

NOV. 16, 2023



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# ETHNIC CLEANSING

LEGALISM, REDUNDANCY, & REALITY

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NOV. 16, 2023

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# DEFINITION

Ethnic Cleansing: can be understood as the expulsion of an "undesirable" population from a given territory due to religious or ethnic discrimination, political, strategic or ideological considerations, or a combination of these.





# ETHNIC CLEANSING

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The term surfaced in the context of the 1990's conflict in the former Yugoslavia and is considered to come from a literal translation of the Serbo-Croatian expression "etničko čišćenje". However, the precise roots of the term or who started using it and why are still uncertain.



Bosnian Ethnic Cleansing

# SOURCES OF LAW

## ROME STATUTE

Established in the International Criminal Court in Rome in July 1998. 123 states are party to the statute.

## GENOCIDE CONVENTION 1948

International treaty that criminalizes genocide and obligates state parties to enforce its criminalizes.

## UN CHARTER

The adoption of the United Nations Charter and the formation of the United Nations in 1945 became the symbol of a renewed desire by nations to construct a stable order for global peace and prosperity.





# ROME STATUTE

Article 5 of the Rome Statute is straightforward, limiting its scope to “the most serious crimes of concern to the international community as a whole” namely: a) the crime of genocide; b) crimes against humanity c) war crimes and d) the crime of aggression

The Rome Statute’s Article 6 defines genocide as it is commonly understood: killing, seriously injuring, and forcibly transferring populations, with the intent to destroy a national, ethnical, racial group, as such”

Article 7 of the Rome Statute lists the many awful crimes against humanity: murder, extermination, enslavement, imprisonment, torture, sex crimes, and other similar crimes

Article 8 of the Rome Statute describes what acts constitute war crimes as “any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: killing; torture or inhuman treatment, willfully causing great suffering, or serious injury to body or health and similar

