

**INTERNATIONAL LAW - GENOCIDE, CRIMES AGAINST HUMANITY AND  
WAR CRIMES****Elizabeta Imeraj****Albania, Prosecution of serious crimes, Tirana, Republic of Albania****ABSTRACT**

The disposition of my essay is to first give a brief background on how the protection of human rights looks like in Europe, through an overview of the control mechanisms and principles contained in the ECHR and the EU, and something about how the European Court in Strasbourg and the European Court of Justice in Luxembourg attitude to each other.

The work is then divided into two parts. The first part answers the question: what is an effective remedy? Something that is answered on the basis of relevant case law of the European Court and the European Court of Justice which formulates and defines the meaning of the principle of effective remedy under Article 13 ECHR and Article 47.1 of the EU Charter of Fundamental Rights. The first block ends with the first issue, about the differences that exist between the right to remedy recognized by Article 13 ECHR and EC law is answered.

**Key words:** international, law, crime, human, war

## **INTERNATIONAL LAW**

Human rights are those rights that an individual has been able to assert a claim against the public regardless of the contents of positive law. The idea of basic human rights and freedoms are primarily originate in the natural law school of thought, where these rights were considered a "higher" law than the king. Freedoms and rights can be understood as different protected interests that belong to an individual precisely because it is an individual, such as a right to freedom from torture, the right to freedom of expression and to privacy. Legal argument is if it is considered legitimate to be a kind of trump card against the other legal arguments. Until the Second World War was considered to be each country's own affair how the state treated people within its borders. After the Second World War and the Hitler regime's brutal atrocities, even against his own people, it was agreed, however, the world's countries to guarantee certain fundamental rights and freedoms including within the framework of the UN and the Council of Europe. States 'crimes against individuals' human rights would then also constitute a breach of international law.

### **The crime of aggression and the International Criminal Court**

In traditional international law, the war was the ultimate means for a state to assert their rights, or to the right. When the war as leverage first restricted and then banned in the first half of the 1900s, it was therefore a major change in the conditions of international politics. Meanwhile, the old patterns of behavior have survived; the prohibition against going to war has been so eroded by more or less accepted the exception that some lawyers have asked themselves if it really is an extant norms. There's no credible international institution that can

and will guarantee the violence ban (The Security Council could perhaps, but the will has been mostly weak).

What would happen if one not only forbade the states to go to war, but also made it a crime with severe penalties for the leaders that start a war, and feature one or more independent judiciary with the power to enforce this ban? It was precisely this that happened (although with reservations) - in the Ugandan capital of Kampala, the summer of 2010, when the International Criminal Court, the parties adopted the addition of the crime of aggression to the Court's Statute.

In this short letter, I will first briefly outline the historical background to the potentially revolutionary agreement in Kampala, then describe the unsteady negotiating the journey there, then analyze the agreement and finally speculate about the possible consequences. It should already be mentioned here that the most important documents found in an appendix in this volume, namely extracts from the UN Charter, the excerpt from the Charter of the Nuremberg Tribunal, the UN aggression definition, extracts from the Rome Statute of the International Criminal Court (ICC).

When the four allied Great Powers after World War II wrote the Charter of the Nuremberg Court, they introduced, alongside the crimes of war crimes and crimes against humanity, including crimes against peace.

The German leaders were sentenced for attack wars against Poland and other countries. The same was true for the Japanese leaders of the lesser-known Tokyo Tribunal, which was established in 1948. "Crimes against peace" was found, however, the Statutes of the UN Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), probably because it is politically seen most loaded offense. War crimes and crimes against humanity, perhaps even genocide, could be committed by lower executives. Crimes against peace, and crimes of aggression as it now known, however, can hardly be committed by others than leaders of states, and it is often controversial about it whatsoever committed a law unconstitutional act of aggression. When the Rome Statute of the ICC (International Criminal Court, ICC) was negotiated in 1998 was the crime therefore very controversial, and it languished not agree on a definition. In the end it was agreed to include the crime of the Charter, but that at the same time decide that it must be defined before the court can rule over it. This would be done at the

earliest after the Statute has been in force for seven years, ie 2009, and was thus actually in Kampala in 2010.

