

AWARENESS TOWARDS THE CRIME OF GENOCIDE AND RESULTANT VIOLATION OF HUMAN RIGHTS IN INDIA

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Abstract

Keywords:

Genocide;
Mass crimes;
Convention;
Killing;
Violation.

Last year in 2017 we have completed 70 years of our independent and it was also the 70th anniversary of the partition of India. In this year 2018 we are going to have the 70th anniversary of the U.N. convention on the prevention and punishment of the crime of genocide. It was adopted on December 9, 1948 and after one day on December 10, 1948 United Nation adopted universal declaration of human right. It is also completing 70 years in 2018. When we see all these three incidents together we find a connection among them. After partition, India started its journey of independence with a great genocide violence in which Hindus, Muslims and Sikhs were both the perpetrators and victims of that violence. Millions of people were killed and displaced during the violence, since this violence was based on religion and perpetrators were killing the people on the basis of their religious identity. So this violence can be called as genocide on the other hand at international level, after experiencing atrocities and crimes against humanity during holocaust

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and World War II, international community started working to combat such situations in future with a strong determination by saying together “Never again”. The efforts of international community resulted in the adoption of “convention on the prevention and punishment of the crime of genocide” and “Universal declaration of human rights” in 1948.

The United Nations was established for the protection of future generations from the curse of war and its terrible consequences of war crimes, violence and genocide, and for spreading the belief in fundamental human rights in the equality and dignity of human being. So these two adoptions by United Nations were steps toward this goal. Genocide is a structural and systematic destruction of innocent people on the basis of their membership of a specific ethnic, national, racial or religious group. It can be committed by the perpetrators during war time or peace time. So it is a big challenge before humanity and against the concept of human rights. Genocide is not committed by single act; in fact, it is a series of various acts which develops in several stages¹ which can be identified as Classification, Symbolisation, Discrimination, Dehumanisation, Organisation, Polarisation, Preparation, Persecution, Extermination and Denial.

These all stages are connected with one another. To prevent genocide these all stages should be attacked individually. For doing this, legal recognition of this crime is the first step to prevent it because we cannot fight against a crime which is not recognised by the legal authorities. Genocide is a crime which generally denied to

be recognised due to which it got its name very late after so many incidents of great violence. On the atrocities carried out by Nazi German forces against Jews, then British Prime Minister Winston Churchill remarked that the world was in the presence of a “crime without a name”²³. Besides this, every incident of genocide is followed by denial for which perpetrators try to destroy all the evidences by destroying dead bodies of the victims, intimidating witness, by minimising the number of victims, by creating controversies whether the killing fits the legal definitions of genocide. These all strategies are followed by the perpetrators all over the world so India is also not an exception. In order to prevent genocide and resultant violations of human rights awareness against it can play a very important role.

1. Introduction

In simple words, Genocide can be called as well-planned and intentional destruction of people or attempt to commit such destruction, in whole or in part, on the basis of their ethnic, national, racial or religious identity. In order to understand the human right violations and problem of laws relating to genocide in India, we must find out the origin and meaning of the word “Genocide”. The word “Genocide” is the combination of two words geno+cide, in which “genos” is a Greek word which means race, “nation or tribe” and “cide” is a Latin suffix which means “to kill”. Polish Jewish advocate Raphael Lemkin coined the word “genocide” in 1944, he firstly used this word in his book “Axis rule in occupied Europe: laws of occupation, analysis of government, proposals for redress” this book is based on Nazi policies of systematically destruction of national and ethnic groups including the mass murder of European Jews⁴. Before it, various terms, such as “massacre”, “mass murder” and “crime against humanity” were used for such types of well planned, intentional and systematic destruction of people. In august1941, British

prime minister Winston Churchill quoted it as “a crime without a name⁵” while describing the atrocities and inhuman treatment of certain groups of people during Holocaust and world war II which forced the international community to make the draft of convention on the prevention and punishment of the crime of genocide, 1948 which came into force on 12 January 1951⁶. The convention on the prevention and punishment of the crime of genocide was adopted so that the victims of such inhuman acts of violence could get justice. The convention on the prevention and punishment of the crime of genocide, 1948 can be said the first document of human rights because it was adopted by the United Nations general assembly on 9 December, 1948⁷ just a day before the universal declaration of human rights.

