary, as the next section discusses. However, there is little doubt that numerous civilians were tortured and killed during the war. There are many mass graves in Bangladesh, and newer ones are always being discovered, such as a recent one in a mosque in Dhaka located in the non-Bengali region of the city. The first night of war on Bengalis, which is very well documented, saw indiscriminate killings of students of Dhaka University and other civilians.

For India, the situation became serious when nearly 10 million Bengali refugees crossed the border into its territory. There was a humanitarian crisis, but also an opportunity to cut Pakistan down to size.

On December 1971 the new country called Bangladesh was created and it was India's contribution to support the people of Bangladesh. It developed cordial relations between both the

countries. After few years later Awami league<sup>47</sup> leader sheikh mujib was assassinated which created violence in the country and the relation between India and Bangladesh was strained again. Both the countries have dispute of Bangladeshi refugees who are still in India and boundary dispute.

### **Bangladesh war-crime tribunal**

International crimes tribunal in Bangladesh was set up at the year 2009 for investigation and prosecution of the genocide which was committed in the year 1971 by the Pakistani armies and local collaborators. The Awami league won the general elections in the year 2008 and set up the tribunal. They pledged for the establishment of the tribunals for the trial of the war criminals. The first charge of accusation of crime was at the year 2010. The first assassin of the war crimes were the Pakistani soldiers, remained out reach of the courts.

The 1973 act was amended to authorize the tribunal to update it in 2009's parliament. Nine leaders of Jamaat-e-Islami<sup>48</sup>, the largest Islamist party in the nation, and two of the Bangladesh Nationalist Party, had been indicted as suspects in war crimes in the year 2012. Abul Kalam Azad (Bachchu) was the person who was convicted and sentenced to death in January 2013. The tribunal received the support internationally and UN attempted to offer limited support. The beginning of the trials several human rights organizations and international legal figures have raised objections to the court proceedings. Human Rights Watch, which initially supported the establishment of the tribunal, have criticized it for issues of fairness and transparency, as well as reported harassment of lawyers and witnesses representing the accused.

On February 2013 Abdul Quader Molla, assistant secretary general of Jamaat, was convicted and sentenced to life imprisonment rather than capital punishment<sup>49</sup>, a peaceful demonstration started at Shahbag intersection in Dhaka. Tens of thousands of mostly young demonstrators, including women, have called for the death penalty for those convicted of war

---

<sup>47</sup> Awami league, political party Bangladesh, encyclopedia Britannica available at <http://www.britannica.com/EBchecked/topic/46004/Awami-League> last updated on 26th December 2014

<sup>48</sup> Bangladesh Jaamat –e –islami, wikipedia, free encyclopedia available at [http://en.wikipedia.org/wiki/Bangladesh\\_Jamaat-e-Islami](http://en.wikipedia.org/wiki/Bangladesh_Jamaat-e-Islami) last updated on at 22nd December 2014

<sup>49</sup> Roger hood, means death penalty, 27<sup>th</sup> April, 2014, encyclopedia Britannica available at <http://www.britannica.com/EBchecked/topic/93902/capital-punishment> last updated on 19th December 2014

crimes. Non-violent protests supporting this position have occurred in other cities as the country closely follows the trials.

The events of the nine-month conflict of the Bangladesh Liberation War are widely viewed as genocide; the Pakistan Army and collaborators targeted mass people, intellectuals and members of the political opposition for attacks. Historians have estimated that, during the conflict, between two hundred thousand and four hundred thousand women and children were raped leading to an estimated 25,000 war babies being born. An estimated ten million refugees entered India, a situation which contributed to its government's decision to intervene militarily in the civil war. Thirty million people were displaced.

In 2009 Shafique Ahmed, the Minister of Law, Justice and Parliamentary Affairs, announced that the trials would be organized under the International Crimes Tribunal Act 1973. In 1973 the newly independent government of Bangladesh passed a law, the International Crimes (Tribunals) Act ICT Act 1973, to authorize the investigation and prosecution of the persons responsible for genocide, crimes against humanity, war crimes and other crimes under international law committed in 1971. The act was a complete in itself. On March 25, 2009 the government voted to try the war criminals according to the ICT Act<sup>50</sup> of 1973 but planned amendments to bring the law up to date and in keeping with international standards for similar trials.

On March 25, 2010, the government announced the formation of the following: a three-member judges' tribunal, a seven-member investigation agency, and a twelve-member prosecution team to hold the trials according to the ICT Act of 1973. The 39th anniversary of the Operation Searchlight massacre by the Pakistan Army on March 25, 1971 was the landmark announcement.

Human Rights Watch initially supported the establishment of the tribunal and recommended amendments to the 1973 law. The government already had planned to update the law, and proceeded in consultation with experts. Abul Kalam Azad, a nationally known Islamic cleric and former member of Jamaat, was charged with genocide, rape, abduction, confinement and torture. He was tried in absentia after having fled the country; police believe he is in Pakistan. In January 2013 Azad was the first suspect to be convicted in the trials; he was found guilty of seven of eight charges and sentenced to death by hanging. Azad's defence lawyer, a prominent Supreme

---

<sup>50</sup> Act no xix of 1973 available at [http://bdlaws.minlaw.gov.bd/pdf\\_part.php?id=435](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=435) last updated on 27<sup>th</sup> December 2014

Court lawyer appointed by the state, did not have any witnesses in the case; he said Azad's family failed to cooperate in helping locate witnesses and refused to testify. On February 5, 2013, the ICT sentenced Abdul Quader Mollah, assistant secretary of Jamaat, to life imprisonment. Mollah was convicted on five of six counts of crimes against humanity and war crimes. He was accused of shooting 344 people and the rape of an 11 year old girl. Prior to the verdict, Jamaat members called a general strike in Dhaka in protest of the trials, which it said were politically motivated.

Following the verdict, large-scale, non-violent protests started on 5 February 2013 in Dhaka, with demonstrators calling for the death penalty for Mollah and any others convicted of war crimes. Tens of thousands of people filled the Shahbag intersection, with more coming in the days following.

The protest has spread to other parts of the country, with sit-ins and demonstrations taking place in Chittagong, Sylhet, Barisal, Mymensingh, Khulna, Rajbari, Rajshahi, Rangpur, Sunamganj, Noakhali and Narsingdi.

On 12 December Quader Molla was executed in a Dhaka jail for a political killing. He was later buried in his village of Faridpur

On 28 February 2013, Delwar Hossain Sayeedi, the deputy of Jamaat, was found guilty of genocide, rape and religious persecution. He was sentenced to death by hanging. His defence lawyer had earlier complained that a witness who was supposed to give testimony was abducted from the gates of the courthouse on 5 November 2012, reportedly by police, and has not been heard from since. The government did not seem to take the issue seriously after the prosecution denied there was a problem. By afternoon on the day of the protest, violence had erupted across Bangladesh between Islamic activists and police forces. By the end of 3 March 2013, almost 80 people were dead, including many police officers. An estimated 2000 people were injured countrywide. On 17 September 2014, the Appellate Division of the Bangladesh Supreme Court reduced sentence of Delwar Hossain Sayeedee revising the death sentence to 'imprisonment till death' for crimes against humanity in 1971.

On 7 June 2012 Muhammad Kamaruzzaman was charged on 7 counts of crimes against humanity. On 9 May 2013 he was convicted and given the death penalty on five counts of mass killings, rape, torture and kidnapping

On 3 November 2013, the International Crimes Tribunal sentenced Chowdhury Mueen-Uddin to death after the tribunal found him guilty of torture and murder of 18 intellectuals during 1971 Liberation war of Bangladesh.

Ghulam Azam was found guilty by the ICT on five counts. Incitement, conspiracy, planning, abetment and failure to prevent murder. He was sentenced on 15 July 2013 to 90 years imprisonment. He died of a stroke on 23 October 2014 at BSMMU. Ali Ahsan Mohammad Mojaheed sentenced to death by hanging on 17 July 2013. On 2 February 2014, Jamaat-e-Islami leader AKM Yusuf, who was also on trial for crimes against humanity, died in prison. Yusuf was alleged to be the founder of infamous Peace Committees and Razakar force in the greater Khulna region. He was indicted on 13 charges of genocide and crimes against humanity during the Liberation War in 1971. On 29 October 2014, Motiur Rahman Nizami was sentenced to death for war crimes committed during the 1971 independence war against Pakistan. On 2 November 2014, Jamaat-e-Islami politician Mir Quasem Ali was sentenced to death for crimes against humanity committed during the Liberation War of Bangladesh in 1971.

In March 2013, the Economist criticized the tribunal, mentioning government interference, restrictions on public discussion, not enough time allocated for the defence, the kidnapping of a defence witness and the judge resigning due to controversy over his neutrality

### 3.2.3 Yugoslavia crisis

#### 1991-1992: disintegration

Yugoslavia was formed as a kingdom in the year 1918 and then seems to exist as a Socialist state in 1945 when the Axis powers<sup>51</sup> were defeated in World War II by the allied powers<sup>52</sup>. The constitution established six constituent republics in the federation: Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. Serbia also had two autonomous provinces: Kosovo and Vojvodina.

By 1992 the Yugoslav Federation was falling apart. Nationalism had once again replaced communism as the dominant force in the Balkans<sup>53</sup>. Slovenia and then Croatia were the first to break away, but only at the cost of renewed conflict with Serbia. The war in Croatia led to hundreds of thousands of refugees and reawakened memories of the brutality of the 1940s. By 1992 a further conflict had broken out in Bosnia, which had also declared independence. The Serbs who lived there were determined to remain within Yugoslavia and to help build a greater Serbia. They received strong backing from extremist groups in Belgrade. Muslims were driven from their homes in carefully planned operations that become known as<sup>54</sup> "ethnic cleansing". By 1993 the Bosnian Muslim government was surrounded in the capital Sarajevo, surrounded by Bosnian Serb forces who controlled around 70% of Bosnia. In Central Bosnia, the mainly Muslim army was fighting a separate war against Bosnian Croats who wished to be part of a greater Croatia. The presence of UN peacekeepers to contain the situation proved ineffective

---

<sup>51</sup> Axis powers world war ii ,last updated 19-12-2015 , encyclopedia Britannica , available at <http://www.britannica.com/EBchecked/topic/46315/Axis-Powers> last updated on 12th January 2015

<sup>52</sup> World war 2 , allied powers , available at [http://www.ducksters.com/history/world\\_war\\_ii/ww2\\_allied\\_powers.php](http://www.ducksters.com/history/world_war_ii/ww2_allied_powers.php) last updated on 12th January 2015

<sup>53</sup> World atlas explore your world , available at <http://www.worldatlas.com/webimage/countrys/europe/balkans.htm> last updated on 12th January 2015

<sup>54</sup> H History , ethnic cleansing , available at <http://www.history.com/topics/ethnic-cleansing> last updated on January 13th 2015

### **1995: Dayton peace deal**

American pressure to end the war eventually led to the Dayton<sup>55</sup> agreement of November 1995 which created two self-governing entities within Bosnia - the Bosnian Serb Republic and the Muslim (Bosnjak)-Croat Federation. The settlement aimed was to bring about the reintegration of Bosnia and to protect the human rights but the agreement was criticized for not reversing the results of ethnic cleansing. The Muslim-Croat and Serb entities have their own governments, parliaments and armies. A NATO<sup>56</sup> -led peacekeeping force is charged with implementing the military aspects of the peace agreement, primarily overseeing the separation of forces. But the force was also granted extensive additional powers, including the authority to arrest indicted war criminals when encountered in the normal course of its duties. Croatia, meanwhile, took back most of the territory earlier captured by Serbs when it waged lightning military campaigns in 1995 which also resulted in the mass exodus of around 200,000 Serbs from Croatia.

### **1999: Kosovo intervention**

In 1998, nine years after the abolition of Kosovo's autonomy, the Kosovo Liberation Army - supported by the majority ethnic Albanians - came out in open rebellion against Serbian rule. The international community, while supporting greater autonomy, opposed the Kosovar Albanians' demand for independence. But international pressure grew on Serbian strongman, Slobodan Milosevic<sup>57</sup>, to bring an end to the escalating violence in the province. Threats of military action by the West over the crisis culminated in the launching of NATO air strikes against Yugoslavia in March 1999, the first attack on a sovereign European country in the alliance's history. The strikes focused primarily on military targets in Kosovo and Serbia, but extended to a wide range of other facilities, including bridges, oil refineries, power supplies and communications. Within days of the strikes starting, tens of thousands of Kosovo Albanian refugees were pouring out of the province with accounts of killings, atrocities and forced

---

<sup>55</sup> Dayton accords , U.S Department of state , Diplomacy in action available at <http://www.state.gov/p/eur/rls/or/dayton/> last updated on 19<sup>th</sup> January 2015

<sup>56</sup> North Atlantic treaty organization which was signed on 4<sup>th</sup> April 1949 , is an inter government military alliance , for more information refer website <http://nato.usmission.gov/> last updated on 19<sup>th</sup> January 2015

<sup>57</sup> President of Yugoslavia , Encyclopedia Britannica available at <http://www.britannica.com/EBchecked/topic/383076/Slobodan-Milosevic> last updated on 19<sup>th</sup> January 2015

expulsions at the hands of Serb forces. Returning them to their homes, along with those who had fled in the months of fighting before the strikes, became a top priority for the NATO countries. Meanwhile, relations between Serbia and the only other remaining Yugoslav republic, Montenegro, hit rock bottom, with Montenegrin leaders seeking to distance themselves from Slobodan Milosevic's handling of Kosovo.

### **2000: 2003 Milosevic ousted**

Yugoslavia was disappeared from the map of Europe, after 83 years of existence, to be replaced by a looser union called simply Serbia and Montenegro, after the two remaining republics. The arrangement was reached under pressure from the European Union, which wanted to halt Montenegro's progress towards full independence. However, Montenegrin politicians say they will hold a referendum on independence in 2006.

Kosovo itself became a de <sup>58</sup>facto UN protectorate<sup>59</sup>, though some powers have begun to be handed back to elected local authorities. One of the main problems in the province is getting Serbs who fled as Yugoslav security forces withdrew in 1999, to return to their homes.

