WIDE ANGLE

MASS RAPE AS A WEAPON OF WAR: FROM "NECESSARY" OCCURRENCE TO INTERNATIONAL CRIME

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Cover picture: Installation entitled "Thinking of you" by Kosovar artist **Alketa Xhafa-Mripa** showing thousands of items of clothing hanging out to dry in the Pristina stadium in order to give a sense of the magnitude of the phenomenon of sexual violence as a weapon of war during the conflict in former Yugoslavia.
Photo credit: VALDRIN XHEMA/EPA
http://mashable.com/2015/06/13/kosovo-sexual-violence-art-installation/#LxX3PvMyKOqr

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Historically, since ancient times, sexual abuse has been a constant and terrible reality in all aspects of war. However, the international community only began to clearly condemn such criminal behaviour at the start of the second half of the 20th century by virtue of international law recognising, as one of its essential principles, the inviolability of some human values.
This document recounts the essential stages of the judicial and regulatory development of systems of repression and – more recently – prevention of these crimes.
While the first attempts to condemn war crimes involving sexual violence were recorded in The Hague Convention of 1907, the international courts established after World War II were substantially silent on these crimes. Only with new statutes passed by the International Criminal Court, were such criminal cases – such as that which recently led to the conviction of Jean-Pierre Bemba Gombo by the ICC – formally recognised.
Within this overview, it is also worth highlighting the key contributions that ad hoc Tribunals made to achieve concrete punishment for sexual abuse during conflict.
Thanks to the work of such judicial bodies, the narrower concept of "gender violence" has been superseded so that sexual violence as a true "weapon" of war closely linked to crimes of genocide and ethnic cleansing has come to be fully recognised.
Finally, it is important to acknowledge some of the most important UN decisions and resolutions on the subject.
Much has been done and still much more must be done – above all with regards to putting in place specific means of prevention. However, thanks to a complex jurisprudential and regulatory trajectory, and also to a greater social awareness and a more widespread respect of gender issues– we have moved from the early signs of disapproval of such conduct and have now arrived at decisive international actions to suppress the phenomenon.

Keywords: sexual abuses; war crimes; genocide; ICC; Bemba; human rights

Summary

Introduction

In recent years, the issue of preventing and punishing sexual abuses carried out in war situations has been the subject of intense debate thanks to growing awareness amongst the public and in the press about protecting human rights in general and upholding the rights of more vulnerable categories in particular, especially those of women and children. Starting from a recent past marked by almost infinite casuistry, the international bodies have tried to develop ever more efficient and incisive means of response.

The relevance and centrality of the problem dealt with here were recently confirmed by the International Criminal Court (ICC) in its sentence of 21 June 2016, according to which Jean-Pierre Bemba Gombo, the ex-vice-president of the Democratic Republic of Congo, who had already been declared guilty "beyond all reasonable doubt" by the ICC's ruling of 21 March 2016 of having committed crimes of murder, mass rape and looting – was condemned to 18 years' imprisonment for his role as commander of the troops that committed continued and generalised atrocities in the Central African Republic in 2002 and 2003.[1]

This sentence, along with the preceding fundamental decision on the case was the first to be laid down by the International Criminal Court concerning mass rape. The Court of First Instance which considered the case declared unanimously that Mr Bemba was guilty of two sample crimes against humanity: homicide and mass rape (respectively contrary to art. 7 (1-a) and art. 7 (1-g) of the Statute of Rome) and of three sample war crimes: homicide, mass rape and looting (respectively according to the meanings of articles 8 (2-c; i), 8 (2-e; vi) and 8 (2-e; v) of the Statute of Rome).[2] On this basis, on 21 June the Court sentenced Bemba to 18 years' imprisonment by virtue of the powers of sanction afforded by art. 76 of the Statute.

The legal framework which the ICC used in reaching its decisions of March and June 1016 was the result of a complex journey: in this article we will map out its more significant milestones, whilst taking care to examine not only the position of the International Courts but also the various judicial instruments drawn up for the prevention and punishment of crimes of a sexual nature committed in the course of military operations.

Meeting the victims of sexual violence in the Democratic Republic of the Congo.
Credit: USAID
https://sustainablesecurity.org/2016/05/11/towards-a-greater-understanding-of-sexual-violence-in-the-democratic-republic-of-congo/

First attempts at international punishment: significant silence on the mass rapes of the Second World War.

