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Emerging Challenges for Criminology: Drawing the Margins of Crimes against Humanity

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Abstract

This paper analyses the provisions of crimes against humanity, by pooling primary and secondary sources. The history of the term is traced through antiquity and the legacy of Nuremberg, followed by an analysis of contemporary law. Further analysis deals with the elements and the enumerated acts that are currently recognized internationally as crimes against humanity. Philosophical, socio-legal and criminological aspects are discussed, followed by a critical evaluation and conclusions regarding the future of Crimes against Humanity.

Introduction

The field of international criminal law is a continuously evolving and challenging area of study. We aspire to analyze the history of one of its particularly odious core crimes, "Crimes against Humanity" (Graven, 1950). The broader notion of crimes against humanity is as old as humanity itself. However the present status has evolved mainly throughout the twentieth century, greatly influenced by the Nuremberg Trials, which tried war crimes, crimes against humanity and genocide (Barker and Grant, 2005). The latest development was the consensus in defining Crimes against Humanity during the ICC Diplomatic Conference of 1998, which can be considered as a milestone for the international community in the fight against human rights violations (Mettraux, 2002).

Crimes against humanity encompass attacks and violations on a wide range of civilian populations, which can be committed in times of peace and do not result necessarily in the physical extermination of the victims (Olmo, 2006). In contrast, the term "genocide" is narrower, and "war crimes" can only be committed during an armed conflict. Currently, the most comprehensive, though ambiguous, definition of crimes against humanity can be found in the ICC statute. The Court restricts itself to the most serious crimes of international concern, as it declares in its articles, presenting at the same time some basic maxims of the legal science including the principles of *nullum crimen*, *nulla poena sine lege*, the prohibition of *ex post facto* criminal laws and its derivative of the non-retroactive application of criminal law (Sautenet, 2002).

When regulating against crimes, Yovel (2006) suggests that the protected value is the essential humanness, which is carried by each and every person. Even though Kant and natural theorists would perceive humanness as human dignity, a crime against humanness negates the very being in the world as a human, obliterating or attempting to greatly devalue the person qua human (Allott, 2004). The crimes that could fall under international criminal law are broader than the ones

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regulated by the 5th Article of the ICC Statute, with those committing war crimes, crimes against humanity and genocide being *sui generis* criminals.

Crimes against humanity have the peculiarity also that they are mainly perceived as crimes of obedience (Paust, 2007), taking place under the explicit instructions and strategic plans of the authorities involved, or otherwise under their tolerance (Nollkaemper and van der Wilt, 2009). In the aspect of jurisdiction, the *mens rea* and the existence of a widespread attack are sufficient to distinguish crimes against humanity from ordinary crimes (Combs, 2006). These requirements upgrade some types of crimes to crimes against humanity, and not a crime prosecutable under domestic criminal law (Jackson, 2008). Thus, the expression “laws” or “principles of humanity” embodies the idea that some transcendental humanitarian principles exist beyond conventional law that are not subject to any form of violation (Ntoubandi, 2007).

In addition to the International treaties dealing with the broad notion of crimes against humanity various regional treaties have contributed to the evolution of the term (Gallant, 2008); this facilitated the process of recognizing which crimes are international, a particularly important procedure as it symbolises their recognition as *jus cogens*. The threshold is the *erga omnes* obligation of states which gives them the right to proceed against the perpetrator of these crimes (Fletcher and Ohlin, 2008).

International crimes have the abnormality that they are not examined often, and their codification process is much more difficult than in national criminal systems. Usually the interpreters of crimes against humanity have been the International Tribunals and the prosecutors during recent years (Wald, 2007). Crimes against humanity are therefore offences against humankind and injuries to humanness. Their gravity qualifies the perpetrators *hostis humani generis*, offending fundamental values not adequately defended in internal legal systems, urging international intervention (Stahn and van den Herik, 2010).