Conflict between Serbs and ethnic Albanians threatened to erupt in late 2000 in the Presevo valley, on the Serbian side of the Kosovo border, but dialogue between Albanian guerrillas and the new democratic authorities in Belgrade allowed tensions to evaporate.

There was, however, a major outbreak of inter-ethnic violence in the Former Yugoslav Republic of Macedonia in 2001, again involving the Albanian minority. This was contained by NATO peacekeepers and ultimately resolved by political means

Slobodan Milosevic lost a presidential election in 2000. He refused to accept the result but was forced out of office by strikes and massive street protests, which culminated in the storming of parliament.

---

<sup>58</sup> In fact whether by right or not , oxford dictionaries , language matters , available at <http://www.oxforddictionaries.com/definition/english/de-facto> last updated on 19th January 2015

<sup>59</sup> The relation of strong state towards weaker state or territory that party controls , meaning protectorate available at <http://dictionary.reference.com/browse/protectorate> last updated on 19th January 2015



He was handed over to a UN war crimes tribunal in The Hague, and put on trial for crimes against humanity and genocide.

### **2006: death of Milosevic**

A Dutch investigation concluded that he had died of a heart attack, dismissing claims by his supporters that he had been poisoned. His long-running trial had been hit by repeated delays - partly because of his poor health - and no verdict had been reached. Slobodan Milosevic was found dead in his cell in The Hague on 11 March 2006

Serbia meanwhile came under intense international pressure to find and hand over General Ratko Mladic, the former Bosnian Serb commander topping the UN tribunal's list of wanted war crimes suspects, alongside his fugitive wartime political ally Radovan Karadzic.

Belgrade's failure to catch Gen Mladic set back its hopes for eventual EU membership, as the EU decided to suspend talks on forging closer ties.

In Kosovo reconciliation between the majorities ethnic Albanians, most of them pro-independence, and the Serb minority remained elusive.

Several rounds of UN-mediated talks have been held, without any significant breakthrough. The UN wants to find a solution for Kosovo's disputed status by the end of 2006.

The state union of Serbia and Montenegro is all that remains of the federation of six republics that made up former Yugoslavia - but in a referendum on 21 May, Montenegro narrowly voted for independence from Serbia.

Montenegro's Prime Minister Milo Djukanovic led the campaign for independence, although the population was deeply divided as there are close cultural links between the two peoples

### **Application of genocide convention in Bosnia- Herzegovina**

The republic of Bosnia and Herzegovina on 20<sup>th</sup> march 1993 filed an application before the international court of justice instituting proceedings against Yugoslavia for violating genocide convention<sup>60</sup>. It was that several provisions of the convention on prevention and punishment of crime of genocide of 1948 as well as charter<sup>61</sup> of the United Nations was violated by Yugoslavia. It was stated in the application about the series of events in Bosnia –Herzegovina from 1992 which amounted to the acts of genocide which was given in the genocide convention and under international law Yugoslavia was held fully responsible for those activities.

The objective of this application was to make request to prevent further loss of human life in Bosnia and Herzegovina and for the indication of provisional measures under article 41 of the statute of the court.

ICJ passed an unanimous order 1993 that Yugoslavia should immediately take all measures within its power to prevent commission of the crime of genocide and Yugoslavia. The court further made an order by 13 votes to 1 that Yugoslavia should in particular ensure that any military , paramilitary or irregular armed units which may be directed or supported by its well as any organization and person which may subject to its control , direction or influence do not commit any act of genocide of direct and public incitement to commit genocide or complicity in genocide whether directed against Muslim population of Bosnia and Herzegovina or against any other national , ethnic , racial or religious groups. The court re-affirmed and directed that the same be ‘‘immediately and effectively implemented’’.

### **International criminal tribunal for former Yugoslavia**

The commission of Experts on War Crimes in the territory of the former Yugoslavia established by Security Council 1992 in its report stated for the establishment of war crimes tribunal for the

---

<sup>60</sup> Dr. H.O Agarwal , International law and Human Rights , Central Law Publications ,19<sup>th</sup> Edition 2013 ch 53 and ch 58 , pg. no 734, 822 last updated on 19<sup>th</sup> January 2015

<sup>61</sup> Welcome to the united nations , it’s your world charter of united nations available at <http://www.un.org/en/documents/charter/> last updated on 19<sup>th</sup> January 2014

prosecution of the persons responsible for serious violations of international humanitarian<sup>62</sup> law committed since 1991. On February 1993 the council adopted a resolution and decided to establish a tribunal. The council by the same resolution. The council on 25<sup>th</sup> may decide to establish an international tribunal by unanimously adopting a resolution.

The tribunal has authority to prosecute four types of cases: grave breaches of Geneva Convention 1949<sup>63</sup> under article 2, violation of law and customs of war under article 3, genocide article 4 and crimes against humanity under article 5. It was provided in the statute of article 6 that ICTY<sup>64</sup> shall have jurisdiction over those charged with violation of international humanitarian law in the territory of former Yugoslavia since 1991.

The tribunal operated subsidiary organ of the Security Council which perform its functions independently on political considerations and would not be subject to the authority or control of the council with regard to the performance of its judicial functions.

The creation of the war crimes tribunal was the first of its kind .UN set up an international criminal tribunal which was competent to try those who have committed serious war crimes on the territory of former Yugoslavia as given above. The Security Council on December 22, 2010 set up a body – international residual mechanism for criminal tribunal with two branches. The council requested the tribunal to take all possible measures so that work may be completed by December 31, 2014

---

<sup>62</sup> ICRC, Advisory service on International Humanitarian Law , what is international humanitarian law available at [https://www.icrc.org/eng/assets/files/other/what\\_is\\_ihl.pdf](https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf) last updated on 19th January 2015

2. Dr. H.O Agrawal , International law and Human Rights , Central law publication , 19<sup>th</sup> edition 2013 , ch- 62 pg.no 962 last updated on 20<sup>th</sup> January 2015

<sup>63</sup> ICRC Resource Centre , Grave breaches specified in Geneva convention 1949 and in additional protocol 1 1977 , 31-01-1998 <https://www.icrc.org/eng/resources/documents/misc/57jp2a.htm> last updated on 20th January 2015

<sup>64</sup> Dr. H.O Agrawal , international law and human rights , central law publications , 19<sup>th</sup> edition 2013 ch -39 , pg. no- 622 last updated on 20<sup>th</sup> January 2015

### 3.2.4 Rwanda genocide

Rwanda's population was seven million which comprised of three ethnic groups: Hutu <sup>65</sup> (approximately 85%), Tutsi <sup>66</sup> (14%) and Twa <sup>67</sup> (1%) in the year 1994 and the genocide took place by the Hutu Majority. Rwanda's political elite blamed the entire Tutsi minority population for the country's increasing social, economic, and political pressures in the year 1990. Tutsi civilians were also accused of supporting a Tutsi-dominated rebel group, the Rwandan Patriotic Front (RPF). The use of propaganda and constant political negotiation, Habyarimana<sup>68</sup>, was the ruling president at that time, and when the year 1992 was ending then there was a creation of group between Hutu and Tutsi. The Hutu remembered past years of treating people in a cruel and unfair way and not giving them the same freedom and rights in Tutsi rule, and many of them not only feel bitter or angry but also feared the minority.

President Habyarimana, a Hutu, was shot down when a plane was carried on 6<sup>th</sup> April 1994. Violence was outbreak immediately after his assassination. The plans was launched to destroy the entire Tutsi civilian population by the Hutu extremists in the form of war. Tutsi were killed in their homes and as they tried to flee at roadblocks set up across the country during the genocide. Many families were killed at a time. Women were brutally raped. It is estimated that some 200,000 people participated in the perpetration of the Rwandan genocide.

In the weeks after April 6, 1994, 800,000 men, women, and children perished in the Rwandan genocide, perhaps as many as three quarters of the Tutsi population. At the same time, thousands of Hutu were murdered because they opposed the killing campaign and the forces directing it.

The Rwandan genocide resulted from the conscious choice of the elite to promote hatred and fear to keep itself in power. This small, privileged group first set the majority against the minority to counter a growing political opposition within Rwanda. Then, faced with RPF success on the

---

<sup>65</sup> Hutu , countries and their cultures , available at <http://www.everyculture.com/wc/Rwanda-to-Syria/Hutu.html> last updated on January 22nd 2015

<sup>66</sup> Tutsi , countries and their culture , available at <http://www.everyculture.com/wc/Brazil-to-Congo-Republic-of/Tutsi.html> last updated on January 22nd 2015

<sup>67</sup> Twa , Wikipedia , free encyclopedia , available at <http://en.wikipedia.org/wiki/Twa> last visited January 22nd 2015

<sup>68</sup> Juvenal Habyarimana , president of Rwanda , encyclopedia Britannica , available at <http://www.britannica.com/EBchecked/topic/250925/Juvenal-Habyarimana> last updated on 22nd January 2015

battlefield and at the negotiating table, these few power holders transformed the strategy of ethnic division into genocide. They believed that the extermination campaign would reinstate the solidarity of the Hutu under their leadership and help them win the war, or at least improve their chances of negotiating a favorable peace. They seized control of the state and used its authority to carry out the massacre.

The civil war and genocide only ended when the Tutsi-dominated rebel group, the RPF, defeated the Hutu perpetrator regime and President Paul Kagame took control.

Although the Rwandans are fully responsible for the organization and execution of the genocide, governments and peoples elsewhere all share in the shame of the crime because they failed to prevent and stop this killing campaign.

Policymakers in France, Belgium, and the United States and at the United Nations were aware of the preparations for massive slaughter and failed to take the steps needed to prevent it. Aware from the start that Tutsi were being targeted for elimination, the leading foreign actors refused to acknowledge the genocide. Not only did international leaders reject what was going on, but they also declined for weeks to use their political and moral authority to challenge the legitimacy of the genocidal government. They refused to declare that a government guilty of exterminating its citizens would never receive international assistance. They did nothing to silence the radio that televised calls for slaughter. Even after it had become indisputable that what was going on in Rwanda was a genocide, American officials had shunned the g-word, fearing that it would cause demands for intervention.

When international leaders finally voiced disapproval, the genocidal authorities listened well enough to change their tactics although not their ultimate goal. Far from cause for satisfaction, this small success only highlights the tragedy: if weak protests produced this result in late April, imagine what might have been the result if in mid-April the entire world had spoken out.

## **Establishment of International tribunal for Rwanda**

The Security Council on November 8, 1994 decided to establish an international tribunal to prosecute persons responsible for genocide and other violations of international humanitarian<sup>69</sup> law committed in Rwanda and Rwandan citizens responsible for genocide in neighboring states between January 1994 to December 1994 and the council also adopted the statute of the international criminal tribunal<sup>70</sup> for Rwanda.

The term genocide in Article 2 of Para 2 in the statute stated that genocide means intent to destroy in whole or in part a national, ethnic, racial or religious group which is defined as killing, inflicting and physical destruction of the group and in Para 3 of article 2 states that following acts will be punishable like genocide, conspiracy to commit genocide, direct and indirect incitement to genocide, attempt to genocide. The tribunal shall have power to prosecute persons who committed crimes against humanity.

The international tribunal consisted of following organs: (a) the chamber comprising two trial chambers and an appeals chamber (b) the prosecutor and (c) a registry. The chamber shall be composed of eleven independent judges no two of whom may be nationals of the same state. The prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations in the territory of neighboring states. A registry shall be responsible for the administration and servicing of the tribunal.

The international criminal tribunal for Rwanda has conducted six trials from 1<sup>st</sup> July 2000 to June 30 2001 .The tribunal sentenced a Belgian journalist to 12 years in prison for inciting people to commit genocide in Rwanda in 1994.

---

<sup>69</sup> Dr. H.O Agrawal , International law and human rights , central law publications , 19<sup>th</sup> edition 2013 , ch – 62 , pg. no 962 , last updated 20<sup>th</sup> January 2015

<sup>70</sup> Dr. H.O Agrawal , International law and human rights , central law publications , 19<sup>th</sup> edition 2013 , ch- 53 , pg. no – 735 last updated 20<sup>th</sup> January 2015

### 3.2.5 Gaza conflict:

The Gaza–Israel<sup>71</sup> conflict was the part of the wider Israeli–Palestinian<sup>72</sup> conflict. Palestinian militant actions was full scale riot in the Gaza Strip following in the year 2005 and 2006 there overwhelming election to government of the Islamic political party Hamas<sup>73</sup>. The conflict escalated with the split of the Palestinian Authority to Fatah<sup>74</sup> government in the West Bank and the Hamas Government in Gaza and the following violent outburst of Fatah. Palestinian rocket attacks on Israel and the joint<sup>75</sup> Israeli-Egyptian blockade of Gaza have worsened the conflict.