Convention on the prevention and punishment of the crime of genocide, 1948 defines genocide in legal terms, according to which genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as;

1. Killing members of the group;
2. Causing serious bodily or mental harm to destroy members of the group;
3. Deliberately inflicting in the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group⁸;

2 THE INDIAN CONSTITUTION AND HUMAN RIGHTS

The Constitution is the apex law that shapes the concept of human rights of the nation. The Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles of the State policy are concrete steps toward the realization of human rights. Whereas basic objectives have been defined in the Preamble, the protection of human freedom and liberties are emphasized in Fundamental Rights and Directive Principles of State Policy. These provisions express the collective will and aspiration of all Indians. The following provisions in Constitution safeguard human rights:

- Equality before the law (Article 14);
- Non-discrimination on ground of religion, race, caste, sex, and place of birth (Article 15);

- Equality of opportunity (Article 16);
 - Freedom of speech, expression, assembly, association, movement, residence, acquisition, and disposition of property, practice of any profession, carrying out any occupation, trade, or business (Article 19);
 - Prohibition of traffic in human beings and forced labour (Article 23);
 - Freedom of religion (Article 25);
 - No provision for religious instruction in any educational institution wholly maintained out of State funds (Article 28);
 - Conservation of language, scripts, and culture (Article 29 [1]);
 - Right of minorities to administer educational institutions (Article 30);
 - State guarantee of social order (Article 38 [1], Directive Principles of State Policy);
 - Right to work, education, and public assistance in specific cases (Article 41, Directive Principles of State Policy); and
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- Ensuring education and economic development of scheduled castes, scheduled tribes, and other weaker sections of society (Article 46, Directive Principles of State Policy)⁹.

The awareness plays an important role in preventing human rights violations from occurring. The United Nations proclaimed that knowledge about human rights is, “dissemination and information efforts aimed at the building of a universal culture of human rights through imparting knowledge and skills and the moulding of attitudes”. These efforts are designed to strengthen respect for human rights and fundamental freedoms, facilitate the full development of human personality, sense of dignity, promote understanding, respect, gender equality and friendship to enable all persons to participate effectively in a free society, and further activities for maintenance of peace.

Human rights awareness is, therefore, necessary and essential for the promotion and achievement of stable and harmonious relations among the communities and for fostering mutual understanding, tolerance and peace. Through the awareness of human rights fundamental change could be brought about to eradicate poverty, ignorance, prejudices, and discrimination based on caste, religion, race and disability and other status amongst the people.

VIOLATION OF HUMAN RIGHTS IN THE INCIDENTS OF GENOCIDAL NATURE IN INDIA

India is a country where people of various religions and languages live together since ancient time. They have different culture and ethnic identity. We can find here unity among diversity but on the other hand, due to this large diversity, people have differences on level of thinking and these differences, sometimes, become the roots of conflicts among them. Many times, these conflicts result into mass crimes against a specific religious or ethnic group. India has a long history of violence on the basis of religion, caste and language or for political dominance which resembles the essentials of genocide. In ancient time, the battle of Kalinga¹⁰, in medieval period various attacks of invaders and during British rule, famines in Bengal¹¹ can be examples of genocide in India. After independence, the history of mass crimes or crimes against collectivities can be traced back to the partition of the country into India and Pakistan when Hindus, Muslims and Sikhs were both the perpetrators and victims of mass crimes. Actually, it was the time of crimes against collectivities committed by collectivities on a large scale. Mass crimes or crimes against collectivities are committed or intended to be committed against groups of people on the basis of their racial, religious, ethnic, social or geographical identity. Sometimes, it is committed in a large geographical area sometimes, it is limited to a specific area and these crimes may include genocide, crimes against humanity, war crime etc¹². communal violence at large scale in Gujarat after Godhara train incident in 2002, Nationwide communal riots following the destruction of disputed structure of Ayodhya in 1992, suppression of insurgency in Punjab during 80's to 90's, anti-Sikhs riots in 1984, the massacres at Nellie¹³ in 1983 and insurgency in Kashmir are some of the major incidents of mass crimes in the history of independent India.

These all incidents highlight the issue of state's complicity and question of impunity due to which mass crimes were committed from time of partition to ongoing human right violations in Kashmir. Mass crimes are mostly happened due to state's action or inaction and after the incidents of mass crimes, these are covered up which result into impunity to perpetrators. India ratified the United Nations' convention on prevention and punishment of the crime of genocide, 1948 on August 27th 1959¹⁴ yet there is no law which specifically deals with genocide in India.

