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War Crimes and Crime of Genocide: Does the Laws really prevent Crimes in the Modern Society

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Abstract: ***The term Genocide and War Crimes is as old as the existence of the first social groups formed in human society which started happening throughout the generation. Each of those concepts has followed its own path and definition but sometimes there are considerable overlaps among them. These overlaps require progressive codification where both confirmed and reaffirmed in an effort to stop and punish the commission of such acts. It's a very obvious question when the term war crime was used for the first time and when the first war crimes were committed during history by some famous empire that termed it in their own primitive societies. It was very common in between the wars or battles that were concluded by sacking a particular region after defeating them, and by slaughtering the soldiers' and capturing the civilians. But at that time it was common war behavior by the successor party and never thought of considering it as war crimes. As far as genocide is concerned, this crime was first time codified under International Law and acted more swiftly than war crimes as some nightmare incident happened during World War II done by world's greatest Nazi party. These crimes are also severe inhuman offenses which are committed in the most brutal way of violation of any human law. I have also tried to discuss the recent conflicts between Russia and Ukraine related to NATO discussion and how superpower countries using their powers just to make ensure their countries are as safe as heaven. These all wars led to War Crimes rise of War Criminals, and thousand to genocide cases. These atrocities crimes effect the future generation physically, mentally and with chemical sediments of those immigrants. Till date it is a major problem throughout the globe and especially in our country, which directs us to different riots, protests and other events without declaring it as genocide or any crime towards society. In this paper, I have tried to explore some facts and crime in detailed manner by covering the entire concept and how this concept of war crime and genocide affects the society, the social health and mental health of the people and some various definitions and law which till date people are unaware to such type of incident by calling them a simple crime or murder. Thus, this paper tries to analyze the difference which will help to understand the wholesome meaning and ideas of this atrocity crime.***

Keywords: Genocide, War, Generation, Crime, Atrocity.

I. INTRODUCTION

Genocides and War Crime are the most heinous and gruesome crimes that have been long recognized as a crime especially under International law but cannot incorporate under any of the national legislature section except section I, which talks about Genocides, War crime and Crime against humanity. These types of crimes are also known as atrocity crimes which means the cruelest crime committed against a human being. As we are talking about this crime then let us relate these types of crime with some past history that had been committed and how this affects the society with some horrible moments many have witnessed. A part planning war uses the general public and hidden war methods with more crafty ways where all the war techniques are accepted calmly. One hand tells us about the progressive development of the law of nations and the other hand rapidly growing menace of war and therefore the humanity kept under constant fear. If we started talking further than we must conclude Genocide and War Crimes are basically extreme inhumane actions happening in all the parts of the world. Genocide is the conscious and structured devastation of a crowd of people based on their ethnicity, nationality, religion or race. War Crimes are the unjustifiable acts of hostility or viciousness or violations of international humanitarian laws. This paradoxical point has arisen altogether periods of the history, and paved the way for the international crimes damaging the interests and advantages of the governments.

The world has witnessed a long history of such distressing crimes. But the journey of international legislations started when firstly with the Genocide Convention "Convention on the prevention and punishment of the crime of genocide" that was signed on December 9, 1948. After that, there has been a long series of international conventions and legislations where Genocide and War Crimes have been codified.

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The study of genocide has generally been framed by legal and historical, rather than sociological perspectives. This topic is limited in the consideration of war crimes and genocide, as they are the main interest of this paper. The concept of these crimes some of the historical aspects, the definitions, written sources and institutions are to be discussed in upcoming parts and some of the incident that happened in India and also internationally and how that affect society or is there in laws to control them or not will be discussed further.