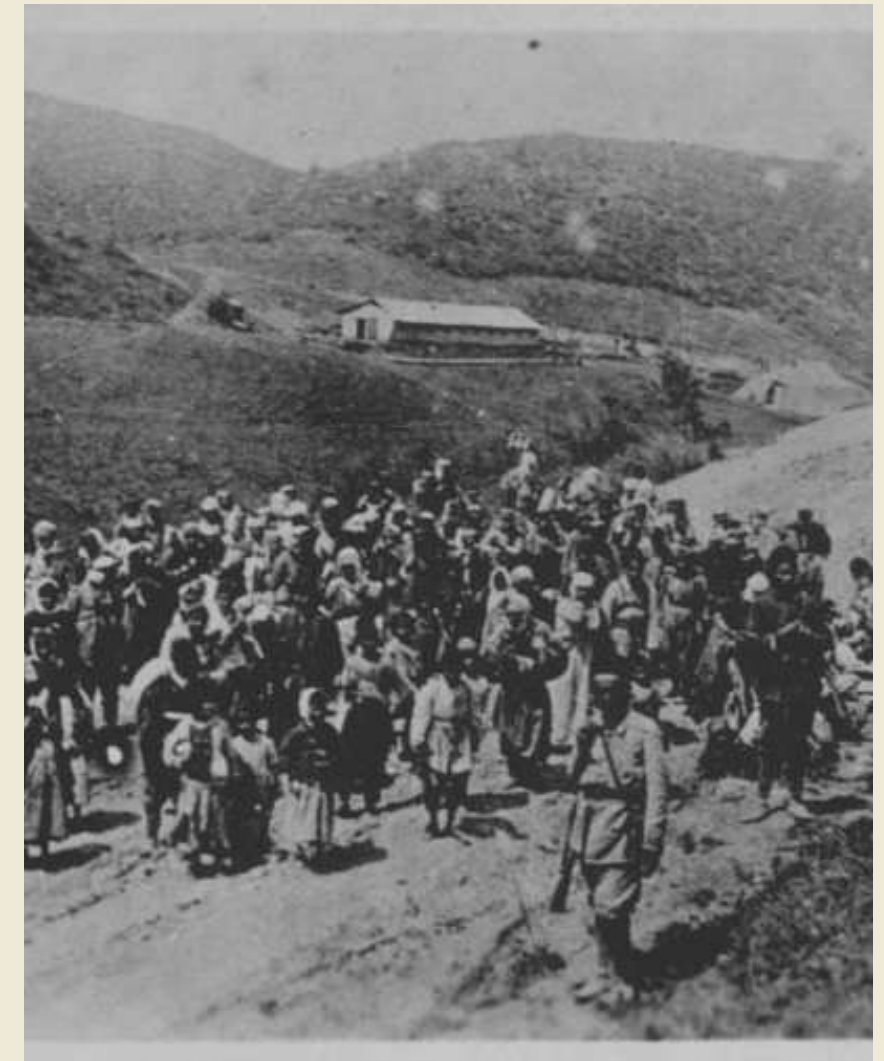




# GENOCIDE

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According to Article 6 of the Rome 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: (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



Armenians Marching to Execution  
Site



# EXAMPLES OF GENOCIDE & ETHNIC CLEANSING

## Holocaust of WWII

It combined elements of deportation, expulsion, population transfer, massacre, and genocide. The Germans also practiced cleansing through deportation alone, without immediate extermination. Altogether about six million European Jews were murdered between 1933 and 1945.

## Nagorno Karabakh

The dispute between Armenia and Azerbaijan over Nagorno-Karabakh has created a humanitarian crisis within the region. On September 19, 2023, Azerbaijan attacked Nagorno-Karabakh which forced the inhabitants of Nagorno-Karabakh to surrender to Azerbaijan's rule and also displaced 120,000 people.

## Kosovo Conflict

In 1998 violence flared as the Kosovo Liberation Army (KLA) came out in open rebellion against Serbian rule, and police and army reinforcements were sent in to crush the insurgents. In their campaign, the Serb forces heavily targeted civilians, shelling villages and forcing Kosovo Albanians to flee.

## Sudan

After nearly seven months of war, a wave of destruction has left at least half the population in need of humanitarian aid. There are continued unrelenting and appalling reports of sexual and gender-based violence and forced disappearance, arbitrary detentions and grave violations of human and children's rights.



# UKRAINE

Russian leaders, including Putin, have alleged that the United States and NATO violated pledges not to expand NATO into the former Soviet Union area. Ukraine was also in the process of preparing to apply for membership in the European Union. Russia has been working towards expanding its power and to gain control over Ukraine.

Conditions in Ukraine include, but are not limited to mass and unlawful killings, including extrajudicial killings; forced disappearances; torture, including of children; arbitrary arrest or detention; political prisoners or detainees, forced separation of families, forced deportation and adoptions of Ukraine's children to Russian families; unjust interference with privacy; punishment of family members for alleged offenses of a relative; serious abuses in a conflict, including atrocities, abductions; and serious restrictions on freedom of expression, including for members of the media.





