

Abstract - Sexual violence on women in armed conflicts - the role of the international criminal courts

The main purpose of the thesis is to analyse the role of international criminal courts notably the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. It will analyse the process of the development of the international individual criminal responsibility of the perpetrators of sexual violence on women in the course of war.

Sexual violence on women played an almost integral part of every armed conflict since the beginning of warfare. Despite this fact, the topic of sexual violence on women has been, until recently, generally ignored by politicians, historians and lawyers. The relevant treaties of the international humanitarian law also either omitted or trivialized rape and other crimes of a sexual nature. Not until the worst atrocities were committed in the armed conflict in the former Yugoslavia and Rwanda at the beginning of the nineties was the sexual violence recognized as a serious crime which causes great suffering to victims, both physically and mentally, and has to be properly investigated and prosecuted. In respect of the fact, that sexual violence has, in the last decades, become a particularly effective weapon of war rather than a random by-product of war, the international criminal courts have begun to prosecute sexual violence as a crime under international law, i.e. war crimes, crimes against humanity or genocide.

As regards the previous lack of attention to international law dealing with the issue of sexual violence, both ad hoc international criminal tribunals had an open space for identification and interpretation of customary international law referred to as sexual violence. Thus, the case law of both ad hoc tribunals contributed significantly to the development of the both substantive and procedural regulations of international criminal law, including the issue of sexual violence. Furthermore, the case law of the tribunals indisputably influenced the Rome Statute of the International Criminal Court in which rape and other forms of sexual violence are incorporated within gender specific provision.