On 2005 disengagement plan, Israel retained exclusive control over Gaza's airspace and territorial waters, continued to patrol and monitor the external land perimeter of the Gaza Strip, with the exception of its southernmost border where Egypt retained control of the border and border crossings were supervised by European monitors and continued to monitor and blockade Gaza's coastline. Israel largely provides for and controls Gaza's water supply, electricity and communications infrastructure. According to Human Rights Watch and Amnesty International, Israel remains an occupying power under international law. The United Nations has stated that under resolutions of both the General Assembly and the Security Council it regards Gaza to be part of the "Occupied Palestinian<sup>76</sup> Territories". Meanwhile,

---

<sup>71</sup> Israel –Palestinians on NBC News.com , Q & A the history behind Israel's –Gaza offensive years of tension and outbreak led to present assault available at [http://www.nbcnews.com/id/28421427/ns/world\\_news-mideast\\_n\\_africa/t/qa-history-behind-israels-gaza-offensive/#.VRxaIPmUeBg](http://www.nbcnews.com/id/28421427/ns/world_news-mideast_n_africa/t/qa-history-behind-israels-gaza-offensive/#.VRxaIPmUeBg) last updated 20<sup>th</sup> January 2014

<sup>72</sup> Dr. H.O Agrawal , International law and Human Rights , central law publication , 19<sup>th</sup> edition 2013 , ch-38 , Pg. no; 613 -614 , last updated 22<sup>nd</sup> January 2015

2. BBC News , guide : why Israel and Palestine are fighting over Gaza , 20<sup>th</sup> February 2015 , available at <http://www.bbc.co.uk/newsround/20436092> last updated 21st February 2015

<sup>73</sup> Vox , card 10 of 26 , what is Hamas , available at <http://www.vox.com/cards/israel-palestine/hamas> last updated 21st January 2015

<sup>74</sup> Fatah : History and overview , A project of the American –Israeli enterprise , Jewish virtual library , available at <http://www.jewishvirtuallibrary.org/jsource/Terrorism/Fatah.html> last updated 21st January 2015

<sup>75</sup> Joel gillin , New republic , Gaza , report rebuilding Gaza could take more than 100 years , 27<sup>th</sup> February 2015 available at <http://www.newrepublic.com/article/121158/oxfam-report-israeli-blockade-preventing-gaza-rebuilding> last updated 1st march 2015

<sup>76</sup> Occupied Palestine territories , United Nation Human Rights , Office of High Commissioner of Human Rights available at <http://www.ohchr.org/EN/countries/MENARegion/Pages/PSIndex.aspx> last updated 22nd February 2015

the Fatah government in the West Bank, officially recognized as the sole representative of the State of Palestine, referred to the Gaza<sup>77</sup> Strip as part of the Palestinian state and does not recognize the Hamas government; they avoided interfering in the conflict

In 1996 the Gaza Strip was separated from Israel by the Israel–Gaza barrier helped in reduction of infiltration into Israel. The Gazans<sup>78</sup> were no longer permitted to enter Israel for their work purposes. Special permits to enter Israel for medical purposes were also reduced, which made travel for Palestinians a difficult task.

There was a Need for Separation Israel and the Palestinian Authority reviewed new and existing arguments underlying different separation stances, in order to make separation from the Palestinians, beginning with those in the West Bank<sup>79</sup> and Gaza<sup>80</sup>.

In 1992 there was a creation of a physical barrier between the Israeli and Palestinian populations and by 1994 it was proposed by Yitzhak Rabin, construction on the first barrier – the Israel–Gaza barrier – had begun; it is actually a wire fence equipped with sensors.

Palestinian tactics have range on carrying out mass protests and general strikes which amounted to mounting suicide bombing attacks and firing Qassam<sup>81</sup> rockets into east southern Israeli residential areas. Israeli tactics range from conducting mass arrests and locking up Palestinians in administrative detention through setting up checkpoints and building the Israeli Gaza Strip barrier and West Bank barrier to carrying out assassinations targeting militants and leaders of Palestinian organizations.

---

<sup>77</sup>Gaza strip, from Wikipedia , the free encyclopedia available at [http://en.wikipedia.org/wiki/Gaza\\_Strip](http://en.wikipedia.org/wiki/Gaza_Strip) last updated on 29th December 2014

<sup>78</sup> Gazans , from Wikipedia , the free encyclopedia available at <http://en.wikipedia.org/wiki/Gazan> last updated 29th December 2014

<sup>79</sup> Alessandra Masi , what is the difference between gaza strip and west bank , international business times , July 18 2014 available at <http://www.ibtimes.com/whats-difference-between-west-bank-gaza-strip-1632982> last updated 28th December 2014

<sup>80</sup> Gary fitleberg , gaza history and the jews , july –aug 2005 , available at <http://www.think-israel.org/fitleberg.gazahistory.html> last updated 26th December 2014

<sup>81</sup> The jewish policy center , available at <http://www.jewishpolicycenter.org/prr/qassams.php> last updated 29th December 2014



The Israeli<sup>82</sup> Air Force (IAF) were used as platform for shooting guided missiles at Palestinian targets and employed at the targeted killings policy against both militants and political leaders.

Since the Palestinian legislative election, 2006, Israel has been negotiating with Mahmud Abbas<sup>83</sup> and the PLO, but has been simultaneously targeting and bombing Hamas activists and militants and arresting Hamas's elected legislative counsel politicians.

The no. of deaths included both military and civilian, over the entire period in question (2000–2007) is estimated to be over 4,300 Palestinians and over 1,000 Israelis. Till date, 64 foreign citizens have also been killed , 54 by Palestinians, and 10 by Israeli security forces

On January 2006 the Islamic party Hamas won the Palestinian legislative election, gaining a majority of seats in the Palestinian Legislative Council, the conflict between Israel and Gaza intensified. Israel sealed its border with the Gaza Strip, largely preventing free flow of people and many imports and exports. Palestinians have been shooting Qassam rockets at Israeli settlements located near the Gaza borders, and have staged cross-border raids aimed at killing or capturing Israeli soldiers. On 25 June 2006, Palestinians captured Israeli soldier Gilad Shalit, leading to massive retaliation by the Israeli army which included air strikes against Hamas targets.

On June 2007, there was internal fighting between Hamas and Fatah and Hamas fully consolidated its power by staging an armed coup d'état and taking control of the Gaza Strip. The internecine fighting which was occurred between 7 and 15 June 2007, also known as the Battle of Gaza 2007 in which 118 Palestinians were killed and over 550 were wounded, the entire Gaza Strip came under full control of a Hamas government.

After the Hamas takeover, Israel sharply restricted the flow of people and goods into and out of Gaza. About 70% of Gaza's workforce has become unemployed or without pay, and about 80% of its residents live in poverty.

---

<sup>82</sup> Staff writer , 20<sup>th</sup> December 2014 , Israeli air force aircraft available at <http://www.militaryfactory.com/aircraft/israeli-air-force-military-aircraft.asp> last updated on 29th December 2014

<sup>83</sup> Palestinian political leader, chairman of the Palestine Liberation Organization and President of the Palestinian National Authority , jewish law library , A project of American –israeli enterprise available at <https://www.jewishvirtuallibrary.org/jsource/biography/Abbas.html> last updated on 20th December 2014

Since Hamas takeover, Palestinian armed groups in Gaza and Israel continued to clash. Palestinian armed groups have fired rockets into Israel, killing Israeli civilians, including children, and wounding others, as well as causing damage to infrastructure; and Israel have launched attacks, and shelled Gaza with artillery, killing Palestinian combatants as well as civilians, including children, and causing devastating damage to infrastructure. The Palestinian deliberate attacks against civilians violate international <sup>84</sup>humanitarian law. Because Hamas exercised the power inside Gaza, it is responsible for stopping unlawful attacks even when carried out by other groups.

The 2004 Israel–Gaza conflict referred to the series of battles between Palestinian militants and the Israel Defense Forces (IDF). Several Qassam rocket attacks on Israel with airstrikes and land incursions. The fighting included two IDF operations, Operation "Rainbow"<sup>85</sup> and Operation "Days of Penitence"<sup>86</sup>.

From 18<sup>th</sup> May to 30<sup>th</sup> May 2004 Operation "Rainbow" was a military operation in Rafah to clear terrorist infrastructure, find smuggling tunnels connecting the Gaza Strip to Egypt, and kill militants after the deaths of 13 Israeli soldiers in guerrilla attacks. It was said by Israel that the operation was also aimed at preventing a shipment of Strela-2 (SA-7 Grail) anti-aircraft missiles, AT-3 Sagger anti-tank guided missiles, and other long-range rockets which are stored on the Egyptian side of the border from being smuggled through tunnels into the Gaza Strip.

Operation "Days of Penitence", an IDF operation in the northern Gaza Strip conducted between 30 September 2004 and 15 October 2004, focused on Beit Hanoun, Beit Lahia and Jabalia refugee camp, which were used as launching sites of Qassam rockets on Sderot and Israeli settlements in the Gaza Strip, and in response to the death of two children

---

<sup>84</sup> Dr. H.O Agrawal , international law and human rights , central law publications , 19<sup>th</sup> edition 2013 , pg no-928 , ch-62 , last updated 29<sup>th</sup> December 2014

<sup>85</sup> Operation rainbow , the Wikipedia , free encyclopedia available at [http://en.wikipedia.org/wiki/Operation\\_Rainbow](http://en.wikipedia.org/wiki/Operation_Rainbow) last updated 20th January 2015

<sup>86</sup> Human rights , UNRWA Gaza field assessment of IDF Operation Days of Penitence, United Nations Relief and Works Agency for Palestine Refugees in the Near East 22<sup>nd</sup> October 2004 available at <http://electronicintifada.net/content/unrwa-gaza-field-assessment-idf-operation-days-penitence/1926> last updated 20th December 2014

in Sderot. The operation resulted in the deaths of between 104 and 133 Palestinians and 5 people on the Israeli side.

Large-scale conventional warfare beyond the peripheries of the Gaza Strip began when Israel launched Operation "Summer Rains"<sup>87</sup> in the Gaza Strip that began on 28 June 2006, in response to the Palestinian militants abduction of Corporal Gilad Shalit. It became the first major mobilization into the Gaza Strip since Israel's unilateral disengagement plan was implemented between August and September 2005.

On 9 June 2006 there was an event of the Gaza bleach blast in which eight Palestinians were killed .Israel maintains that it mobilized thousands of troops in order to suppress Qassam rocket fire against its civilian population and to secure the release of Gilad Shalit<sup>88</sup>. It is estimated that between 7,000 and 9,000 Israeli artillery shells were fired into Gaza between September 2005 and June 2006, killing 80 Palestinians in 6 months.On the Palestinian side, over 1,300 Qassam rockets have been fired into Israel from September 2000 to 21 December 2006.Israeli forces also continued to search for underground tunnels, used by militants to smuggle weapons, as well as monitor operations at checkpoints with some assistance from the European Union at Rafah for security reasons, specifically possible weapons transfers and uninhibited return of exiled extremist leaders and terrorists. On 18 October 2006, Israel has discovered 20 tunnels used for illegal arms smuggling under the border of the Gaza Strip and Egypt.

Israel had said it would withdraw from the Strip and end the operation as soon as Shalit was released. The Palestinians had said that they were willing to return Shalit in exchange for the release of some of the Palestinians held in Israeli jails. The Palestinians and others have also said the assault was aimed at toppling the democratically elected Hamas-led government and at destabilizing the Palestinian National Authority, citing the targeting of civilian infrastructure such as a power station and the captures of government and parliament members. Some 300

---

<sup>87</sup> Military , operation summer rains , available at [http://www.globalsecurity.org/military/world/war/intifada2\\_summer-rains.htm](http://www.globalsecurity.org/military/world/war/intifada2_summer-rains.htm) last updated 29th December 2014

<sup>88</sup> Former Israel Defense Forces soldier who was kidnapped by Hamas in 2006. He was returned to Israel in 2011, jewish virtual library , A project of American –israel cooperative enterprise , available at [https://www.jewishvirtuallibrary.org/jsource/biography/Gilad\\_Shalit.html](https://www.jewishvirtuallibrary.org/jsource/biography/Gilad_Shalit.html) last updated at 28th December 2014

Palestinians had been targeted by the IDF in the Gaza Strip since the kidnapping of Corporal Gilad Shalit.

In July 2006, first reports emerged about mystery injuries after Israeli attacks. Previously unseen injuries included severely damaged internal organs, severe internal burning and deep internal wounds often resulting in amputations or death. Bodies arrived severely fragmented, melted and disfigured. There were speculations about a new experimental weapon, particularly Dense Inert Metal Explosives (DIMEs). Operation "Autumn Clouds"<sup>89</sup> was launched on 1 November 2006.

On 8<sup>th</sup> November 2006 incident occurred when Israel Defense Forces shells missed their target and hit a row of houses in the Gaza Strip town of Beit Hanoun,<sup>90</sup> killing 19 Palestinians and wounding more than 40. It occurred the day after the Israeli withdrawal following Operation "Autumn Clouds", a week-long operation by the Israeli military in the northern Gaza Strip aimed at curbing Qassam rocket attacks fired by Palestinian militants from the town.

The 2006 Franco–Italian–Spanish Middle East Peace Plan was proposed after Israel invaded the Gaza Strip in Operation "Autumn Clouds" by Spanish Premier José Luis Rodríguez Zapatero during talks with French president Jacques Chirac. Italy's Prime Minister Romano Prodi gave his full support to the plan.

On 26 November, a ceasefire was signed by Palestinian organizations and Israel, and Israel withdrew its troops while the Palestinian Authority forces deployed to stop Qassam rocket launchings. Following the truce over 60 Qassam rockets were fired from the Gaza Strip at Israel, and 1 Palestinian (armed with guns and grenades) was killed by the IDF. On 19 December, the Palestinian Islamic Jihad began taking open responsibility for the Qassam rocket firing, because they said Israel killed two of their members in Jenin.

A series of battles between Palestinian militants in Hamas-governed Gaza and the Israel Defense Forces (IDF) that began in mid-May 2007, with the inter-Palestinian violence flaring in the

---

<sup>89</sup> Palestinians killed by Israelis in Gaza - Africa & Middle East - International Herald Tribune, Thursday October 5, 2008 , available at [http://www.nytimes.com/2006/11/05/world/africa/05iht-gaza.3396353.html?\\_r=0](http://www.nytimes.com/2006/11/05/world/africa/05iht-gaza.3396353.html?_r=0) last updated 28<sup>th</sup> January 2015

<sup>90</sup> Rami almeghari , Gaza strip, 7<sup>th</sup> November 2006 , diaries live from Palestine , the electronic intifada available at <http://electronicintifada.net/content/beit-hanoun-peoples-will-versus-armys-arsenal/6508> last updated on 28<sup>th</sup> January 2015

meantime. Palestinians fired more than 220 Qassam rocket attacks on Israel (Sderot and the western Negev) in more than a week. The Israeli Air Force fired missiles and bombs at the launching sites. The fighting came amid serious Palestinian factional violence and reports of growing level of humanitarian crisis in the region. Hamas said they will continue to retaliate against Israeli strikes.

