French Colonial Crimes and Genocide against the Algerian People Towards Legal Liability and Restitution

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Abstract:
During the years of occupation, French colonialism committed crimes against the Algerian people that had severe material and moral repercussions, some of which still exist today. These consequences are adequate to prove France's criminal and civil culpability. As a result, the perpetrators of these crimes deserve to be prosecuted in international criminal courts, and France ought to be obliged to reimburse the Algerian people for their losses, both monetarily and in kind.
This study examines French colonial crimes against the Algerian people and analyses their potential characterization as genocide under international law, with a specific focus on the dimensions of legal liability and restitution. The paper further explores the theoretical and practical pathways to establishing State liability for these historical wrongs, particularly in light of contemporary legal developments, including Algeria's domestic legislation criminalizing French colonization and demanding accountability.
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Introduction :

Killing, torture, looting, displacement, exile, starvation, and other cruel acts were among the atrocities that the Algerian people suffered throughout the colonial era. French soldiers began a systematic strategy of extermination, persecution, and brutal tyranny as soon as they arrived in Algeria, targeting every element of the country's population. The events of the Seine River in 1961 and the massacres on May 8, 1945, provide indisputable proof of these crimes.
Many governmental and non-governmental human rights organisations, public international law scholars, and even impartial observers consider the events in Algeria to be among the biggest and most horrifying human massacres of the twentieth century due to the extreme seriousness of these crimes. Some of these players have gone so far as to categorise them as some of the worst atrocities in human history.
It should be mentioned that France consistently tries to avoid taking responsibility for its violent crimes in Algeria and to avoid reopening the case. However, this file is still open both legally and politically due to its dark record of the most horrifying massacres against the Algerian people between 1830 and 1962, as well as the fact that its crimes also included environmental damage, especially the long-lasting effects of nuclear tests carried out in the Reggane region.
This article's goals are to draw attention to French colonialism's practices and the abuses it committed against the weaker members of society, to attribute to it all legal repercussions resulting from those practices, to hold those responsible for these crimes accountable, and to provide compensation for the harm they caused.

What is the legal foundation for the crimes against the Algerian people, and what are the ramifications of France's civil obligation as an occupying power, are the central questions of this article?

To answer this problematic, we relied on both an analytical approach to look at specific sections of the treaties pertaining to international humanitarian law and a historical approach to describe some of the atrocities perpetrated against the Algerian people by French colonialism.

We used a plan with two main sections to appropriately address the issue raised: the first section defines the crime of genocide and its different forms, while the second section focuses on France's international civil responsibility for the crimes committed against the Algerian people.

1. Definition and Forms of the Crime of Genocide

The horrible nature of the crimes committed during conflicts, especially the First World War, made international law experts more aware of the legal idea of crime and worked to define its boundaries. This helped bring these atrocities to the attention of the world community in international forums, opening the door for their official acknowledgement. This pattern also applies to the horrible crimes that French colonialism perpetrated in Algeria during its occupation.

Given its catastrophic effects on mankind, genocide is considered one of the most heinous crimes. As a result, professors of international law and the founding laws of international criminal tribunals have agreed to unify the recognition of genocide[1] and elevate it to the status of an international crime (Chergui, 21019; Djihed, 2009, p.12). Examining the fundamental components and differentiating traits of the crime of genocide is vital to defining its boundaries and highlighting the key aspects that separate it from other international crimes.

1.1 Definition of the Crime of Genocide (Génocide)

Regarding the exact definition of the crime of genocide, there has been theological debate. This academic argument has been fuelled by certain scholars who believe that acts of genocide include mass murder, collective liquidation, ethnic cleansing, and annihilation. To answer this issue, we will first look at the doctrinal definition of the crime of genocide and then its legal meaning.

1.1.1 The Doctrinal Definition of Genocide as a Crime

Genocide, according to Polish jurist Raphael Lemkin, is the annihilation of a country or an ethnic group. In a broader sense, he points out that genocide does not always include the direct physical annihilation of a people, unless it is combined with the murder of every person of that country Raoud, 2010, p.27).

Raphael Lemkin goes on to say that genocide is a planned strategy that is carried out via a number of distinct actions with the ultimate goal of eradicating a national group by undermining and demolishing its fundamental underpinnings.

1- Raphael Lemkin, a Polish academic, is credited with coining the term “genocide” to refer to this crime (génocide), which is a composite word made up of two parts: caedere, which means “to murder” in Latin, and genos, which means “race”, “country” or “tribe” in ancient Greek.

This strategy aims to dismantle national groups' political, social, cultural, linguistic, national, and religious institutions as well as their economic existence. It also targets the personal safety, freedom, health, dignity, and even lives of those who belong to these communities (Ouannoughi, 2018, p.233; Souleiman ,2017, p.107).

