

Chapter 1: From Atrocity to Law: The Evolution of Genocide Knowledge and Response

The Historical Context of Genocide

Throughout history, humanity has grappled with the challenge of mitigating war's violence by reducing suffering and creating common ground between adversaries. International Humanitarian Law (IHL) emerged as a response to these challenges. The first Geneva Convention, established by Henry Dunant in 1864, marked a significant milestone. While progress has been made in establishing international agreements on warfare regulation, the 1864 convention remains a landmark achievement¹. Subsequent Geneva Conventions were held in 1906 and 1929, further expanding the protections offered by IHL.



In the wake of World War II, Polish-Jewish lawyer Raphael Lemkin coined the term "genocide" at the Nuremberg Trials in 1946. He intended this word to encompass the systematic destruction of national groups, referencing both the Nazi atrocities in occupied Europe and the Armenian genocide². Genocide refers to the deliberate destruction of a national, ethnic, racial, or religious group. The term itself is a combination of the Greek word "génos," meaning race, tribe, or nation, and the Latin "cide," meaning killing³.

A landmark step in international cooperation, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly in 1948. This convention marked the first-time genocide was explicitly codified in international law. Rising from the ashes of World War II's atrocities, it embodied the international community's solemn vow of "never again." The

¹De Baets, A. (2022, November 15). *The view of the past in international humanitarian law (1860–2020)*. International Review of the Red Cross. <http://international-review.icrc.org/articles/the-view-of-the-past-in-ihl-920>

² Auron, Y. (2003). *The Banality of Denial: Israel and the Armenian Genocide*. Transaction Publishers.

³ King Jr, H. T., Ferencz, B. B., & Harris, W. R. (2007). Origins of the Genocide Convention. *Case W. Res. J. Int'l L.*, 40, 13.

convention establishes a new and crucial dimension within international humanitarian law. It not only defines genocide as a crime against international law, but also obligates signatory states to both prevent and punish it, regardless of whether it occurs during peacetime or war. Reflecting its universal significance, the Genocide Convention has been ratified by an impressive 153 states.⁴

The Genocide Convention: A Legal Response:

The Genocide Convention, notably in Article I, establishes that genocide is not solely a wartime crime. It can be perpetrated during both international and non-international armed conflicts, but also chillingly, in times of peace. This same article emphasizes the obligation of signatory states to both prevent and punish the crime of genocide.



The definition of genocide itself is outlined and exemplified in Article II of the convention:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.

- a) Killing members of the group
- b) Causing serious bodily or mental harm to members of the group
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

⁴ *United Nations Office on Genocide Prevention and the Responsibility to Protect.* (z.d.). 17 February 2024, <https://www.un.org/en/genocideprevention/genocide.shtml>

- d) Imposing measures intended to prevent births within the group.
- e) Forcibly transferring children of the group to another group

Article II of the Genocide Convention establishes a two-pronged definition of genocide. On the one hand, there's a "mental element" requiring proof of intent to destroy a national, ethnic, racial, or religious group. On the other hand, a "physical element" is present, consisting of five specific acts outlined in the convention.

In article 3, the crimes are defined that can be punished under the convention. These include:

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



The Convention on the Prevention and Punishment of the Crime of Genocide stands as a cornerstone of international law. It establishes a robust framework with three key elements:

1. **A Clear Definition:** The convention provides a precise definition of genocide, encompassing both the "mental element" of intent and the "physical element" of specific acts committed against a protected group.
2. **Broad Scope:** Genocide is not confined to wartime. The convention recognizes that this heinous crime can be perpetrated in both armed conflict and peacetime situations.
3. **Comprehensive Response:** Beyond prevention and punishment, the convention addresses the entire spectrum of potential crimes, including conspiracy, incitement, attempts, and complicity.

By establishing these principles, the international community demonstrates a resolute commitment to protecting civilians and populations from the gravest crimes against humanity. The Genocide Convention upholds the values of peace, justice, and the protection of vulnerable populations, serving as a powerful deterrent and a beacon of hope for a world free from genocide.



