

The Concept of Ethnic Cleansing: A Cautious Quest for Justice

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Abstract

There are numerous moral and legal drawbacks in using the term of ethnic cleansing instead of the term genocide. However, one may observe that the mass media, legal community, politicians, diplomats, NGOs and medical community persistently use the term ethnic cleansing. Moreover the crimes against humanity which were committed in 1990s' could be discussed and prosecuted by courtesy of that term. In addition the foregoing discussion about ethnic cleansing was essential in the establishment of International Criminal Court. Therefore, in this paper it is argued that, after the establishment of International Criminal Court, the term ethnic cleansing has lost its positive function.

Keywords: International Criminal Court, genocide, ethnic cleansing, Holocaust, humanitarian law.

1. Introduction

In this paper I intend to examine that using the term genocide instead of the term ethnic cleansing would have numerous drawbacks. Nevertheless, the lack of juridical regulations about the crime of genocide during the Cold War era will be highlighted in the paper. However in the 1990s when the humanitarian disasters widespread on a global scale, the term ethnic cleansing was began to be used in a conscious way instead of genocide to lead to a judge the persons who bear responsibility for those crimes. Nevermore, the sensitivity, which generated due to the using the concept of genocide have been exceeded; so it have been able to establish a permanent international criminal court to judge the crimes against humanity.

However, the positive function of using the concept of ethnic cleansing came to an end. After that, to insist on using the concept will only work for the centres who desire to hide the genocides. However, the concept which inherent the word of "clean" within it, has some moral problems due to it is used for human beings: There is no human being who is dirt. Although the acts described as genocide was legally defined in 1948, it is a fact that many similar crimes committed throughout the human history. The human communities identified each other as 'we' and 'others' since the first emerging, and they started actions to exterminate the 'other's'.

Especially with the start of the era of Westphalian nation-states, the concern to create a homogeneous nation in a specific region has led the national and ethnic-based massacres. The horrendous massacres have become much more systematic in the 20th century, by the help of the branches of various sciences such as medicine, anthropology, biology and chemistry to those actions. It is very difficult to determine the difference between ethnic cleansing and genocide which is a 20th century method of mass murder that insured its logistics support from the science. Ethnic cleansing is perceived as a previous stage of genocide. But its usage contains some drawbacks due to its wording, that ethnic cleansing is a humanitarian crime however the word "cleansing" contains a positive meaning. Indeed, when we consider the fact those who committed the crime of genocide used the phrases such as, 'parasite' or 'disinfection' to define the target groups; to insist on using the concept of ethnic cleansing could be built an impression of empathy for the perpetrators of genocide. However, one can observe that since the early 1990s the use of the concept of genocide instead of ethnic cleansing is much preferred. Some scholars argue that such a preference is a

result of malevolence. In this paper, rather than a deliberate intention I claim that this kind of use may cause from a cautious quest for the manifestation of justice.

In the first chapter of the paper, by defining the concept of genocide, the emergence of the term as a part of criminal law and as the necessary criteria for detection of this crime will be mentioned. In addition, the second chapter focuses on the concept of ethnic cleansing which is not a legal concept, and I will give an etymological information about the by the emergence of the concept. Moreover, in the third chapter, status of the International Criminal Court will be discussed by the help of process how the concept of ethnic cleansing substituted will be examined in order to overcome the difficulties of using the concept of genocide since the 1990s. Consequently, in the final chapter; the answer of the question will be sought that the use of the concept of ethnic cleansing is malevolence or a result of a cautious response for the manifestation of justice.

2. Genealogy of Genocide

Specifically, the term Holocaust, derived from the words ‘holocaustum’ in Latin and Greek word ‘holokaustos’. The word holos means ‘the whole’, and kaustos means ‘to burn’. As a combination of two words the word holocaust has emerged in the sense of ‘burn everything’ (Garber & Zuckerman 1989). The term is being used for defining the massacre of six million Jews, two hundred thousand Roma, two hundred thousand disabled people, Jehovah Witnesses, and homosexuals with thousands of Poles, Russians and people from various Slavic peoples, socialists and communists by the German Nazi regime from 1933 to 1945. Ulrich Herbert explains the most important cause of this terrible table as the “biologization of the social” (Zimmerer 2008).