Sexual abuse appears as a constant historic aberration in all war scenarios since the most ancient times. One could in fact reasonably argue that there exists some primordial link between this odious form of violence and the concept of war itself – in the acceptance of the dictates of brute force within the social fabric of affected civilian populations and the more personal and intimate sphere of civilian victims of war. However it was only from the second half of the twentieth century onwards that such criminal actions were explicitly recognised and condemned by the international community.[3] Indeed, only thanks to the growing affirmation of the inviolability of certain values appertaining to the human person (including dignity and freedom as well as the inviolability of the psycho-physical integrity of the individual) as obligatory principles of the international order that such actions were classified in regulatory and legal terms and thus rendered punishable.

An embryonic attempt at prevention and punishment at legal level of war crimes with a sexual backdrop can already be found in the Hague Convention of 1907 where in art. 46 of the annexed Regulations the signatory States were obligated to respect "Family honour and rights"[4] for the duration of occupation of foreign territory.

But it was only after the Second World War that the international community turned its attention to the problem of protecting human rights with growing sensitivity and, in this framework, also the protection of civilian populations in particularly critical situations such as conflict. The driving force of this phenomenon can in fact be traced in the common perception of the inadequacy of the means of response to the atrocities committed during the Second World War.

Despite the many testimonies of mass rape committed by the armed forces on all sides, neither of the two international military tribunals – instituted respectively in Tokyo and Nuremberg by the Allies in the aftermath of the Second World War to prosecute the presumed war crimes – recognised and/or adopted penalties for crimes of a sexual nature. This was despite the vast scale of the phenomenon and the consistency of proof of sexual violence occurring during the global conflict.

The silence of the two international military tribunals cannot exclusively be explained by the pre-existing absence of norms sanctioning mass rape in conflict. Indeed, both art. 6 of the Charter of Nuremberg and art. 5 of the Tokyo Charter[5] indicated, among the various crimes subject to their respective jurisdictions, not only crimes against humanity brought about "any inhumane act committed against a civilian population" but also war crimes "including the violation of the laws and customs of war". The numerous mass rapes and violent abuses carried out during the Second World War could also certainly have been made subject to the Hague Convention of 1907.

The silence of these newly-constituted Courts can probably be traced back on the one hand to the vastness and complexity of the accusations which they were called upon to determine and, on the other, to the different sensibility of the times – not just

legally but also in terms of public opinion – towards such forms of criminal action. Sexual abuses were especially offensive to the female part of the civilian population which generally benefited from little protection at the time.

In the same historic context, mass rape was instead expressly referred to as one of the crimes falling within the jurisdictional competence of the tribunals instituted in Germany during the Allied occupation to prosecute "minor criminals" of the Axis.[6] However the tribunals held firm to the concept of crimes against humanity in the sense of crimes against particular populations so in the end there were no prosecutions for sexual crimes.

This lack of attention at international level is not surprising when considering that, to this day, even within a legal order sensitive to human values such the Italian, victims of sexual abuse in the Second World War have not received formal legal recognition as civilian victims of war. In any case, the absence of a law in this regard in Italy was rendered more serious by the intervention of the Constitutional Court in 1987 (Sentence nº 561 of 10 December 1987) which succinctly stated that "rape carried out by foreign soldiers presents aspects which are altogether specific. On the one hand, it involves aggression to the freedom of a person that, unlike other kinds of aggression, is not susceptible of compression due to the state of war; on the other, it falls outside military operations, and conserves the character of a crime in this context as well".[7]

Humanitarian law on sexual abuse in military situations: the fundamental role of ad hoc Tribunals.

Returning to an examination of the development of the law at the international level, the first explicit censure of mass for military purposes is found in art. 27 of the IV Geneva Convention of 1949. The article provides that "protected persons are entitled, in all circumstances, to respect for their person, their honour, their family rights (...), Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."[8]

The article only applies to those who, during a conflict, are prisoners of war of a State of which they are not nationals, or else to civilian populations under the control of an occupying power. Later, in 1977, the Protocol I Amendment extended this protection to all women finding themselves in an area affected by conflict. In this sense, art. 76 provides that "Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault."