II. METHODOLOGY

This doctrinal study or a non-empirical study performed on Crimes of Genocides and War crimes by an undergraduate student. A doctrinal methodology was selected for this research article as a means to study each and every incident and why they occurred, how they occurred and most importantly in which part of the globe they occurred. Every moments in India and internationally discussed regarding the laws as per the incidents happened with those conventions which was also been discussed through different secondary sources. I have tried to make it done with the help of different secondary research method. Collectively, I tried to gathered data from sources including internet, journals, blogs, articles and most importantly different newspapers which helped me to gain a lot of knowledge on the most interesting topic I ever researched. Qualitative research based on primary data collected from different survey done through different articles by using an online platform.

III. LITERATURE REVIEW

A. War Crime

It is actually difficult to define the term "War Crime" with exact precision but recently it got a new definition under International statutes and under International Criminal Court (ICC) which states us that any violations if International Humanitarian Law (treaty or customary law) that incur individual criminal responsibility under International law.

1) Constitutes of War Crime:-

a) Crimes against Peace- This crime include planning and waging war against any other nation.

b) Crimes against Humanity- These crimes include murder, enslavement, and other violence towards civilians.

c) Traditional War Crimes- These War Crimes include mistreating of Prisoners of War (POWs), destroying property that's not relevant to war just like destroying historical artifacts and many other violations of wartime laws or customs.

Nowadays anyone, even the civilians may be sentenced for war crimes.

2) War crimes contain two main elements:-

a) A *contextual element*: the conduct that took place in the context of and was associated with an international/non-international armed conflict;

b) A *mental element*: intent and knowledge both with regards to the individual act and the contextual element.

We know what constitute War crime and how to detect it. But we don't know what makes one person commit a war crime. To know these we have to go with past, the present as well as the future. The most important commitments are:-

- *Proportionality*- It basically says that one country cannot commit a crime just for one person. It mainly indicates terrorist masterminds and for that reason one cannot kill thousands of civilians. Any harm to civilians can lead to War crime.
- *Distinction*- Each group of military has to have a minimum distinction power just before indulging with a fight whether they are civilians or are military robust soldiers or can also be an armed civilian.
- *Precaution*- A nation have to make sure that during an invasion they must not be fighting and threatening the civilians of the invaded nations. They have to make sure that they are doing civilians causalities as minimum as they can without high priorities.

3) Incidents across the globe:-

a) In the *Nuremberg trial*, the German forces and leaders were punished for their acts by the judges who were called from different nations. Many were given a death sentence and others were given imprisonment. There was no dissenting judgment in this trial.

b) In the *Tokyo trial*, the trial was conducted against the leaders of Japan. There were a total of thirteen judges from thirteen different countries including India. After this trail all the leaders were punished. There was only one judge who had the courage to stand against the conquerors.

B. Crime of Genocide

The word "genocide" first coined by Polish lawyer Raphäel Lemkin in 1944 in his book "Axis Rule in Occupied Europe", comprises of two words, the Greek prefix "genos", meaning 'race or tribe', and the Latin suffix "cide", meaning 'killing'. So we can say Genocide is an internationally recognized crime where acts are committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

1) Elements of the Crime

a) A mental element: The "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such"; and

b) A physical element: These includes the following five acts, enumerated exhaustively;

- Killing members of the group.
- Causing serious bodily or mental harm to members of the group.
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
- Imposing measures intended to prevent births within the group.
- Forcibly transferring children of the group to another group.

2) Incidents in India and across the globe:-

There are some War Crime and Genocide incident that happens all over India but never been recognized as Genocide by the government and still declared as crime against humanity. Some of those incidents are:-

a) Genocide of Sikhs (1984) – After the 3rd prime minister of India Indira Gandhi was killed by her Sikh bodyguards, there was wide spread violence against Sikh community in many parts of India. People belonging to Sikh community were targeted and killed in an inhumane way. There was no protection given by the government authorities. Some sources say it was a planned genocide by ruling government at that time. First conviction in this case took place in 2018; the case is discussed in the later part of this article.

