

## Genocidal Intent while Pursuing a Military Objective:

Clarifying the Motive-Based Argument  
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### ABSTRACT

Belligerents accused of genocide frequently argue that they are engaged in the conduct of war rather than in the commission of genocide. They invoke the pursuit of a military objective in order to negate the existence of genocidal intent. Their opponents respond that such an objective merely constitutes a motive, which may coexist with genocidal intent without diminishing or displacing it. In support of this position, they rely on the well-established view that motive and intent are distinct concepts, and that motive is irrelevant to the legal characterization of genocide. Yet this motive-based argument is often conceptually imprecise. This paper seeks to introduce greater analytical clarity into the debate. It argues that motive and intent should not be understood as static concepts, and that motives may, under certain conditions, be transformed into intent through two normative processes. The first process operates at the substantive level through legislative definition, as illustrated by genocide, whose legal formulation incorporates motives into the concept of genocidal intent itself. Under this process, such motives form part of that intent, while any other motives coexisting with it remain irrelevant to the establishment of genocide—a position consistently confirmed by international jurisprudence and practice. The second process operates at the evidentiary level through the ‘only reasonable inference’ test, which is used to infer genocidal intent from a pattern of conduct. Under this test, genocidal intent cannot be established where the pattern of conduct allows for another reasonable inference. Motives may constitute such an alternative inference and may thereby preclude a finding of genocidal intent. In doing so, they become relevant to the legal determination of genocide and, consequently, lose their character as mere motives, instead requiring consideration as intent. This transformation, however, is only possible subject to strict *sine qua non* conditions, including that the motives are reasonably established, are exclusive of genocidal intent, and do not merely constitute either the contextual background in which genocide is committed or the ultimate objective pursued through the commission of genocide.

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