In September 2007, citing an intensification of Qassam rocket attacks; Israel declared Gaza "hostile"<sup>91</sup> territory." The declaration allowed Israel to prevent the transfer of electricity, fuel, and other supplies into Gaza. The stated purpose of this blockade was to pressure Hamas into ending the rocket attacks and to deprive them of the supplies necessary for the continuation of rocket attacks. Israel's decision to cut fuel supplies to Gaza were widely condemned as "collective punishment.

Israel has also arrested Hamas officials in the West Bank, including two cabinet members. Such arrests have been strongly condemned by international organizations and politicians.

By January 2008, according to a United Nations study, the economic effects of Israel's blockade on Gaza reached a critical threshold. Finally, on 17 January 2008, Israel sealed the border completely following a rise in rocket attacks. The breach of the Gaza-Egypt border began on 23 January 2008, after gunmen in the Gaza Strip set off an explosion near the Rafah Border Crossing, destroying part of the former Israeli Gaza Strip barrier. The United Nations estimates that as many as half the 1.5 million population of the Gaza Strip crossed the border into Egypt seeking food and supplies

On 27 February 2008, Palestinian militants fired more than 40 Qassam rockets into southern Israel and the Israeli army fired three missiles at the Palestinian Interior Ministry in Gaza destroying the building. On 28 February 2008 Israeli aircraft bombed a police station near the Gaza City home of Hamas leader Ismail Haniya, killed several children. The Israeli military says its air and ground operations against militants firing rockets from northern Gaza have hit at least 23 armed Palestinians, while Palestinian sources have reported higher death tolls and say many civilians have also been killed.

---

<sup>91</sup> Dan Izenberg ,9/19/ 2007, 23: 18 , Hostile territory , Israel , The Jerusalem post , available at <http://www.jpost.com/Israel/Background-Hostile-territory-what-is-the-legal-meaning-of-the-term> last updated 29th December 2014

Israel began its air and ground operations on 29 February. The IDF's offensive in Gaza has killed more than 100 Palestinians in less than a week. Palestinians fired 150 rockets at Israel which killed three Israelis. The United States called for an end to clashes between Israel and the Palestinians. The Palestinian president, Mahmoud Abbas, has accused Israel of "international terrorism", saying its assault on Gaza constitutes "more than a holocaust." On 3 March Abbas suspended all contact with Israel over its assault on Gaza as the Israeli government sent warplanes to hit more targets early on Monday and vowed to continue its offensive. The European Union condemned what it called "disproportionate use of force" by the Israeli military in Gaza after 54 Palestinians were killed in the highest casualty toll for a single day since fighting erupted in 2000. United Nations Secretary-General Ban Ki-moon also issued a condemnation of what he termed Israel's "excessive and disproportionate" response, and called on Israel "to cease such attacks", while denouncing the ongoing rocket attacks on Sderot and Ashkelon. In the Muslim world, demonstrators took to the streets to protest the IDF attacks. Iran's Supreme Leader Ayatollah Ali Khamenei called on Muslims to rise up and their leaders to hit Israel "in the face with their nations' anger." In Lebanon, hundreds of Hezbollah<sup>92</sup> supporters gathered at the Fatima Gate at the border between Lebanon and Israel, shouting "Death to Israel" and waving Lebanese and Palestinian flags. In Egypt, thousands of students held protests at universities across the country calling on Arab leaders to stop Israeli aggression and support the Palestinians. Some protesters burned Israeli and American flags. About 10,000 protesters, mainly from Jordan's mainstream Muslim Brotherhood and smaller opposition groups, took to the streets in one of the country's most vocal and largest anti-Israeli demonstrations in recent years. Saudi Arabia meanwhile compared the IDF offensive to "Nazi war crimes"<sup>93</sup> and called on the international community to stop what it called the "mass killings" of Palestinians. Turkey's Prime Minister Recep Tayyip Erdogan said that the IDF attacks can have "no humanitarian justification" and added that Israel was rejecting a "diplomatic solution" to the dispute. Most Israeli tanks and troops pulled out of northern Gaza 3 March 2008,

---

<sup>92</sup> The editors of encyclopedia Britannica , Lebanese organization , 31<sup>st</sup> December 2014 ,encyclopedia Britannica available at <http://www.britannica.com/EBchecked/topic/264741/Hezbollah> last updated 26th December 2014

<sup>93</sup> Jan Fleischhauer, rape , murder and genocide : Nazi war crime ,April 08, 2011 , 5:45 PM , Spiegel online international available at <http://www.spiegel.de/international/germany/rape-murder-and-genocide-nazi-war-crimes-as-described-by-german-soldiers-a-755385.html> last updated 31st December 2014

and an Israel Defense Forces spokesman confirmed that the Israeli military was ending offensive operations there after five days.

On 29 February 2008, the Israeli military launched Operation "Hot Winter" (also called Operation "Warm Winter"<sup>94</sup>) in response to Qassam rockets fired from the Strip by Hamas. The Israeli army killed 112 Palestinians, and Palestinian militants killed three Israelis. More than 150 Palestinians and seven Israelis have been injured.

There was widespread international alarm at the scale of the operation, with the US state department encouraging Israel to exercise caution to avoid the loss of innocent life, and the European Union and the United Nations criticising Israel's "disproportionate use of force". The European Union also demanded an immediate end to Palestinian militant rocket attacks on Israel and urged Israel to halt activities that endanger civilians, saying they were "in violation of international law

The 2008 Israel-Hamas ceasefire was an Egyptian-brokered six-month Tahdia (an Arabic term for a lull) "for the Gaza area", which went into effect between Hamas and Israel on 19 June 2008. Hamas' obligation was to stop the rocket attacks on Israel. During the initial 5-months of the ceasefire, and after a shaky start during the initial week, these attacks from Gaza decreased significantly for a total of 19 rocket and 18 mortar shell launchings, compared to 1199 rockets and 1072 mortar shells in 2008 up to 19 June, a reduction of 98%. Mark Regev, spokesman for the Israeli Prime Minister acknowledged that "there were no Hamas rockets during the ceasefire before November the 4th". Israel's obligation was to cease attacks on Gaza and once the ceasefire held, to gradually begin to ease its punishing blockade of Gaza. The agreement called on Israel to increase the level of goods entering Gaza by 30 percent over the pre-lull period within 72 hours and to open all border crossings and "allow the transfer of all goods that were banned and restricted to go into Gaza" within 13 days after the beginning of the ceasefire. The increase in supplies of food, water, medicine and fuel did improve, but the increase was only to an average of about 20 percent of normal levels, compared to the Hamas compliance in reducing rocket fire by 98%. Two months later the volume of goods arriving was too low to significantly improve living conditions preventing UNRWA from replenishing its stores. Israel told U.S. officials in

---

<sup>94</sup> Coby ben simhon , holy war being waged with Israeli army , Nov 8<sup>th</sup> 2015 , 1:55 AM ,Haaretz , available at <http://www.haaretz.com/news/diplomacy-defense/.premium-1.625020> last updated 29<sup>th</sup> December 2014

2008 it would keep Gaza's economy "on the brink of collapse" "On 4 November 2008 Israel broke the ceasefire with an attack on Gaza. The Israeli military claimed the target of the raid was a tunnel that they said Hamas was planning to use to capture Israeli soldiers positioned on the border fence 250m away Hamas officials differed, however, claiming that the tunnel was being dug for defensive purposes, not to capture IDF personnel, according to Dr Robert Pastor (of the Carter Institute), and an IDF official confirmed that fact to him. Hamas replied to the Israeli attack with a barrage of rocket fire. With this incursion into Gaza territory and its non-compliance with the easing of the embargo, Israel had failed to comply with two aspects of the June 2008 ceasefire.

The Gaza War started when Israel launched a large military campaign in the Gaza Strip on 27 December 2008, codenamed Operation "Cast Lead"<sup>95</sup> with the stated aim of stopping Hamas rocket attacks on southern Israel and arms smuggling into Gaza. The conflict has also been called the Gaza massacre in the Arab world a fragile six-month truce between Hamas and Israel expired on 19 December 2008. The Israeli operation began with an intense bombardment of the Gaza Strip, targeting Hamas bases, police training camps, police headquarters and offices. Civilian infrastructure, including mosques, houses, medical facilities and schools, were also attacked, as Israel stated that many of them were used by combatants, and as storage spaces for weapons and rockets. Hamas intensified its rocket and mortar attacks against targets in Israel throughout the conflict, hitting previously untargeted cities such as Beersheba and Ashdod. On 3 January 2009, the Israeli ground invasion began. Human rights groups and aid organizations have accused Hamas and Israel of war crimes an estimated 1,166-1,417 Palestinians and 13 Israelis died in the conflict. On 18 January after first Israel and then Hamas announced unilateral ceasefires the conflict came to an end. On 21 January, Israel completed its withdrawal from the Gaza Strip. On 2 March, it was reported that international donors had pledged \$4.5 billion in aid for the Palestinians, mainly for rebuilding Gaza after Israel's offensive. This war is considered to be the largest, devastating and deadliest military operation in Gaza since the Six-day war in 1967

---

<sup>95</sup> Raja sourani, operation cast lead five years on: we are still demanding justice, 19<sup>th</sup> January 2014, 10:22 GMT , available at <http://www.aljazeera.com/indepth/opinion/2014/01/operation-cast-lead-five-years-are-still-demanding-justice-2014188116566380.html> last updated on 25th December 2014



In 2014, fighting intensified between Israel and Hamas, leading to another full-scale Gaza War, this one far deadlier than the previous in 2008-2009. The IDF launched Operation Protective Edge<sup>96</sup> on 8 July 2014, in response to Hamas rocket attacks, and on 17 July 2014, Israel troops entered the Gaza Strip. 2,205 Palestinians (including at least 1,483 civilians) and 71 Israelis (including 66 soldiers) and one foreign national in Israel were killed in the conflict. The war came to an end after 50 days of conflict when a ceasefire was agreed upon on 26 August 2014.

### **3.2.6 India**

India's genocide history, particularly, has started with endless struggles between the upper and lower castes, the religious minorities, the dominant groups, the state and the organized militants. The Godhra killings of 2002, in which nearly 2000 Muslims were butchered into pieces can be counted as a case of genocide. Similarly, the consistent mistreatment of people in the insurgency areas of J & K and the North East, under the draconian AFPSA<sup>97</sup> law, is nothing less than genocide as the military has been engaged in unfair treatment of the civilians like illegally detaining, torturing and killing rebel suspects. On the other side, there are Maoists who are hell bent to prove a lost ideology. They have been engaged in some brutal mass murders of Indian security forces since ages. There has been bloodshed, mass killings and endless violence spanning over a period of several decades. If we go back into India's past, following are the genocides that shook the conscious of India and have always been remembered as the worst chapters of our history.

The violence ensued in the wake of partition was targeted to exterminate a particular group of people and has its genesis in the genocidal tendencies that engulf the minds of perpetrators during extreme violence. It was the poor Hindu and Muslim families, living on the fine line of ethnic divide that bore the brunt of bloodshed and treachery, making the partition one of the

---

<sup>96</sup> Special report , july 7 2014 , available at <http://www.idfblog.com/operationgaza2014/> last updated 26<sup>th</sup> December 2014

<sup>97</sup> Public law 105-89, December 1997, available at <http://www.naswdc.org/archives/advocacy/updates/1997/safeadop.htm> last updated 25<sup>th</sup> December 2014

worst nightmares of Indian independence history. The Muslims, who accounted for nearly 25% of the India's population before partition, were reduced to minority after the social and political climate of India changed post riots and violence. It was India's partition that sowed the seeds of endless communal tensions between the two religious groups Hindus and Muslims that has been since then used as a political tool by Hindu fundamentalist parties to rule this country. Riots between the two communities have been rampant throughout the length and breadth of India ever since the partition. The loss of lives during the violence that erupted during partition runs into millions.

### **1) Kashmir conflict:**

Genocide of Kashmiri Pandits has reached its climax with Muslim terrorism succeeding in 'Cleansing ' the valley of this ancient ethno-religious community. With the completion of fifth year of their forced exile, this peace loving, culturally rich community with a history of more than 5000 years, is fighting a grim battle to save itself from becoming extinct as a distinct race and culture. 350,000 Kashmiri Pandits, constituting 99% of the total population of Hindus living in Muslim majority area of the Kashmir Valley, were forcibly pushed out of the Valley by Muslim terrorists, trained in Pakistan, since the end of 1989. They have been forced to live the life of exiles in their own country, outside their homeland, by unleashing a systematic campaign of terror, murder, loot and arson. Terrorism in Kashmir is an ideological struggle with specified political commitments which are fundamentalist and communal in character. Terrorist violence is aimed at achieving the disengagement of the state of Jammu and Kashmir from India and its annexation to Pakistan. It is, the continuation of the Islamic fundamentalist struggle for the homeland of Pakistan which claims Jammu and Kashmir State on account of its Muslim majority character. The major dimension of the terrorist violence in Kashmir is the terrorists' commitment to the extermination and subjugation of the Hindus in the state because Hindus do not subscribe to the idea of separation from India, nor do they expect to be governed by the authority of the state which derives its sanction from the law and precedent of Islam. Kashmiri Pandits (Hindus)

have always been in the forefront of the struggle against secessionism<sup>98</sup>, communalism<sup>99</sup> and fundamentalism<sup>100</sup>. Hence this peace loving minority with a modern outlook became the main victim of terrorist violence. The strategies involved in the terrorists' operation against the Hindus in Kashmir include: The extermination of Hindus are subjected to brutal torture to instill fear among them in order to achieve their submission. A forced mass killings of Hindus from the land of their ancestors and birth by way of issuing threatening letters, kidnappings and torture deaths on non-compliance of the terrorists' dictates and ensure the destruction of the secular and pluralistic character of the socio-political fabric of the Kashmiri Society. Attacks, molestations, kidnappings, gang rapes of the women folk of the Hindus in order to instil fear and humiliation in them. Destruction and burning of the residential houses of the Hindus who leave their homes in look out for safety. Their properties and appropriation of their business establishments are looted to ensure that they do not return. Destruction of the social base of the Hindus by the desecration and destruction of their places of worship. Appropriation of the property of the Hindu shrines and its attachment to Muslim religious endowments.