b) Exodus of Kashmiri Pandits (1990) - In 1990 all the Kashmiri Pandits were given a warnings from the loudspeakers of the mosques overnight to either convert to Islam or leave Kashmir. All the belongings of Kashmiri Pandits were targeted such as shops, mandirs, etc. People were killed in large numbers. People were forced to leave their homes and their livelihood. Those people are still living in poor conditions. Till date there is no compensation and no justice has been given to the victims except abrogation of Article 370 of the Constitution of India.

c) Gujarat riots (2002) - On 27 February 2002, the pilgrims were returning home by train from Godhra. The train was set on fire by Muslims. The Hindus retaliated at this incident. This clash between the said communities resulted in a riot which lasted for a couple of days. Total of twenty three people were convicted in this incident by the High Court of Gujarat.

IV. FINDINGS

A. Cases and Trials Globally

1) War Crime

a) The Prosecutor v. Jean-Pierre Bemba Gombo, Jean Bemba was declared accused of the war crime of initiating campaigns of mass rape committed against civilians in the Central African Republic.

b) The Prosecutor v. Bosco Ntaganda, the ICC found Bosco Ntaganda guilty of 13 war crimes committed in Ituri, DRC, in 2002-2003 which included sexual crimes committed by members of the group against other members of the same group.

c) The Prosecutor v. Alfred Musema, a very crucial element of War Crimes 'armed conflict' was defined. It was held that, the expression of "armed conflicts" introduces a material criterion: the existence of open hostilities between armed forces which are organized to a greater or lesser degree. Internal disturbances and tensions, characterized by isolated or sporadic acts of violence, do not therefore constitute armed conflicts in a legal sense, even if the government is forced to resort to police forces or even armed units for the purpose of restoring law and order. Within these limits, non-international armed conflicts are situations in which hostilities break out between armed forces or organized armed groups within the territory of a single State was introduced.

d) *The Prosecutor v. Jean-paul Akayesu,* it was held that, "The term "armed conflict" suggests the existence of hostilities between armed forces organized to a greater or lesser extent, which necessarily "rules out situations of internal disturbances and tensions."

2) *Crime of Genocide*

a) *Sylvestre Gacumbitsi v. The Prosecutor*, it was held that "Genocide is a crime requiring 'specific intent.' The Prosecution is required, under Article 2(2) of the Statute, to prove that the accused possessed the specific 'intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such."

b) *The Prosecutor v. Athanese Seromba*, it was observed that "The constituent elements of the crime of genocide are: first, that one of the acts listed under Article 2(2) of the Statute was committed; secondly, that this act was committed against a specifically targeted national, ethnic, racial or religious group, as such, and thirdly, that the act was committed with intent to destroy, in whole or in part, the targeted group"

c) *The Prosecutor v. Kamuhanda*, it was noted that "The crime of genocide requires a finding of both mens rea and actus reus. The mens rea for genocide comprises the specific intent or dolus specialis described in the general clause of Article 2(2) of the Statute—i.e. the commission of a genocidal act 'with intent to destroy, in whole or in part, a national, ethnical, racial or religious group'. And the actus reus consists of any of the five acts enumerated in Article 2(2) of the Statute, as shown above"

d) *The Prosecutor v. Mikaeli Muhimana,* it was established that "The notion 'destruction of the group' means the material destruction of a group either by physical or by biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group."

B. *Global Laws, Articles and Protocols*

1) *Geneva Convention and the protocols of humanitarian law:-*

The common wording used here is that it's a crime against humanitarian law. So, we will talk further the concept of Humanitarian law and the protocols of Geneva Convention. The Geneva Convention is a set of four treaties and three protocols. These are the golden laws of humanitarian treatment of soldiers in war. Before the Geneva Convention came into place there used be no limits on the treatment of humans in the war. The timeline of the progress of these laws is:

a) The first Geneva Convention held in 1864 laid laws on the care and protection of the affected soldiers on land.

b) The second Geneva Convention held in 1906 laid laws on the care and protection of soldiers at sea.

c) The third Geneva Convention held in 1929 laid laws on the treatment of *prisoners of war*.

d) The fourth Geneva Convention held in 1949 laid laws on the protection of civilians during wartime. It includes all the relief workers including doctors.

