



Has The Redline Been Crossed By The Killings In Nigeria? The Human Rights Perspective

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ABSTRACT

Any discourse on genocide especially the threat of it should compel compassionate appeal since humanity is threatened. Nigeria is at it again, the security system has increasingly exhibited failings to protect lives and property. The Fulani Herdsmen have taken the stage intimidating, suppressing crushing and tormenting communities in Nigeria. The killings have become so irresponsibly disheartening, a situation of hopelessness. The paper in appraising the situation questions whether the ingredients of genocide have manifested; whether it could be classified as crossing the redline; whether what is happening can be called genocide. It concludes that the best way to avoid genocide is to prevent its occurrence, that it is better to state that the redline has been crossed so that the killings will be arrested and normally restored.

Keywords: Human Rights, Genocide Redline, Democracy, Insecurity and Holocaust.

I. INTRODUCTION

The dignified hope of a better secured and more fulfilled life lies at the heart of human rights enduring appeal. Life is sacrosanct because upon it is every other human endeavour is hinged. Without life, governance and sovereignty are meaningless. Every other right has its anchor on life. The right to worship, to freedom of expression, to cattle ranch, to self-determination, to a political life, indeed, to engage in any activity is empty when life is taken. This narrative does not have a deep root in contemporary Nigeria where it has become habitant to take life in discriminatory and the system has somewhat become indolent to the point of compromise. When taking life becomes consistent, systematic and massive, the tendency is to suggest that genocide is taking place. Could that be the case with Nigeria? This article explores same.

The big challenge is in determining when the red-line has been crossed, that point that verifies that genocide has taken place in seeking the guide what comes within scope is – which legal instrument(s) direct(s). is it the domestic law of the state that has hosted (allowed) the genocide or international law that holds the international community responsible. This scenario is challenged by the very fact that, often, before the intervention of the international communication, the massive damage becomes irreversible and the intervention seemingly too late.

II. BACKGROUND CHECK

This issue of genocide has generated a host of concern in the regime of international human rights. It has been variously referred to as the ‘crime of crimes’ and one of the deepest forms of human rights violations, because, it is ultimate, mostly irreversible (when death occurs) and world definitely shock the conscience of the international community threatening the very existence of mankind. It exports fear not only to the direct victims but also to all who see, feel read and know about it. This is a cause and consequence that cannot be explained due to its irrationality. It may only be fathomed from the satanic perspective since it flies against all reason.

Due to the level of concern that genocide and the fear of its perpetuation has generated, particularly concerning its occurrence during the Second World War, the United Nations in 1948 promulgated the

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convention on the punishment and prevention of the crime of Genocide¹. It entered into force in 12th January 1951 in accordance with Article XIII². The convention had 41 signatories and now 149 ratifications³. Nigeria acceded to it on 27 July, 2009 without any reservation⁴. The treaty compels parties to “punish” and to “prevent” genocide where it occurs. Due to its devastating efforts, the international community has raised serious concern that has seen the creation of international criminal justice mechanisms.

III. THE ORIGINS

Notwithstanding the evil nature of genocide, its meaning is captured in both Greek and Latin expressions: Genos (meaning race, nation or tribe) Greek and ‘Cide’ (meaning killing) Latin. The clarity of its definition is apparently devoid of much controversy except in the context of its existence, i.e. the whether or not it has occurred. As Courthoys and Docker pointed out. Few major human rights concepts have as clear a point of origin as the concept genocide does⁵. Genocide has existed in different forms and manifestations, but it was the harrows of the Second World War to push it to the front burner and compelled the international community to recognize it and sought to prevent it. The term itself was the coinage of Raphael Lemkin⁶, a polish international lawyer.