Theoretical Foundations

It is sometimes stated that the term “crimes against humanity” is based upon natural law concepts (Luban, 2004). Reports of forbidden forms of crimes date back to Herodotus, who mentioned certain conduct as prohibited in the fifth century BC. St. Augustine and St. Thomas Aquinas also set philosophical premises in order to distinguish a just from an unjust war (Bassiouni, 1999). Xenophon reports the earliest precedent for modern international criminal law when describing the process for treating the Athenian prisoners captured by the Spartan commander, Lysander (Cryer, 2005).

The very essence of “humanitas” can be traced to the landmark concept in Greek philosophy of “philanthropia” and the Roman concept of “ethos” (Bauman, 1996). Plato explored punitive theory with a focus on the purpose of punishment in works like *Gorgias*, *Protagoras* and *Nomoi* (“Laws”). The union between theory and practice was further explored by Aristotle and Theophrastus. Aristotle, for instance, proposed an international institution that would give the same amount of justice either in Rome or in Athens (Bassiouni, 1999). The philosophical approach to crime and punishment is also exemplified by Cicero, in “De Legibus” (“On the Laws”) and “De Officiis” (“On Duties”), and Seneca, in “De Clementia” (“On Clemency”) and “De Ira” (“On Anger”) (Bauman, 1996).

Early scholars include Grotius (with *De lure Belli Ac Pacis – On the Law of war and peace*) (Schabas, 2005), Vitoria, Ayala, Belli, Gentili and Vattel who, in accordance with a number of judicial decisions and opinions, make reference to concepts very similar to crimes against humanity. Vattel in 1757 characterised certain crimes as being a crime against humankind in general (Tolbert, 2008). Even though these contributions are extremely important in tracing the evolution of the term, they did not refer to the present form of crimes against humanity, but more to the philosophy underlying its notion.

The first *ad hoc* International Criminal Court was established in 1474 to judge Peter von Hagenbach for crimes committed during the siege of the town of Breisach. These proceedings have also been extensively cited in the literature as the first international criminal trial for what nowadays could be called crimes against humanity (Krambia- Kapardis, 2005). In 1649, at the trial of Charles I in England, the Solicitor General John Cooke relied on natural law and the works of Bracton to say that a King always remains under God and the law. Also, scholars have suggested the creation of an

international criminal court in the early stages of modern history, such as the proposal made by Gustav Moynier in 1872 (Cryer et al., 2007).

Many claims exist concerning the coining of the phrase “crimes against humanity.” The French revolutionary Maximilien Robespiere, for instance, described the deposed King Louis XVI as a criminal “*envers l’ humanite*” (criminal against humanity) (Shelton, 2005). Almost a century later, on September 15, 1890, a minister –George Washington Williams- wrote a letter to the US Secretary of State, characterising the actions of King Leopold of Belgium in the Congo as crimes against humanity (Boas et. al, 2008). The Unitarian minister, Theodore Parker, used the term in a flamboyant sermon rendered in his hometown of Boston in the context of abolitionist politics in 1854 (Yovel, 2006). Crimes against humanity however emerged from expressions such as “the laws of humanity”, which are traced back to the 1860s; an example is the St. Petersburg Declaration of 1868 which was proclaimed to limit the use of explosive or incendiary projectiles described as “contrary to the laws of humanity” (Robinson, 1999).

Finally, Marten’s Clause appeared in the preamble to the 1899 Hague Convention II and the 1907 Hague Convention IV and in many key international humanitarian law treaties onwards. It is considered as the earliest identifiable legal foundation for crimes against humanity. In sum the clause states that “populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience” (Cryer, 2005).

On 24 May 1915, the major winners of the World War I--Russia, French and Britain--protested against Turkey’s massacres of Armenians, as “crimes against humanity” with extended responsibility to all members of the Ottoman government (Schiff, 2008). However, this did not conclude in a judicial enforcement of crimes against humanity, due to the obstacles raised by some countries (Simon, 2007).