The Geneva Convention came into force in 1949 after World War II. As we know, the law is a forever evolving concept so the international community felt the need to add a few protocols to the Geneva Conventions. These timeline of incorporating additional protocols are:-

- Additional protocol I was added in 1977 which laid laws related to the victims of international war.
- Additional protocol II was also added in 1977 which laid laws related to the protection of non-international armed conflicts.
- Additional protocol III which was added in 2005 which laid the foundation of an organization named red crystal.

C. *War Crime*

Rome Statute of the International Criminal Court-Article 8

1) The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2) For the purpose of this Statute, 'war crimes' means:

a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- Willful killing.
- Torture or inhuman treatment, including biological experiments;
- Willfully causing great suffering, or serious injury to body or health;

- Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
- Unlawful deportation or transfer or unlawful confinement;
- Taking of hostages.

b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- Killing or wounding a combatant who, having laid down his arms or having no longer means of defense, has surrendered at discretion;
- Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;[7]
- Killing or wounding treacherously individuals belonging to the hostile nation or army;
- Declaring that no quarter will be given;
- Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- Pillaging a town or place, even when taken by assault;
- Employing poison or poisoned weapons;
- Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
- Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

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- Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;[7]
- Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;
- Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

- Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- Taking of hostages;
- The passing of sentences and the carrying out of executions without previous judgments pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

- Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;[7]
- Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- Pillaging a town or place, even when taken by assault;
- Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
- Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- Killing or wounding treacherously a combatant adversary;
- Declaring that no quarter will be given;
- Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;[7]

f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3) Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

D. Crime of Genocide

Rome Statute of the International Criminal Court - Article 6 & GENEVA Convention-1949

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

After the whole world saw the atrocities committed by humans on humans in the World War II, the general assembly came with *"Convention on the prevention and punishment of the crime of genocide-1948"*. So, some of the important articles under this convention are-

1) Article I states that genocide whether committed in peace or in war time. It is an international crime. The nations must prevent it or punish the main culprit.
2) Article II defines the term genocide. Any act done to destroy or with an intention to destroy a national, ethnical, racial or religious group, as such:

- Killing members of any group.
- Causing serious bodily injury or any mental harm to members of the group.
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
- Imposing measures intended to prevent births within the group.
- Forcibly transferring children of the group to another group.

3) Article III provides the list of the acts that shall be punishable are-

- Genocide;
- Conspiracy to commit genocide;
- Direct and public incitement to commit genocide;
- Complicity in genocide;
- Attempt to commit genocide.

4) Article IV of the convention states that any person committing the genocide will be punishable at any cost.
5) Article V of the convention states that the contracting parties will enact the laws in their nation to punish the guilty people.
6) Article VI states that people who commit the act of genocide will be tried by the competent tribunal of the respective state or by the international tribunal.[4]

E. Laws and articles especially in India

Currently there are no laws related to war crimes in India. There is no provision in Indian laws which define 'genocide' and 'war crime'. But the Riot Incidents that took place in different parts of the country had been charged with various press charges under India Penal Code, 1860 through which judges convict the accused. Those sections are:-

1) Section 120A and 120B of IPC, 1860 says that when two or more people commit a conspiracy to do an illegal act.
2) Section 300 of IPC, 1860 defines murder and *section-302* has the provision of imprisonment for life or death sentence.
3) Section 436 IPC, 1860 states that any person who tries to destroy or destroys the property such as house or religious place shall be punished with imprisonment for life.
4) Section 153A IPC, 1860 penalizes any person who promotes enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and acts prejudicial to maintenance of harmony. It can be done by writing, oral words, gestures or any visual representation.
5) Section 295 IPC, 1860 penalizes any person who destroys damages or defiles any religious place with the intention of insulting the religion.