In the literature generated by this renowned jurist⁷, he argued that genocide has a central theme: the destruction of human groups, especially nations and ethnic groups. This prompted him to define it as: ‘a coordinated plan of different actions aiming at the destruction of the essential foundations of the life of national groups, with the aim of annihilating the groups completely’⁸. For Lemkin, genocide includes not only killing, but additionally often layers of activities that for instance prevented or substantially endangered the life of groups. In simple terms, it entails not just murder but also acts the social, economic, cultural, religious, and moral foundations of a group. Indeed in his original formulation, he listed acts of genocide as ranging from forced sterilization, abortion artificial infection, deliberate separation of families as well as replacing one nations institutions with those of another nation⁹.

IV. GENOCIDE IN THE CONTEXT OF INTERNATIONAL LAW

Expressing the term genocide aptly captured the atrocities committed in the Second World War. The term came handy in use not only in the exact words but intent and meaning during the indictments of twenty-four Nazi officials by the International Military Tribunal (IMT) at Nuremberg (the Nuremberg Tribunal). The Nazi defendants were charged by IMT with crimes against peace, humanity, the tribunal felt that the defendants had” conducted deliberate and systematic genocide, viz. the extermination of racial and national groups, against the civilian populations of certain occupied territories”¹⁰.

¹Paris 9 December 194.

²Registered in 12 January 1951 No. 1021

³United Nations Treaty Series Vol. 7 p. 277

⁴Ibid

⁵Courthoys A. and Docker J. *Defining Genocide: The Historiography of Genocide* (ed. D.Stone). (200. London: Palgrave Macmillan).

⁶Lemkin R. by his background and experience a polish Jew and Jurist had given his legal expertise to legal constructs with the aim of protecting civilian social groups against mass violence. He is credited with proposing the term ‘barbarity’ to outlaw the premeditated destruction of specific population categories. *His book Axis Rule in Occupied Europe* not only catalogued Nazi practices but only coined the term ‘genocide to refer to the atrocities.

⁷Lemkin, R. *Axis Rule in Occupied Europe: Law of Occupation, Analysis of Government, Proposal for Redress* (1944. New York Columbia) . See also Lemkin, R. “Genocide as a crime under ”International Law”, 1947. *American Journal of International Law*, 41/1, 145-151.

⁸Ibid, 147.

⁹Op.cit

¹⁰International Military Tribunal at Nuremberg, 1946, Section VIII A. the final judgment did not make specific reference to genocide.

After this landmark trial, the United Nations general Assembly in 1946, through the untiring efforts of Lemkin (who lobbied massively) resolved formerly to recognize genocide as a crime under international law, thereafter, calling for a draft convention on the prevention and punishment of genocide¹¹. Excitedly, on the 9th¹² of December 1948 the Genocide Convention was adopted¹³. This great legal instrument defined genocide as the “intent to destroy, in whole or in part, a National, ethnical, racial, or religious group, as such”¹⁴

Box 16.2 The United Nations Genocide Convention (Selected Articles)

The Contracting Parties,
Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world, Recognizing that at all periods of history genocide has inflicted great losses on humanity, and Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided:

Article 1
The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article 2
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, as such:

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

Article 3
The following acts shall be punishable:

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

Article 4
Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article 8
Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

The salient points are:

1. There must be intent to destroy a group as such. Destroying a group qua group is crucial. The persons constituting the group are set aside for destruction, for no other provocation excepting belongs to that group. The fact alone that they are for instance Igbo, Tiv, Yoruba, Ijaw, Ogoni. etc, will set aside such a group for distinction. This may require a deliberate, usually premeditated campaign of violence whose main intent is destruction of the group;

¹¹A year later, the drafting process began involving a series of sessions

¹²This was a day before endorsing another historic document – the Universal Declaration of Human Rights.

¹³See Kuper, L. Genocide: Its Political Use in the Twentieth Century (1981 , New Haven CT: Yale University Press).