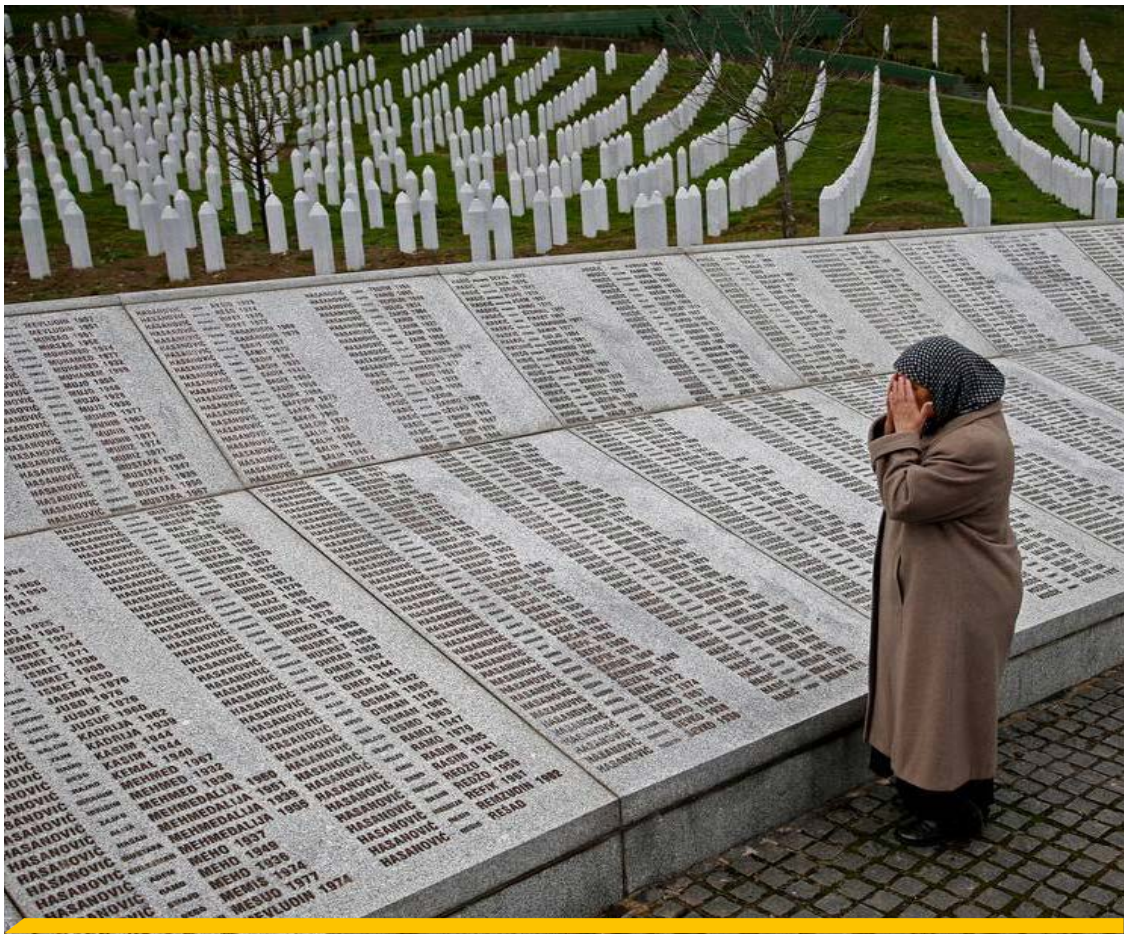
In this case also, the reference to "any other form of indecent assault" indicates a reductive interpretation of sexual violence (though not expressly stated), as a crime typically directed against women. Legal protection was not thought of as being functional to the psycho-physical integrity of women but rather as instrumental to certain traditional family values and the avoidance of public scandal.

This concept is reiterated in Additional Protocol II of 1977 relating to the protection of victims of non-international armed conflicts: art. 4.1 refers to the right to "respect for

their person, honour and convictions and religious practices" whereas subsection e) of art. 4.2 reaffirms the prohibition on "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault".[9]

Thus we reach the early 90s of the twentieth century when the conflicts in former Yugoslavia and in Rwanda reintroduced to public opinion the as yet unresolved problem of arranging for adequate international instruments of response to actions of particular cruelty during armed conflicts. Amongst these atrocities, particular attention was paid to the way mass rape in both conflicts – both for the vast scale on which it was carried out and the concrete manifestation of the phenomenon – assumed the dimensions of a veritable "weapon of war".