After World War I, the Treaty of Versailles summarized its results, with the creation of a tribunal to bring the former Emperor of Germany to trial (Lavrov, 1999). Tallat Pasha was considered to be the architect of the Armenian Genocide, and was convicted by a domestic Turkish court for acts “against humanity and civilization” (Altman and Wellman, 2009). This decision also signified the complete refusal of natural law and the domination of positivism, representing territoriality, sovereign immunity and non- interference in a foreign nation’s affairs.

The allies tried to prosecute Turkish officials, with the accusation of “deportations and massacres” against the Armenians. Turkey did not ratify the treaty of Sevres, signed on August 10, 1920, which mentioned the obligation to surrender the perpetrators of the Armenians’ persecutions, and was eventually replaced by the Treaty of Lausanne of July 24, 1923, which included amnesty for offences committed between 1914 and 1922. This decision was largely political, as the victors were worried that a possible prosecution of criminals could rebound on their states where they systematically mistreated minorities (Shelton, 2005).

The Nuremberg Charter

The atrocities committed by the Nazis during World War II were the impetus for the first formal recognition of the concept of crimes against humanity (Damgaard, 2008). During this period, odious crimes of massive intensity and scale were committed against civilians, constituting some of the worst crimes in modern history; these incidents were the impulse to further establish that certain crimes are prosecutable in the name of humanity, as they offend its extreme core.

After the end of the war, the London Conference was organised by the victorious countries of the war, these being UK, France, the Soviet Union and the US. The US delegate, Robert Jackson, proposed the title of “Crimes against humanity” for a vague category under the provisions of “atrocities, persecutions, and deportations on political, racial or religious grounds”. The conference concluded with the adoption of the Charter of the Nuremberg Tribunal on 8 August, 1945, including three categories of crimes: war crimes, crimes against peace and crimes against humanity.

The modern definition of crimes against humanity was mainly influenced by Article 6(c) of the Nuremberg Charter (Politi-Nesi, 2001). Even though the possibility of extending the jurisdiction of the court to the peace period was innovative, it demanded that these crimes are committed within a

war nexus, which greatly narrowed court's applicability. Overall, the definition given in the Nuremberg Trials is considered laconic, and the conception of these crimes has substantially evolved. The Nuremberg Charter was additionally the main basis for the definition formulated in the Tokyo Charter whereas the Control Council law No. 10 broadened the definition given by The Hague and was further adopted by the occupying powers.

Post- Nuremberg United Nations Developments

In the post-Nuremberg era, important evolutions include the creation of the ad hoc International tribunals established by the UN Security Council, specifically the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda. A vast number of treaties, resolutions and conventions have been used to clarify the term of crimes against humanity in the post-Nuremberg era. The most important of these is considered to be the 1948 Genocide Convention; it helped develop the notion of crimes against humanity through rejecting the nexus with armed conflict, previously required in the IMT Charter (deGuzman, 2000).

A development of paramount importance for the evolution of the term has been the work of the International Law Commission which first met in 1947 with the goal of preparing a draft code of offences against the peace and security of mankind (Clark, 1990). These efforts led in 1954 to the Code of Offenses against the Peace and Security of Mankind with individual responsibility deriving from the four Geneva Red Cross Conventions (1949), and the Additional Protocols I and II dealing with armed conflicts (1977). The 1991 and 1996 Draft Codes of Crimes against the Peace and Security of Mankind (Shaw, 2008) were a stepping stone for the further deliberations needed for the establishment of the permanent International Criminal Court.

ICTY

The International Criminal Tribunal for Yugoslavia was established on 25 May 1993 by the Security Council under chapter VII of the UN Charter (UN Security Council Resolution 827, 1993) after the Yugoslav war in the 1990s (Cencich, 2009). The court defined crimes against humanity in Article 5 as specific acts committed during an armed conflict and directed against any civilian. Overall, the ICTY statute was mainly influenced by the Nuremberg Charter; however, it expands the term of crimes against humanity, adding further acts of imprisonment, torture and rape in its jurisdiction.

