



# BOFAXE

## To Cide or Not to Cide - Ecocide, What Have You Started?

### On New Crimes and Old Problems in International Law

— The destruction of civilian infrastructure in Gaza since October 2023 has recently been described as being at an "unprecedented level" ([UNCTAD Report](#), p. 9). According to the [Guardian](#), 70% of Gaza's educational infrastructure has been damaged (until December 2023); [other sources](#) speak of nine out of ten schools. Taking the concept of Genocide as a starting point, several new forms of "-cides" are currently emerging in the public discussion. Perhaps the most well-known example is [Ecocide](#), which has been much debated recently (e.g. [here](#), [here](#), [here](#), and [here](#)). Ecocide seems to have started a new wave of "-cides" that are supposed to be introduced to the world of international law. Scholars are already referring to the mass destruction of residential areas in Gaza as "[Domicide](#)" (or "[Urbicide](#)" also [here](#)) and the alleged targeted destruction of educational infrastructure in Gaza as "[Educide](#)" (or "[Scholasticide](#)"[also [here](#) and [here](#)]).

This blogpost will shed light on these newly coined terms and explore their potential effectiveness in closing protection gaps. Rather than focusing explicitly on violations in Gaza, the blogpost will evaluate the methodology of introducing new "-cides" in general and conclude that they do not necessarily elevate the level of protection. Conversely, the proposed additions arguably complicate nuanced distinctions and lead to unintended consequences.

#### What Are Domicide and Educide?

Both terms are etymology rooted in the Latin terms *caedere* (to kill) and *domus* (home) or *educatio* (upbringing/education). The notion "Domicide" (or "Urbicide") was first used in the 1990s by a group of Bosnian architects to describe the "deliberate wrecking or killing of [a] city" ([Graham](#), p. 63). This definition was refined both by [Basso](#) and, in particular, by the Special Rapporteur on adequate housing in his [report](#) published in 2022 ([A/77/190](#)). They defined Domicide as "the massive and deliberate destruction of homes in order to cause human suffering" ([A/77/190](#), para. 5). Domicide can entail physical destruction but also legal mechanisms that systematically violate housing or property rights of a specific group ([A/77/190](#), para. 9). Domicide is sometimes also used to describe social developments of gentrification ([Atkinson](#), p. 417). It is not necessarily defined as a sub-category or method of Genocide, as Domicide is supposed to protect domicile (objects) and not necessarily to prohibit the killing of a protected group ([Atkinson](#), p. 417).

Currently, the term is used in reference to the destruction of domiciles in ([here](#), [here](#), and [here](#)), although it has also been used to describe the destruction of [Aleppo](#) and [other cities](#) in Syria. The Special Rapporteur suggested including Domicide as a Crime against Humanity or even adding it as a crime on its own under the [Rome Statute](#). ([A/77/190](#) para. 77, also suggested [here](#) and [here](#)).

Educide, on the other hand, was initially mentioned in 2009 by political scientist [Baker](#) to only describe the killing of Iraqi academics and intellectuals. A legal definition of Educide was first attempted in 2022 by [Alousi](#) as "the mass destruction of a country or region's educational infrastructure because of war, invasion, conflict, terrorism, or mass killings" (p. 331). It is closely related to the term "Scholasticide" coined by Karma Nabulsi, which was defined as the "systemic destruction of Palestinian education by Israel" ([Guardian](#), 2009). It was later proposed that "Scholasticide is comprised of any of the following acts that entail systemic destruction, in whole or in part, of the educational life of a national, ethnical, racial or religious group" ([SAWP](#), p.4). The systematic structure of this definition is strongly reminiscent of the [definition of Genocide in Article II Genocide Convention](#).

#### Lack of Precision

Domicide and Educide both suffer from vagueness and legal imprecision. Regarding Domicide, [Atkinson](#), for example, differentiates the acts of "extreme" (physical) destruction and "everyday" (legal) denial of domicile as part of Domicide's criminal conduct (p. 415). According to some scholars, even natural hazards could be considered Domicide ([Atkinson](#), p. 417), even though the Special Rapporteur report limits the concept of Domicide to conflict-related devastation ([A/77/190](#), para. 6).

The academic discussion surrounding Educide has not yet been as extensive. Its current definition is legally imprecise ("destruction [...] because of war [...] and conflict" – What is the difference?). Furthermore, the link between the conflict and the destruction is unclear (What does "because" mean here? Can only the aggressor conduct Educide?). These flawed definitions make it unclear when acts of Domicide or Educide should have occurred and when they did not.

Further, neither definition of Educide, Scholasticide or Domicide mentions any form of criminal intent. At least regarding International Criminal Law (ICL), this imprecision would be unacceptable regarding the strict principle of certainty in Article 22(2) RS. And still, they are already used by [international lawyers](#).