On 18 December 1992, faced with the widespread incidence of rape in former Yugoslavia, the UN Security Council declared that "the massive, organized and systematic detention and rape of women, in particular Muslim women, in Bosnia and Herzegovina"[10] was an international crime to be treated as a priority. The International Criminal Tribunal for the former Yugoslavia – ICTY[11] – was set up the following 25 May 1993 for the express purpose of pursuing the serious crimes committed in former Yugoslavia after 1991.



Memorial to the victims of the Srebrenica genocide at Potocari, not far from the site of the massacre.
Credit: Reuters
http://www.rsi.ch/news/mondo/Karadzic-colpevole-di-genocidio-7088093.html

The ICTY Statute includes mass rape as a crime against humanity when committed during an armed conflict against a civilian population (art. 5). On this legal basis, in 2001, the ICTY was the first international tribunal to pronounce sentence qualifying mass rape as a crime against humanity.[12] This historic sentence condemned three Bosnian-Serb militiamen for the rape and sexual enslavement of dozens of Bosnian women. The three were accused of crimes of war and crimes against humanity and were found guilty of rape against women and girls, some between the ages of 12 and 15 years. Furthermore the Court widened the meaning of slavery as a crime against humanity by including sexual enslavement, a notion which had not until then been contemplated.

Immediately after this came the institution of the International Criminal Tribunal for Rwanda – ICTR).[13] The ICTR Statute also includes mass rape as a crime against humanity (indeed, art. 3 of the ICTR Statute is a copy of art. 5 of the ICTY Statute).

As with the Tribunal for the former Yugoslavia, the most important and innovative work of the International Criminal Tribunal for Rwanda beyond the regulatory framework, lay in reconstructing the facts of the crimes committed. In 1998, the ICTR was the first international court to declare a person accused of mass rape as being guilty of a genocidal crime. In this case, the sexual violence which had been carried out was held to be calculated to eliminate an entire ethnic group. In the famous Akayesu[14] sentence, the ICTR established that rape (defined as "a sexual assault committed against a person under coercive circumstances"[15]) and carnal violence constituted acts of genocide insofar as they were committed with the intent of destroying, in whole or in part, a specific group of individuals[16]. The accused, Jean-Paul Akayesu, a teacher turned major in the Hutu Rwandan armed forces and mayor of the village of Taba in central Rwanda, personally supervised the massacre of some 2,000 Tutsis.

Prevention, suppression and punishment: the International Criminal Court and the work of the United Nations today.

The functioning of the two ad hoc Tribunals has therefore changed the meaning of sexual violence in war, going beyond the basic concept of "gender-based violence" to connote its use as "weapon" of war functional also to the crime of genocide and ethnic annihilation. The work of the two ad hoc Tribunals, one for former Yugoslavia in 1993, the other for Rwanda in 1994, was gathered together and brought to fruition by the International Criminal Court instituted in 1998[17]. This represented a hugely significant change in the possibility of international punishment for particularly serious misdemeanours entering into the category of international crimes (apart from genocide, crimes against humanity, war crimes, torture and terrorism): it conferred on international criminal law, founded since its origins on the condition of the gravity of the prosecuted facts, on the principle of individual responsibility and the necessity of a supranational jurisdiction, the effective character which it substantially lacked until the end of the twentieth century.

Headquarters of the International Criminal Court – The Hague, Netherlands.
Credit: Wikipedia
https://commons.wikimedia.org/w/index.php?curid=47958553

The Statute of the International Criminal Court includes rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or "any other form of sexual violence of comparable gravity" as a crime against humanity when it is committed in a diffuse or systematic manner (art. 7).

The concept is therefore independent from situations of armed conflict insofar as it generally refers to situations which involve an extended or systematic attack on a civilian population. Furthermore, persecution for reasons connected to "gender" is also specifically enumerated amongst the crimes against humanity.