Thus, the great ideal of the racist Nazi philosophy was first to create a tabula rasa at the fantastic great Germanic Empire country, that was ‘cleaned’ from groups who were considered as “biologically flawed”, subsequently to equip a new nation who consists strong genes on this blank sheet.. By the same token, the science of biology was chosen as an instrument to construct a new social reality. The methods such as killing in gas chambers, sterilization and euthanasia practices were the mere instruments in the hands of holocaust. In that sense, science has become a systematic slaughter instrument. When British Prime Minister Winston Churchill, described the holocaust as an untitled crime, in August 1941, Raphael Lemkin a Polish lawyer, has created the term genocide, from the combination of the words ‘genos’ means nation, race or tribe in Greek; and ‘caedere’ means ‘to kill’ in the Latin. Lemkin, defines genocide as follows in his book, 'Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress' penned in 1944: *“the destruction of a nation or of an ethnic group’ and implies the existence of a coordinated plan, aimed at total extermination, to be put into effect against individuals chosen as victims purely, simply and exclusively because they are members of the target group.”* (Stone 2005).

Besides, the term genocide was used in the engrossments of International Military Tribunal (Nuremberg) and the International Military Tribunal for the Far East (Tokyo) which were established after the WW II; not as a legal term, but as a concept that defines the alleged crimes took place. Through the definition of Lemkin, the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in order to prevent genocide. While the Nazi genocide of Jews suffering continues, the Convention adopted in UN General Assembly on 9th December 1948 with the decision of 260 A (III) and the Convention entered into force on 12th January 1951.

At the first article of the Convention, the definition of Lemkin was commented narrowly, and actually term genocide has been described as the destruction of all or part of a group due to their national, religious or racial ties. To put it another way, Lemkin defined the genocide as the acts that covers the treats of assimilation, but UN defined the concept only by its dimension of damaging of the human beings. In the second article of the Convention is to wipe out the aforementioned acts, which were appearing in cases where: killing the members of the group; severe injury to the physical or mental health of them; forcing them to live under conditions that result in the elimination of physical assets; measures to prevent births; transferring the children from the group to another group (Pazarci 2008).

Moreover, Gregory H. Stanton claims that genocide emerges of eight stages. (Stanton 1996) According to Stanton the first stage is classification. At this stage, the group targeted for genocide is defined by othering. Next, at the symbolization stage, the icy symbols are produced for the broad masses to create a consent for genocide. When it comes to dehumanization stage an image is created for the othered group which is defined as dirty and diseased people that try to poison the group which is defined as “we”. Moreover the organization stage differentiates the genocide from other crimes against humanity by its organized and systemized structure. The organized groups make hate propaganda at the polarization stage. At preparation stage the identities and destination addresses of the members of othered group are betrayed by means of disclosure is provided. Hence, the systematic acts of destruction are planned at that stage. Consequently, at the extermination stage the othered group is destructed with a great hatred. Ruthless destruction of the victims at this stage is supported by the groups which are convinced that the victims are not human beings. The last stage is denial. At this stage, new arguments are produced as the fatal actions were not a result of political decision or were not organized, they were a result of spontaneous social explosion, or they were a result of a war or a civil war.

The Holocaust in Nazi Germany during WW II, which the court decided as genocide and Srebrenica genocide that occurred during the Bosnian War seem to confirm the analyse of Stanton. In both cases the classification, symbolization, dehumanization, organization, polarization, preparation, extermination and denial processes were similarly occurred. Even the neo-Nazi groups, have continued the systematic denial the genocide over the last sixty years. Moreover, Slobodan Milosevic who was being adjudicated in the International Criminal Court with the claim of his responsibility for the Srebrenica genocide, have become absolute denial during the hearings on the genocide and dead before the judgment. Likewise, Radovan Karadzic, claimed in the court that the Srebrenica death toll was exaggerated, and DNA tests must be done for the detection of the bodies in mass graves. As one can be see in both the genocide have been identified by court, denial emerges as an important element of genocide.