V. GAP IN THE SUTUDY

After analyzing different aspects and probable defects, I tried to figure some of those questions that acts as an obstacle in preventing those war crimes and genocides. Those are:

A. How and what a citizen and a state can do if a War Crime was committed due to their negligence?

It depends on the people of the society as well as the government that how they work more swiftly to prevent any War crime from being committed but again it depends on the type of crime, the project, the rules and each any every aspect and from the beginning one had to trial it, on which prospect the crime has been committed. But at the end we the people of society got the power to stop them from committing any crime that affects them.

B. How to measure the actual intensity of all these crimes according to Rome Statutes or ICC and was it enough to prevent and get them punished?

So firstly, there are no such options in terms to measure the actual level or intensity of these acts according to those rule books. As the punishments depends and vary from place to place and the way those crime was committed. There are also many statues where ICC can haven't mentioned and declaring them as anti nationalist can rage a war.

C. Is there any laws? If there then how these laws are useful from preventing such cases in future?

Yes and a No. As, there are currently no laws to regulate war crime in India, it's tough to say how a laws can be introduce or can be useful to the citizens of the country.

VI. DISCUSSION

A. A special discussion on the RUSSIA-UKRAINE crisis

Before discussing other aspects of war crime and genocide let us discuss some suspected war crime and if possible genocide incidents that happened or can play a big role in **RUSSIA-UKRAINE** crisis-

We are all aware about the tension going on in between Russia and Ukraine and recently US president Josef Biden declared Russian president Vladimir Putin as "War Criminal" for committing of war crimes such as for onslaught the innocent citizens of Ukraine, where hospitals and maternity wards where also bombed. So here we have to understand what exactly a war criminal is and how someone can sanction them as war criminal.

This term War criminal can be applied to anyone who violates those set of rules set by those world leaders in different UN Security Council meetings known as law of armed conflicts. These rules govern how countries behave in different times of war. The violations of the rules that amount to war crimes include deliberately targeting the civilians, using disproportionate force using human shields and taking hostages and prisoners. Now if before delivering the justice of war crimes then I must mention four options. Those are:

1) Through International Criminal Court (ICC).
2) If UN turns its work on the inquiry commission over to a hybrid international war crimes tribunal to prosecute Mr. Putin.
3) Have to create or can create a tribunal or court to try Mr. Putin by a group of interested or concerning states, like NATO can take over the case of execution of Mr. Putin.
4) Independent investigation by some countries like Germany but not USA.

With these different options different national leaders had been prosecuted in the past regarding different incidents like the post-World War II tribunals in Nuremberg and Tokyo to more recent ad hoc tribunals, senior leaders have been prosecuted for their actions in countries including Bosnia, Cambodia and Rwanda. Some other trials and advocacy after WWII to till date are:

Former Yugoslav leader Slobodan Milosevic was put on trial by a U.N. tribunal in The Hague for fomenting bloody conflicts as Yugoslavia crumbled in the early 1990s. He died in his cell before the court could reach a verdict. His Bosnian Serbian ally Radovan Karadzic and the Bosnian Serb military leader, General Ratko Mladic, were successfully prosecuted and are both now serving life sentences. Liberia's Taylor was sentenced to 50 years after being convicted of sponsoring atrocities in neighboring Sierra Leone. Just like the national leader of Belarus is helping Mr. Putin in the crisis by providing different types of aids.

B. Moving Forward with Discussion on Prevention

After explaining the laws and situations of the concept of War crime and genocide, we have to see what a state and those citizens as a whole can do to prevent it.

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1) What Citizens Can Do?

On one level, there is little that average citizens can do about those crimes. Once a case reaches one of the tribunals, it becomes the province of a tiny band of attorneys. On another level, Wars, including war crimes and genocide incidents, in far-off parts of the world receive very little attention in the Western mass media, because crimes against humanity often never appear on our "radar screens", where there is little public pressure to do anything about them.