As one might expect, confusion surrounded the reintroduction of the war nexus conflict to the definition of crimes against humanity, a convention that had largely been abandoned following the Nuremberg Charter. According to the Tribunal itself, by limiting the commission to either internal or international armed conflicts, the Council defined Article 5 more narrowly than necessary under customary international law. According to some scholars (Morris and Scharf,1995), this decision was mainly political rather than legal, deriving from the fact that the Security Council had taken jurisdiction over Yugoslavia as an armed conflict (Boas and Schabas, 2003).

A cornerstone for its legal evolution was therefore the first ICTY major judgment in October 1995—the Tadic case—which rejected the war nexus criterion on the grounds of incompatibility with customary international law (Dinstein, 2000). In this case, the line of defence was that the conflict was not international, omitting any legitimacy of prosecution, with the Appeals Chamber ruling that customary law evolved since Nuremberg stated that international armed conflict, even to no conflict at all, was not a required element. This decision later guided the drafters of the ICTR statute, with the Security Council's guidelines, and the Rome Statute explicitly to omit an armed conflict requirement, resolving permanently the issue of war nexus for establishment of a crime against humanity and broadening considerably the protection provided by this norm (Shelton, 2005). The Nuremberg charter was therefore a divergence to the custom due to jurisdictional limitations and the ICTY statute was the anomaly due to non legal issues.

ICTR

The International Criminal Tribunal for Rwanda was created one year after the ICTY to deal with the atrocities that occurred in the territory of Rwanda, leading to grave violations of human rights and potentially crimes against humanity. The definition set out by the ICTR in Article 3 of its Statute is considered to be more complete and more detailed than the ICTY. It repeats the list of acts found in the ICTY statute (Akhavan, 1996). In accordance with what had become the legal custom, there is no requirement of armed conflict. Also, attention is drawn to the clarification in Article 3 of the ICTR, which instead of using the vague standard used in the ICTY of "directed at a civilian population", it required the acts to be part of a "widespread or systematic attack".

The definition introduced in Nuremberg refers to persecutions on political, racial or religious grounds, although this was not required for murder-type crimes (Shelton, 2005). The ICTR made this additional requirement even more explicit, regulating that crimes against humanity must take place against the background of a discriminatory attack on the civilian population, which was not overtly required in the ICTY definition. Many theories attempt to explain this decision, from Theodor Meron, who claimed that it was inadvertence on the part of the Security Council, to Jordan Paust (2007), who put it in terms of politics to lay the groundwork for the permanent ICC. In addition, an explanation could be that the Rwandan government would want to raise the threshold for crimes against humanity as high as possible to exclude any offences of which they might be accused. Thus there was an attempt to distinguish crimes against humanity from ordinary crimes which are prosecuted by national courts mainly via the element of discrimination.

Therefore, a discriminatory context must exist for the act to qualify as a crime against humanity. In any other case, such as a single-minded attempt to win a military victory, the act cannot be considered as a crime against humanity. In practice, however, case law deriving from the Ad Hoc Tribunals does not set discriminatory intent as a prerequisite, as the proof of motive is difficult, and thus the lack of this element can substantially facilitate the work of the prosecutors. Overall, the Yugoslavia and Rwanda Tribunals contributed to the International Criminal Justice system through the establishment of crimes against humanity as self- standing crimes that do not need a nexus to be prosecuted. This evolution therefore led to elevating human rights violations at the level of international crimes (Sands, 2003).

ICC

The ICC was primarily established in 1998 and entered into force on 1 July 2002, with some hallmarks being the Nuremberg trials, the ICTY and the ICTR, which included elements of crimes against humanity, later incorporated in the ICC statute (Dörmann, 2004). The discussions for the establishment of a permanent ICC were set in motion in 1989 when Trinidad and Tobago requested the creation of a court that would deal with the problem of drug trafficking. The ILC drafts were followed by the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome Conference) for the drafting of the ICC statute in 1998, where 160 states, 33 international organisations and 236 non-governmental organisations participated; this eventually led to the Rome Statute of the ICC on 17 July 1998 (Shaw, 2008).