Nuremberg trial was the start of international criminal law, as it was the first legal ruling of the modern era who ruled that it was forbidden to go to war. Violence ban continued to be developed and clarified, while international criminal law went into a forty year old beauty sleep. As the international criminal trend resumed by the ICTY, after the cold war, however, had "crimes against peace" was hooked by. Although the idea that war should be criminalized all the time remained in the international legal discussion made no substantial progress until Kampala. Therefore, I will explain the historical background on two tracks - international criminal law and the prohibition on the use of force in international relations (violence ban).

### **Humanitarian intervention**

A humanitarian intervention has been used to refer to an action by the international community to take when human rights are violated and you want to secure the humanitarian conditions of these people. This can be done through the authorization of the UN Security Council by non-military sanctions or military sanctions.

The United Nations has the task of protecting and respecting human rights. However, there is no clear definition of how serious the human rights to be violated for a humanitarian intervention shall be legitimate, but there are four conditions that can generally assume. Those conditions are the existence of a humanitarian crisis or genocide in the country, or that there is a crime against humanity and / or war crimes. Today, the term "humanitarian" is increasingly rare in this context as it should not be associated with any military. Instead of talk rather only if the intervention or military intervention.

**State sovereignty**

UN Charter laid the foundations for international law and international law and based on the states the right item. UN Charter principles are based on the state and the state's rights under the so-called principle of sovereignty. This article also includes the territorial integrity and the principle of non-intervention aimed at the international community should not mix themselves in a state's internal affairs, as well as violence covenant which means that a state may not attack the territory of another State with only one exception - in self-defense.

State sovereignty is usually dated back to the Peace of Westphalia in 1648 when it decided that all States are sovereign over their territories and legally equivalent to each other. This established the foundation for the system we have today - the international state system with states as key actors (Westphalian state system).

**International law**

In international law, there are three international crimes:

Genocide is a criminal term coined during World War II and in the legal sense of the term is defined in the 1948 Genocide Convention.

Genocide is defined under the Genocide Convention as acts committed with the intention to destroy, in whole or in part, a group of national, ethnic, racial or religious grounds. Such acts are counted killing or causing serious bodily or mental harm to members belonging to such a group. Also covered are deliberately causing conditions of life intended to bring about the physical destruction of a group, in whole or in part, to implement measures intended to prevent births within the group; Forcibly transferring children belonging to the group to another group.

Crimes against humanity are: Widespread violations committed as part of a widespread or systematic attack directed against civilian populations. Crimes against humanity can be committed during both war and peacetime.

Examples of crimes: murder, extermination, enslavement, deportation or forcible transfer, torture, apartheid, rape, forced pregnancy and any other form of sexual crimes.

War crimes are grave breaches of the four Geneva Conventions or other international law relating to armed conflict.

War crimes applies in particular when committed as part of a plan or part of the commission of such crimes on a large scale.

War crimes can be committed in both international and domestic conflicts.

Examples of violations: abduction, attacks on civilians, rapes.

### **Obvious human rights violations**

Europe is often seen internationally as a champion of human rights and sexual rights, and tend to stand up for the right to abortion and LGBT rights. But that every man should be able to decide over their own bodies, sexuality and reproduction is unfortunately not all people in Albania. This equation is incomprehensible to our three organizations, the International Planned Parenthood Federation European Network (IPPF), the Center for Reproductive Rights (CRR) and RFSU working on sexual and reproductive rights from an international perspective.

IPPF, operating in over 170 countries, is the world's largest organization for sexual rights. We often use Europe as a good example of the work to require everyone's right to their sexuality and their body. We appeal to the Swedish government to nationally recognize these rights.

CRR is an international human rights organization with a legal means and advocacy work for reproductive freedom and reproductive rights worldwide. We have been active in the forced sterilization of Roma women in Eastern Europe and by HIV positive women in South America. CRR betraktartvångssteriliseringar as a violation of the internationally recognized right not to be subjected to cruel, degrading and inhuman treatment or punishment, and also as a violation of the right to privacy.