In addition, the UN International Law Commission also determined that there should be two elements to exist genocide: The presence of genocidal intent (*mens rea*) and the existence of prohibited acts (*actus reus*) (Greenawalt 1999). Combining these two approaches, the existence of a political will intending to make and implementing policies for the systematic genocide, moreover the realization of these policies; and at last denial of the tragedy is needed for the existence of genocide. Examples of holocaust and the Srebrenica justify the nature of this sort.

3. Genocide and Ethnic Cleansing

The legal regulations on the crime of genocide were interrupted when the Cold War started immediately after the adoption of the Genocide Convention. The UN General Assembly adopted the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity in 1968, and it was the only arrangement about the genocide crime adopted during the Cold War. Although the term genocide was not specifically named in the name of Convention, on the text it is mentioned that the genocide crime would not become barred and the signer states subscribed to make necessary domestic law arrangements (Pazarcı 2008). Although the signatory states entered into the responsibility to prevent and punish genocide under contracts, the shortage of international criminal judiciary during the Cold War era has caused some problems on the judgement of the genocide crime.¹ The principle of non-interference became a sacred taboo in the internal relations when the ideological polarization existed during the Cold War in the international arena, that anybody was not innocent. Due to the perchance of one party of the polars to be tried and sentenced to genocide or/and war crimes, will strengthen the hand of the other party's concerns; so one would wait for the end of the Cold War for the establishment of an international tribunal on genocide. Indeed, the United States was not party to the Genocide Convention from 1948 to 1988 can be considered as a result of this concern.

¹ A general and permanent criminal court could not be established at the international level up to the adoption of the Rome Statute. (Crawford: 1995, 406)

Besides, another important issue is to identify the crime of genocide. Albeit, the Convention brought an obligation for the prosecution and the to prevent to the genocide to the signatory states, there are some problems on definition and the trial of a genocidal case occurring in the territory of a State which is not party to the Convention. One can observe that states maintain two kinds of attitudes about that issue. The first is passing decisions about an alleged genocidal case from national or federal parliaments; and the second is to assist the International Criminal Court in pending cases. The international reflections about 1915 events occurred in Ottoman Empire can be considered as an example to the first attitude. The deportation of Ottoman Armenians in 1915 recognized as a genocidal event by 20 of the nation states, as well as 41 U.S. states' parliaments. However that method can be seen unfavourable because, one state which have hostile perceptions about another state, can transform the genocide which is the most serious crime against humanity; as an instrument to sentence to the other. Besides that probability that may exist in terms of international policy, there are problems of identification the 1915 events as genocide in terms of the basic principles of law. Ulusoy noted that, in the Nuremberg trials, the accuseds were sentenced with genocide which was not a legally defined crime yet (Ulusoy 2008). Although it is a legal principle, requiring that one cannot be punished for doing something that is not prohibited by law (*nulla poena sine lege*), Nuremberg trials had been frequently discussed as a violation of this principle (Schabas 2000). Therefore, as the events of 1915, processed before the filer in 1948, would create objectionable results against the development of humanitarian law. In the third chapter of the paper the responsibility of the states to assist in the detection of the crime of genocide will be dealt with viewing the structure of International Criminal Court.