From another standpoint, Professor Barbara Harff considers that the crime of genocide "*means the organized destruction of an innocent group carried out by the bureaucratic apparatus of a given state*" (Chergui, p.21).

Professor Graven, for his part, defines the crime of genocide as "*the denial of the right of human groups to exist, which corresponds to killing as the denial of the individual's right to survival*" (Aouina, 2013, p.24).

The core of the crime of genocide, according to adviser Abdelfattah Bayoumi Hidjazi, is "*the denial of the right to existence of entire human groups, given the flagrant violation of the general conscience that it entails and the profound harm it inflicts on humanity as a whole, whether from a cultural standpoint or from any other perspective in which such groups contribute, in addition to its contravention of morality and the principles of the United Nations*" (Chergui, p.21).

Professor *Antonio Planzer*, in his book *Le crime de génocide*, defines genocide as "a violation of fundamental human rights, namely the rights infringed by the crime of genocide against humankind: the right to life, the right to physical and mental integrity, the right to personal liberty, and the right to form a family".

According to this definition, genocide—the extermination of a human group—amounts to the denial of the right to life of entire human groups, achieved through the violation of the individual's basic rights (Boudjerda, 2012, p.19).

Jurisprudence has attempted to define the concept of the crime of genocide; however, these doctrinal definitions have been criticised because they neglect to specify the various forms and manifestations of genocide as well as the constituent acts that comprise it, instead concentrating primarily on the characteristics of the targeted groups and the underlying purpose of genocide, which is the denial of the right of human groups to exist.

In contrast, international legal instruments that go beyond purely doctrinal definitions, like the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the founding statutes of international criminal courts, try to identify the specific acts that constitute genocide in addition to defining the nature of the targeted groups and the intent behind the crime.

Based on the aforementioned, the crime of genocide can be defined as "*an attempt to ethnically cleanse a group of the population or inhabitants with the intention of eliminating and completely destroying them in order to seize their land and the resources and wealth of their country*". This definition aligns with the fundamental goal of colonialism.

1.1.2 Legal Definition of the Crime of Genocide

First: The definition of the crime of genocide under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

There are 19 articles in the Convention.[1] "The contracting parties acknowledge that genocide, whether committed in time of peace or in time of war, is a crime under international law, and they undertake to prevent and punish it", according to Article 1, which makes genocide illegal (Boudjerda, p.18). Next, the Convention's Article 2 defines genocide as any of the following crimes carried out with the intention of completely or partially eradicating a national, ethnic, racial, or religious group:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately imposing on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

Consequently, this Convention is regarded as the primary legal basis for the definition of the crime of genocide.[2]

Second: Definition of the Crime of Genocide in the ICC Rome Statute

The crime of genocide is set forth in Article 6 of the Rome Statute of the International Criminal Court. For the purposes of that 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:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately imposing on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

The concept included in Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide is substantially reproduced and relied upon in Article 6 of the Rome Statute of the International Criminal Court.

1.2 French Colonialism's Commission of the Crime of Genocide and a Few Illustrative Examples

Genocide is a crime that may take many different forms, such as cultural, biological, and physical annihilation. Given its catastrophic effects on human life, physical genocide is the deadliest of them. Accordingly, this study will first address the notion of physical genocide, then proceed to examine certain crimes committed by French colonialism in Algeria that may be qualified as acts of genocide.

1- The text of the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly by resolution 260 A (III) of December 9th, 1948; following the required twenty ratifications under Article 13, the Convention entered into force on January 12th, 1951.

2- Algeria ratified the Convention on the Prevention and Punishment of the Crime of Genocide on June 11th, 1963, Official Journal of the Algerian Democratic and Popular Republic N°.66 of September 14th, 1963 and entered reservations to Articles 6, 9, and 12.

1.2.1 Actual Genocide

Toxic gases, chemical weapons, execution, burial while still alive, aerial bombardment, missiles, or any other method capable of eliminating human life are all considered forms of physical genocide. From the time French colonial soldiers arrived in Algeria until 1962, this is exactly what happened there (Nebih, 2011, p.149; Djihed, p.18).

Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and Article 6 of the Rome Statute of the International Criminal Court both refer to such crimes as "killing members of the group".

Physical genocide may also be committed using less instantly deadly techniques than outright murder, albeit these techniques may nonetheless cause death—just not always immediately or directly. They might, at the at least, seriously injure all or some group members physically (Chergui, p.148) and compromise their mental or psychological well-being.

Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and Article 6 of the Rome Statute of the International Criminal Court both define these acts as "*causing serious bodily or mental harm to members of the group*" and "*deliberately imposing on the group conditions of life calculated to bring about its physical destruction in whole or in part*".