Failure of Government of India: The Jammu and Kashmir Government and Government of India have failed squarely to protect the Kashmiri Pandits against Islamic terrorism. Jammu and Kashmir being the only Muslim majority state in whole of India, the protection of minorities and their living peacefully, in their homeland, is crucial for India to remain as a Secular Democratic State. Ethnic cleansing of Kashmiri Pandits (Hindus) from Kashmir valley is the crucial failure of Indian state to uphold its commitments to people of India as enshrined in Indian constitution which provides right to live with dignity and honor to every citizen irrespective of caste, creed, religion or colors. Leading International Human Rights Organizations like Amnesty International, Asia Watch and others have yet to take proper cognizance of the genocide perpetrated on Kashmiri Pandits. Their representatives have so far failed to visit the camps in Jammu, Delhi and

---

<sup>98</sup> The action of withdrawing formally from membership of a federation or body, especially a political state, oxford dictionaries available at <http://www.oxforddictionaries.com/definition/english/secession> last updated 29th December 2014

<sup>99</sup> Theory of a government in which state is seen as a loose federation of self governing communities, by farlex the free dictionary available at <http://www.thefreedictionary.com/communalism> last updated 29th December 2014

<sup>100</sup> a movement or attitude stressing strict and literal adherence to a set of basic principles, available at <http://www.merriam-webster.com/dictionary/fundamentalism> last updated 29th December 2014

other parts of India were thousands of families are putting up for the last five years. Gradual extinction of a civilized community with an ancient culture is yet to shake the conscience of the more than 5000 persons have died in camps and elsewhere after their forced exodus from the valley. They died of Sunstrokes (more than 1000) as most of them were used to cold climate of Kashmir and could not acclimatize to extremely hot temperatures in rest of India. Heart attacks and accidents which have been mainly attributed to extreme psychological trauma and mental pressures by the doctors.

Cultural Dilution - The whole displaced community with a distinct culture is facing the threat of extinction after losing its natural habitat

## **2) Godhra riots:**

On 27<sup>th</sup> February 2002 the Godhra train burning was an incident took place , in which 59 people, including 25 women and 15 children, died in a fire inside the Sabarmati Express train near the Godhra railway station in the Indian state of Gujarat. The victims were mainly Hindu pilgrims who were returning from the city of Ayodhya after a religious ceremony at the disputed Babri<sup>101</sup> Masjid site. The commission set up by the Government of Gujarat to investigate the train burning spent 6 years going over the details of the case, and concluded that the fire was arson committed by a mob of 1000-2000 people. A commission appointed by the central government, whose appointment was later held to be unconstitutional, stated that the fire had been an accident. A court convicted 31 Muslims for the incident and the conspiracy for the crime, although the actual causes of the fire have yet to be proven conclusively.

The violence that occurred resulted in widespread loss of life, destruction of property and homelessness. Estimates of casualties range from the official figures of 790 Muslims and 254 Hindus to upwards of 2000 casualties. Some hold the view that the attack on the train was a "staged trigger" for premeditated rioting.

---

<sup>101</sup> A.G Nooran , How mosque became a temple, march 8<sup>th</sup> 2013 , frontline , Indian national magazine from publishers of the Hindu , available at <http://www.frontline.in/books/how-a-mosque-became-a-temple/article4430814.ece> last updated 29th December 2014

On February 2002, thousands of devotees of Rama (known as "Ramsevaks" or "Kar Sevaks") had gone from Gujarat to Ayodhya. On 25 February, 2,000–2,200 Ramsevaks boarded the Sabarmati Express which was bound for Ahmedabad. On 27 February 2002, the train made its scheduled stop at Godhra about four hours late, at 7:43 am. As the train started leaving the platform, someone pulled the emergency brake and the train stopped near the signal point. The driver of the train later stated that the chain had been pulled multiple times, judging by the instruments in his cabin.

The train was attacked by a mob of around 2,000 people. After some stone-pelting, four coaches of the train were set alight, trapping many people inside. 59 people including 27 women and 10 children were burnt to death, and 48 others were injured. Of the Gujarat police, "miscreants had kept the petrol-soaked rags ready for use much before the train had arrived at the Godhra". Martha Nussbaum has challenged this narrative, stating that several inquiries have found that the conflagration<sup>102</sup> was an accident rather than a planned conspiracy. Madhu Kishwar has blamed the "amazing distortions introduced by Congress and its leftist allies" as the reason why the facts are not widely known and accepted.

By 28 February 2002, 51 people had been arrested for the incident on charges of arson, rioting and looting. One of the alleged organizers of the attack was arrested in West Bengal. West Bengal's Chief Secretary, Sourin Roy, said the detainee was a commander of the Muslim radical group Harkat-ul<sup>103</sup> Jihad-e-Islami, who was allegedly attempting to enter Bangladesh. On 17 March 2002, chief suspect Haji Bilal, a local town councilor and an Indian National Congress supporter, was captured by an anti-terrorist squad in Godhra. The FIR had alleged that a 1540-strong mob attacked the Sabarmati Express on 27 February, minutes after the delayed train left the Godhra station on the day of the incident. The president of Godhra municipality, Mohammed Hussain Kalota, was arrested in March. Others arrested included corporators Abdul Razak and Shiraj Abdul Jamesha. Bilal was also alleged to have a connection with gang leader Latif and was reported to have visited Karachi in Pakistan several times.

---

<sup>102</sup> Large fire, available at <http://www.thesaurus.com/browse/conflagration> last updated 29th December 2014

<sup>103</sup> A Pakistani based deobandi militant group, mapping militant organization, Stanford university, available at <http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/217> last updated 29th December 2014

The charge-sheet filed by the SIT before first class railway magistrate P. K. Joshi, which ran to more than 500 pages, stated that 59 people were killed in the S-6 coach of Sabarmati Express when a mob of around 1540 unidentified people attacked it near Godhra railway station. The 68 people accused in the charge-sheet included 57 accused of stoning and torching the train. The charge-sheet also stated that a mob attacked the police, prevented the fire brigade from approaching the burning train, and stormed the train for a second time. 11 others were charged with being part of this mob initially, 107 people were charged, five of whom died while the case was still pending in court. Eight others were juveniles, who were tried by a separate court. As many as 253 witnesses were examined during the trial and over items of 1500 documentary evidences were presented to the court

On February 2011, the trial court convicted 31 people and acquitted 63 others, saying the incident was a pre-planned conspiracy"<sup>104</sup>". The convictions were based on the murder and conspiracy provisions Indian Penal Code respectively and some sections of the Railway Act and Police Act The death penalty was awarded to 11 convicts; those believed to have been present at a meeting held the night before the incident where the conspiracy was formed, and those who, according to the court, had actually entered the coach and poured petrol before setting it afire. Twenty others were sentenced to life imprisonment.

Maulvi Saeed Umarji, who was believed by the SIT to be the prime conspirator, was acquitted along with 62 other accused for lack of evidence. The convicted filed appeals in the Gujarat High Court. The state government also challenged the trial court's decision to acquit 61 persons in the High Court and sought death sentences for 20 convicts awarded life imprisonment in the case

---

<sup>104</sup> Plot , available at <http://www.thesaurus.com/browse/conspiracy> last updated 29th January 2014

### **3) North Eastern insurgency :**

India's Northeast is one of South Asia's hottest trouble spots, not simply because the region has as many as 30 armed insurgent organizations operating and fighting the Indian state, but because trans-border linkages that these groups have, and strategic alliances among them, have acted as force multipliers and have made the conflict dynamics all the more intricate. With demands of these insurgent groups ranging from secession to autonomy and the right to self-determination, and a plethora of ethnic groups clamoring for special rights and the protection of their distinct identity, the region is bound to be a turbulent one.

#### **3.2.7 Current situation in Iraq**

The Islamic State group released at least 200 Yazidis after five months of captivity in Iraq, Kurdish military officials said Sunday, mostly elderly, infirmed prisoners who likely slowed the extremists down. Peshmerga Gen. Shirko Faith, commander of Kurdish forces in the northern city of Kirkuk, said to Associated Press that almost all of the freed prisoners are in poor health and bore signs of abuse and neglect. Three were young children the militants transported the captives from the northern town of Tal Afar, where they were being held for the past five months after the militants raided their towns last summer. The militants dropped them off Saturday at the Khazer Bridge, near the Kurdish regional capital of Irbil. Faith said. They were being held Sunday by Kurdish authorities for questioning, he said. The militants released the prisoners because they were too much of a burden. Tens of thousands of Yazidis fled in August when the Islamic State group captured the northern Iraqi town of Sinjar, near the Syrian border. According to United Nations figures hundreds were taken captive by the group, particularly women. Iraqi and international authorities later said that some Yazidi women were sold into slavery. About 50,000 Yazidis including half of them children fled to the mountains outside Sinjar during the onslaught. Some still remain there.

The Sunni militants of the Islamic State group view Yazidis and Shiite Muslims as apostates<sup>105</sup>, and have demanded Christians either convert to Islam or pay a special tax. The Islamic State group currently holds a third of both Iraq and Syria and is being targeted by U.S.-led airstrikes.

### **3.3 Punishment for the crime of genocide**

As it is laid down in the preamble of the convention which lays down that genocide is a crime under international law. It is punishable. The convention provides punishment not only for the commission of the genocide but also for conspiracy or incitement to commit it as well as attempt to commit genocide and complicity of genocide.

The convention provides under article 4 that persons committing genocide or any other act which is given in article 3<sup>106</sup> must be punished whether they are constitutionally responsible rulers, public officers or private individuals. Genocide may be committed by state, individuals in their capacity as organs of a state especially as the members of the government.

The plea of superior order cannot be taken by the persons committing the crime of genocide. Persons committing crime of genocide shall be tried by competent tribunal of the state in the territory of which the act was committed or by such international penal tribunal may have jurisdiction. In article 7 of the convention it states that genocide shall not be considered as political crimes for the purpose of extradition. Punishment shall be primarily given by the municipal courts of the concerned state and article 5 states effective penalties shall be provided by contracting parties. It has been made clear under article 7 that contracting parties may call upon the competent organs of United Nations to take such actions under the charter of the United Nations it is considered appropriate for the prevention and suppression acts of genocide. Article 3 constitutes about threat to the peace or breach to the peace.

Article 9 of the convention stipulates that dispute between contracting parties relating to application, interpretation or fulfillment of the present convention including those related to responsibility of a state for genocide or for any other acts enumerated in given article.

---

<sup>105</sup> someone whose beliefs have changed and who no longer belongs to a religious or political group, meaning available at <http://www.merriam-webster.com/dictionary/apostate> last updated on 12th January 2015

<sup>106</sup> Dr. H.O Agrawal, International law and Human Rights, central law publication, pg -822, 733, ch-53, 58, last updated 12<sup>th</sup> January 2015



The compulsory jurisdiction as aforementioned is contrary to Article 36 of the statute of the international court of justice which confers jurisdiction only when states refer particular case to the court.

### **3.4 International human rights law**

Human rights<sup>107</sup> is international in the sense of being universal applying to all individuals. International human rights law refers to the obligations of the state to the individuals within their jurisdiction. The idea that human rights could be protected by international law in addition to municipal law developed slowly mainly because state sovereignty proved stumbling block in the efforts to impose international legal obligations upon state to protect individuals .

There were two important exceptions the abolition of slavery and protection of minorities. In 1926, International slavery convention was adopted and the establishment in 1919 of the international labor organization and its subsequent activities were also relevant. The Covenant of league<sup>108</sup> of Nations adopted the end of the first world war was silent on the issue of human rights but it pledged for the protection of minority rights and respect for human rights . The protection of Human Rights was dependent upon the provisions of the National laws.

The rights of human beings are laid down by six duties of the state (a) to recognize the right of every individual to life , liberty and property and within its territory the full and entire protection of their right without distinction as to nationality ,sex , race, language or religion (2) to recognize the right of every individual to the free practice both public and private of every faith religion and belief (3) to recognize the right to every individual both to the free use of the language of his choice and to the teaching of such language (4) to recognize that no motive based directly or indirectly on distinction of sex , race , language and religion , empowers state to refuse any of their nationals , private and public rights. (5) to recognize that the equality as contemplated herein is not to be nominal , but effective (6) to recognize that except for motives based upon its general legislation , no shall have right to withdraw its nationality from those whom for reasons

---

<sup>107</sup> Dr. H.O Agrawal , International law and Human Rights , central law publication , 19<sup>th</sup> edition pg no.762, ch-55 last updated 22<sup>nd</sup> January 2015

<sup>108</sup> 1914-1920 , the league of nations , U.S Department of the state office of the Historian available at <https://history.state.gov/milestones/1914-1920/league> last updated 29th January 2015

of sex , race , language or religion it should not deprive of the guarantee contemplated in this proclamation.

During Second World War shocking crimes were committed against humanity and there was a total suppression of fundamental human rights.

The efforts for the creation of an international organization in order to establish peace were being made even in progress during theSecond World War.

Human rights became a matter of international concern with the end of world war second and founding of United Nations. There is no global government as such to protect human rights, it is being protected by the various bodies of the United Nations and inter- governmental organizations

### **3.5 persons belonging to ethnic, religious and Linguistic Minorities**

The ICCPR under article 27<sup>109</sup> provided that persons belonging to ethnic, religious and linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practice their own religion or to use their own language. On December 18, 1992 the general assembly adopted the declaration on the rights of the persons belonging to national,ethnic, religious and linguistic minority.

The world conference on Human rights held in Vienna in 1993 urged all states and the international community to promote and protect rights of persons belonging to national or ethnic religious and linguistic minorities in accordance with the declaration on the rights of persons belonging to national or Ethnic , Religious and Linguistic minorities.