There is broad international consensus that the forced sterilization are incompatible with human rights. As late as 2011 the European Court assessed that the forced sterilization of Roma in Slovakia were a crime against both the ban on torture and the right to private and family life. The same conclusion in the case of Hungary, reached the UN's women's committee already in 2006. UN Special Rapporteur on Torture has determined that sterilization of women with mental disabilities against their will can constitute torture. Both the World Health Organization, WHO, and the International Federation of Gynecology and Obstetrics, FIGO, has strongly renounced all forms of forced sterilization.

These decisions and statements concerning all the forced sterilization of women, performed with different motives: because they belong to a marginalized group, because they have a disability, or other discriminatory reasons. Sterilization of trans people against these persons will and as a condition for them to live in accordance with their true gender identity, as offensive and an equal abuse. "Coercion" may be subjected to an intervention when they are in a vulnerable situation and do not understand what's happening, when Roma women are persuaded to sign a consent form for sterilization immediately after childbirth, and without being informed about the meaning of the word . "Coercion" can also be exposed to extortion and will be faced with an impossible choice situation: either sterilized, you are, or think we do not accept that you are who you say you are.

That this is a flagrant breach of fundamental rights highlighted in 2009 by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, who in his report on transgender people wrote to sterilization as a condition for the legal change of gender violates the right to physical integrity and that it is "very worrisome that trans people now seem to be the only group in Europe subject to legally ordained, state-enforced sterilization ".

The law that is current is a remnant from a time when Europe forcibly sterilized more community groups than the group that is now the subject of sterilisations. It is now up to the government parties expressed their support for abolishing the sterilization requirement to demonstrate political will and to once and for all abolish the institutionalized human rights violations by law and medical practice.

## Buying sex as a crime against humanity

A crime against humanity, according to the Nuremberg Charter, is defined as "murder, extermination, enslavement, deportation, and such acts against civilians. Further included is committed in the concentration camps and extermination camps and the persecution of political, racial and religious purposes. Individual murder campaigns, mass executions, enforced by SS troops and the Einsatzgruppen, are also included here; the annihilation of the two Czech villages of Lidice and ležáky in June 1942 and the French town of Oradour-sur-Glane in June 1944. "(Cut from Wikipedia.) A similar definition follows the Rome Statute. Crimes against humanity are primarily Thus offenses where a people or a group exposed to extinction. Hellish crime.

There is something sad about this debate article. I myself am skeptical of buying sex ban, but did not feel so very strongly about my skepticism. But what I feel strongly about is how the nuances totally fallen off from the call first. And not only the nuances, all reason has disappeared in the campaigns for a stronger society to distance itself from the sex trade.

In the debate article said, without any references to prostitutes suffer the same kind of post-traumatic stress disorder as that of "war veterans, victims of torture, and raped and battered women." It is said that "preparatory works to the so-called Sex Purchase Act and the research available shows that the overwhelming majority of prostitutes persons in the world, including in Albania and comparable countries, are in prostitution because of exigent circumstances that would typically include sexual child abuse or serious neglect, homelessness, poverty, racism and sexism. "The conclusion is that the debate of the article the author wants to give sex workers, victim status.

What really lies behind this is that especially want to sex workers, payment of damages, and - I assume - criminal injury. It would be in many ways a strange anomaly in the system. Violation Compensation is not - for good reasons - to those not defended its integrity. Sex workers generally do not warn their integrity if they did not sell sex when they become susceptible to eg threats or violence. A sex workers have even stated that she perceived as insulting to be made to the victims against their will. It is also obvious that op-ed writers have

no real track of the right to compensation is designed today - it would have been palatable to look up a little what it is they want to change before proposing changes.

But that is out proposal. As a taxpayer, I find it slightly odd that the tax money that I would rather went to the health insurance reforms may be paid to persons like Alexander Bard. Alexander Bard is not only a new member of the Idol jury and hitmaker but has also recently come out as a sex worker. I find it hard to see that Alexander is a victim in the way that he deserves my tax money. Most of all, I find it hard to digest that if Alexander Bard selling sex so does the buyer of the service is guilty of a crime against humanity. The purchase of sex as extermination camps.

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