It is more difficult to demonstrate that members of a group have suffered "*severe physical or mental injury*" than in the prior situation, when the categorisation as genocide presents comparatively few challenges. The United States declared shortly after the **1948** Convention was ratified that in order for acts of mental suffering to qualify as genocide, the harm must be permanent (Feridja, 2014, p.117).

The concept of "*severe physical or mental injury*" imposed against a group has been made clearer by international law, especially the International Criminal Tribunal for Rwanda. In accordance with Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the prosecutor of that Tribunal stated that the term "*serious*" or "*severe*" must be interpreted as referring to the harm done to the victim's physical and mental integrity; death is not a prerequisite. Instead, it could include consequences that deprive people of an effective role in society and make it impossible for them to conduct a typical social life (Feridja, p.118).

Similarly, the International Criminal Tribunal for the former Yugoslavia ruled that there is no restriction on the methods used to seriously injure a group of people physically or psychologically. Such injury may be caused, among other things, by spreading contagious illnesses, making them eat spoilt or dangerous food or medication, beating them, causing injuries that result in lifelong disability, or torturing them to the point where their mental capabilities are compromised (Chergui, p.21; Feridja, p.118).

1.2.2 A Few Instances of French Colonial Crimes Against Algerians

Given the overwhelming quantity of crimes and atrocities perpetrated against the Algerian people from the French invasion in **1830** until independence, these incidents were chosen specifically to highlight on-the-ground patterns of mass murder, collective punishment, and systemic brutality that, according to some academics, are on the verge of or constitute genocide under international law.

The Oufia tribe, which was situated on the outskirts of Dar El-Maa (Maison-Carrée), close to the Harrach valley, was ordered to be surrounded on the evening of April 6–7, 1832, by General **Durofigo** (Duke Rovigo), who was known for being one of the cruellest French generals against the Algerians. French occupation troops carried the heads of the dead on the tips of their lances following the capture and summary execution of its chief, "***Al-Rabia***", without a trial. Historians have since described this practice as a prime example of collective punishment and the eradication of an entire community.

General **Durofigo** delivered some of the loot to the Danish consul and displayed the remainder in the Bab El-Oued (Bab Azoune) market. The macabre exhibition included women's bracelets nailed to severed limbs and earrings still connected to the lopped-off ears. He gave the locals instructions to "celebrate" this crime by lighting up their stores that evening. **Twelve thousand** people were killed in the massacre, which nearly corresponds to the Oufia tribe's entire population (Boughezala, 2010, pp.10-11; Ouannoughi, p.235).

According to reports, General Changarnier said, "*The systematic raiding of the hostile tribes inhabiting between the Harrach valley and Bouira-Quek (Bouroukka/Burkikha) was the only enjoyment that I could afford myself during the winter season*" (Boughezala, p.11).

Second: The Ouled Rebbah Tribe's Burning (South of Tnes)

The Ouled Rebbah tribe was the target of a massacre that occurred on June 19th, 1845, south of Tnes. The roughly **1,000** members of the tribe, together with their animals, had escaped the brutality and difficulties of ***Colonel Pélissier***'s French army. After the tribe sought safety in one of the natural caverns, the French soldiers encircled it and set fire to the entrance for two days, which led to the group's total annihilation (Boughezala, p.11).

Third: The Beni Sbih Tribe's Burning

French troops massacred the Beni Sbih (Bni Sbeh) tribe once again in 1844. The Beni Sbih tribe, together with all of their possessions and animals, had been pushed into a cave, so French commander ***Cavaignac*** gave his forces the order to collect a lot of firewood and pile it against the entrance.

The firewood was lit in the evening, and every effort was made to ensure that no one would survive. The corpses of men, women, children, and cattle were within the locked cave (Souleiman, p.110). When the troops entered the grotto the next morning, they discovered **780** corpses—men, women, and children—torn apart and scattered all over the place. The rationale put out for this eradication effort was that "***the Algerians are a people who refuse to surrender, thus in order to control them we must ruin their economy, wipe away their farmland, and eliminate their communities***", according to thinking from the colonial past (Boughezala, p.11).

After the end of the Second World War and the victory of France and its allies, Algerians took to the streets to express their joy and their expectations of national independence, reminded by their wartime sacrifices alongside France that independence had been promised to them. However, colonial France failed to honour its commitments and instead responded to the peaceful demonstrations with widespread repression in several regions of Algeria, all under the pretext of "*restoring security and order*" (Ouennoughi, p.236).

Among other things, the colonial authorities used widespread round-ups; in Setif and the adjacent areas alone, around 10,000 individuals were detained. Fusillades were aimed against any assembly of local residents, along with crimes of rape and arson, and Arabs without the tricolour "*safe-conduct*" card supplied by the government were shot without warning. In the town of Guelma, for example, French forces simultaneously used a variety of weapons, including heavy and light weapons, while aircraft strafed the villages and protesters at low altitude, emptying their machine guns' bullets and dropping missiles against the crowds and rural settlements.

