

**TOPIC: INTERNATIONAL DOCUMENTS ON CRIMES AGAINST
PEACE AND SECURITY OF MANKIND**

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As is known to all, crimes against peace and humanity are considered international crimes. Therefore, there are several important documents passed and agreements related to crimes against peace and humanity, including:

1. The Nuremberg Charter: The charter served as the legal basis for the International Military Tribunal at Nuremberg following World War II, which tried leaders of Nazi Germany for crimes against peace, war crimes, and crimes against humanity.

2. The Universal Declaration of Human Rights: Adopted by the United Nations General Assembly in 1948, the declaration sets out common standards of human rights to be respected and protected by all nations and peoples.

3. The Geneva Conventions: The four Geneva Conventions of 1949 provide a framework for the protection of civilians and prisoners of war during armed conflict.

4. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights: Adopted by the UN General Assembly in 1966, these covenants set out specific human rights and freedoms that must be respected by all nations.

5. The Rome Statute of the International Criminal Court: Adopted in 1998, the Rome Statute established the International Criminal Court (ICC) to investigate and prosecute individuals accused of genocide, crimes against humanity, war crimes, and crimes of aggression.

These documents and agreements provide a legal framework for prosecuting individuals and governments that commit crimes against peace and humanity, and serve as important tools for promoting justice, accountability, and human rights around the world¹.

Crimes against humanity was the first event which was officially condemned as a "crime against humanity" in the May 1915 Triple Entente declaration.

Crimes against humanity are widespread or systemic criminal acts which are committed by or on behalf of a de facto authority, usually by or on behalf of a state, that grossly violate human rights. Unlike war crimes, crimes against humanity do not have to take place within the context of wars, and they apply to widespread practices rather than acts which are committed by individuals. Although crimes against humanity apply to acts which are committed by or on behalf of authorities, they do not need to be part of an official policy, and they only need to be tolerated by authorities. The first prosecution for crimes against humanity took place during the Nuremberg trials. Initially considered for legal use, widely in international law, following the Holocaust, a global standard of human rights was articulated in the Universal Declaration of Human Rights (1948). Political groups or states that violate or incite violations of human rights norms, as they are listed in the Declaration, are expressions of the political pathologies which are associated with crimes against humanity².

Since the Nuremberg trials, crimes against humanity have been prosecuted by other international courts (such as the International Criminal Tribunal for the former

¹ Kerstin von Lingen, "Setting the Path for the UNWCC: The Representation of European Exile Governments on the London International Assembly and the Commission for Penal Reconstruction and Development, 1941–1944", in *Criminal Law Forum*, 2014, vol. 25, pp. 45–76.

² The list of positions is impressive: when checking the files of the International Commission of Penal Reconstruction and Development, of 16 members coming from exile countries, five were former ministers of justice, five were high court judges, two were law professors, the others their assistants; see National Archives UK, LCO 2/2973, Papers of the International Commission for Penal Reconstruction and Development, member list.

Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, and the International Criminal Court) as well as by domestic courts. The law of crimes against humanity has primarily been developed as a result of the evolution of customary international law. Crimes against humanity are not codified in an international convention, so an international effort to establish such a treaty, led by the Crimes Against Humanity Initiative, is currently underway.

Unlike war crimes, crimes against humanity can be committed during peace and war. They are not isolated or sporadic events because they are part of a government policy (although the perpetrators do not need to identify themselves with this policy) or they are part of a widespread practice of atrocities which is tolerated or condoned by a government or a de facto authority. War of aggression, war crimes, murder, massacres, dehumanization, genocide, ethnic cleansing, deportations, unethical human experimentation, extrajudicial punishments including summary executions, the use of weapons of mass destruction, state terrorism or state sponsorship of terrorism, death squads, kidnappings and forced disappearances, the use of child soldiers, unjust imprisonment, enslavement, torture, rape, political repression, racial discrimination, religious persecution and other human rights abuses may reach the threshold of crimes against humanity if they are part of a widespread or systematic practice³.

In 1814, several bilateral treaties that were signed foreshadowed the signing of the multilateral treaty of the Final Act of the Congress of Vienna (1815) because they contained moral language and wording which expressed condemnation of

³ For an overview on British policy towards the central European governments in exile, see Detlef Brandes, *Großbritannien und seine Osteuropäischen Alliierten: Die Regierungen Polens, der Tschechoslowakei und Jugoslawiens im Londoner Exil vom Kriegausbruch bis zur Konferenz von Teheran*, Oldenbourg, Munich, 1988; Peter Heumos, *Die Emigration aus der Tschechoslowakei nach Westeuropa und dem Nahen Osten, 1938– 1945*, Oldenbourg, Munich, 1989, pp. 28–54.

the slave trade. For example, the Treaty of Paris between Britain and France (1814) included the wording "principles of natural justice"; and the British and United States plenipotentiaries stated in the Treaty of Ghent (1814) that the slave trade violated the "principles of humanity and justice".

The multilateral Declaration of the Powers, on the Abolition of the Slave Trade, of 8 February 1815 (which also formed Section XV of the Final Act of the Congress of Vienna of the same year) included in its first sentence the concept of the "principles of humanity and universal morality" as justification for ending a trade that was "odious in its continuance".