Chapter 2: Historical context leading to the genocide in Palestine.

summary of Israeli-Palestinian conflict:

For decades, the Israel-Palestine conflict has been characterized by historical, territorial, religious, and nationalistic disputes that have defied resolution. Israelis and Palestinians claim profound historical and cultural connections to the Middle East, which is at the heart of the conflict. Intricate issues have evolved into a multifaceted and enduring conflict, marked by political complexity, humanitarian crises, and ongoing cycles of violence.

As Jewish and Arab nationalist movements sought self-determination in the late 19th and early 20th centuries, the conflict gained momentum. The United Nations' partition plan in 1947 aimed to establish separate Jewish and Arab states, but Arab opposition led to the Arab Israeli War of 1948, which led to the establishment of the State of Israel and the displacement of a significant Palestinian population, resulting in a long-term refugee crisis.



The conflict was further shaped by subsequent wars, including the Six-Day War in 1967 and Yom Kippur War in 1973. Core issues such as territorial disputes, the status of Jerusalem, the right of return for Palestinian refugees, and the establishment of an independent Palestinian state have remained contentious, impeding progress towards a sustainable resolution.

International efforts to mediate and facilitate a resolution have been ongoing, with notable initiatives like the Oslo Accords in the 1990s attempting to lay the groundwork for a two-state solution. However, progress has been hindered by divergent interpretations of key issues, acts of terrorism, and the lack of mutual recognition between the conflicting parties.

On 7 October 2023, the Middle East conflict has reached a new level of escalation, when the radical Islamic terrorist group Hamas fired rockets at Israel from the Gaza Strip. Almost 1,500 people were killed and around 3,000 injured (as of 19 October 2023). Hamas' terror was directed at the Israeli civilian population in particular with

massacres. Hamas also abducted more than 200 people as hostages. Hamas terror signaled the start of another war in the Middle East. In response to the terrorist attack, Israel launched a massive military operation against the Hamas-controlled Gaza Strip. The consequences of Hamas' terror for Israel, for the Palestinian civilian population, among whom thousands have already died, and for the Middle East as a whole are not yet foreseeable.

The conflict is marked by persistent cycles of violence, with clashes between Israeli security forces and Palestinian groups resulting in casualties, displacement, and a protracted humanitarian crisis. The construction and expansion of Israeli settlements in the West Bank and East Jerusalem further complicate efforts to achieve a comprehensive peace agreement, drawing international condemnation and contributing to the enduring volatility of the situation.⁵



Causes of the conflict

Many of the causes of conflict in the Middle East can be found in Europe. In the late 19th century, the rise of anti-Semitism and pogroms in Europe led to the emergence of political Zionism, which sought to establish a Jewish state, and to the emigration of Jews to Palestine.

At the time, Palestine was part of the Ottoman Empire and was predominantly populated by Arabs. With increasing Jewish immigration, settlement and the establishment of pre-state organizations and a state structure, there was also increasing competition for land and resources between the population groups.

⁵ Landeszentrale f. politische Bildung Baden-Württemberg (2024): Der Nahostkonflikt. Konfliktdimensionen, Friedensprozess und aktuelle Entwicklungen im israelisch-palästinensischen Konflikt. <https://www.lpb-bw.de/nahostkonflikt#c98714>

The ground for disputes was also prepared by contradictory promises made by the British to Arabs and Jews during the First World War with regard to self-determination in Palestine and by the different status that the population groups enjoyed under the British Mandate from 1922. The genocide of European Jews in the first half of the 20th century also strengthened international support for a Jewish state in Palestine, as proposed by the United Nations in 1947 with its Partition Plan.⁶



⁶ Ayer, L., Venkatesh, B., Stewart, R., Mandel, D., Stein, B., & Schoenbaum, M. (2017). Psychological Aspects of the Israeli–Palestinian Conflict: A Systematic Review. *Trauma, Violence, & Abuse*, 18(3), 322-338. <https://doi.org/10.1177/1524838015613774>