It is important to remember that the French army was not the only force responsible for the events of May 8th, 1945. In addition to regular troops, there were militias made up of European settlers who carried out both overt and covert killings concurrently with the repression carried out by the army and police, frequently working in tandem with the military, as was the case in El-Biar (Hõopolis). French authorities used foreign African auxiliary forces (Ouennoughi, p.237) in these crimes in addition to the army, police, and militias.

A parallel legal repression occurred concurrently with the military repression: any civilian suspected of violence against a European was quickly tried and found guilty, but the French court routinely ignored the atrocities carried out by the militias, no matter how serious. A total of **4,560** detainees—**3,696** from the Constantine district, **505** from the Oran district, and **359** from the Algiers district—as well as **99** death sentences—**22** of which were carried out—four life sentences, and **329** sentences of fixed-term hard labour (Sessi, 2013, p.70) were the results of the courts' punitive operations.

According to the Party of the Friends of Freedom and Liberties, these events had claimed 45,000 lives. Conversely, French reports varied from downplaying the figure to proposing a more accurate estimate. The available French documents mainly focus on alleged Algerian attacks and the losses suffered by Europeans, both in terms of people and property (Sessi, p.71), making it impossible to determine the true number of Algerian victims within this contradictory range of numbers unless the relevant classified archives are made public.

2. International Civil Liability of France for Crimes Committed against the Algerian People

Given the heinous crimes committed by French colonialism against the Algerian people, which France has repeatedly sought to deny, all these atrocities are in fact documented and recorded. Consequently, both criminal liability—entailing the prosecution of those responsible as war criminals—and international civil liability, for the purpose of redressing the damage inflicted upon the Algerian people as a result of these crimes, arise. However, in this section, the focus will be solely on the existence and contours of international civil liability. The legal basis of that liability will be explored through the doctrine of the *unlawful act* (theory of the internationally wrongful act), since French colonialism breached its international obligations, notably the failure to respect the four Geneva Conventions of 1949 and their two Additional Protocols, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and the general law of occupation, inasmuch as France was the occupying power in Algeria.

These sections trigger State-level liability, and the discussion will then turn to the legal consequences flowing from this international civil liability, including the duty to make reparation for the harm suffered by the Algerian people.

2.1 The Theory of the Unlawful Act

Following the criticisms directed against the subjective "fault-based" theory, another doctrine emerged: the objective theory, led by the jurists ***Giuseppe Anzilotti*** and ***Valery***, whose core idea is that international liability arises from the mere objective causation of a breach of international law, even in the absence of a fault on the part of the State or of any identifiable damage to a third party.

In this conception, it suffices, for the purpose of establishing liability, to attribute the unlawful act to the State; it is enough that the State be, objectively, the cause of the violation of international law for responsibility to arise, without the need to prove the State's intent or subjective will in committing the breach (Djeghloul, 2011, p.299).

2.1.1 International-law and Arab-law stances on the theory of the unlawful act

First: The Position of the International Jurisprudence

The unlawful act is defined as conduct that constitutes a violation of the rules of international law, in the sense of non-compliance with international legal norms, whether those norms stem from treaties, custom, or general principles of law. In other words, an internationally wrongful act occurs whenever a state's conduct is contrary to one of its international obligations.

The writer ***Aghou*** is cited as defining the unlawful act as "*the behaviour imputed to a State under international law, which takes the form of an act or omission that contravenes one of its international obligations*", meaning that international liability arises when the State either performs an act that breaches a positive obligation or omits to perform an act required by a negative (refraining) obligation, regardless of the lawfulness of that obligation in domestic law (Merah, 2007, p.202; Tib, 2016, p.312).

According to modern international-law doctrine, liability is triggered once a rule of international law has been breached, without awaiting the material consequences or damage caused by that breach. Moreover, the entity causing the harm must be a state organ or an agent acting on behalf of the State**, i.e.,** the responsible subject in international law is the State itself, as the international-law person to which the wrongful act is imputed.

Professors ***Bastid and Izabi***, among others, contribute classic formulations of the internationally unlawful act. ***Bastid*** defines the unlawful act as "*the mere violation by a State of an international duty, or its failure to perform an obligation imposed by the rules of international law*". In a similar vein, the writer **Izabet** holds that the unlawful act—a purely objective element—presupposes that the State commits a conduct contrary to the rules of international law.

For his part, the jurist ***Rousseau*** maintains that international liability is based on an act that can take two forms: ***first***, that the act originates from the State itself; and ***second***, that the act be unlawful *from the standpoint of international law*, regardless of whether it is regarded as lawful under domestic law.

In other words, the international-law criterion of unlawfulness is what triggers liability, and the fact that the act may be lawful in internal law does not preclude the existence of an internationally wrongful act once there is a breach of an international obligation (Maalem, 2013, p.21).