### **3.6 Application of humanitarian law**

The Geneva conventions of 1949 did not use the term humanitarian law<sup>110</sup>. In the early 1950's for the first time in 1965 in resolution xxviii of the xxii international red cross conference held in Vienna. Humanitarian law deals with the matters which have armed conflicts on the life,

---

<sup>109</sup> Dr. H.O Agrawal , International law and Human Rights , 19<sup>th</sup> edition 2013 , pg no. 891 , ch- 59 , last updated 19<sup>th</sup> January 2015

<sup>110</sup> Dr. H.O Agrawal , International law and Human Rights , 19<sup>th</sup> edition 2013 , pg no: 928 , ch: 62 , last updated 19<sup>th</sup> January 2015

personal integrity and liberty of human beings .It is a branch of international law which provides protection of human rights from the consequences of armed conflicts. It seems completely illogical to place the aggressor and to the victims of that aggression on an equal footing as regards the application of humanitarian law as it appears to contravene the general principles of law that no one should obtain a legal benefit from his own illegal action *ex injuria non oritur ius* , the principle of that humanitarian law does not distinguish between the aggressor and the victim is well established.

Law of human rights and humanitarian law are different from one another because they are applied in different circumstances. Both laws are based on human considerations and protection of human beings.

It applies to all armed conflicts i.e. international armed conflicts as well as non – international armed conflicts. International armed conflicts. International armed conflicts may mean an armed clash between two or states or armed conflicts in which people are fighting against colonial domination and alien occupation and against racism regimes in the exercise of their right of self determination.

## 4. INTERNATIONAL CONVENTIONS

The charter of United Nations had expressed the worth of doing the promotion and encouragement of Human Rights and fundamental freedoms without any discrimination on the basis of race, sex, language and religion. It was not an international agreement. The Declaration was simply with basic principle of Human Rights and freedoms. A number of conventions were adopted with the help or support of United Nations for the prevention of Inhuman<sup>111</sup> Acts like Genocide, apartheid, slavery and slave trade, torture, cruel in human treatment or punishment, trafficking in person's. Hague Convention was the first convention which took place in 1899 and 1907. Geneva Convention was the second convention in 1948 after the end of Second World War because there was war like situation in the parts of the country. The united Nations were successful for the adoption of conventions as follows:

### 4.1 Hague Conventions of 1899 and 1907:

The conference met from May 18 to July 29, 1899 and 26 nations took part in the conference. It resulted in the adoption of the three important convention. First was the settlement of international and pacific settlement, second were the laws and customs<sup>112</sup> of war on land and third was the adaptation of Geneva Convention to Naval warfare. Again the second conference took place in the in 1907 proposed by the U.S president Roosevelt and it was also the adaptation of Geneva Convention and there were devoted rules of warfare and neutrality in war on land.

It was given in Hague Convention no. IV of 1907 which was concerned about the laws and customs of war on land attempted to humanize warfare and codified the laws of war.

The two principles are given Article 22 of the Hague regulations which is about the right of belligerents to adopt means of injuring the enemy is not unlimited.

In article 23 (e) of The Hague regulations says about the belligerent who are forbidden to employ arms or material calculated which cause unnecessary sufferings. Both of principles are connected with humanity. When the war is conducted each party is required to follow the rule that the

---

<sup>111</sup> Dr. H.O Agrawal , International law and Human Rights , Central Law Publications , pg no. 822 , ch-58 , last updated 23<sup>rd</sup> January 2015

<sup>112</sup> Dr.H.O Agrawal , International law and Human Rights , Central Law Publications , pg no.930 , ch-62 , last updated 25<sup>th</sup> January 2015

lawful use of weapon or method of harming enemy shall not value the military purposes through their employment.

The rules laid by the Hague Conventions laid down to conduct war were weakened or destroyed because of the instances of their non-observance.

#### **4.2 Geneva convention 1949**

Shocking crimes were committed against humanity during the Second World War. A regime of complete lawlessness, terrorism and autocracy was established. Warring parties barbarously negated human values and dignity. At the end of Second World War atomic bombs which was dropped by U.S at the Japanese city of Hiroshima and Nagasaki caused destruction of the cities and huge loss of Human life and second incident took place in Germany which was known as holocaust against the Jews it also caused loss of Human life. In both the cases Civilians were the main target. The principles which were given in Hague regulations were abused. It was decided to the extent for the codification of existing provisions by international Red Cross conference in Stockholm from August 30 to 23<sup>rd</sup>,1948. The four conventions were approved by Geneva in the year 1948. The convention was related to protection of civilian persons in time of war. It provided a number of Humanitarian rules at the time of war for the civilians.

Both Hague and Geneva law are applicable in armed conflict and they form the complete system which is known as International Humanitarian Law and the conventions applies to those armed conflict where the peoples are fighting against the racist regimes in the exercise of their rights to self-determination .

The Geneva Convention<sup>113</sup> of 1949 did not have any broader scope over all the armed conflicts because the tragic consequences were still continuing in some parts of the country. The resolution entitled 'Human rights armed conflicts 'declared by the state during the periods of internal armed conflicts humanitarian principle must prevail and measures for better protection for civilians should be called during the internal armed conflicts .

---

<sup>113</sup> Dr. H. O Agrawal , International law and Human Rights , Central law publications , 19<sup>TH</sup> edition 2013 , pg no.931 , last updated 24<sup>th</sup> January 2015

It was recognized by the general Assembly the necessity of the basic humanitarian law in armed conflicts took place for the protection of the civilians.

### **4.3 Convention on the Prevention and Punishment of the Crime of Genocide**

The International Court of Justice jurisdiction over disputes between States parties concerning the interpretation and application of the Convention under article ix which was Crimes against humanity when the judgment of the first Nuremberg trial was issued. The only other obligations with regard to crimes against humanity at the time existed by virtue of customary international law. It was the first human rights treaty which was adopted by the general assembly. It gave attention for the protection of religious minorities,ethical,nationals, racial from threats.

The convention was criticized due to its limited scope and the crime of genocide<sup>114</sup> has left alone.

Case law of ICJ and International criminal tribunal for former Yugoslavia interpreted the meaning of genocide which was ethnic cleansing and it developed the norm of customary international law principle. Penalties for guilty of genocide are not mentioned in the convention. It is recognized by the international community's that the rule prohibiting genocide has attained the status of jus cogens.

The convention of genocide was adopted in the year 1948 but the crime of genocide occurred after the adoption. After Nuremberg trial incidence of genocide took place by Yugoslavia in Herzegovina, Bosnia, and Croatia with the acts of ethnic cleansing and genocide, Bangladesh Crisis took place after the partition in India in the year 1947 but in the year 1971 war took place between India and Pakistan, Rwanda Crisis in the year 1994 which was the genocide against Tutsi by the Hutu extremists , Gaza conflict started from 2007 to 2014 still tension is going on , After disintegration of USSR insurgency started in some parts of Europe , Kashmir conflict which is still going on and last is the genocide of yazidis in the present Islamic state : all the events of genocide shows that the greatest violation of human rights has not come to an end .

Prevention of genocide requires both early and warning and action.

---

<sup>114</sup> Dr. H.O agrawal , international law and human rights , central law publication , ch -58 , pg no-822 , last visited 26<sup>th</sup> January 2015

#### **4.4 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power New York, 29 November 1985**

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was it was adopted by the General Assembly on 29 November 1985 which was the declaration of basic principles of justice for victims and Abuse of Power It was conducted within the framework of the Sixth and Seventh Congresses on the Prevention of Crime and the Treatment of Offenders, following a decision of the Committee on Crime Prevention and Control. A draft of the Declaration was prepared by the Secretary-General of the United Nations and submitted to the Committee in 1984. Basic Principles of Justice for Victims of Crime and Abuse of Power consists of two parts: First part was “Victims of Crime”<sup>115</sup>, is subdivided into sections concerning “Access to justice and fair treatment”<sup>116</sup>, “Restitution<sup>117</sup>”, “Compensation”, and “Assistance”; and second part , on “Victims of abuse of power<sup>118</sup>”.

#### **4.5 Torture and other cruel inhuman or degrading treatment or punishment**

It is spread all over the continents but the states adopt the different methods. They are in physical and psychological form by:isolation, electric shock,suffocation,pulling out teeth , burning by cigarettes , pulling out nails or parts of the body amputated , sexual torture . Torture is done to criminals , innocent persons trapped by the enforcement agencies , spies , prisoners of war , refugees, ethnic minority including their family member both adult and children .it is used as a political weapon.

---

<sup>115</sup> Govt . of western Australia , victims of crime , available at <http://www.victimsofcrime.wa.gov.au/> / last updated 29<sup>th</sup> January 2015

<sup>116</sup> Roger. S Clark , basic principles of justice for victims , pg no: 189 , ch-7 the declaration of basic principle of justice for victims of crime and abuse of power available at <https://books.google.co.in/books?id=RdRChTECWhgC&pg=PA189&lpg=PA189&dq=access+to+justice+and+fair+treatment&source=bl&ots=KZnksQBx52&sig=mo5amVjBORJolWL6lZjq5IhMf9I&hl=en&sa=X&ei=MKgdVdzXMNCLuASYjoHQDQ&ved=0CCoQ6AEwAg#v=onepage&q=access%20to%20justice%20and%20fair%20treatment&f=false> last updated 28<sup>th</sup> January 2015

<sup>117</sup> An equitable remedy that restore a person to the position they would have been in if not for improper action of another , The library’s lexicon available at <http://www.lectlaw.com/def2/q044.htm> last updated 29<sup>th</sup> January 2015

<sup>118</sup> Pedro R. David , measures to protect victims of crime and abuse of justice power in the criminal justice process available at [http://www.unafei.or.jp/english/pdf/RS\\_No70/No70\\_10VE\\_David1.pdf](http://www.unafei.or.jp/english/pdf/RS_No70/No70_10VE_David1.pdf) last updated 28<sup>th</sup> January 2015

It was provided that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment but the term torture was not defined nor it was elaborated under Article 5<sup>119</sup> of UDHR and under Article 7<sup>120</sup> of ICCPR. A declaration on the protection of all persons from being subjected to torture and other cruel, inhuman degrading treatment or punishment was adopted by the general assembly on December 9, 1975. When the struggle against torture was made effective a convention was adopted by the general assembly on December 10, 1984 which was known as convention against torture and other cruel , inhuman or degrading treatment or punishment which came into force on 26<sup>th</sup> june 1987 and it was ratified by 20 states. The convention had 153 state parties on September 29<sup>th</sup> 2012.

Torture<sup>121</sup> is a crime against humanity under article 1 of the convention it is defined as any severe act which causes severe pain and suffering. It is the violation of human rights.

The convention has made implementation procedure International By the effectiveness of the Torture Convention, like that of many other human rights conventions, would depend to a large extent on the supervision system, the implementation at the international level gave rise to extensive discussions. It was finally decided that a Committee against Torture would be set up (article 17 of the Torture Convention) with the following tasks:

(I) Art 19. States to receive, study and comment on periodic reports from the States

---

<sup>119</sup> Dr.H.O Agrawal , International law and human rights , 19<sup>th</sup> edition 2013 , ch-58 , pg no-826,last updated 24<sup>th</sup> January 2015

2. Turdy Huskamp Peterson , president ICA Human Rights working group , UDHR , Art 5 available at [http://www.unesco.org/archives/hrgnews/hrgnewsitems\\_current.php?id\\_details=310520105](http://www.unesco.org/archives/hrgnews/hrgnewsitems_current.php?id_details=310520105) last updated 27<sup>th</sup> January 2015

<sup>120</sup> Dr. H.O Agrawal , International law and Human Rights , 19<sup>th</sup> Edition 2013 ,ch-58 , pg no-826 ,last updated 23<sup>rd</sup> January 2015

2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation., Part 3 , Art 7 , ICCPR, The circumsion reference library available at <http://www.cirp.org/library/ethics/UN-covenant/> last updated 26<sup>th</sup> January 2015

<sup>121</sup> Dr. H.O Agrawal , International law and Human rights , 19<sup>th</sup> edition 2013 , ch -58 , Pg no -826 , Last updated 23<sup>rd</sup> January 2015



parties on the measures they have taken to give effect to their undertakings under the Convention

(ii) Art. 20 states to initiate an investigation when there is reliable information which appears to contain well-founded indications that torture is being systematically practiced in the territory of a State party

(iii) Art 21. States to receive and examine complaints by one State party of violations of the Convention by another State party and

(iv) Art 22 states to receive and examine applications by individuals claiming to be victims of a violation of the Convention by a State party

However, the competences of the Committee against Torture under (ii), (iii) and (IV) were not made compulsory but apply with the following modifications:

- Art. 28 says that State party may “opt out” and declare that it does not recognize the Committee’s competence to initiate investigations under article 20
- Art 21. Says that the Committee’s competence to examine inter-State complaints only applies when a State party has specifically recognized this competence
- Art 22. Says that the Committee’s competence to examine applications by individuals only applies when a State party has specifically recognized this competence

### **A State Party’s Undertakings**

Most of the provisions of the Torture Convention deal with the obligations of the States parties. These obligations may be summarized as follows:

(I) Art 2. States that Each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture. The prohibition against torture shall be absolute and shall be upheld also in a state of war and in other exceptional circumstances

(ii) Art 3 states that no State party may expel or extradite a person to a State where there are substantial grounds for believing that he would be in danger of being subjected to torture

(iii) Art 4 states that each State party shall ensure that acts of torture are serious criminal offences within its legal system

(iv) Art 6 states that each State party shall, on certain conditions, take a person suspected of the offence of torture into custody and make a preliminary inquiry into the facts

(v) Art.7 states that each State party shall either extradite a person suspected of the offence of torture or submit the case to its own authorities for prosecution

(vi) Art 12. States that each State party shall ensure that its authorities make investigations when there is reasonable ground to believe that an act of torture has been committed

(vii) Art 13. Each State party shall ensure that an individual who alleges that he has been subjected to torture will have his case examined by the competent authorities

(viii) Art 14. Each State party shall ensure to victims of torture an enforceable right to fair and adequate compensation.