Rape, sexual slavery forced prostitution, forced pregnancy are also declared crimes of war by art. 8 which follows so that the dual classification of sexual crimes widens the hypothetical situations in which defendants can be tried, whilst still remaining within the competence of the Court. It is worth recalling art. 75 of the Statute concerning "Reparations to victims" which sets out the possibility for the Court to establish "principles relating to reparations to, or in respect of victims or those entitled on their behalf, namely restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims or those entitled on their behalf and will state the principles on which it is acting."[18]

In its first years of operation, the ICC issued numerous arrest warrants (29 in total to date, 14 of which led to trial whilst 3 were withdrawn following the deaths of the suspects) ; many of these covered different charges of rape not just as a crime of war but

also as a crime against humanity. Following the actions of the Court, 6 persons are currently held in detention. Amongst these is Jean-Pierre Bemba Gombo, following the decision of 21 June 2016, as already noted. In this case, the abuses under investigation were held to be both crimes against humanity and war crimes.

The work of international organisations developed in tandem with the work of the Courts. In this regard, the question of sexual violence was reintroduced in the undertakings contained in the final document of the XXIII special session of the United Nations General Assembly Women 2000 – Gender Equality, Development and Peace for the Twenty-first Century (A/S-23/10/Rev.1), placing emphasis on the obligations regarding the abuses and protection of women in situations of armed conflict. In terms of the creation of systems of prevention and control of the phenomenon, a body was instituted in 2007 within the United Nations (UN Action Against Sexual Violence in Conflict) whose task is coordinating 13 subsidiaries committed to the struggle against sexual violence in conflicts in order to optimize their efforts and improve their operations in the work of supporting the victims of such crimes.

In June 2008, the 15 members of the Security Council of the United Nations approved Resolution nº 1820 – also supported by 30 countries. The Resolution officially condemned mass rape as a weapon of war, and promised harsh and effective response to those responsible for sexual violence towards women. The Resolution observed that mass rape as well as the other forms of sexual violence "might constitute either a war crime, a crime against humanity or a crime related to genocide", and furthermore underlined the need to exclude the crimes of sexual violence from the amnesty provisions in the domain of proceedings for conflict resolution.

It was, once more, the Security Council which, with Resolution no.1888 of 2009 laid down thorough and concrete measures of providing additional protection to women and children against sexual violence in situations of conflict. These included sending out experts in situations which were cause for special concern, and the award of peacekeeping mandates to consultants for the protection of women and children. In the interests of carrying out this same Resolution, a Special Representative of the Secretary General for sexual violence in conflict situations was nominated whose principal role was guiding the various bodies committed to combating abuse against women by means of the UN Action Against Sexual Violence in Conflict; the Special Representative was entrusted with coordinating the efforts of these bodies through the development of systematic strategies.[20]

The subsequent Resolution, no. 1889 of 2009, condemned the commission of sexual violence in current conflicts and urged Member States and civil society to have consideration for the protection and respect for women and girls – including those associated with armed groups – in post-conflict situations. Amongst the more recent Resolutions of the Security Council, no. 1960 of 2010 gave a mandate to the Secretary General to list "the parties suspected of having committed sexual violence" . The Resolution also called for measures designed to monitor, analyse and report specific cases of sexual violence tied to armed conflicts to be set up.[21]

Today, then, after a long jurisprudential and legal journey and thanks to greater social awareness as well as respect for gender diversity, mass rape and sexual violence committed in armed conflicts in general are no longer accepted as a "natural collateral effect of war." Instead, they are widely abhorred as deserving of prosecution and harsh punishment: they are regarded as falling squarely within the frame of war crimes as well as crimes against humanity. Ever since the first signs of disapproval of such misdemeanours when they were merely regarded as bringing dishonor, we have moved on to more significant ways of suppressing the phenomenon as witnessed by the international documents herein highlighted. What is manifest between the lines is the desire to punish those tarnished with such crimes but also and above all to put in place systems of prevention and monitoring as well as instruments of assistance for victims so that such abuses remain only as a warning to future generations of the aberrations of a distant past.