Furthermore, ethnic cleansing is a term that firstly used first at a formal document in 1993, in the seven of the UN Security Council resolutions, but political use of the term was far earlier than the formal one. Hence, UN Security Council used that term to describe the mass atrocities in the dissolution process of Yugoslavia. The term used in the political sphere, for the first time by Slobodan Milosevic in 1987, to define the violence of Kosovo Albanian separatist militants against the Serbs. (Blum *et al.* 2008) According to Blum *et al.* there might be ethical problems for the UN Security Council to use a term which contains the word "cleaning" in a legal sense to define a humanitarian crime. They claim that using the term of ethnic cleansing serves to hide the crime of genocide, which is quite difficult crime to detect. (Blum *et al.* 2008) Indeed, in the etymological sense, when one indicates a cleansing, it also means a implicit ratification of the presence of a 'mess'. The uncertain and -as alleged- euphemistical relationship between genocide and ethnic cleansing can only be explained by the highly controversial genetic racial theory of eugenics² philosophy. For this reason, in the racist rhetoric; the concepts such as purity, hygiene and cleanliness are frequently used. Indeed, in the core of racist ideologies is the idea that one group is at a lower stage than another in terms of civilization; moreover the reason of that retardation is a so-called evolutionary backwardness.

For instance, Hitler was defining the Jews by the "parasite, trouble, cancer, tumour, bacilli, blood-sucking, lice, insecticides, bedbugs, fleas and racial tuberculosis" words. (Naimark 2001) Besides, Rwandan "Hutu Radio in 1994 defined the Tutsis as "cockroaches "(inyenzi), and called the paddled militias for an "ethnic cleansing". (Blum *et al.* 2008) The political terms that the totalitarian regimes use to call the people for genocide in political terms are often reminiscent of the concepts of cleanliness and hygiene. The Nazi term "Judenrein" used to mean Germany free from Jews, (Rattansi 2007) similarly the Russian term "chischenie" used by Stalin to mean a 'clean' Russia which is "cleaned" from the people who does not believe the ideals of communism. (Blum *et al.* 2008)

On the subject of this, the ethnic cleansing term was used at the International Court of Justice judgment on Bosnia to define the massacres.³ At the judgment, ethnic cleansing is defined as a form of deportation

² "Eugenics" which means "good species" in Greek and it firstly used by the British mathematician Sir Francis Galton Best in terms of creating a healthy future generation by extracting unhealthy generations in 1883. That philosophical approach has become the basic reference for the racist ideologies (Dennis 1995)

³ International Court of Justice (26th Feb. 2007) General List No.91; "Case concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide. Bosnia and Herzegovina v. Serbia and Montenegro" Judgment.

enforcement the “others” in order to make an area ethnically homogeneous. However, it is mentioned in the decision that, due to the decision referred the genocide convention framework; it is denied that the ethnic cleansing concept was not taken within the genocide definition by result of contract negotiations. According to the judgment, deportation or displacement does not mean direct termination actions, so it cannot be addressed from the essence of a special intention to wipe out the population in that case. As can be seen, the International Court of Justice defined the ethnic cleansing as the acts of deportation or/and displacement. However, in my opinion, an extrapolation about the Srebrenica genocide, independent from displacement and/or deportation, would be an incomplete assessment. The court made a distinction between the humanitarian disasters lived in Srebrenica, and the deportation intend of Serbian government to the Bosnians during the war. Such a distinction between the crime of genocide and ethnic cleansing recur to the minds that, ethnic cleansing is used as a euphemism for genocide, just as Blum and others claimed. One can acquiesce the fact that, only the Srebrenica events accepted as a genocide within what happened in Bosnia from March 1, 1992 to December 14, 1995, and the other events are expressed by problematic terms is a prove of an euphemism of a humanitarian disaster which was watched by billions on TV to transform a political problem

4. International Criminal Court and Ethnic Cleansing

Under the stress of circumstances that, science was in service to the genocide over the WW II and historically unprecedented cruelty acts are performed systematically, a regulation was made in humanitarian law to define the genocide crime. But in fact, as stated before, after the approval of the Convention, genocide became a crime which is considered to be very difficult identification and prosecution. This is why the establishment of the International Criminal Court is a revolutionary development for the judging of the crimes against humanity. After a forty year from International Military Tribunal (Nuremberg) and the International Military Tribunal for the Far East (Tokyo) trials, application of the government of Trinidad and Tobago to the UN, about international drug trafficking, and make a call for the foundation of an international criminal court was rather in time. Due to the effects that Cold War just ended and the impact of the explosion of micro-nationalisms which are consistent with the international community, this request was accepted. Rwanda (ICTR) and Yugoslavia (ICTY) courts which were established as ad hoc level, transformed to permanent International Criminal Court. United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held at June 15 to July 17, 1998 and the International Criminal Court Statute was adopted in Rome. Statute described the Court as the independent, permanent and international judicial body of the most serious crimes of international criminal law such as genocide, crimes against humanity, war crimes and crime of aggression. (Arsanjani 1999)