## **II. The Optional Protocol**

An Optional Protocol to the Torture Convention was adopted by the General Assembly of the United Nations on 18 December 2002. The Optional Protocol, which entered into force on 22 June 2006, establishes a system of regular visits by international and national bodies to places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been set up to carry out such visits and to support States parties and national institutions in performing similar functions at the national level.

### **III. The Committee against Torture**

The Committee against Torture holds two annual sessions. At each session, the Committee examines reports from a number of States parties. Each report is examined orally in the presence of one or more representatives of the State concerned. Each State whose report is to be examined at a session is informed in advance of the main questions the Committee wishes to be discussed. After the examination of each report the Committee adopts its conclusions and recommendations. The Committee may also adopt general comments on specific provisions of the Convention or issues related to their implementation.

The Committee against Torture has also set up a working group to prepare the examination of individual communications received under article 22<sup>122</sup> of the Torture Convention. The working group examines the admissibility and merits of the communications and makes recommendations to the Committee.

### **Slavery and slave trade**

The word 'slavery' is covered a variety of human rights violations in today's era. In addition to traditional slavery and the slave trade, these abuses include the sale of children, child prostitution, child pornography, the exploitation of child labour, the sexual mutilation<sup>123</sup> of female children, the use of children in armed conflicts, debt bondage, the traffic in persons and in the sale of human organs, the exploitation of prostitution, and certain practices under apartheid

---

<sup>122</sup> Convention against torture and other cruel inhuman degrading treatment , united nations Human Rights , office of the high commissioner of human rights available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> last updated 24th January 2014

<sup>123</sup> What is female genital mutilation and where does it happens , the guardian , available at <http://www.theguardian.com/society/2014/feb/06/what-is-female-genital-mutilation-where-happen> last updated 24th January 2014

and colonial regimes."

"Slavery-like practices may be clandestine<sup>124</sup>. This makes it difficult to have a clear picture of the scale of contemporary slavery, let alone to uncover, punish or eliminate it. The problem is compounded by the fact that the victims of slavery-like abuses are generally from the poorest and most vulnerable social groups. Fear and the need to survive do not encourage them to speak out

International concern with slavery and its suppression is the theme of many treaties, declarations and conventions of the nineteenth and twentieth century's. The first of three modern conventions directly related to the issue is the Slavery Convention of 1926.... States which have ratified the Convention ... undertake to prevent and suppress the slave trade and to bring about the abolition of slavery in all its forms."

"The 1926 Convention's definition of slavery was broadened to include the practices and institutions of debt bondage, servile forms of marriage, and the exploitation of children and adolescents in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted ... in 1956."

### **Other means of protection**

"Protection against abuses of human rights which fall within the broad definition of slavery is a feature of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child."

---

<sup>124</sup> A secret usually illegal activity , vocabulary .com , the challenge , available at <http://www.vocabulary.com/dictionary/ clandestine> last updated 27th January 2015

#### **4.6 Slavery <sup>125</sup>convention**

##### Article 1

Definition of Slavery: status or condition of a person over whom any or all of the powers of the right of ownership are exercised.

Article 2 States Parties agree, in the territories under their sovereignty or jurisdiction, to prevent and suppress the slave trade and to bring about as soon as possible the complete abolition of slavery in all its forms.

Article 3 States Parties shall adopt measures to prevent and suppress the transport of slaves.

Article 4 States Parties shall assist one another in ending slavery.

Article 5 States Parties recognize that using compulsory or forced labor may have grave consequences. They shall take all necessary steps to prevent compulsory or forced labor from developing into conditions of slavery in the territories under their jurisdiction. It is agreed that compulsory or forced labor may be used for public purposes only. In places where it is used for other purposes, States Parties shall put an end to the practice as soon as possible. If forced or compulsory labor exists, it shall be exceptional, shall receive adequate remuneration, and shall not remove laborers from their usual place of residence.

##### Article 6

States shall have or adopt laws imposing severe penalties for slavery and slave-like practices.

#### **SUPPLEMENTARY CONVENTION ON THE ABOLITION OF SLAVERY, THE SLAVE TRADE, AND INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY**

##### Article 1

States Parties agree to take all measures to bring about the complete abolition of the following practices:

---

<sup>125</sup> Dr. H.O agrawal , international law and human rights , central law publications , 19<sup>th</sup> edition 2013 , ch -58 , pg no -832 , slavery and slave trade , last updated 25<sup>th</sup> January 2015

Debt bondage: where a debtor pledges his personal services or those of a person under his control as security for a debt, if the reasonable value of those services is not applied towards payment of the debt, or if the length and nature of those services are not limited and defined;

Serfdom: where a tenant is bound to live and labor on land belonging to another person and is not free to change his status;

Any practice where a woman, without the right to refuse, is promised or given in marriage in exchange for payment to her parents, guardian, family, or any group or person; or where the husband of a woman or his family or clan has the right to transfer her to another person; or where a woman can be inherited by another person after the death of her husband;

Any practice where a child or young person under 18 is delivered by his parent(s) or guardian to another person for exploitation of the child or of his labor.

#### Article 2

States Parties agree to set a suitable minimum age of marriage and to encourage the registration of marriages.

#### Article 3

Conveying or attempting to convey slaves from one country to another shall be a criminal offense under the laws of all States Parties, subject to severe penalty. States Parties shall take all effective measures to prevent the conveying of slaves by ships and aircraft authorized to fly their flag, and shall ensure that their ports, airfields, and coasts are not used for conveyance of slaves.

#### Article 4

Any slave who takes refuge on board any vessel of a State Party shall be free.

#### Article 5

Where the abolition of slavery or slave-like practices is not complete, mutilating, branding or otherwise marking a slave for any reason shall be a criminal offense punishable by law.

## Article 6

Enslaving another person or inducing someone to give himself or a dependent into slavery, or attempting these acts, shall be a criminal offense punishable by law

### **4.7 World conference on racism (2001)**

The 2001 World Conference against Racism<sup>126</sup> (WCAR), also known as Durban I, was held at the Durban International Convention Centre in Durban, South Africa, under UN auspices, from 31 August to 8 September 2001.

The conference dealt with several controversial issues, including compensation for slavery and the actions of Israel. The language of the final Declaration and Programme of Action produced by the conference was strongly disputed in these areas, both in the preparatory meetings in the months that preceded the conference and during the conference itself.

Two delegations, the United States and Israel, withdrew from the conference over objections to a draft document equating Zionism<sup>127</sup> with racism. The final Declaration and Programme of Action did not contain the text that the U.S. and Israel had objected to, that text having been voted out by delegates in the days after the U.S. and Israel withdrew.

In parallel to the conference, a separately held NGO Forum also produced a Declaration and Programme of its own, that was not an official Conference document, which contained language relating to Israel that the WCAR had voted to exclude from its Declaration, and which was criticized by then United Nations High Commissioner for Human Rights Mary Robinson and many others.

The NGO Forum ended in discord. Mary Robinson lost the support of the United States in her office of High Commissioner, and many of the potential political aftereffects of the conference were annulled by the September 11, 2001 attacks. The attacks took place just three days after the conference ended, entirely eclipsing it in the news, and significantly affecting international

---

<sup>126</sup> Dr. H.O agrawal, international law and human rights, central law publications, nineteenth edition 2013, pg no . 839 , ch – 58 international convention on inhuman acts last updated 26<sup>th</sup> January 2015

<sup>127</sup> National movement for the return of Jews in their homeland , Jewish virtual Library , the library , available at <http://www.jewishvirtuallibrary.org/jsource/Zionism/zionism.html> last updated 26th January 2015

relations and politics. The conference was followed by the 2009 Durban II conference in Geneva, which was boycotted by ten western countries. A commemorative Durban III conference scheduled to take place in 2011 in New York has also drawn significant criticism and will be boycotted by the UK, US, Canada and Israel.

The conference was authorized by general assembly . Prior to the conference various preparatory meetings were held in order to identify conference themes and to create initial drafts of the Declaration and Programme of Action. It was with encountered difficulties from the start.

The first problem was the question of what the conference theme was to be. The Western European states, along with the United States, Canada, Australia, New Zealand, and Japan, all wanted the conference objectives to be those given in the authorizing resolution. The Africa Group, the Latin American states, and the Caribbean states wanted the conference objectives to go beyond what was in the resolution, and include items dealing with regional, national, and international measures for compensation for colonialism and slavery

Prior to the conference, there were also four Regional Conferences, in Strasbourg, Santiago, Dakar, and Tehran

The Conference was largely overshadowed in the news and in international affairs by the September 11, 2001 attacks, which occurred 3 days after the Conference ended.



## 5. INTERNATIONAL RESPONSE

### **International response for the prevention of genocide of yazidis in Islamic state**

#### **Can international law save yazidis?**

U.S president barrack obama reacted that genocide of Yazidis was in present Islamic state was to send planes dropping food and water to them for their survival. After few days later, it was announced in Pentagon that the situation was "not as bad" and therefore, the Yazidi population did not need an "evacuation mission"<sup>128</sup> ‘’.

US fighter jets have continued to pound Islamic State positions in northern Iraq, making sure that US interests in Iraqi Kurdistan are well protected. Rwanda, too, was downplayed as a "humanitarian crisis"<sup>129</sup> until the international community realized that one million people were killed and it had to revert to using the "g-word". In Rwanda, too, world powers were more concerned about the security of their own personnel and their interests - only to adopt a moral high ground post factum and denounce the violence and mourn the dead.

The problem in Rwanda, as now in Iraq, is that the world's major powers choose to break international law on a regular basis and only invoke its tenants whenever they align with their foreign policy interests. Thus, situations where certain groups face genocide and crimes against humanity continue to arise, because international law is systematically breached and neglected on a regular basis. In fact, those who violate international law often use the violent consequences following such acts to justify more abuse of the law.

#### More medical attention needed

Germany's Development Minister Gerd Müller<sup>130</sup> of Berlin was looking to set up a crisis centre for women who were abused by Islamic State militants. The program, however, would only be able to serve 100 people. Since August, a US-led coalition has been carrying out airstrikes against

---

<sup>128</sup> Campaign, the evacuation , available at [http://wiki.teamliquid.net/starcraft2/Campaign/The\\_Evacuation](http://wiki.teamliquid.net/starcraft2/Campaign/The_Evacuation) last updated 27th January 2015

<sup>129</sup> Humanitarian coalition , what is humanitarian emergency , available at <http://humanitariancoalition.ca/info-portal/factsheets/what-is-a-humanitarian-emergency> last updated 28th January 2015

<sup>130</sup> Gerd muller , Wikipedia , free encyclopedia available at [http://en.wikipedia.org/wiki/Gerd\\_M%C3%BCller](http://en.wikipedia.org/wiki/Gerd_M%C3%BCller) last updated 27<sup>th</sup> January 2015

the IS, which controls a large territory in Iraq and Syria that it calls a caliphate. Germany has increased support for Iraqi Kurdish fighters known as peshmerga. Those fighters have reported gains in recent days. Fighting between Islamic State militants and the Iraqi Army around Baquba, 60 kilometers north of Baghdad, left at least 33 people dead. The jihadist attacked government forces in several sites. The international Criminal Court in the Hague sent a letter to Kurdish Human Rights Committee in the Kurdish Parliament to investigate the Kurdish Minority

## CONCLUSION

Solidarity between people and between nations is one of the cornerstones of human society. Our ability to feel empathy for any individual who is suffering, whoever and wherever they are, is what defines our humanity. This is also what makes us responsible for taking action when acts are being performed against people. The “Islamic State” (IS/ISIS) is a genocidal fundamentalist organization which is intolerant of religious difference. The organization’s members persecute and murder masses of Shiites, Sunnis, Christians and Kurds. Islamic State members are now threatening to kill all Yazidis and to annihilate this unique people. The declared aim of Islamic State members is clear, and as such cannot be ignored. Members of the organization refer to Yazidis as “infidels<sup>131</sup>” and “devil worshippers<sup>132</sup>” and are willing to kill them. The Yazidi genocide has already begun! If your country does not act, it will be over within a few short days. The future of the Yazidis depends on the world’s response and on halting the progress of Islamic State before they reach the remaining concentrations of Yazidis. We must promote the struggle for saving the Yazidis to the top priority of every organization that cares about the sanctity of human life – for the future of the Yazidis and for the future of humankind. The demonstration called to stop the Yazidi genocide and we called upon the US government to act to save the Yazidis by any means possible in front of U.S Embassy. A letter has been sent by combat genocide association for urgent and immediate action to stop the Yazidi genocide in Iraq. A letter has been sent (Call on your government to send humanitarian support to the Yazidi refugees (food, clothes, and medical supplies) and to grant shelter to Yazidi refugees. Call on the five permanent members of the UN Security Council (Britain, China, France, Russia, USA) and on the European Union, by sending letters to the local embassies, to act according to international law and save the Yazidis besieged on Mount Shingal, and to prevent the Islamic State organization from conquering the Yazidi enclave in the area of Shekhan north-east of Mosul. Call on the UN

---

<sup>131</sup> A person who does not believe in a religion that someone regards as another religion, Merriam Webster, An encyclopedia Britannica company, available at <http://www.merriam-webster.com/dictionary/infidel> last updated 28th January 2015

<sup>132</sup> Iraq’s Yazidis: who are they and why are these devil worshippers being persecuted by Isis, the independent Thursday 2<sup>nd</sup> April 2015, available at <http://www.independent.co.uk/news/world/middle-east/who-are-the-yazidis-9662457.html> last updated 28th January 2015

and its agencies by writing to the UN Secretary General Ban Ki-Moon, to create an international operation of the nations to protect the Yazidis

## RECOMMENDATION

After completing the dissertation during research work I found that no one is safe in this world. The discrimination against religion, race, culture, and creed is a myth created by the people itself. I will highly recommend watching the movie oh my god and P.K so that the misunderstanding which is created in our mind will resulted to zero population in the whole world. There must be implementation of acts and conventions which are related to inhuman acts, genocide and there must be equal treatment of all the people whether they are religious minority or of ethnic race. No one should be exploited in this world. The world power U.S must take strong action the countries that are facing the problem of terrorism, brutality and other inhuman acts as per the actions taken 9/11 incident. The principles of International Law and Human Rights should be followed. In India the Kashmir conflict can be resolved if India shows the proof of the disputed land that it belongs to India and Article 370<sup>133</sup> must be removed. The work on Gender sensitization must be done so that there will be no inhuman acts. Actions must be taken strictly against high profile peoples who are involved in the inhuman acts because they get released by giving heavy sums of money. The conventions which are signed must be fully implemented and Super –power U.S can focus on it because military help, supplying the foods is not the only solution . The issue of refugee problem must be very much focused because it leads to poverty, infiltration of terrorism and they must get full protection in their homeland because homeland is something people are so much attached because their ancestors lived there. In every country whether it is Gulf Countries, African Countries and other Countries Humanitarian<sup>134</sup> principle of law should not be violated. At last, I will recommend that there must be proper work on Gender Sensitization and People must treat each other equally like brothers and sisters otherwise if mass killings will be continued then there will be no existence of human beings. And the underdeveloped continents must be focused because the people of African continent are less educated and not aware about the conventions which are under the United Nations. U.S must

---

<sup>133</sup>N.G Noorani , A constitutional history of Jammu and Kashmir , oxford scholarship online, university press scholarship online available at

<http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198074083.001.0001/acprof-9780198074083> last updated 29th January , 2015

<sup>134</sup> Customary IHL , ICRC , Available at [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule1](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule1) last updated 29th January 2015

focus about the underdeveloped continent and terrorist activities which causes heavy loss of life of the civilians .