# NAGORNO-KARABAKH

## HISTORY

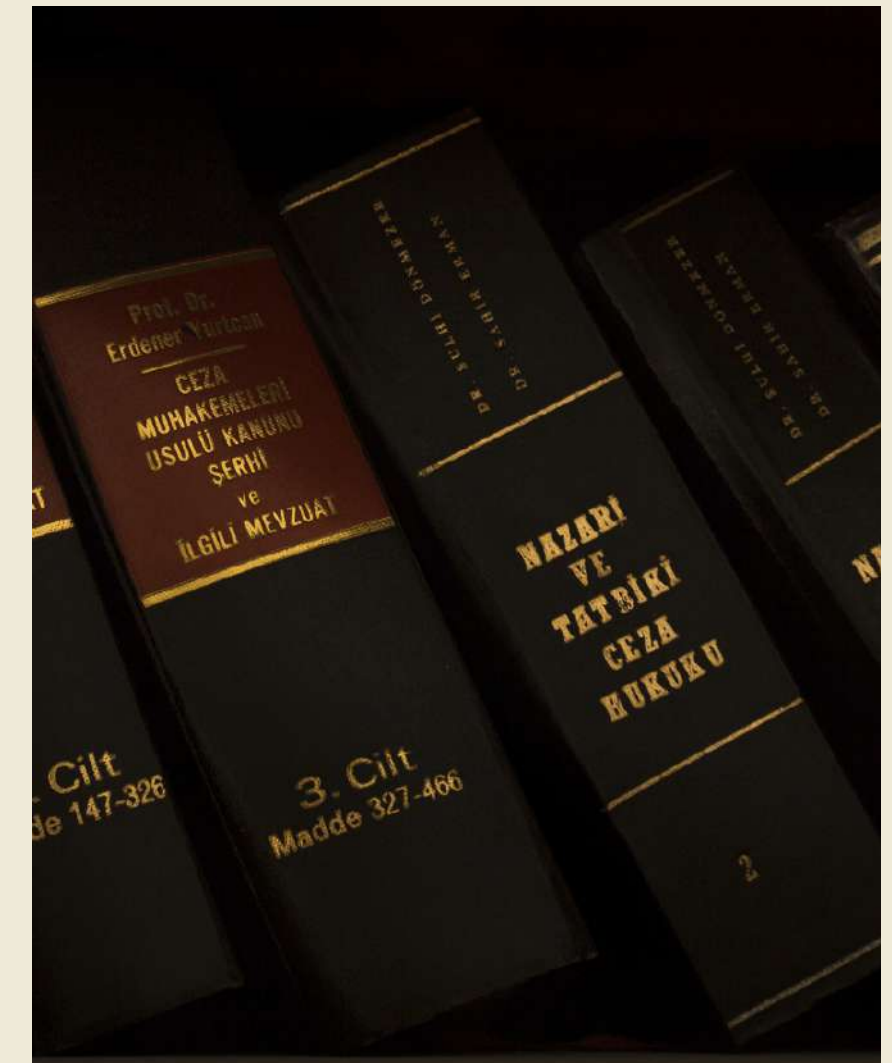
The Republic of Nagorno-Karabakh is a self-declared country whose independence is not internationally recognized. The area is located in a southwestern region of Azerbaijan, but was historically recognized as Armenian due to the Soviet Union's recognition in 1923. Nagorno-Karabakh is primarily made up of ethnic Armenians and in 1988 they began to call for the area to be recognized as Armenian. This was opposed by Azerbaijan and the Soviet Union at the time and ethnic animosity continued even after the areas separated from the Soviet Union. These tensions have led to several wars and to the recent displacement of 120,000 ethnic Armenians.



# LEGALISM

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- Legalism is defined as strict, literal, or excessive conformity to the law or to a religious or moral code the institutionalized legalism that restricts free choice
- Laws of genocide are clearly defined under the Rome Statute and the 1948 Genocide Convention
- Laws of ethnic cleansing are not as defined as genocide



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# LEGALISM

## UKRAINE

Legally, does this count as ethnic cleansing? Or  
genocide?



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# REDUNDANCY

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Why does it matter?

Is ethnic cleansing covered in the laws  
criminalizing genocide?