Today, fortunately, it is relatively easy for people to inform themselves about human rights violations, including those crimes, on the World Wide Web. Traditional organizations such as Amnesty International and Human Rights Watch have broadened their missions to include some of the issues that fall under the ICC's jurisdiction. And, Crimes of War is but the most important of the NGOs, which routinely investigate and publicize alleged instances of gross violations of human rights. Without that kind of an informed public, it seems highly unlikely that pressures to strengthen the international regime combating war crimes and incidents of genocides will grow and there only citizens are responsible.

2) What States Can Do?

The ICC, the UN, and other international courts are part of what international relations experts call a "regime," a collection of rules, institutions, and norms that bring a degree of order to a rather disorderly system of global politics. In an international system which is still largely dominated by states as far as reaching new international agreements is concerned, their support will be needed if more Laws are to be added to the ICC and other legal institutions.

At last, the United States, Russia, China, Iraq, and the other 100+ countries, which have not ratified the ICC treaty, must do so. It may well be that the treaty will have to be modified or other "side agreements" reached before these reluctant powers feel comfortable joining.

There was also an announcement of introducing Prevention Control and rehabilitation of Victims Bill in 2005 by the Government by India but till date it wasn't converted into an act due to some major problems. The bill states that only the majority can be punished for war crime and genocides. If this bill converts into act then it can cause riots due to its provisions which states that-

a) The responsibility to maintain peace is of both State and Central government.
b) Speedy trial and compensation to the victims.
c) Police have special powers to search any house for the arms and ammunition.
d) Special courts shall be made for the trial of matters related to communal violence.
e) Protection to be given to the witness.
f) Public officers to be punished for not doing their duty properly.
g) Power to the Central government to deploy armed forces only on the request of the State government.

VII. CONCLUSION

War crime and crime of genocide: all of them are the international crimes with separate element. Conformation of this comes from the statutes of the international criminal tribunals, as well as the Rome Statute of the International Criminal Court. In other words though all of both of these international crimes are similar, they are identified and described separately as the crimes with the different elements. These crimes are concerns of International community and all the civilized societies ought to condemn it along and stand together against it. These crimes still are perpetrated in several places across the world. The primary issue we are able to do is to be additional alert and listen to the warning signs. Atrocity crimes occur on an oversized scale, and aren't spontaneous or isolated events; they're processes, with histories, precursors and triggering factors which, combined, alter their commission to save lots of lives and stop societies from collapsing and dropping into horrific violence. Therefore, the responsibility to be imposed for causing these crimes will also be different. The world has an extended history of violence and high violations of international human rights and humanitarian law or atrocity crimes. But now, since, there are sufficient legislations in the international arena for such crimes, the need are to properly implement such laws. Mention above the crisis in between Russia-Ukraine plays a recent development in the field of countries economy. When it started to get stabilize then the laws from different countries as well as those International law and protocols will be implementing on the basis of the investigation done in a war by recognizing it as War Crime of a Crime against Genocide and punishing the War Criminals as done after World War II through those trials. The national and international bodies should together work as it is not just moral or ethical duty, but a responsibility imposed by the international human rights laws Same happens when there is a breach in the civilizations through any the common means of Genocide as done during wars just to weaker the opposition. Chemicals and hazardous are also used just to make ensure they win a war. The most important measure to be taken to stop such crimes is alertness and cautiousness.