From the foregoing definitions it may be inferred that the internationally unlawful act constitutes the robust legal foundation for international responsibility, inasmuch as it denotes conduct that contravenes an obligation contained in the rules of international law. This breach may take the form of a positive act performed by the State or of a negative act (Zerara, 2011, p.85)**, i.e.,** an omission or failure to act on the part of the State or one of its organs, in a manner that amounts to a violation or infringement of an international obligation imposed on the State.

It also follows from these definitions that the act in question must be clearly attributable to the State, regardless of the form it takes, whether it is a positive act or an omission. The decisive criterion is legal attribution under international law: the State is held internationally responsible whenever the breach stems from conduct that can be imputed to it, under the conditions and modes of attribution specified in international-law doctrine and practice.

As for the question frequently raised about the necessity of *damage* for the existence of international liability, it is the jurist ***Jauffret*** who replies that damage is not a condition of responsibility. He argues that most international treaties establish a set of obligations, so that any breach of the provisions contained in those treaties suffices for international liability to arise. In his view, damage, even though it may represent a possible consequence of an internationally unlawful act, does not form one of the essential elements of that act (Merah, p.203).

In other words, the internationally unlawful act materializes as soon as an international rule is violated, and international responsibility therefore arises independently of whether the consequence in the form of damage actually occurs. This approach falls within the broader trend in international doctrine that distinguishes the *existence* of responsibility (triggered by the breach of an obligation) from the *content* of that responsibility (which normally consists in reparations once damage is proven).

Second: The Position of Arabic Jurisprudence

Professor Mohammed Hafedh Ghanim defines the internationally unlawful act as "*the State's breach of its obligations established in international law, resulting from either an act or an omission that is not permitted by international law and that impairs the rights which that law has recognized for the other subjects of international law. An international act is considered unlawful if it entails a violation of the rules of international law, regardless of the source of that obligation*" (Ledghech, 2013, p.324).

From this definition it follows that, for Arab-law scholars, the core of international liability lies in the violation of a binding international rule, whether positive or negative, and that the unlawful act arises whenever a state's conduct, or its failure to act, offends the rights of other international-law subjects. The Arabic-legal school thus closely follows the mainstream international-law doctrine that the unlawful act is the central objective basis of State liability, provided it can be attributed to the State.

Professor Mohammed al-Anani holds that the unlawful act, as an element of international liability, is "*conduct that violates legal obligations of international law*"; in other words, it consists in departing from one of the rules of international law, wherever that rule originates—whether from a treaty, from custom, or from the general principles of law endorsed by the United Nations (Ledghech, p.324).

According to this view, the core criterion of the unlawful act, as an essential constituent of international liability, lies in the breach of an international legal rule, regardless of its source. The unlawful-act framework thus becomes the central objective basis on which State responsibility is erected, provided that the conduct can be attributed to the State under international-law rules of attribution.

Professor Benameur Tounsi holds that an internationally unlawful act is "*any breach of a rule of international law, whether that rule is of customary or treaty origin*". He further emphasizes that a State cannot invoke its domestic law to escape its international responsibilities, since the characterization or determination of an act as unlawful must be made according to international law, not within the framework of private or internal law.

Professor Abou Attia articulates a comprehensive view of the elements constituting international civil liability. He defines international responsibility as "*a process of imputing an act to one of the subjects of international law, whether the law prohibits that act or not, provided that it has caused damage to another subject of international law; this gives rise to a specific international sanction, whether of a punitive or a non-punitive nature*" (Helala, 2018, p.114). In this formulation, Abou Attia underscores three key components: attribution of the act to a subject of international law, the existence of damage, and the consequent obligation to apply an appropriate international remedy or sanction.

Third: The Position of International Courts

It should be noted that a large number of international judicial decisions rely on the theory of the internationally unlawful act. A classic example is the Permanent Court of International Justice judgment of July 26th, 1927 in the *Factory at Chorzów* case (German–Polish disputes), in which the Court grounded its reasoning on the unlawfulness-of-conduct doctrine and held that "*a breach of any international obligation entails an obligation to make adequate reparation*", and that "*this duty to compensate is the automatic consequence of any failure to implement an international convention, without the need for such obligation to be expressly stipulated in the treaty itself*" (Maher, 2004, p.452), In other words, reparation is deemed to flow as a matter of course from any breach of an international obligation, even in the absence of an explicit reparations clause. Similarly, the International Court of Justice, in its *Barcelona Traction* judgment of **February 5th, 1970**, affirmed that the Kingdom of Belgium would have had the right to bring a complaint if it could have proven that one of its rights had been impaired and that there had been a violation of legal rules deriving from an international treaty or from customary international law. This reaffirms the centrality of the breach of an international rule—whatever its source—as the trigger of a state's responsibility and the consequent obligation to reparation (Zeghdoud, p.300).