Statute, Article 7 if the acts such as manslaughter, murder, enslavement, torture and rape, targeted to any civilian population in a deliberately, large-scale and systematic manner are defined as a crime against humanity. War crimes were listed in four groups under Article 8 of Statute: The first group of crimes are felonious homicide, torture, inhuman treatment and intentionally great suffering which were included the Geneva Conventions. The second group, is the crimes as deliberately attack civilians and civilian communities, rape, forced sterilization which are the acts that considered against the customary law of war. The third group contains the killings of unrelated persons, to take captive and torture to persons within non-war armed conflicts. The fourth and last group consists of plundering the settlements as a result of non-international character armed conflicts. (Aksar 2003) 111 states are It is a That constant and independent court has 111 signatory states, but highly active states in international politics such as the United States, Russia, Turkey and Israel have not still signed the Statute of Rome. Although Clinton administration signed the status of the court on December 31, 2000; but the Bush administration withdrew her signature after the 9/11 by making pretext of U.S. policy of pre-emptive strike. (Çakmak 2007)

In conclusion, there is not a concept called as ethnic cleansing within the judiciary scope of the Court. However, in the wording of some applications to the Court contains the term ethnic cleansing. For example, Georgia in 2004 appealed to the International Criminal Court asseverating that the Abkhaz government committed an ethnic cleansing against Georgians. Although there is not a crime as ethnic cleansing in the

statute of the Court, why do the states use the term in their applications? In the next chapter we will seek to answer this question.

5. Use of the Term Ethnic Cleansing as a Cautious Quest for Justice

To get back to the point, the Jewish Genocide remained as an exclusive crime until the judgment of International Court of Justice in which the massacre of Srebrenica was identified as genocide at February 26, 2007. In a period of sixty years, similar iniquitous events have been experienced in Algeria, Rwanda, Somalia, Democratic Republic of the Congo, Sudan, Karabakh, Iraq, Uganda, Central African Republic and more regions. However, the criminals of those atrocities were not fined due to the absence of a court to judge that this particular crime and perhaps because of several efforts of some groups to hold the Holocaust as a special and unique event in the history.

However, the discussion about the responsibility of international community against humanitarian disasters increased by the live broadcasts of the massacres in Bosnia. The developments in humanitarian law became easier by CNN effect⁴, that broadcasting the humanitarian disasters from TV and to provoke the international community to take action to stop those massacres. The scenes of bombing the Mostar Bridge and the market place massacre in Bosnia were embedded in memories during the war. Halabja massacre carried out by Saddam Hussein administration deeply disturbed the conscience of mankind by the photos of Turkish photographer Ramazan Ozturk.

Eventually, the UN Human Rights Commission apportioned Tadeusz Mazowiecki as a reporter in order to determine this tragedy took place in Bosnia. The ethnic cleansing term was used in a series of report called as Mazowiecki reports⁵, lodged to UN General Assembly. Mazowiecki described what he alludes by using that term which was just used by politicians and journalists before, in those reports. ethnic cleansing term was used in the reports to describe these acts: layoffs especially of public duties, to prevent the exploitation of distributed humanitarian aid, to check regularly the IDs of ethnic minorities, to make official notifications that state cannot police of those groups, to place the other groups in the region to make discriminatory and repressive legislations, to refuse to hospital, to prevent family members to travel together, cut the phone lines, force the members of those groups to work on the front lines of conflict or war, to prevent the hospital births of women of a certain ethnic group, to transfer the properties belong to that group to another group by the compulsory signatures (Petrovic 1994).