¹⁴See Box 1

2. In its restricted form only national, ethnical, racial, or religious groups are protected. This restriction must be understood in the context of the political background of 1948 – the atmosphere in a divided world of differing interest. The space between then and now can accommodate regional, gender etc, characterization; and
3. Genocide may be constituted by ‘partial’ destruction of a group. This is where this discussion is hinged – when will it be taken that the threshold, the redline has been reached/crossed, enabling a determination that genocide has taken place.

Unless at Armagedon, in rare unimaginable extremism could genocide be perpetuated in total extermination. So its definition in practice must involve what is ‘partial’. This may be determined by assessing the intent and not really the quantum of what has been put in place, i.e., not the number of people killed or displaced but the deepness and hunger, the weight of the rude and satanic excitement procured and the blow over effect of the scheme.

Further description of genocide is found in article III, which outlines different methods to include killing, causing serious physical or mental harm, inflicting ‘conditions of life calculated to bring about its physical destruction in whole or in part’, preventing birth, and transferring children¹⁵.

Article 1 takes on the fundamental question of prevention by holding down contracting parties to ‘undertake to prevent genocide. The cloud surrounding this provision is thick¹⁶. When does this responsibility commence? Would it be when the partial destruction has started. In that context, what will amount to partial destruction? Will the threshold be different from the actual determination of whether genocide has taken place? These are some of the discomfiting questions.

Article VIII holds an interesting position as it urges that parties ‘may call upon competent organs’ of the United Nations to take action to prevent and suppress acts of genocide¹⁷. Who are the parties that may place the call? Could be the state within whose territory the devastation is taking place? Such authorities may have compromised their position or may just be reluctant to present the state in bad light. It has been suggested that states may intervene, perhaps against the wishes of a sovereign state, to stop genocide¹⁸. That could apply in a worst case scenario, but doubtful of the situation has not become massive as such intervention may be referred to as being unnecessary interference in domestic affairs. If this early intervention is ignored, intervening later may be a little too late like the cases of Rwanda and Darfur show¹⁹. Early monitoring of such situations that may enable prevention may require international monitors that have competence to call upon competent organs of the UN. Alternatively local and international NGOs may play the role of watch dog.

It would seem that the convention places much weight on punishment – when the irremediable deeds have been done when the pains have become permanent and scars emblems. Specific charges and conditions for extradition are properly provided for by the convention. That law further provides that individuals, may be punished whether or not they are public officials. That contracting parties must enact legislation outlawing genocide; and that trial of offender may be taken at the domestic and international courts.

As the cases in the box indicate²⁰, particularly with regards to the crises in the former Yugoslavia, Rwanda and Sudan – the

¹⁵Schabas W. *Genocide in International Law: the crime of Crimes* (2000 Cambridge: Cambridge University Press).

¹⁶Goodhart .op.cit 22-23

¹⁷Ibid

¹⁸See Box 2.

¹⁹KuperL..Opcit. 5

²⁰Fein H. *Accounting for Genocide: National Responses and Jewish Victimization During the Holocaust* (1999. Chicago IL: University of Chicago Press) 9.

TABLE 16.1 Genocide cases in the twentieth century.

Manus Midlarsky	Barbara Harff
<i>The Killing Trap: Genocide in the Twentieth Century</i> (2005, p. 23)	'No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder Since 1955' (2003, p. 60)
Narrow definition of genocide	Broad definition of genocide and politicide
Three genocide cases in twentieth century:	1955-1999 cases include:
Armenian Genocide, 1915-1916	Sudan, 1956-1972
The Holocaust, 1941-1945	China, 1959
The Rwandan Genocide, 1994	Algeria, 1962
	Iraq, 1963-1975
	Rwanda, 1963-1964
	Congo-Kinshasa, 1964-1965
	Burundi, 1965-1973
	Indonesia, 1965-1966
	South Vietnam, 1965-1975
	China, 1966-1975
	Pakistan, 1971
	Philippines, 1972-1976
	Uganda, 1972-1979
	Chile, 1973-1976
	Pakistan, 1973-1977
	Angola, 1975-2001
	Cambodia, 1975-1979
	Indonesia, 1975-1992
	Argentina, 1976-1980
	Ethiopia, 1976-1979
	Congo-Kinshasa, 1977-1979
	Afghanistan, 1978-1992
	Burma, 1978
	Guatemala, 1978-1996
	El Salvador, 1980-1989
	Uganda, 1980-1986
	Iran, 1981-1992
	Syria, 1981-1982
	Sudan, 1983-2001
	Burundi, 1988
	Iraq, 1988-1991
	Somalia, 1988-1991
	Sri Lanka, 1989-1990
	Bosnia, 1992-1995
	Burundi, 1993-1994
	Rwanda, 1994
	Serbia, 1998-1999