- **Ethnic cleansing in Kashmir:** Kashmir is a state where mass crimes and human right violations are continuously occurring since independence. During the time of independence large violence happened by tribal invasion of Pakistan, which result in unauthorized occupation of almost 1/3rd Kashmir by Pakistan. After that, militants became the curse for Kashmir. They started targeting Kashmiri pandits, during 1989 to 1990, approximately 300 Kashmiri pandits were killed in militant attacks. In the beginning of 1990, Kashmiris were called upon to wage jihad against India and all the Hindus were also ordered to leave Kashmir through notice published in local Urdu newspapers AFTAB and AL SAFA. After that, militants with masked face started killing Hindus with AK – 47 who did not leave Kashmir. Notices were sent to the houses of all Hindus to warn them either to leave Kashmir within 24 hours or be ready to die¹⁵. After that, approximately 3,00,000 Kashmiri pandits left Kashmir due to persecution by militants. It was the largest case of ethnic cleansing after the independence of India. The population of Kashmiri pandit was 15% in the Kashmir valley during the time of independence which declined to less than 0.1% since the mass crimes were started in Kashmir on religious basis during the insurgency.

Militants killed Kashmiri pandits in a series of mass crime such as the Wandhama massacre in 1998 and Amarnath pilgrimage massacre in 2000. These all incidents have been termed as ethnic cleansing by some observers¹⁶.

- **Gujarat riots, 2002:** In February 2002, Sabarmati express was burnt at Godhra railway station which caused death of 58 Hindu Karsevak returning from ayodhya. It was followed by months of outbreaks of communal violence in Gujarat. More than 2,000 people died and over 1,50,000 people were displaced due to this violence¹⁷ most of them were from the Muslim community¹⁸. Some independent reports indicated that it was state sponsored violence against Muslim community¹⁹. The police, which had to carry on investigation into the violence, was biased and itself guilty of participating in the attacks²⁰. So it is unrealistic to expect impartiality from the police to the victims.

- **Babri masjid demolition and Bombay riots:** Demolition of Babri masjid would never have happened if then state government was not criminally complicit in allowing the mob to

assemble there on December 6, 1992 and proceed to destroy that without hindrance. The central government could also have prevented the demolition but it remained stand by and did nothing²¹, after this incident, communal riots in various parts of the Nation started, in Bombay, riots continued since December 1992 to January 1993. Apart from Bombay, several other cities were affected in the riots, almost 1000 people died and hundreds became homeless²².

- **Bhagalpur riots, 1989:** It happened between Hindu and Muslim community in Bihar during the “Ram Shila” procession of VHP under its Ram mandir agenda²³. According to official figures, over 1000 people died. Approximately 50,000 people were displaced due to this violence²⁴. Actions were recommended against 125 IAS officers by the NN Singh committee report²⁵.
- **Anti-Sikh riots, 1984:** The 1984 anti-Sikh riots was a series of state sponsored planned killing of Sikhs in response to assassination of Indira Gandhi by her Sikh body guards. According to official reports about 3,000 deaths across India, 2100 in Delhi alone²⁶. The involvement of government officials was even admitted by CBI in a report. 10 committees have been set up so far for investigations; more than 400 have been convicted till 2015²⁷. Responsibility for anti-Sikh riots of 1984 downwards from the then home minister PV Narasimha Rao to the police officers who either choose to do nothing or aided the perpetrators²⁸.
- **Violence in Odisha:** In 2008, organized extremist groups committed attack, on Christians in Odisha more than 100 people killed. Extremists responsible for violence burnt 147 churches and over 4500 homes. Violence continued for weeks without intervention by the state and perpetrators enjoyed impunity.

OBJECTIVES OF THE STUDY

This research paper has the following objectives;

1. To study the crime of genocide.
2. To study the need of legislation against genocide in India.
3. To analyse the awareness against genocide and its impacts.

RESEARCH METHODOLOGY

This research paper is based on both the doctrinal method and empirical method of research. For doctrinal part; the data collected and interpreted is of secondary nature and for empirical research, survey method has been adopted to collect relevant data through a survey questionnaire. After that, the data was analyzed through simple percentage.

