



“Genocide”: Abuse and Misuse - By Dr. Ian Jaffe

Realizing that to prove the crime of genocide, specific intent is required alongside the actual act itself, some scholars in the field have either expanded the legal interpretation of the term or suggested alternative conceptual frameworks altogether. Dirk Moses, for one, argues that the concept of genocide should be replaced by the pursuit of ‘permanent security’ and the language of transgression by state actors, which leads to mass loss in civilian life in the pursuit of such an aim. According to Moses, while the quest for national security is legitimate, the quest for ‘permanent security’ at all costs is not. For him, Israel is guilty of the transgression of seeking permanent security, his suggested replacement concept for genocide. Avoiding the question of whether Israel has committed genocide in Gaza, Moses labels its actions an illegitimate quest for permanent security. Quoted by Mari Cohen in Jewish Currents, Moses - who has long criticized the concept of genocide for elevating the Holocaust to its central “test case,” a move he argues creates a problematic hierarchy between mass atrocities - was asked whether Israel had committed genocide. He replied:

“What’s the point of this field?... Is it, in fact, enabling the mass killing of Palestinians in the name of self-defense and genocide prevention? If that’s the case, then the field is dead—not only incoherent, but complicit in mass killing.”

Philippe Sands, an international law specialist, argues that the label given to actions that some deem genocidal is irrelevant, as the primary objective should be to stop such acts and punish the perpetrators of such crimes. Moses and Sands imply that what public opinion may interpret as genocide does not readily qualify as genocide in the legal sense of the word. Both Moses and Sands are highly critical of Israel’s actions in Gaza but fall short of labelling such actions genocide. It is this conceptual impasse in failing legally to find Israel guilty of genocide that seems to have prompted scholars like Moses and Sands to look elsewhere conceptually for relief. One path is to widen the interpretation of genocide by (a) softening the



demand for specific intent by expanding evidence of intent to any public utterances by politicians, even if they themselves were in decision-making positions to order genocide, and/or (b) expanding the definition of the act of genocide to include large-scale aerial bombings resulting in significant loss of civilian life.

Another path is to replace genocide as a concept with an existing alternative, such as crimes against humanity, or a nascent one, like permanent security, as suggested by Moses. The result would resemble that of genocide: universal condemnation and outrage in the case of permanent security on the one hand, and criminal conviction for crimes against humanity on the other.

If the International Court of Justice, currently judging South Africa's accusation of genocide against Israel, through a radical reinterpretation of the existing law, finds Israel guilty of genocide, this will change how Western democracies conduct war in the future, leading to significant shifts in military thinking worldwide. For example, concerning large-scale civilian casualties while targeting armed combatants (terrorists in this case), wars could not be conducted. Practically, this means weaker military forces would only need to embed their soldiers within civilian populations, just as Hamas has done in Gaza. While scholars like Moses lament the high legal threshold required to prove genocide, they ignore or neglect the disastrous consequences of lowering that threshold. Such a change would make sovereign nations, especially democracies, powerless against non-state enemies who show little or no regard for their own civilians. The same scholars who seem eager to see Israel found guilty of genocide are the ones who, over decades, have tried to broaden the definition of genocide to include almost anything. An extreme example of this misuse of the term is Alec Rawls's piece titled Vegetarianism is Genocide! He argues that meat-eating leads to more animals being born because they are needed for food. While this may be a relevant ethical discussion, the very use of the term genocide in this context shows how it has been misused as a vague, catch-all term. Although Rawls's example is an extreme misuse, his application of the concept to an



issue so far removed from its original meaning broadens the definition of genocide without clear boundaries, effectively making the term meaningless and obsolete.

My preferred legal alternative to the concept of genocide is “crimes against humanity”, not because I believe that Israel has committed genocide or crimes against humanity, but because this framework assigns responsibility to individuals rather than states, is more effective as a tool for preventing or punishing unwarranted harm to civilians, and may also reduce the highly politicized and corrosive misuse of the term “genocide.”

Sources:

- A. Dirk Moses, *The Problems of Genocide: Permanent Security and the Language of Transgression* (USA: Cambridge University Press, 2021).
- Mari Cohen, “Can Genocide Studies Survive a Genocide in Gaza?” *Jewish Currents* (Fall 2024), <https://jewishcurrents.org/can-genocide-studies-survive-a-genocide-in-gaza>.
- See his podcast discussion with Ezra Klein on *The Ezra Klein Show*, “When is it Genocide”, August 13, 2023, <https://www.youtube.com/watch?v=RrhByPHFYYPY>.
- Application of Convention on Prevention and Punishment of Genocide (South Africa. v. Israel), Wayback Machine, Provisional Measures, ICJ General List No 192. Accessed 7 December 2025.
- Benjamin Meiches, *The Politics of Annihilation: A Genealogy of Genocide* (USA: University of Minnesota, 2019), 252.