Genocide convention has done more exploitation punishment than on prevention. There are now international or hybrid domestic – international courts for crimes committed in the former Yugoslavia, Rwanda, Cambodia, and Sierra Leona, not forgetting the International Criminal Court (ICC).

Genocide always will throw up unusual outcomes frightening, leaving into trail emptiness. It is multi-dimensional, even quite complex phenomenon. The reality often ignored is that frequently, different aspects of state and government play a part, especially, the political elite, the military, a state – backed militia (e.g. herdsmen in Nigeria), the police and administrative institutions. Genocide is usually a project

fashioned in illusionary advantages as outcome. Such projects are sponsored, financially and packaged in ethnic or religious undertones. In this sense it is not inconceivable that private actors in the media and business often form part of the design.

V. MASSAGING THE CULTURE OF GENOCIDE

Imperative to capture the reality that genocide often takes place in those societies that exhibit deep misconceptions and therefore misgivings between ethnic racial or religious groups. This is the idea platform to hoist the consuming particles of genocide. For Leo Kuper, may be in that conviction, argues that the root of genocide is a divided society and for him, that in which there are “persistence and pervasive cleavage” between different groups mostly the stamp pad of colonialist²¹. As this develops, it gets to a stage where the stratified divisions manifest unequal groups where one group dominates the other thus, outlaying reception for challenging the status quo, and the consequent repressive moves that drown down genocide. The majority who dominates may concoct dominance postures like – ‘born to rule mentality which of course further alienates and poisons the feeling of tolerance and strengthens division and rejection.

Helen Fein, in bringing out one of the conditions moistening violence argues that prejudice and dehumanization are the early signal – where a particular perpetrator group defines a victim group ‘outside the universe of obligation²². Strengthening her position, Fein further maintains that a state must suffer decline through war or internal conflict a ruling elite must adopt a nationalist ideology to justify group domination.

Another breeding ground for genocide can be sourced from state power and authoritarianism. Irving Louis Horowitz argues that genocide is connected to the absolute concentration on power – that “operational handmaiden of a particular social system, the totalitarian system”²³. The system of overwhelming reach that on elastic cover, the inducer enabler that is the source of impunity Rudolph Rummel being in the same academic mould claims that “absolute power kills absolute”²⁴ These authors are of the opinion that the institutionalization of democracy is the best bulwark against genocide Rummel is convinced that limits and restraints on power diminish the likelihood of genocide

I feel that these plausible claims cannot be supported in a paper democracy where the majority controls both legislative and executive powers, where the minority is merely tolerated, where the power of appointment into key security positions can be swayed and compromised to suit those recounted to execute the genocide project. This therefore, is default democracy – democracy in pretense.

Another shade was provided by Ervin Stuaab who claimed that in the context of ‘difficult life conditions’²⁵, human beings feel threatened and frustrated, which inevitably give rise to a feeling of hostility and a desire to blame others for their troubles. This will only ignited with a political statement or the favourable body language of the leader to induce and provide an outlet for the outpouring of anger in the vain delusion that the nothing placed on nothing can produce results.

Goodheart has analysed these opinions thus: “In many respects, these three streams of analysis – on inter-group antipathy, regime type, and widespread hardship formed the core of a ‘first generation’ of macro – level analysis of the causes of genocide.