HYPOTHESIS OF THE RESEARCH STUDY

“Incidents of genocidal violence are violating human rights in India and there is a need for a separate anti-genocide law to combat such incidents.”

OPERATIONAL DEFINITIONS

1. **Violence:** incident which causes destruction, pain or suffering.
2. **Incidents of Genocidal Violence:** it means incidents of violence which have the characteristics of genocide.
3. **Genocide:** as per the article II of the convention on the prevention and punishment of the crime of genocide, 1948 genocide means killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group condition of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group, committed with intent to destroy in whole or in part, a national, ethnical, racial or religious group.
4. **Human Rights Violation:** violation of basic rights identified by the universal declaration of human rights, 1948.
5. **Anti-genocide Law:** legislation against genocide at national level.

SAMPLE

Sample of 50 people, 16 females and 34 males, related to legal studies/profession, age ranged from 20 years to 60 years and above were selected from Delhi. For selecting the sample, random sampling technique was used and the relevant data was collected by using survey method through a survey questionnaire. The study was conducted in two phases.

First Phase: -Development of Genocide awareness questionnaire

A questionnaire was developed regarding genocide focusing on three points:

- 1) **Understanding of and awareness against genocide.**
- 2) **Knowledge about human rights violation during genocide violence in India, and**
- 3) **Need for anti-genocide law in India.**

The questionnaire was based on the principles of convention on the prevention and punishment of the crime of genocide, 1948 with close ended questions. Besides the information regarding gender, age group, education and occupation, the questions of genocide awareness survey questionnaire is divided into three sections: -

Section 1: Knowledge about the crime of genocide,

Second 2: Knowledge of human rights violation due to the Crime of Genocide; and

Second 3: Need of anti-genocide law in India.

Second Phase: - Collection of data on the questionnaire and its analysis

The genocide awareness survey questionnaire was send to respondents (Law faculties, Law Scholars, Advocates and Law Students) answers of the respondents were collected after few days and the data was analysed as under:

INFORMATION REGARDING RESPONDENTS**AGE**

Responses collected and analyzed from the following age groups:

AGE GROUP	PERCENTAGE
20-29	48%
30-39	40%
40-49	8%
50-59	2%
60 and above	2%
TOTAL	100%

Sample size = 50

GENDER

16 females and 34 males responded on the questionnaire:

GENDER	PERCENTAGE
Female	32%
Male	68%
TOTAL	100%

Sample size = 50

QUALIFICATION

11 pre-doctoral/doctoral candidates, 21 post graduates, 14 graduates (LL.B.) 4 candidates pursuing LL.B. participated in the survey:

HIGHEST QUALIFICATION	PERCENTAGE
Pre-doctoral/doctoral	22%
Post graduate	42%
Graduate	28%
Under law graduate	8%
TOTAL	100%

Sample size = 50

OCCUPATION

Responses of 8 law faculties, 14 law scholars, 17 advocates and 11 law students, are collected and analyzed for the study:

OCCUPATION	PERCENTAGE
Law faculty	16%
Law scholar	28%
Advocate	34%
Law student	22%
TOTAL	100%

Sample size = 50

SECTION 1: KNOWLEDGE ABOUT THE CRIME OF GENOCIDE: -**1. awareness about the crime of genocide**

RESPONSE	PERCENTAGE
Yes	82%
No	18%
TOTAL	100%

Sample size = 50

This question was set to analyze how many of respondents were aware about the crime of genocide and if they were aware they could respond further otherwise they could directly jump on the last two questions of this section based on their interest to learn more about genocide. Total 41 candidates accepted that they were aware about the crime of genocide and 9 of them said “No”.

2. Knowledge about the definition of international crime of genocide under the convention on the prevention and punishment of the crime of genocide, 1948

RESPONSE	PERCENTAGE
Yes	59%
No	41%
TOTAL	100%

Sample size = 49, total sample size = 50, missing = 1

The candidates claimed the awareness about the crime of genocide further asked whether they have knowledge about the definition of the crime of genocide under the genocide convention, 29 candidates responded positively whereas 20 candidates said that they don't have such knowledge.

3. Whether genocide is committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group

RESPONSE	PERCENTAGE
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Yes	83%
No	17%
TOTAL	100%

Sample size = 48, total sample size = 50, missing = 2

In order to check their knowledge regarding genocide further they were informed about the base of the definition of the crime of genocide and asked whether they knew about it or not, 40 out of 48 candidates said “Yes” and 8 candidates said “No” they didn’t know about that.