The negotiations which led to the Article 7 of the Rome Statute which refers to crimes against humanity were lengthier than anticipated, due to the lack of an extant conventional definition of crimes against humanity at the time (Sadat and Carden, 1999). Even though the term was used by the Nuremberg Charters, no global multilateral treaty was ever negotiated before the Rome Conference; at an academic level however, discussions for an International Criminal Court had been occurring since 1950 (Finch, 1952).

The ICC has jurisdiction over four categories of crimes: genocide, crimes against humanity, war crimes and aggression. The Statute of the ICC defines crimes against humanity as acts committed as part of a widespread or systematic attack directed against any civilian population. It added to the enumerated acts previously set out by the ad hoc tribunals as crimes against humanity the additional acts of enforced disappearance and apartheid. However, the acts of drug trafficking and terrorism were ultimately not included (Saddat and Carden, 1999). According to Shaw (2008), the crime of apartheid was more a symbolic decision than one of substance; also, Antonio Cassese stated that

crimes such as forced pregnancy, apartheid, enforced disappearance and the inclusion of gender and cultural grounds of discrimination were an advance of customary international law. Even though acts may constitute both war crimes and crimes against humanity, no war nexus is needed whereas discriminatory intent is required only for the crime of persecution (Cryer, 2005).

The concept of crimes against humanity evolved to acknowledge that such crimes can be committed by an organized armed group (Nollkaemper and van der Wilt, 2009), not only by a state. This definition can therefore encompass also "non-State actors" and can apply to state-like entities that exercise *de facto* control over a given territory by fulfilling the functions of government. Crimes against humanity must be seen as separate from other domestic crimes that may *prima facie* appear identical to international crimes.

Overall, the Rome Statute aims to create a world society with universal beliefs in the protection of human rights and common values in the fight against impunity. It contributed to the social process that existed before it came in force and advanced through national and international courts through exercising jurisdiction over similar crimes, having the ambitious plan of restoring the lost faith in humanity (Kirsch, 2001). The reasons for its establishment were numerous, such as the international humanitarian norms requiring a mechanism of criminal prosecution, the shock caused to humanity through odious crimes, the high established standards of international justice and the developments in the political and ideological fields (Lavrov, 1999).

However, a crucial point would be that the ICC statute will be amended fruitfully to include new crimes that are not yet considered as crimes against humanity via custom and public perception, which will be analysed in the following chapters (Rothe and Ross, 2008). The statute is considered to embody some forms of customary international law; however it does not exhaust all the sources available, with custom going beyond it (Werle, 2009). Like every international convention, the Rome Statute has some flaws even though, overall, Article 7 has set a concrete basis for international criminal prosecution and is a valuable tool in the fight against international perpetrators.

Basic Elements of Crimes against Humanity

Crimes against humanity are characterized by acts so abhorrent that shock our sense of human dignity (Kastrup, 2000). Three contextual elements are required by the ICC statute, that we will address briefly: the widespread or systematic element, the civilian population and the policy pursuance, which was not a requirement in the ad hoc tribunals (Werle, 2009). Moreover, reference will be made to the mental element of the crime, known as *mens rea*.

Widespread or Systematic

The first issue resolved was the disjunctive (widespread or systematic) or conjunctive (widespread and systematic) nature of this element. The concept of widespread has been clearly defined by the ICTR in the Akayesu case as "massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims". The concept of "systematic" may be defined as "thoroughly organised and following a regular pattern on the basis of a common policy involving substantial public or private resources" (ICTR-96-4-T). Indeed, "widespread" is a quantitative notion which refers mainly to the number of violations made, taking into account the total number of people whose rights have been restricted, weighted by the relative importance of the rights violated. In antithesis, "systematic" is a partly qualitative notion referring to acts partly designed in some plan, the execution of which would result in violations of rights. The planning element gives to the notion the nature of qualitativeness, as an objective cannot be expressed in numerical figures (Altman and Wellman, 2009).