VI. THE REDLINE QUAGMIRE

There is a huge security challenge in Niger that has developed as an albatross. That is the killings that have taken place in various states of Nigeria. It has attracted much attention because of its content and

²¹Horowitz I. *Taking Lives: Genocide and State Power* (1997 New Brunswick NJ: Transaction Publishers) 36; see also Horowitz I. *Genocide: State Power and Mass Murder* (1976 New Brunswick NJ: Transaction Publishers)

²²Rummel R. *Death by Government* (1994 New Brunswick NJ: Transaction Publishers) 19.

²³Stuaab E. *The Roots of Evil: The Origins of Genocide and Other Group Violence*. (199 Cambridge: Cambridge University Press).

²⁴*Op.cit.* 236.

²⁵These states include: Benue, Nasarawa, Taraba, Enugu, Ekiti, Ondo, Ebonyi ,Plateau, Kaduna, Kogi etc.

peculiarity. These killings have an ethnic coloration because they are perpetuated by Fulani Herdsmen. These killings have been systematic consistent and massive. Unfortunately it has taken a long time in its currency, fit a time more than 70 persons were given mass burial in Benue just as massive killings have been reported in Taraba, Ebonyi, Enugu, Plateau, Nasarawa and other states of Nigeria. Such killing in Bornu state is ignored under-reported and forgotten because additionally the insurgency of Boko Haram is ravaging that area.

Most states in Nigeria are under the threat of the marauding faceless AK47 carrying herdsmen who are on rampage. Families are displaced and some are in the Internally Displaced Persons (IDP) camps. These invaders come leaving total destruction on their tail with gory tales of rape, murder, dismemberment of bodies, looting, arson, torture in diverse degrees and have established an identifiable *modus operandi*. These massive attacks are not secretly undertaken, as the victims may be offered the indulgence of operation date. Due to deliberate inaction, the total number of the casualties including the missing cannot be determined.

The disturbing aspect of all these is that no genuine solution is on sight and the situation is deteriorating. With the anxiety in mind, compounded by the request that each state government to provide a cattle colony, there is no sheds of light anywhere. The only question to ask now is: Are all the elements/characterization of genocide in the warrant a conclusion that the redline has been crossed? Are the requirements of articles 2 and 3 met? Are the acts committed with the intent to destroy in part ethnical, racial or religious group. These Fulani Herdsmen attacks are without doubt targeted at ethnical, racial and religious groups. They are not merely random but pre-meditated. Article 2(a) (b) and (c) are squarely on the burner. A day after the mass burial of victims in Benue State, some northern governor in ridiculing democracy rejoiced at the killings by uniquely publicly persuading President Buhari of Fulani ethnic extraction to run for the president, a second time bid. By this all things seem to be working for good for these agents of mayhem.

The redline do crossed when the violations are continuous, systematic consistent, widespread. If these characterizations are present continuity is guaranteed evidencing that the element of prevention is an elapsed phase. This indicates that the security structures of the state has now been designed to fail in this respect. The challenge this time is: will the international community again intervene only when the massacre grabs international news hardliners like Rivanda land Darfir? At the regional level, the African union (AU) is acting like lame dog that is benefit of any watch dog role. This style is nothing new as same has been sustained overtime – business as usual.

VII. CONCLUSION

The slogan ‘never again’ since used after Holocaust has always been re-called for use wherever genocide occurs. Never again is a slogan in excessive storage. No concerted effort is put in place to prevent genocide except differing that option to the sponsors of what is abhorred. The genocide convention, a well-received humanity compliant treaty in implementation is regrettably weak and ineffective.

Nigeria is stricken with poverty insecurity and misrule at every level of governance. The insecurity bomb is ticking. With the massive hungry and angry population Nigeria parades, when the rain falls, it surely will the devastating. Never again!