In addition, following these actions, publishing some news which create fear and hatred in the local media, harassing phone calls to the houses, to make death threats and publishing lists of persons who disclose their ethnic origins is the second stage of ethnic cleansing that was listed in the reports. Petrovic (1994) mentions the facts as, the thefts which are usually carried out by civilians, the harassments on the streets, the mass deportations carried out by the government, ill-treatments, to put in prison or concentration camps, burning and bombing of homes, destruction of cultural and religious buildings, is used to define the term ethnic cleansing.

Besides, there is a special emphasis on the rape crime in Mazowiecki reports. Even though, to use the rape as a war weapon is a well-known fact since the Trojan War; Aydelott claims that, war in Bosnia is important in terms of the rape crime as a mass and systematic weapon the first time in history. According to Aydelott (1993) if the raped women can go to another place to escape, will never want to return anymore to the place where she lived the great catastrophe. Thus, the intended deportation would take place on a voluntary basis. Thereby, even many years after the end of the war weapons will continue to open wounds. Mazowiecki also accents that the rapes intent to to make pregnant the women. Shareholder split, the victims of the enemy were forced to give birth to her child. The results of a medical research after the -war shows that one-third of rapists were the neighbours of the victims who lived together for many years (Lončar *et al.* 2006).

⁴ For CNN effect, look at: (Robinson 2000).

⁵ First Mazowiecki report: UN Doc. E/CN.4/1992/S-1/9, 28th August 1992; second Mazowiecki report: UN Doc. E/CN.4/1992/S-1/10 27th October 1992; third Mazowiecki report: UN Doc. A/47/666 and S/24809 17th November 1992; fourth, fifth, sixth and seventh Mazowiecki reports: UN Doc. E/CN.4/1993/50, 10th February 1993.

Regarding to Mazowiecki, the felonies and the insulation are located in the last stage of ethnic cleansing. Assassinations of religious and political leaders, killing the intellectuals, policemen and traders; keeping the villages and towns under siege and preventing the aid access to those areas; closing the furnaces, water stations, medical institutions, post offices, cultural, and religious buildings which supply the vital needs; or prevention of their work performed at this stage of ethnic cleansing (Petrovic 1994).

Forasmuch as all of these actions which wipe out the human life and dignity are adumbrated as ethnic cleansing, so what is the difference between ethnic cleansing and genocide? In my opinion, the answer is: There is no difference. Likewise, the International Court of Justice defined the ethnic cleansing as deportation with a narrow interpretation, but Court identified the inhuman acts as genocide which Mazowiecki identified them as ethnic cleansing. One can consider that Mazowiecki used of the concept of ethnic cleansing in Bosnia about the whole event in a form of bona fide, to create confusion in order to make able to institute a suit.

That is to say, the term of genocide was not used in the report, so the of many international actors' attempts to the negative influence on the result of the suit could be prevented before it instituted. As a result, if the concept of genocide was used in the report behalf ethnic cleansing, perhaps the suit would never be instituted in the case of Bosnia; and the case would only be strongly condemned by the commission. Indeed, the UN committees' reports about the Israel operation conducted in Gaza in the last days of 2008 and nearly a thousand people lost their lives, left on the shelves and did not exceed beyond a few sentences. However the well intentioned use of the term, knowingly or unknowingly has served the widespread use of the concept of ethnic cleansing which have problematic connotations. Blum *et al.* reconnoitred a survey about Bosnia, Rwanda, Kosovo and Darfur events related to the media, legal community, politicians, diplomats, civil society organizations and medical institutions, publications and statements, on the use of terms of genocide and ethnic cleansing. As a result of that survey they stated that the term ethnic cleansing, were used much more intense than the term genocide (Blum *et al.* 2008). Their analysis about the consequence of this research is, the reason of using the ethnic cleansing which is not legal concept behalf genocide is an effort to conceal the genocides (Blum *et al.* 2008). According to them, as well as by the invention a new type of crime, genocides would be hidden and these events would be defined as ethnic cleansing which have no legal result. Indeed, the withdrawal of Bush administration from the Rome Statute which Clinton signed is increasing the suspicions over the efforts to hide of genocide. The human dramas lived in the occupations of Iraq and Afghanistan, but they could not be the subjects of investigations for the U.S. because she is not party to the Convention. Likewise, the Israeli government's crime against the Palestinians is not subject to an appeal, but only be a controversial subject of the UN reports.