Notes and sources

[1] ICC-01/05-01/08-3399 – 21 June 2016 – Decision on Sentence pursuant to Article 76 of the Statute and Judgment of 21 March 2016 pursuant to Article 74 of the Rome Statute, Trial Chamber III – The Prosecutor v. Jean-Pierre Bemba Gombo (ICC-01/05-01/08-3343) both freely available on www.icc-cpi.int. Militia forces under Bemba's orders belonged to the Movement for the Liberation of the Congo and were sent into the Central African Republic to support President Ange-Feliz Patassé, who was under attack from Francois Bozize's rebel forces. According to the Court, Bemba's role was as a person effectively performing the function of military commander and having authority and effective control over the troops that committed the crimes. For initial comments to the judgment, see S. Carrer "The responsibility of command before the International Criminal Court: Jean-Pierre Bemba Gombo guilty for the crimes of his soldiers"in www.giurisprudenzapenale.com

[2] The Statute was adopted by the Conference of Plenipotentiaries of 1998 (for further details see note 21). Later in this article, it will be possible to consider in greater detail how the Statute adopted by the ICC in 1998 defines such actions from the legal point of view.

[3] Without wanting to err on the side of excessive superficiality, it has to be said that, in former times, sexual crimes used in some measure to be considered "legitimate" as a natural and indivisible part of events relating to war. In addition, different cultural and social attitudes made it difficult to seriously confront such delicate subjects which were inherently laden with moral and religious judgements. In this sense, it is interesting to note the absolute consistency across the Western world in the national treatment of crimes of a sexual nature committed in non-military contexts herein examined. Even at national level, such types of criminal action only met with explicit recognition in the more recent past.

[4] The Hague Convention (IV) of 1907 concerning the laws and customs of war on land and the annexed Regulation concerning the laws and customs of war on land of 18 October 1907. In particular the article inserted in Section III of the Regulation – regarding "military authority within the territory of the hostile state" – reads as follows: "Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected". The regulation does not expressly cite any specific type of unlawful behaviour including sexual violence and abuse of civilians. However it can reasonably be argued that amongst other forms of mistreatment, it also refers to these where it speaks of "family honour and rights". Indeed, in the past, such criminal actions would also meet with an admittedly weak punishment at the internal penal level insofar as they were viewed as detrimental to honour and family values.

[5] Charter of the International Military Tribunal of Nuremberg of 8 August 1945 and International Military Tribunal for the Far East Charter also known as the Tokyo Charter of 19 January 1946.

[6] Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 (Official Gazette Control Council for Germany 1946) 50-55

[7] The decision of the Constitutional Court – never to date translated into law– is freely available in full on the official database http://www.giurcost.org/. In Italy the phenomenon of sexual abuse against the civilian population assumed abhorrent proportions, especially during the final stages of conflict. In Italy, episodes of mass rape have passed into the annals of history under the name of "marocchinate" (approximately equivalent to "Moroccan outrages").

[8] Geneva Convention of 12 August 1949 (Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949). Under art. 3 the Convention states that "Persons taking no active part in the hostilities [...] shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria". The provision continues by banning a whole series of practices such as "violence to life and person", "outrages upon personal dignity, in particular humiliating and degrading treatment."

[9] "Protocol Additional to the Geneva Convention and relating to the protection of Victims of International Armed Conflict" and "Protocol Additional to the Geneva Convention and relating to the protection of Victims of Non-International Armed Conflict".

[10] Resolution no. 798 of 18 December 1992. Subsequent Resolutions herein referred to can also be found on www.un.org/en/sc/documents/resolutions/.

[11] Instituted 25 May 1993 by means of Resolution no. 827 of the UN Security Council. In particular, it was concerned with the following crimes: serious violations of the Geneva Convention of 1949, crimes against humanity, genocide, violations of the conventions and rules of war. The ICTY Statute was amended on 13 May 1998 (Res. no. 1166) and 30 November 2000 (Res. no. 1329).

[12] Sexual violence was recognised as a crime against humanity when the International Criminal Tribunal for former Yugoslavia issued arrest warrants based on the violation of the Geneva Conventions and the violations of the Laws and Conventions of War. Specifically, it was acknowledged that the Muslim women of Foča (South-East Bosnia-Herzegovina) were subjected to systematic and widespread gang rape, torture and sexual enslavement by Bosnian Serb policemen and members of paramilitary groups after the capture of the city in April 1992. The charge was of major legal relevance and marked the first time that sexual violence was investigated for prosecuting torture and enslavement as crimes against humanity. The sentence of 22 February 2001 convicted the three militiamen – Zoran Vuković, Radomir Kovač and Dragoljub Kunarac – to 12, 20 and 28 years' imprisonment respectively.