Civilians

The word “any” before the civilian is the raison d’ ětre of crimes against humanity, protecting not only enemy nationals, but every citizen, rendering nationality irrelevant. The crime can be addressed to civilians rather than combatants, whereas the word “population” makes connection with a larger body of victims as single acts fall out of the scope of the statute (Cryer, 2005). On the other hand, the major judicial precedents and the majority of case law not only include the civilian population, but also regard it as a defining feature of crimes against humanity.

Crimes against humanity also include acts committed against civilians who were members of a resistance movement and former combatants – regardless of whether they wore a uniform or not – but who were no longer taking part in hostilities when the crimes were perpetrated (Badar, 2004). Such inaction could occur either when combatants had left the army or when they were no longer bearing arms due to injury or detention (Hwang, 1998).

Policy

The ICTY and ICTR statutes surprisingly do not include the policy provision (Aksar, 2004). The policy element ("directed") has been widely supported since Nuremberg. It is traced, for example, in cases such as Barbie and Touvier. Article 7 of the Rome Statute reflects the developments of international customary law, which do not require the policy to be necessarily the policy of a state. Accordingly article 7 (2a) takes into account "organizational" policies (Sautenet, 2002). Another important issue is that the entity behind the policy does not need to be a state but could also be an organisation exercising de facto power in a given territory.

Mens Rea

The *mens rea* for crimes against humanity has a cognitive character, with the tribunals requiring that a defendant must have actual knowledge that his act is a part of a widespread or systematic attack on a civilian population and pursuant to a plan. For instance it was deemed sufficient that Blaskic knowingly took the risk of participating in the implementation of the ideology, policy or plan (Feldstein, 2004). Relevant case studies include ICTR Prosecutor v. Kayishema and Ruzindana Judgement; ICTY prosecutor v Tadic, Judgement; ICTR Prosecutor v. Rutaganda; Kupreskic Judgement; ICTR, Prosecutor v. Musema, Judgement; ICTR, ICTY Prosecutor v. Milan Babic and Prosecutor v. Georges Ruggiu.

The mental element criterion is fulfilled when the perpetrator is only aware of the risk that an attack exists and the risk that certain circumstances of the attack render his conduct more dangerous than if the attack did not exist, or that the conduct prepares the ground for other crimes. The perpetrator need not share the purpose or goals of the overall attack. The mental requirement relates to knowledge of the content, not motive; however, all the other elements of the crime need to be proven as well (Bantekas and Nash, 2007).

Crimes Currently Considered as Crimes against Humanity

Murder has been always the first crime included in texts defining crimes against humanity, and no concerns have been expressed regarding its inclusion (McSherry et al, 2008). *Extermination* as a crime against humanity refers to acts intended to bring about the death of a large number of victims of a targeted population. *Enslavement* is considered a crime against humanity when the perpetrator exercises over another individual any or all of the powers attached to the right of ownership along with the other basic elements (Boas et. al, 2008). According to the Rome statute deportation is the forcible transfer of population, meaning the forcible movement of people from one place to another within the territorial borders of one state.

Imprisonment or other severe deprivation of liberty was the first of the enumerated acts not included in the Nuremberg or Tokyo Charters. In order for an offence to qualify as torture it is not required that a public official commits torture for a designated purpose on the basis of discrimination. The only threshold is that the accused held victims in custody or under his control and inflicted a certain amount of pain (Mc Goldrick et al, 2004). Many commentators state that the extensive list of specific *sexual offences* that can potentially constitute a crime against humanity is considered the most significant development of international criminal law in Article 7 of the Rome Statute. The *ad hoc* tribunals included only rape as a sexual offence qualifying as a crime against humanity, whereas Article 7 extended the list to include "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity" (Than and Shorts, 2003).