This data is also possible to interpret any other way. I connoted before that there are legal and moral drawbacks of using the term ethnic cleansing due to it contains the word cleansing. While the term is being repeated, a risk would occur that people would perceive as usual of deportation of people, their culture, history, languages and religion from their land. Therefore, there are just causes to abstain from the using the concept of ethnic cleansing. On the contrary one can claim that the use of ethnic cleansing term by media, legal community, politicians, diplomats, civil society organizations and medical institutions, publications and statements, was functional over the International Court of Justice's judgment of February 26, 2007, that whatever happened in Srebrenica was a genocide. In this way, a debatable area about the crime of genocide which was became a taboo after the International Military Tribunal (Nuremberg) and the International Military Tribunal for the Far East (Tokyo) trials judgments, has emerged. A field of argumentation free from the word genocide has been effective on the foundation of a new legal regime, far from the prejudices and deliberate manipulations. During the 1990s, without mentioning the word genocide, by the contribution of the ongoing debate over the concept of ethnic cleansing, no doubt that it is morally crippled; the road to take legal actions has been opened to the crimes mentioned before. We can infer from the passage that, the emerging conceptual objections has been counteracted when the word genocide mentioned, so the international community could started to put pressure on the states to sign the Rome Statute which was established for the punishment of those crimes.

6. Conclusion

In summation, genocide is a crime in legal literature since 1948 Convention, and it created effective results for the development of humanitarian law. Further, ethnic cleansing is not a legal concept when in fact, it was used in the literatures of media, diplomacy, and politics conversely, it legitimizes the genocide as it contains the meanings of purity, hygiene and sterilization which are etymologically rooted from eugenics. Actually, to use the term ethnic cleansing nestles some drawbacks due to it identifies as cleansing to the destruction of humans who were faced with the grave abuses of human rights. One can observe that the concept of ethnic cleansing is being used instead of the genocide in the legal documents since the 1990s, for identifying the serious human rights violations in many countries such as Bosnia, Rwanda, Kosovo and Darfur. Forasmuch as, Blum *et al.* claim that earnestly express the term is an euphemism effort to hide the genocide. In this study it is advocated that the reason of the euphemism is not rooted from malevolence, conversely it could be rooted from a cautious quest for the revelation of justice.

Actually, to use the ethnic cleansing term was preferred owing to move away the concern from the essence of the problem when a conceptual debate comes on the scene by using the term genocide. Being that the cautious approach due to serious human rights violations during the 1990s started to be discussed and International Criminal Court could be established by the impact of the awareness of the international community. By way of contrast, one can state that one should be more careful in this regard that after the court's inauguration the fact that using the term lost its function. Subsequently, one of the important issues in the field is the responsibility of civil society concerns on human rights to twist the state's arm to be signatories to the Statute of Rome. Iconoclasm of genocide taboo will support the ideal of the world in peace when the pressure of using the concept disappeared and a pressure to comply with human rights will emerge on the politicians who intend a will to commit this crime.

To conclude with, the sixty year taboo on the genocide ended since 2007; moreover from that date forward many suits could be instituted for crimes against humanity. That big step for the development of humanitarian law would force to the leaders to think again who intend to commit crimes against humanity. Eventually, ethnic cleansing fulfilled a positive function in the 1990s, conversely, functionality of concept ended by the start of the judicial power of International Criminal Court. Importunate usage this concept would only serve the impunity of the new dramas of humanity. For this reason, academics, lawyers, journalists and opinion-makers such as NGOs should think once again about the use of this concept.

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