Another important precedent relying on the doctrine of the unlawful act is the **1986** *Military and Paramilitary Activities in and against Nicaragua* case, in which the International Court of Justice found that the United States had breached several of its legal obligations vis-à-vis Nicaragua and therefore determined that the United States must cease and desist from all acts constituting a violation of those obligations, and that the United States owed Nicaragua an obligation to restore ("repair") all the damage caused by its unlawful conduct (Tib, p.213). These judgments collectively consolidate the unlawfulness-of-conduct theory as the core doctrinal and jurisprudential basis of international State liability.

2.2 The Effects of International Civil Liability

2.2.1 Reparation

The issue that now arises is whether France can be held accountable for the crimes it committed in Algeria, given that numerous international treaties addressing State liability for war crimes, crimes against humanity, or genocide focus on the duty to provide *reparation* rather than explicitly foreclosing or establishing criminal liability for the State itself. In many of these instruments, the primary legal consequence of a breach is cast in terms of indemnification or restoration of the injured party (Hessani, 2011, p.51), not in terms of penal sanctions against the State.

First: Monetary Compensation

Monetary compensation is one of the ways to repair the damage resulting from an internationally unlawful act. It consists in the obligation of the responsible State to pay a sum of money to the injured State as reparation for the damage incurred, provided that the amount is sufficient and appropriate to cover that loss (Guellil, 2017, p.347).

International-law codification projects, most notably the International Law Commission's Articles on State Responsibility, affirm this role of monetary compensation. In the 1996 ILC draft on the responsibility of States for internationally unlawful acts, Article **36** stipulates that "*reparation*,[1] including monetary reparation, applies when restitution *in kind* is impossible or inadequate; the Commission notes that, although restitution is the primary legal principle, it is often unavailable or inappropriate, and the function of compensation is therefore to bridge any remaining gap so as to ensure full reparation for the loss. Monetary compensation is further expressly mentioned in Article **44** of the **1996** Articles" (Guellil, p.347).

Monetary compensation and restitution in kind ("re-establishment of the status quo ante") may also be combined, since monetary compensation is used precisely in cases where restitution in kind is insufficient to fully repair the damage. This does not mean that the existence of restitution in kind extinguishes international responsibility on the part of the

1- The doctrine of monetary compensation for damages and losses caused by internationally unlawful acts is one of the oldest in international law and was initially closely linked to wars and armed conflicts, in which defeated belligerents were frequently ordered to pay a financial indemnity to the victorious party. Classic examples include the aftermath of the Napoleonic wars (1815) and the Alabama case arbitral award of 1872, where Great Britain was ordered to pay a monetary indemnity for having breached the law of neutrality and intervened on the side of one of the belligerents in the American Civil War.

State that has violated the rules of international law; rather, monetary compensation serves as an international sanction for the commission of acts that are unlawful under international law, provided that it is sufficient and appropriate to repair the harm suffered by the injured State (Maalem, p.355).

At times, serious difficulties arise in assessing the value of compensation, particularly when the armed forces of an occupying State commit acts that are classified as crimes against humanity, genocide, or war crimes, as has occurred in Iraq and continues to occur in Palestine. In such situations, it is practically impossible to quantify the scale of the losses suffered by civilians in a precise and comprehensive manner, which leads to the use of approximate or lump-sum evaluations that rarely constitute a genuinely adequate repair of the immense harm inflicted upon the civilian population (Guellil, p.348).

Jurisprudence and case-law have converged on several principles to be observed when assessing compensation (Guellil, p.349):

- The amount of compensation must be calculated in accordance with the rules of international law governing the relations between the two States party to the dispute.
- The assessment must encompass all elements necessary to erase all the consequences of the unlawful act, so that the value paid covers both direct and indirect damage flowing from the international wrongful act.
- The value of compensation must be determined as of the date it becomes due and is payable, i.e., as of the date of the harmful act; in other words, the compensation should reflect its present-value equivalent at the time of payment, taking into account inflation, increased prices, and any applicable interest.

However, an unlawful act may also cause purely moral or non-pecuniary harm. International courts long hesitated to award compensation for such immaterial damage, on the ground that it is not monetarily quantifiable.

Over time, this approach has been revised, as it has been recognized that the sum awarded is not compensation for material damage alone, but can also reflect the physical suffering, psychological trauma, and grief caused by the commission of massacres and other atrocities that lead to civilian casualties. Examples include the enduring psychological impact of the **8 May 1945** massacres on the Algerian population, and the long-term consequences of the nuclear tests carried out by France at Reggane.