The Republican Party Platform for the 1856 election for President of the United States stated:

That all these things have been done with the knowledge, sanction, and procurement of the present National Administration; and that for this high crime against the Constitution, the Union, and humanity, we arraign that Administration, the President, his advisers, agents, supporters, apologists, and accessories, either before or after the fact, before the country and before the world; and that it is our fixed purpose to bring the actual perpetrators of these atrocious outrages and their accomplices to a sure and condign punishment thereafter.^[6]

First uses of the term

On Sunday, June 4, 1854, at the Music Hall in Boston, the Unitarian minister and abolitionist Theodore Parker, preached a sermon which he titled "A new crime against humanity" in protest against the judicial proceedings which authorized the return of a man who was named Anthony Burns from Boston to Alexandria, Virginia, under the Fugitive Slave Act of 1850.

The Republican Platform for the 1860 election for President of the United States subsequently used the phrase in its ninth article:

9. That we brand the recent reopening of the African slave trade, under the cover of our national flag, aided by perversions of judicial power, as a crime against humanity and a burning shame to our country and age; and we call upon Congress to take prompt and efficient measures for the total and final suppression of that execrable traffic⁴.

Leopold II, King of the Belgians and de facto owner of the Congo Free State, whose agents were accused of crimes against humanity

The term "crimes against humanity" was used by George Washington Williams, an American minister, politician and historian, in a letter he wrote to the United States Secretary of State describing the atrocities committed by Leopold II of Belgium's administration in the Congo Free State in 1890. This was an early but not, as is often claimed, the first use of the term in its modern sense in the English language. In his first annual message in December 1889, U.S. President Harrison spoke about the slave trade in Africa as a "crime against humanity". Already in 1883, George Washington Williams used the same term in his reflections about slavery in the United States.

In treaty law, the term originated in the Second Hague Convention of 1899 preamble and was expanded in the Fourth Hague Convention of 1907 preamble and their respective regulations, which were concerned with the codification of new rules of international humanitarian law. The preamble of the two Conventions referenced the "laws of humanity" as an expression of underlying inarticulated humanistic values. The term is part of what is known as the Martens Clause.

On May 24, 1915, the Allied Powers, Britain, France, and Russia, jointly issued a statement explicitly and for the first time ever charging another government

⁴ The term 'United Nations' was the formal name for 'the Allies' following the "Declaration by United Nations" of 1 January 1942. See Yearbook of the United Nations 1946–47, Department of Public Relations, United Nations, New York; Plesch, 2011, see supra note 2.

of committing "a crime against humanity". An excerpt from this joint statement reads:

In view of these new crimes of Ottoman Empire against humanity and civilization, the Allied Governments announce publicly to the Sublime Porte that they will hold personally responsible for these crimes all members of the Ottoman Government, as well as those of their agents who are implicated in such massacres.

At the conclusion of the war, an international war crimes commission recommended the creation of a tribunal to try "violations of the laws of humanity". However, the US representative objected to references to "law of humanity" as being imprecise and insufficiently developed at that time and the concept was not pursued⁵.

Nonetheless, a UN report in 1948 referred to the usage of the term "crimes against humanity" in regard to the Armenian genocide as a precedent to the Nuremberg and Tokyo Charters. On May 15, 1948, the Economic and Social Council presented a 384-pages report prepared by the United Nations War Crimes Commission (UNWCC), set up in London (October 1943) to collect and collate information on war crimes and war criminals. The report was in compliance to the request by the UN Secretary-General to make arrangements for "the collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors, and in particular from the Nuremberg trials and Tokyo Trials." The report had been prepared by members of the Legal Staff of the commission.

The report is highly topical in regard to the Armenian Genocide, not only because it uses the 1915 events as a historic example, but also as a precedent to the

⁵ National Archives UK, TS 26/873, London International Assembly, Reports on Punishment of War Crimes; proposal of M. de Baer "Suggestions for the scope of work for the commission, provisional plan of work", April 1942

Articles 6 (c) and 5 (c) of the Nuremberg and Tokyo Charters, and thereby as a precursor to the then newly adopted UN Genocide Convention, differentiating between war crimes and crimes against humanity. By refereeing to the information collected during WWI and put forward by the 1919 Commission of Responsibilities, the report entitled "Information Concerning Human Rights Arising from Trials of War Criminals" used the Armenian case as a vivid example of committed crimes by a state against its own citizens. The report also noted that while the Paris Peace Treaties with Germany, Austria, Hungary and Bulgaria, did not include any reference to "laws of humanity", instead basing the charges on violations of "laws and customs of war", The Sevres Peace Treaty with Turkey did so. In addition to the Articles 226–228, concerning customs of war (corresponding to Articles 228–230 of the Treaty of Versailles), the Sevres Treaty also contained an additional Article 230, obviously in compliance with the Allied ultimatum of May 24, 1915 in regard to committed "crimes against humanity and civilization"⁶.

⁶ United Nations War Crimes Commission, History of the United Nations War Crimes Commission and the Development of the Laws of War, His Majesty's Stationery Office, London, 1948, p. 99.