4. Genocide is committed through:

(A) killing members of the group, (B) causing serious bodily or mental harm to destroy members of the group, (C) deliberately inflicting in 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.

RESPONSE	PERCENTAGE
Only a	12%
Only a and b	19%
Only a, b and c	19%
All are the measures to commit genocide	50%
TOTAL	100%

Sample size = 48, total sample size = 50, missing = 2

For analyzing the depth of their knowledge about the crime of genocide, they were told all the ingredients of the definition of the crime of genocide under genocide convention separately and instructed to recognize them. These ingredients were the methods by which the crime of genocide can be committed. This question was set to find out whether the respondents had actual knowledge about the crime of genocide or not. The responses cleared the picture, only 24 candidates could respond correctly and other 24 candidates didn’t choose the correct option.

5. Knowledge about any genocide /genocidal violence in India

RESPONSE	PERCENTAGE
Yes	73%
No	27%
TOTAL	100%

Sample size = 48, total sample size = 50, missing = 2

After questions based on the basic knowledge of the crime of genocide, respondents were asked whether they recognize any genocide/genocidal violence 35 respondents said “yes” and 13 respondents denied. Those who responded negatively were said to answer next question while those who said “yes” could skip next question.

6. If, No incident of genocide /genocidal violence has been happened in India, recognize the incidents of nationwide Hindu - Muslims violence during the time of independence, ethnic cleansing of Kashmiri pandits, anti-Sikh riots of 1984, Gujarat riots of 2002, etc.

RESPONSE	PERCENTAGE
These were the incidents of genocide /genocidal violence.	39%
These were the incidents of riots only.	19%
These were the only conflicts between two or more groups.	9%
These were the only incidents of communal violence.	33%
TOTAL	100%

Sample size = 33, total sample size = 50, missing = 17

This question was especially for those who said “no” on the last question, after telling them some incidents of violence against a specific group in India and asked in what way they recognized that incidents, 13 out of 33 said that these were the incidents of genocide/genocidal violence.

7. Interest in learning more about the Crime of Genocide

RESPONSE	PERCENTAGE
Yes	86%
No	14%
TOTAL	100%

Sample size = 37, total sample size = 50, missing = 13

This question was to know about their interest to learn more about genocide. 32 out of 37 respondents expressed their interest to learn more about genocide.

8. Areas in which interested to find out more

RESPONSE	PERCENTAGE
Causes	17%
Causes, Impact	6%
Causes, Impact, Other	3%
Causes, Impact, Recovering from the Genocide	19%
Causes, Recovering from the Genocide	11%
Impact	11%
Impact, Recovering from the Genocide	11%
Other	6%
Recovering from the Genocide	14%
Other (Solutions of course to prevent and resolve such occurrences)	3%
TOTAL	100%

Sample size = 36, total sample size = 50, missing = 14

The most of respondents showed their interest to learn more about causes, impacts recovering from the genocide.

SECTION 2: KNOWLEDGE OF HUMAN RIGHTS VIOLATION DUE TO THE CRIME OF GENOCIDE: -

1. Human rights are violated during the time of genocide (structural and systematic destruction of innocent people) and afterwards

RESPONSE	PERCENTAGE
Strongly agree	62%
Agree	28%
Neutral	2%
Disagree	8%
Strongly disagree	0%
TOTAL	100%

Sample size = 50

After explaining the actual meaning of genocide in simple words, all the respondents were asked whether they were agree that genocide causes human rights violations, 45 out of 50 respondents agreed.

2. Repeatedly happening of incidents of genocide /genocidal violence are violating human rights in India

RESPONSE	PERCENTAGE
Yes	82%
No	18%
TOTAL	100%

Sample size = 50

On this question, 41 out of 50 respondents said that incidents of genocide /genocidal violence are violating human rights in India while 9 were not agreed.

3. Awarness about the impacts that genocide can have on its victims

RESPONSE	PERCENTAGE
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Yes	84%
No	16%
TOTAL	100%

Sample size = 50

42 respondents said that they were aware about the impact of genocide on victims and 9 out of 50 respondents were not aware in this regard.