In practice, the amount of compensation is often fixed by agreement between the parties, who commonly set up joint compensation commissions to determine its value and the modalities of payment. Each party submits its various claims against the other; if the parties fail to reach agreement, the matter may be referred to arbitration or to an international court, according to the dispute-settlement mechanism chosen by the parties. Since the establishment of the United Nations, the Organization has sometimes intervened to help assess or oversee the monetary compensation resulting from an internationally wrongful act (Guellil, p.349).

Ultimately, the purpose of compensation is to give effect to established international responsibility and to provide the most common means of achieving full reparation wherever it is impossible to restore the situation to the status quo ante through restitution alone.

2.2.2 Specific restitution (re-establishment of the status quo)

"Specific restitution" (or "re-establishment of the status quo") means that the State which has committed an internationally wrongful act against another State is under an obligation to return to the injured State everything it has seized—property, objects, funds, or legal or factual situations—and to restore them to their original condition prior to the harmful act (Djabbouri, 2010, p.58).

In this sense, the paradigmatic form of reparation is to resort to compensation only when specific restitution proves impossible; otherwise, the responsible State may be compelled to make restitution in kind, including the return of property looted by its armed forces, such as cultural and archaeological objects.

It is necessary to note that, on occasion, the State violating the rules of international law resorts to monetary compensation in exchange for retaining the objects it has seized, thereby establishing new legal situations as a result of its aggression and treating these seized objects as lawful spoils of war. This practice is expressly rejected by Article 5, paragraph 3, of the Definition of Aggression Resolution of 14 September 1974, which affirms that, "*from a legal standpoint, no State may acquire any gain or advantage derived from an act of aggression*" (Tib, pp.317-318).

As for the judicial stance on specific restitution (physical return of property), it has long been established that cultural property unlawfully seized during armed conflict must be restored to its rightful owner. As early as 1415, European practice began to recognize that pillage is incompatible with the law of nations, and this principle was later affirmed in national case-law. For instance, in **1816** the Canadian courts ordered the United Kingdom to return works of art belonging to the Philadelphia Museum of Art, which had been seized by British naval forces and treated as war booty (Guellil, p.317).

Similarly, in the 1962 Temple of Preah Vihear case between Thailand and Cambodia, the International Court of Justice did not confine its reparation order to requiring Thailand to cease the occupation of the temple and withdraw its armed forces from its surroundings; it further directed Thailand to return all historical and artistic objects that had been looted from the temple during the period of Thai military occupation starting in 1954 (Maalem, p.24).

In 2001, Russia and Belgium reached an agreement on the restitution of military archives that had been looted by Nazi Germany during the Second World War, with Russia agreeing to return the archives on condition that Belgium bear the costs of their preservation and transport. Another illustration of specific restitution in armed conflicts is the Agreement on Refugees and Displaced Persons annexed to the **Dayton** Accords, which recognizes that refugees and displaced persons in Bosnia-Herzegovina have the right to reclaim their property, including real estate, from which they were deprived as a result of hostile operations beginning in 1991 (Tib, p.318).

2.2.3 Satisfaction

Satisfaction constitutes one of the legal consequences flowing from the emergence of civil international responsibility. It is expressly provided for in Article 37 of the 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts and serves as a means of repairing non-material (moral) harm. Satisfaction therefore includes any measure, other than restitution in kind or monetary compensation, that the responsible

State may undertake, under international custom or by agreement between the parties, in order to repair the damage suffered by the injured State (Hessni, p.55).
There are several forms of satisfaction, including oral or written apologies. Satisfaction may be achieved through diplomatic negotiations conducted by heads of State or ministers of foreign affairs, and it may also consist in a formal declaration stating the unlawfulness of the acts imputed to the State, as occurred in the Corfu Channel case (Helali, 2018, p.121; Hessani, p.56).
A further illustration is the case of the Italian Government, which issued a formal apology to the Libyan people and undertook to provide compensation for the harm inflicted by Italian colonial rule upon the Libyan population.

Conclusion:

In conclusion, the horrific crimes committed by French colonial authorities against the Algerian people may be classified as acts of genocide, constituting a violation of the rules of international humanitarian law as well as the four Geneva Conventions and their two Additional Protocols. This, in turn, amounts to a renunciation of France's international obligations. On the basis of this study, we reach the following ***findings***:

- ✓ International doctrine has sought to define the crime of genocide, and in that context, it has held that the denial or destruction of the very right of an entire human group to exist amounts to a denial of the core rights enjoyed by the individual; this is precisely what is understood, in international legal doctrine, when the term "genocide" is applied to certain mass atrocities.
- ✓ All international customs, international legal instruments, and the constituent instruments of international criminal tribunals have recognized that the heinous crimes committed by colonial powers against the peoples placed under their control qualify as genocide, crimes against humanity, and war crimes. The examples of such atrocities committed by French colonial rule against the Algerian people, which are set out (by way of illustration and not exhaustive enumeration) in this study, accordingly fall squarely within this category.
- ✓ The heinous crimes perpetrated by French colonialism against the Algerian people entail criminal responsibility; consequently, the perpetrators of such acts must be brought before an international criminal court for trial, since these crimes are not subject to the statute of limitations. In addition, the Algerian people must be granted both monetary and in-kind compensation (restitution) in order to achieve full reparation for the harm inflicted upon them as a result of these crimes.