[13] Resolution no. 955 of the United Nations Security Council of 8 November 1994. The Statute was subsequently amended by the Security Council with Resolutions 1165 of 30 April 1998; 1329 of 30 November 2000; 1411 of 17 May 2002; 1431 of 14 August 2002; 1503 of 28 August 2003; 1512 of 28 October 2003.

[14] Proceedings were launched against the former mayor of Taba, Jean-Paul Akayesu. Judge Navanethem Pillay affirmed in a declaration after the verdict: "Since time immemorial, sexual violence has been seen as war booty. Now it's considered a war crime. We

want to send out a strong message that rape will not be a trophy of war for much longer." Mass rape is also considered damaging conduct for the purposes of genocide by the ICTY. This interpretation was confirmed by the ICTY sentence of 2007 in the so-called Bosnian Genocide Case.

[15] However, subsequent case law considered the coercive element too restrictive and affirmed that the act need simply be contrary to the will of the victim (ICTY, Kunarac, TC, §§ 441 ss.). It was further specified that penetration amounting to rape is to be understood in wide terms, and deliberately free from gender-related connotations (thus, ICC, Katanga and Ngudjolo Chu)

[16] This sentence includes the first interpretation and application by an international court of the Convention on the Prevention and Punishment of the crime of Genocide adopted by the UN Assembly General by means of Resolution 260 of 9 December 1948 which entered into force the following 12 January 1951.

[17] The need to create an international criminal court of a permanent nature became apparent in the aftermath of the Second World War (with the Resolution of 9 December 1948, the UN General Assembly encouraged the International Law Commission to investigate the possibilities of establishing an international body with criminal jurisdiction). A first step in this direction was taken with the creation of ad hoc Tribunals which, thanks to their often innovative jurisprudence, often significantly contributed to the development of international criminal law, as we have already noted. The operation of these Tribunals on the one hand, and the acknowledgement of their geographical and temporal limits on the other, led to the creation of the International Criminal Court. The ICC Statute (known as the Statute of Rome) was adopted by the Conference of Plenipotentiaries on 17 July 1998 and came into force on 1 July 2002. The Court's competence is potentially universal whilst its jurisdiction is limited by the principle of complementarity vis a vis the jurisdiction of member States.

[18] This article is extraordinarily important in cases where its impact on the effectiveness of the international system of prevention instituted by the Statute of Rome is considered. It is also worth remembering that the previous Statutes of the ad hoc Tribunals only provided for restitutional rather than compensatory schemes.

[19] The data derives from: www.icc-cpi.int/iccdocs/PIDS/publications/TheCourtTodayEng.pdf. As to the issue of arrest warrants, it should be pointed out that art. 58 of the Statute empowers the preliminary Court upon request of the Procurator seised of the case. Indeed, in cases of greater severity and, to prevent the risk of the suspect escaping or repeating their crimes, the preliminary Court can issue a personal warrant of arrest after opening an investigation. In concrete terms, the execution of such warrants of arrest is made possible by the cooperation of the States party to the Statute of Rome. They work to execute the capture, arrest and handover as well as the subsequent detention of the person subject to their respective internal laws.

[20] In February 2012, on the occasion of the annual presentation on sexual violence in armed conflict in the world made to the Security Council, the Special Representative

declared, “Sexual assaults during conflicts are not limited to a specific geographic area rather they represent a global problem”. In his address to the Security Council, he also underlined how not only women and children but also men must be protected against sexual violence; the Special Representative made particular reference to Syria where sexual abuse on prisoners is used as a way of obtaining information. In the Report entitled “Sexual violence in conflict” published on 13 January 2012, military forces, civilian militias and armed groups suspected of being the worst responsible for such crimes were nominated for the first time. Amongst these, the most notorious were the Lord’s Resistance Army of the Central African Republic and the armed groups of South Sudan as well as the former army of Ivory Coast and the military forces of the Democratic Republic of the Congo. The Report showed how sexual violence represents a threat to the security of nations and how it has often hindered the establishment of peace following conflict as happened in Chad, the Central African Republic, Nepal, Sri Lanka, East Timor, Liberia, Sierra Leone and Bosnia Herzegovina; sexual violence has also been used during political elections, workers’ strikes and civil disorders in Egypt, Guinea, Kenya, Syria and many other countries.

[21] For further information on the work of the Special Representative, see www.un.org/sexualviolenceinconflict

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