4. Due to genocide, many people lose their lives and remain survived people have to leave their homes and home land

RESPONSE	PERCENTAGE
Strongly agree	66%
Agree	26%
Neutral	8%
Strongly disagree	0%
Disagree	0%
TOTAL	100%

Sample size = 50

46 out of 50 respondents were agreed that many people are killed and survivors have to leave their homes and country due to genocide.

5. Human rights means, the rights ensure life, liberty and equality; and incidents of genocide /genocidal violence are a threat to all of these rights in India:

RESPONSE	PERCENTAGE
Strongly agree	58%
Agree	30%
Neutral	10%
Disagree	2%

Strongly disagree	0%
TOTAL	100%

Sample size = 50

44 respondents were agreed that incidents of genocide/genocidal violence are a threat to human rights in India.

SECTION 3: NEED OF ANTI GENOCIDE LAW IN INDIA: -

1. There is no anti genocide law in India

RESPONSE	PERCENTAGE
Yes	66%
No	34%
TOTAL	100%

Sample size = 50

33 out of 50 respondents said there is No anti genocide law in India and 17 respondents expressed opposite opinion.

2. The provisions of existing laws which are used to deal with genocidal violence in India are insufficient to combat genocide

RESPONSE	PERCENTAGE
Yes	54%
No	46%
TOTAL	100%

Sample size = 50

27 respondents said that existing legal provisions of India are insufficient to combat genocide/genocidal violence while 23 respondents expressed opposite opinion.

3. Legal recognition, prevention and punishment of genocide in India is very important:

RESPONSE	PERCENTAGE
Strongly agree	52%
Agree	30%
Neutral	14%
Disagree	4%
Strongly disagree	0%
TOTAL	100%

Sample size = 50

41 respondents identified the importance of legal recognition, prevention and punishment of genocide in India. 7 respondents were neutral on this point while 2 respondents denied.

4. India must enact legislation against genocide to protect its citizens:

RESPONSE	PERCENTAGE
Yes	84%
No	16%
TOTAL	100%

Sample size = 50

This was the final and very important question; the entire discussion was based on this key question whether India need a separate comprehensive law against genocide to combat genocide/genocidal violence and for the protection of its citizens. 42 out of 50 respondents supported this view while 8 respondents were not agreed on this point.

CONCLUSION

On the basis of the responses, we can conclude that people even from legal profession/studies are not fully aware about the crime of genocide so the awareness against genocide need to be spread, but most of them were agreed that incidents of genocidal violence in India is a threat to human rights and such incidents are violating human rights. Existing legal provisions do not recognise

the crime of genocide so to prevent such incidents of genocidal violence; we need a separate anti genocide law. India ratified the United Nations' convention on prevention and punishment of the crime of genocide, 1948 on August 27th 1959²⁹ yet there is no law which specifically deals with genocide in India. Enacting a law for the prevention and punishment of the crime of genocide is an obligation on Indian government under article V of genocide convention which is acceded by it in August 1959. Indian constitution under article 51 (c) direct the state, "to foster respect for international law and treaty obligations" and article 253 of the constitution of India empowers the parliament "to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention".

So India should enact a law to protect from and prevent genocide because firstly, as India is a party to the genocide convention (CPPCG) and under obligation to prevent and punish genocide. Secondly, according to obligations under the convention India has a duty to enact necessary legislation as per the provisions of the convention to punish the person guilty of the genocide. Thirdly, it has a duty to establish competent tribunals to punish the perpetrators of genocide³⁰. Despite ratifying the genocide convention in 1959, India has not made any effort to enact legislation on genocide which can criminalize genocide. In absence of such law, courts of India cannot prosecute any person accused of committing genocide because genocide is not recognized by Indian law as an offence. Absence of anti-genocide law since more than six decades resulted Nellie massacre in 1983, anti-Sikh riots in 1984, Gujarat massacre in 2002³¹ and still struggling to have an adequate law to deal with such situations and bring perpetrator under legal system. These facts make it clear that it is the fault of Indian government which has not framed any law in conformity with article V of genocide convention which has been signed by India in 1948 and ratified by it in 1959. Genocide convention makes a signatory state bound to enact law at domestic level in compliance with the provisions of the convention, yet India has not done so. Although the principles of genocide convention are part of general international law and therefore, part of common law of India, they are not self-executor in the sense that they can be readily made operational within the criminal justice system of India. Genocide with its associated acts needs to be recognized in Indian legal system and punishment for it need to be prescribed and to try these offences "competent tribunal" need to be established³².

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