#### Closing Protection Gaps?

Even disregarding the lack of precision for now, there arguably also is no need for the introduction of these concepts. All terms were introduced to close alleged protection gaps in international humanitarian (IHL) and criminal law ([A/77/190](#), para. 77, also [here](#) and [here](#); [Alousi](#) p. 337).



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#### Existing Legal Framework For The Protection of Civilian Objects And Schools

The destruction of civilian objects is prohibited under Articles 51(4) and 52(2) Additional Protocol 1 to the Geneva Conventions (AP1). Nevertheless, civilian objects may be destroyed if the attack aligns with the principles of proportionality and precaution (Article 57(1) AP1). Violations of these rules constitute grave breaches of IHL (Article 85(3) AP1) and therefore war crimes (Article 85(5) AP 1) Regarding non-international armed conflicts (NIACs), Common Article 3 of the Geneva Conventions as well as Article 13 Additional Protocol 2 (AP2) at least prohibit direct attacks against civilians. Furthermore, the principles of distinction, proportionality, and duty to take precautionary measures are reflected in customary international law (CIL), as is the protection of civilian objects (ICRC, Rule 7; Prosecutor v. Tadic, para. 127). Accordingly, the destruction of civilian objects as a grave breach of IHL is criminalized under Article 8(2)(b)(ii) and (ix) RS.

Schools and domiciles fall under the definition of civilian objects. Thus, as the Special Rapporteur rightly mentioned in his report, numerous international prohibitions under IHL and ICL already protect domiciles (A/77/190, para. 76 f.).

#### Do Schools Need Special Protection Under IHL?

Since children require special protection during armed conflicts (Article 77 AP1, UNSC Resolutions 2225, 2143, 2601), one could argue that schools as children's 'safe spaces' require greater protection than other civilian objects. After all, they are the place where the right to education, an enabling right to exercise other human rights and secure social participation, is exercised and guaranteed.

However, children and their right to education (e.g. maintenance of schools) are already protected under (customary) IHL (ICRC, Rule 135). Further, the goal of increasing the protection of schools can arguably be achieved without introducing the proposed new concept of Educide, e.g. by altering the proportionality test in IHL in favor of school buildings at the expense of military advantage. The Safe Schools Declaration, already signed by 119 countries, is a good starting point for that endeavor, but in order to achieve increased protection, this should also be reflected in States' military manuals.

#### No Compensation Gaps to Close

The report of the Special Rapporteur on adequate housing identified compensation gaps regarding the destruction of domiciles (A/77/190, para. 76). These ought to be filled by Domicide.

However, recent ICJ and ICC judgments show that there are no general compensation gaps concerning the destruction of domiciles. In 2022, for example, the ICJ issued compensation in the Armed Activities on the Territory of the Congo Judgement (DRC v. Uganda, Reparation Judgement 2022, p. 13). In its Judgment on the merits, the ICJ stated that Uganda had unlawfully destroyed civilian objects such as buildings and entire villages by the conduct of its armed forces (Armed Activities on the Territory of the Congo Judgement 2005, para. 345, subpara. 3). In its reparations judgment, the ICJ has later ruled that Uganda must pay compensation for these exact offenses (para. 258).

There are also court decisions on ICL violations that punish the destruction of civilian objects as war crimes. For example, Blaškić was found guilty by the ICTY in 2000 for, among other things, attacks on villages and towns (Prosecutor v. Tihomir Blaškić, Trial Judgement, 3 March 2000, Section VI- Disposition).

Newly introduced crimes like Domicide or Urbicide would thus not add to the existing scope of protection, but would face the same general issues of existing enforcement lacks (which are mainly due to a lack of jurisdiction).

#### New Crimes are not the Answer

With an ongoing tendency to more urbanized conflicts, both Educide and Domicide concern grave (human rights) risks of current and future conflicts. It is to be welcomed that the underlying rights (adequate housing, education) are assessed with a view to increase their international legal protection. Nevertheless, a certain degree of caution should be applied to the choice of wording and methodology. Genocide – the intended destruction of a protected group in whole or part – is the crime of crimes. The Holocaust, Srebrenica (para. 297), and the extermination of the Yazidis were Genocides. Are the destruction of schools and homes in conflict zones truly comparable to these? Certainly not. Whereas various forms of Genocide in ICL protect the existence of protected groups of human beings, those newly emerged "cides" are supposed to protect mere objects or underlying rights (Housing, Education), which do not automatically threaten the existence of a protected group. Sometimes, it is better not to 'crack the nut with a sledgehammer'; otherwise, we will soon end up in a world of "Culturecides", "Transportcides", "Infrastructurecides" or "Graveyardcides". With so many 'most horrible crimes of all', nuanced distinctions between grave human rights violations won't be possible anymore. This trend will weaken international law's capability to deal with these horrible scenarios in the long run.