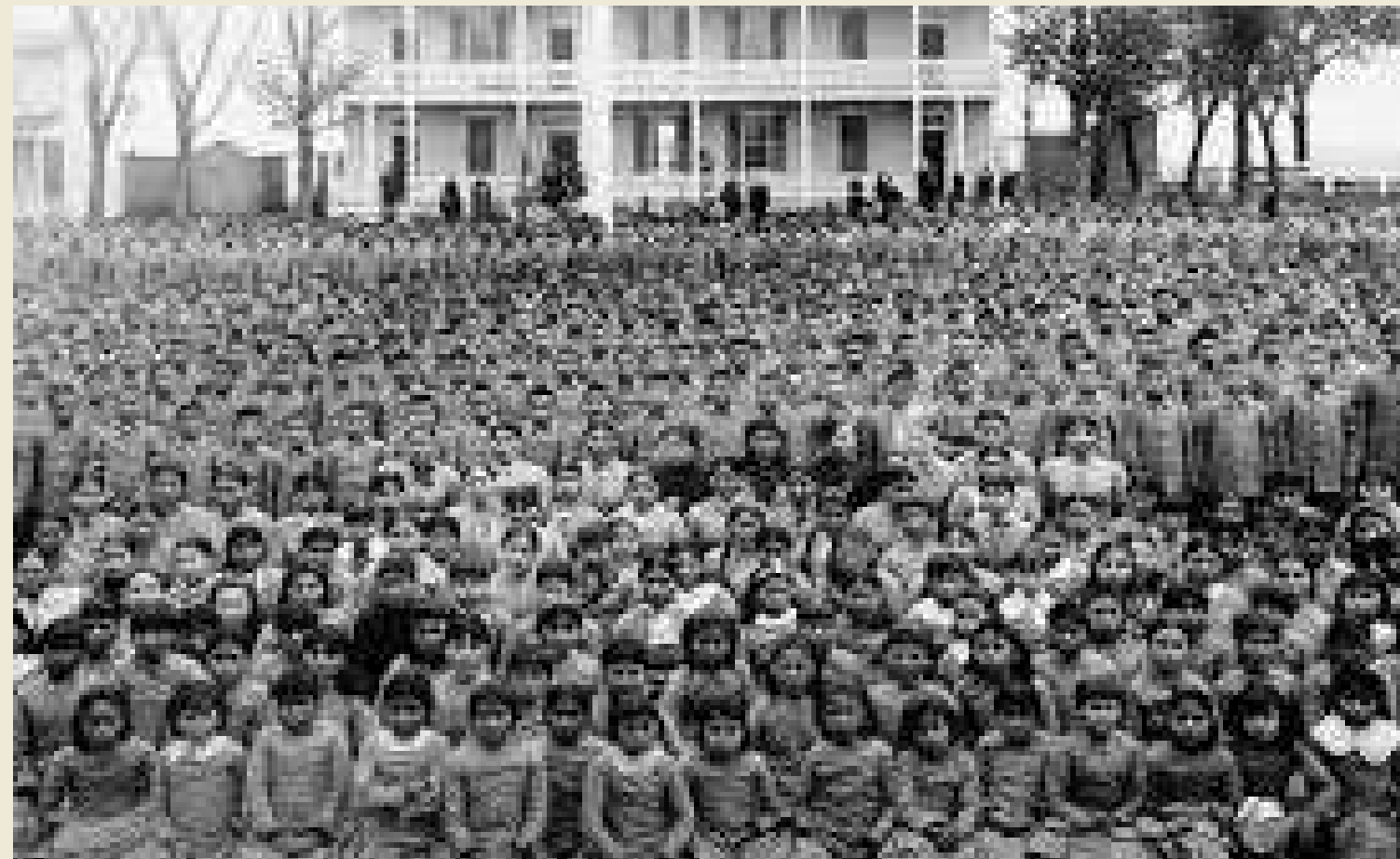
# REALITY

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Do the legal definitions of ethnic cleansing and genocide actually matter when people have a different interpretation of what they mean according to the reality?



Rohingya fleeing Burma



Assimilation of Native Americans

# EXAMPLES

## UKRAINE

Children in Ukraine being displaced by Russians and re-educated as Russian rather than Ukrainian.

## NAGORNO-KARABAKH

Is it ethnic cleansing if the government told civilians they can stay but they have to renounce citizenship and give up weapons?

September 2023 Nagorno-Karabakh was taken out in 1 day.

# PROHIBITION AGAINST GENOCIDE



International Court of Justice

## ERGA OMNES

Rule 144 of International Humanitarian Law says states may not encourage violations of international humanitarian law by parties to an armed conflict. They must exert their influence, to the degree possible, to stop violations of international humanitarian law.

## JUS COGENS NORMS

The International Court of Justice, in its opinion in *Nicaragua v. United States* relied on jus cogens as a fundamental principle of international law. Earlier, in an advisory opinion the ICJ held that the prohibition against genocide is a jus cogens norm that cannot be reserved or derogated.



NOV. 16, 2023



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# THANK YOU

Q&A TO FOLLOW

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