## BIBLIOGRAPHY

1. International law and human rights , Dr. H.O Agrawal, Central law publications , 19<sup>th</sup> edition 2013
2. P Ramanatha Aiyar , Concise law Dictionary with legal maxims , Latin terms and words and phrases, justice YV Chandrachud in collaboration with special editors , third edition , reprint 2011 , lexis nexis , buttersworth wadhwa, Nagpur
3. Avi Asher- schapiro, for national geographic news published august 11, 2014 available at [news.nationalgeographic.com/news/](http://news.nationalgeographic.com/news/)
4. Iraq: Yazidi women and girls face harrowing sexual violence, 23 rd December 2014 available at [www.amnesty.org/en/articles/news](http://www.amnesty.org/en/articles/news)
5. Jean s. pictet , commentary on the Geneva conventions 1949 , Vol 1 , International committee of red cross 1952 available at [www.loc.gov/rr/frd/Military\\_Law/pdf/GC\\_1949-I.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/GC_1949-I.pdf)
6. [www.ijrcenter.org/international-humanitarian-law](http://www.ijrcenter.org/international-humanitarian-law)
7. The independent , Sunday 29<sup>th</sup> march 2015 , Iraq 's Yazidis who are they and why are these devil worshippers being persecuted by ISIS available at [www.independent.co.uk/news/world/middle-east](http://www.independent.co.uk/news/world/middle-east)
8. [yezidiTruth.Org](http://yezidiTruth.Org) , the truth about the Yazidis , available at [www.yeziditruth.org/the\\_peacock\\_angel](http://www.yeziditruth.org/the_peacock_angel)
9. Wikipedia , free encyclopedia available at [www.wikipedia.org](http://www.wikipedia.org)
10. Alabrabiya news, Middle east , ISIS destroys Shrines and Shiite Mosques in Iraq , AFD Baghdad , Saturday July 2014 available at <http://english.alarabiya.net/en/News/middle-east/>
11. George Antonius, G P Putnam's Sons, 1946 available at <http://al-hakawati.net/english/>
12. The editors encyclopedia Britannica available at <http://www.britannica.com/>
13. Legal information institute , open access to law 1992 , Cornell law school, available at <https://www.law.cornell.edu/>

14. Rule of law in armed conflicts , International Refugee law available at [http://www.geneva-academy.ch/RULAC/international\\_refugee\\_law.php](http://www.geneva-academy.ch/RULAC/international_refugee_law.php)
15. U.S Department of state office of the historian , milestones available at <https://history.state.gov/milestones/>
16. Archivio , pace dirritti UMANI , peace human rights , Arab league institutions on Human Rights available at <http://unipd-centrodirittiumani.it/en/schede/Arab-League-specialized-institutions-on-Human-Rights/297>
17. Rule of law in Armed Conflict projects , access to global database by state or territory , International humanitarian law available at [http://www.geneva-academy.ch/RULAC/international\\_humanitarian\\_law.php](http://www.geneva-academy.ch/RULAC/international_humanitarian_law.php)
18. T.Modibo Ocran, the doctrine of humanitarian principle in light of robust peacekeeping , pages 1-58 , student publication homepage available at <https://www.bc.edu/content/dam/files/schools/law/lawreviews/journals/bciclr/>
19. Ubi jus ibi remedium , the law students helpline ,available at <http://lawstudentshelpline.com/index.php/law-of-torts/2-uncategorised/257-ubi-jus-ibi-remedium>
20. UN human Rights office of high Commissioner available at <http://www.ohchr.org/>
21. ICRC treaties and state parties to such treaties, Convention on the prevention and punishment of the crime of genocide<sup>9<sup>th</sup></sup> December 1948, available at <https://www.icrc.org/>
22. James. G .Stewart , towards a single definition of armed conflict in international humanitarian law : A critique of international armed conflict available at <https://www.icrc.org/>
23. Summary of Geneva Conventions and Their Additional Protocols, American Red Cross , international humanitarian law , April 2011 available at <http://www.redcross.org/>
24. Tom Farer, Humanitarian law and Armed Conflict , “International Armed Conflict” available at <http://www.jstor.org/>
25. The law of armed conflict , Non – international Armed Conflict lesson 10 , available at <https://www.icrc.org/>
26. War criminals watch , a world can’t wait available at <http://warcriminalswatch.org/>



27. Yale law school, Lillian golden law library in memory of sol Goldman, the avlon project documents in law , history and diplomacy , constitution of military tribunal , and for charter of military tribunal refer to the site <http://avalon.law.yale.edu/imt/imtconst.asp>
28. Farlex , the free dictionary available at <http://www.thefreedictionary.com/>
29. Convention on the prevention and punishment for the crime of genocide , adopted by resolution 260 ( iii ) A of the united nations general assembly , 9th December 1948 pg no .1 available at [http://www.oas.org/dil/1948\\_Convention\\_on\\_the\\_Prevention\\_and\\_Punishment\\_of\\_the\\_Crime\\_of\\_Genocide.pdf](http://www.oas.org/dil/1948_Convention_on_the_Prevention_and_Punishment_of_the_Crime_of_Genocide.pdf)
30. Welcome to Nuremberg , available at [http://www.nuernberg.de/internet/stadtportal\\_e/](http://www.nuernberg.de/internet/stadtportal_e/)
31. Nazi Party, article available at <http://www.history.com/topics/world-war-ii/nazi-party>
32. Adolf Hitler , military leader dictator 1889 to 1945 available at <http://www.biography.com/people/adolf-hitler-9340144>
33. World war 2 , the allied powers , available at [http://www.ducksters.com/history/world\\_war\\_ii/ww2\\_allied\\_powers.php](http://www.ducksters.com/history/world_war_ii/ww2_allied_powers.php)
34. Holocaust Encyclopedia, Introduction to Holocaust available at <http://www.ushmm.org/wlc/en/article.php?ModuleId=10005143>
35. American Civil war available at <http://www.history.com/topics/american-civil-war>
36. Armenian Genocide available at <http://www.history.com/topics/armenian-genocide>
37. Paul Lombardo , university of Virginia , eugenic sterilization laws available at <http://www.eugenicsarchive.org/html/eugenics/essay8text.html>
38. Act no xix of 1973 available at [http://bdlaws.minlaw.gov.bd/pdf\\_part.php?id=435](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=435)
39. Hutu , Tutsi countries and their cultures , available at <http://www.everyculture.com/wc/Rwanda-to-Syria/Hutu.html> , <http://www.everyculture.com/wc/Brazil-to-Congo-Republic-of/Tutsi.html>
40. Israel –Palestinians on NBC News.com , Q & A the history behind Israel’s –Gaza offensive years of tension and outbreak led to present assault available at [http://www.nbcnews.com/id/28421427/ns/world\\_news-mideast\\_n\\_africa/t/qa-history-behind-israels-gaza-offensive/#.VRxaIPmUeBg](http://www.nbcnews.com/id/28421427/ns/world_news-mideast_n_africa/t/qa-history-behind-israels-gaza-offensive/#.VRxaIPmUeBg)
41. BBC News , guide : why Israel and Palestine are fighting over Gaza , 20<sup>th</sup> February 2015 , available at <http://www.bbc.co.uk/newsround/20436092>

42. Vox , card 10 of 26 , what is Hamas , available at <http://www.vox.com/cards/israel-palestine/hamas>
43. Fatah : History and overview , A project of the American –Israeli enterprise , Jewish virtual library , available at <http://www.jewishvirtuallibrary.org/jsource/Terrorism/Fatah.html>
44. Joel gillin , New republic , Gaza , report rebuilding Gaza could take more than 100 years , 27<sup>th</sup> February 2015 available at <http://www.newrepublic.com/article/121158/oxfam-report-israeli-blockade-preventing-gaza-rebuilding>
45. Alessandria Masi , what is the difference between gaza strip and west bank , international business times , July 18 2014 available at <http://www.ibtimes.com/whats-difference-between-west-bank-gaza-strip-1632982>
46. Gary fitleberg , gaza history and the jews , july –aug 2005 , available at <http://www.think-israel.org/fitleberg.gazahistory.html>
47. The jewish policy center , available at <http://www.jewishpolicycenter.org/>
48. Staff writer, 20<sup>th</sup> December 2014 , Israeli air force aircraft available at <http://www.militaryfactory.com/aircraft/israeli-air-force-military-aircraft.asp>
49. Jewish law library , A project of American –israeli enterprise available at <https://www.jewishvirtuallibrary./jsource/>
50. Palestinians killed by Israelis in Gaza - Africa & Middle East - International Herald Tribune, Thursday October 5,2008 , available at [http://www.nytimes.com/2006/11/05/world/africa/05iht-gaza.3396353.html?\\_r=0](http://www.nytimes.com/2006/11/05/world/africa/05iht-gaza.3396353.html?_r=0)
51. Rami almeghari , Gaza strip, 7<sup>th</sup> November 2006 , diaries live from Palestine , the electronic intifada available at <http://electronicintifada.net/content/beit-hanoun-peoples-will-versus-armys-arsenal/6508>
52. Jan Fleischhauer, rape, murder and genocide: Nazi war crime ,April 08, 2011 , 5:45 PM , Spiegel online international available at <http://www.spiegel.de/international/germany/rape-murder-and-genocide-nazi-war-crimes-as-described-by-german-soldiers-a-755385.html>
53. Raja sourani, operation cast lead five years on: we are still demanding justice, 19<sup>th</sup> January 2014, 10:22 GMT , available at

<http://www.aljazeera.com/indepth/opinion/2014/01/operation-cast-lead-five-years-are-still-demanding-justice-2014188116566380.html>

54. Coby ben simhon , holy war being waged with Israeli army , Nov 8<sup>th</sup> 2015 , 1:55 AM ,Haaretz , available at <http://www.haaretz.com/news/diplomacy-defense/.premium-1.625020>

55. Special report , july 7 2014 , available at <http://www.idfblog.com/operationgaza2014/>

56. Public law 105-89, December 1997, available at <http://www.naswdc.org/archives/advocacy/updates/1997/safeadop.htm>

57. oxford dictionaries available at <http://www.oxforddictionaries.com/definition/english/>

58. <http://www.merriam-webster.com/dictionary>

59. A.G Nooran , How mosque became a temple, march 8<sup>th</sup> 2013 , frontline , Indian national magazine from publishers of the Hindu , available at <http://www.frontline.in/books/how-a-mosque-became-a-temple/article4430814.ece>

60. Stanford university , available at <http://web.stanford.edu/group/mappingmilitants/>

61. <http://www.thesaurus.com>

62. Govt . of western Australia , victims of crime , available at <http://www.victimsofcrime.wa.gov.au>

63. Roger. S Clark , basic principles of justice for victims , pg no: 189 , ch-7 the declaration of basic principle of justice for victims of crime and abuse of power available at <https://books.google.co.in/books>

64. The library's lexicon available at <http://www.lectlaw.com/def2/q044.html>

65. Pedro R. David , measures to protect victims of crime and abuse of justice power in the criminal justice process available at [http://www.unafei.or.jp/english/pdf/RS\\_No70/No70\\_10VE\\_David1.pdf](http://www.unafei.or.jp/english/pdf/RS_No70/No70_10VE_David1.pdf)

66. Turdy Huskamp Peterson , president ICA Human Rights working group , UDHR , Art 5 available at [http://www.unesco.org/archives/hrgnews/hrgnewsitems\\_current.php?id\\_details=310520105](http://www.unesco.org/archives/hrgnews/hrgnewsitems_current.php?id_details=310520105)

67. Art 7 , ICCPR, The circumson reference library available at <http://www.cirp.org/library/ethics/UN-covenant/>

68. Iraq 's Yazidis : who are they and why are these devil worshippers being persecuted by Isis, the independent Thursday 2<sup>nd</sup> April 2015 , available at <http://www.independent.co.uk/news/world/middle-east/who-are-the-yazidis-9662457.html>
69. Dr. Amy L. Beam, Yazidis Demonstrate for International Protection and Asylum Written on March 24, 2015 by Editor in Europe, Human rights, Iraq, ISIS, KRG, Kurd news, Kurdistan,Turkey, Yazidis, the Kurdistan tribute available at <http://kurdistantribune.com/2015/yazidis-demonstrate-for-international-protection-and-asylum/>
70. Dr. H.O Agrawal, Human Rights , 11<sup>th</sup> edition 2013 , central law publication
71. S.K Verma , An introduction to Public International Law, 2<sup>nd</sup> Edition October 2012 , universal law series