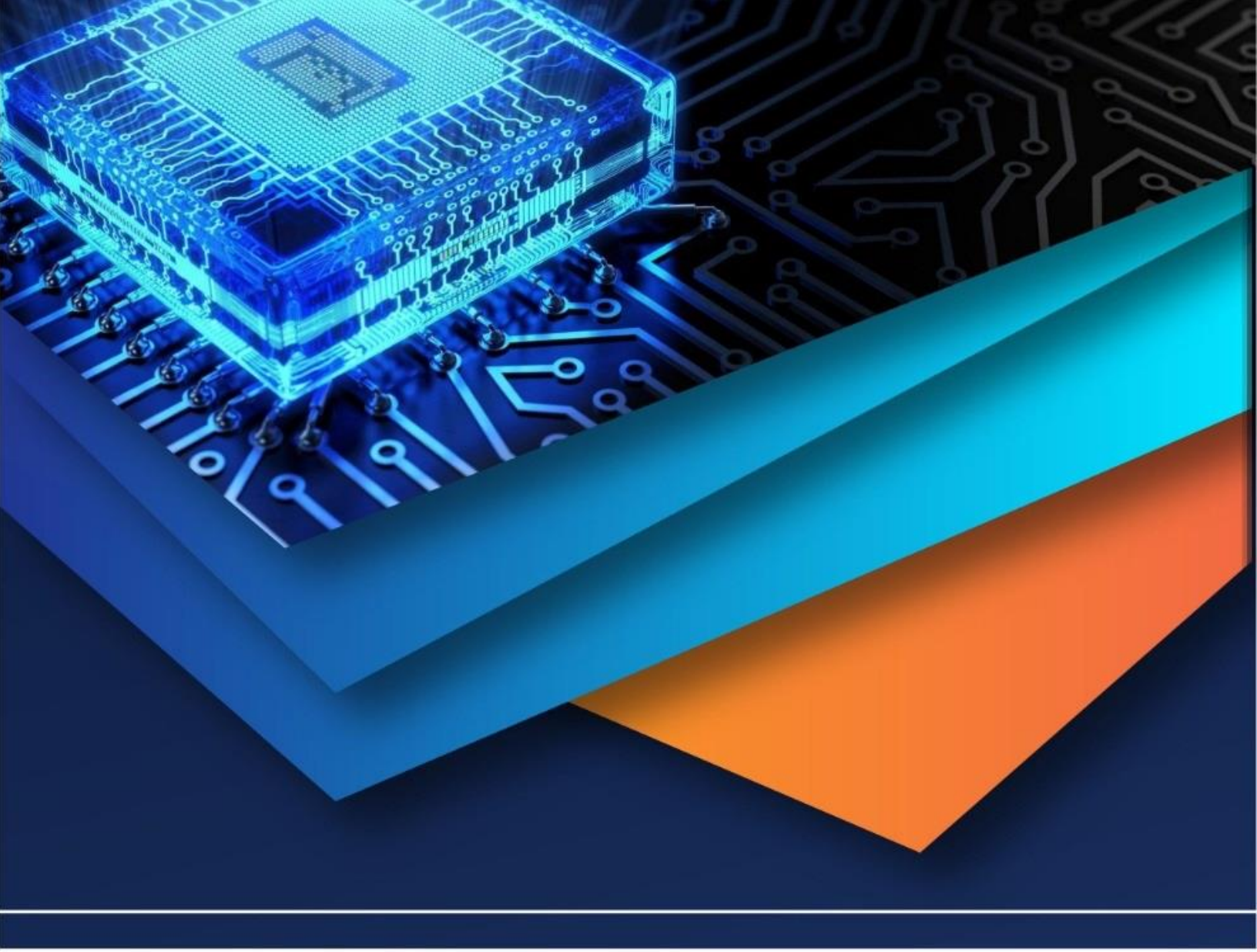
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Prevention is an ongoing process which mainly involves identification of warning signs and requires a fixing of an entire system for the aim. If this could be done, the risk of atrocity crimes can be reduced and significant number of human lives accompanied with all the other types of damage and losses can be prevented from happening and then this entire world would be a safer place to live. Through the above precaution mentioned one can know and make others aware of the basic term "War Crime and Genocide" that was coined simply to help the human civilization from its extinction process which was started by their own. With these the article will make people or the mankind safer just by knowing its prevention process just knowing what's right and what's wrong. The basic philosophy apart from all these war was peoples understanding towards the society and also towards their upcoming generation just by controlling their anger, love, power, money, laws, preventions, punishment and to choose for non-violence to make a better future in the only breathable planet.

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