In order for *persecution* to qualify as a crime against humanity, the perpetrator's act or omission should be of relevant gravity to the other crimes listed in the ICC statute; the perpetrator must intend to discriminate on the basis of political, racial, or religious identity and the conduct must actually target the members of a group (Boas et. al, 2008). The *enforced disappearance* of persons is considered a novelty, as it is a crime established in the Rome Statute. The crime of *apartheid* is also a novelty found in Article 7, facilitating the prosecution of any widespread or systematic policy of apartheid. It is a typical example of a crime that was so deeply condemned in the conscience of people that its regulation became a legal necessity, which shows the influence of public perception on the transformation of law (Politi-Nesi, 2001). The final element of the current definition of crimes against humanity includes the *general catch-all provision* with the possibility to capture punishable crimes that are unforeseen or unspecified. In other circumstances, this ambiguity could allow persons guilty of a crime against humanity that is not thoroughly defined in the statute to avoid prosecution. The threshold for an act to be considered as a crime against humanity in this case is high, even though these acts must have a similar character to the other crimes against humanity.

The Way Forward Regarding Crimes against Humanity

Some crimes are so egregious that they victimise humanity as a whole, even if the perpetrators practically never reach out beyond their territory. Crimes against humanity have been characterised as a chameleon (Luban, 2004) which has the ability to adjust to the different chronological, societal and political context. It is thus crucial that its threshold remains high, otherwise the international community would be prompted to be indifferent to the various violations of human rights (Kleinig, 2008).

A construction of a criminological theory could facilitate the review of the crimes under consideration in this study in the future. We suggest that the key issue is the scale of harm caused. A concrete criminological theory could emerge that would define the crimes caused, the major issues that arise and detect the future trends. The future of the term is inter-connected with the evolution of criminology. Violations against human rights globally are occurring every moment, and an analysis of the exact motives, the scale of these attacks and methods of preventing them will bestow a completely different perspective on the study of crimes against humanity as we know them. Criminology has not yet sufficiently dealt with issues such as genocide and crimes against humanity, even though the atrocities influence a great proportion of world's population.

Detecting the trends and arguing on the scale of international harm caused is open to debate. If criminologists could invent a scale of international harm, this could instantly lead to revolutionary changes in international criminal law, the conception of crimes against humanity, the expansion of the term via customary international law and a future policy of prevention (Maier-Katkin and Maier-Katkin, 2004). What is more, the very essence of Evil is interesting, in the sense that even though humans know the Good, sometimes they act the Evil, and more importantly in a large scale or systematically. When we are referring to a crime against humanity, this implies that the social Evil has reached its limiting case and requires imminent regulation (Allott, 2004).

Aristotle examined our nature as political animals, explaining the societal reaction to any form of crime. It is therefore crucial for criminology and law to detect societal trends and act responsibly through recommendations concerning the expansion of the term. Crimes against humanity are in total thought as *delicti jus gentium*, in that their commission affects the international community at large (Ntoubandi, 2007). Moreover, academics in criminology and critical jurisprudence searched for a scientific explanation of the phenomenon of less effective international justice, stating that crimes that failed to be targeted or effectively prosecuted formulate a so-called macro-criminality. These include state and war crimes, crimes against humanity, and genocide, as well as forms of "organized crime," white-collar, and environmental crime ("criminality of the powerful") (Henkin, 1999). The philosophy underlying this hypothesis derives from the assumption that penology serves the will of powerful groups of society, naturally neglecting the less powerful, serving as an instrument of inter-society conflict, allowing the powerful to avoid criminal penalties (Kaleck et al., 2007).

Finally it is important to endorse the discipline of criminology to actively contribute to the evolution of the term in the future (Wattad, 2009). It can mainly affect the future of these crimes, and it is therefore a *sine qua non* that it will. Millions of people have died only in the last century, in grave inhumane atrocities, purposelessly as always. As Wagner (1989:890) notes, "what these victims need above all is to know that they are not alone; that we are not forgetting them, that when their voices are stifled we shall lend them ours, that while their freedom depends on ours, the quality of our freedom depends on theirs." The aspiration of this paper is therefore to open the debate for the discipline of criminology to research extensively the field of international crimes and contribute to its effective regulation and prevention.

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