In order to prevent French officials complicit in the commission of these heinous crimes from escaping punishment, and in order to erase their consequences and repair the material and moral harm suffered by the Algerian people, we make the following ***recommendations***:

- ✓ Repeal the French law that glorifies French colonialism, which was adopted by French authorities on 23 February 2005.
- ✓ Call upon the Algerian authorities to request the Security Council to establish an international criminal tribunal, along the lines of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, and to enable Algeria to intervene before that tribunal as a civil party in order to prosecute French officials responsible for these crimes who are still alive.

- ✓ Require a formal apology from the French authorities, to be officially recorded with the Secretariat of the United Nations, so that future generations may be apprised of the crimes of French colonialism and so as to refute France's claims that it is a champion of the protection of human rights.
- ✓ Urge the Algerian Parliament to adopt a law criminalizing French colonialism.

References:

I. Books

Hessani, K. (2011). *Crimes of the French occupation of Algeria from the perspective of international law: A comparative study in the light of the provisions of international humanitarian law and human rights* (1st ed.). Algiers, Algeria: Dar Belkis.

Djaabouri, K. M. R. (2010). *State acts under occupation.* Alexandria, Egypt: Dar al-Jamaa al-Jadīda.

Djihed, S. (2009). *The crime of extermination of human groups between the text and its application.* Ain Melila, Algeria: Dar al-Huda.

Raoud, K. M. (2010). *The crime of genocide in international law* (1st ed.). Amman, Jordan: Dar Waill.

Abou Younes, M. (2004). *The use of force in enforcing international legitimacy.* Alexandria, Egypt: Al-Maktaba al-Misria.

Nabiha, N. A. H. (2011). *International crimes and Interpol.* Alexandria, Egypt: Mouassasat al-Maktaba al-Jamiia al-Haditha.

Zerara, L. (2011). *The rules of international responsibility in the light of the norms of public international law.* Ain El Melila, Algeria: Dar al-Houda.

II. Theses and Dissertations

Tib, B. (2016). The legal regime of state responsibility in the light of the rules of international humanitarian law (*PhD Dissertation*). University of Tlemcen, Algeria.

Zaghdoud, D. (2011). Human rights and American foreign policy after the events of 11 September 2001 (*PhD Dissertation*). University of Annaba, Algeria.

Chergui, K. (2019). The crime of genocide in the light of the statute of the International Criminal Court (*PhD Dissertation*). University of Adrar, Algeria.

Faridja, M. H. (2014). The role of the international criminal judiciary in the fight against international crimes (*PhD Dissertation*). University of Biskra, Algeria.

Merah, A. B. A. (2007). International responsibility for transboundary pollution (*PhD Dissertation*). University of Ben Youssef Ben Khedda, Algiers, Algeria.

Maalem, Y. (2013). International responsibility without damage: The case of environmental damage (*PhD Dissertation*). University of Constantine, Algeria.

Rachida, L. (2014). State sovereignty and the right of the state to engage in diplomatic representation (*PhD Dissertation*). University of Tlemcen, Algeria.

Guellil, N. (2017). State responsibility for violations of international law (*PhD Dissertation*). University of Algiers, Algeria.

Makhlouf, B. (2012). Genocide in international human rights law (*Master's Thesis).* University of Tizi-Ouzou, Algeria.

Aouine, S. (2013). The crime of genocide in international jurisprudence (*Master's Thesis*). University of Batna, Algeria.

III. Articles

Boughezala, M. N. (2010). The crimes of French colonialism in Algeria (their legal characterization and social impact). *Algerian Journal of Legal and Political Sciences*, 47(2), 7–30.

Sessi, M. F. (2013). The possibility of prosecuting France for its colonial crimes in Algeria under the rules of international criminal law. *Dafatir al-Siyyasa wa al-Qanun,* 8, 67–84.

Hadj Hela, L. (2018). International responsibility of France for the crimes committed in Algeria during the colonial occupation. *Journal of the Human Rights Era*, 5(26), 111–122.

Ouennoughii, N. (2018). Crimes of the French occupation in Algeria: Genocide as a paradigm. *Journal of the University of Algiers "Buhuth"*, 12(1), 230–244.

Souleiman, F. A. (2017). Genocide in France's colonial policy towards the Algerian people. *Kirkuk Journal of Human Sciences*, 12(3), 107–129.