

Introduction.
**The Long Invisibilization of Sexual Violence
Against Women as Crime Against Humanity:
The Need for a Constitutional Analysis of
International Judicial Doctrine**

Marilisa D'Amico, Tania Groppi, Costanza Nardocci, Irene Spigno

Violence against women is globally recognized as a multifaceted phenomenon. From the CEDAW Convention's General Comment No. 19, through the Belem do Pará Convention, to the Istanbul Convention, efforts in tackling violence against women have expanded worldwide from Europe to the Americas.

Despite efforts in fighting violence against women have united lawmakers and courts of law, western literature has over the years extensively preferred focusing on intimate partner violence and domestic violence, without likewise shedding light on other diverse and widespread violent conducts that see women disproportionately affected.

There exists yet in fact a variety of forms of violence against women that lack adequate safeguard by International Human Rights and Criminal Law Courts and that have likewise not been adequately addressed in the academic debate.

Reference is chiefly made to violence perpetrated against women, which quite often encompasses slavery-related conduct. Sexual violence performed in the public sphere, in the forms of rape, gang rape, and genocidal rape, has, therefore, quite often been seated in the backseat of the academic debate, in favour of a legislative and jurisprudence's inclination to hinge on intimate-partner and domestic violence.

Secondly, beyond the private sphere, violence against women, especially of sexual nature, has historically and very commonly featured war times and armed conflicts nurturing and deriving from cruel interethnic relations among social groups.

By way of critically investigating landmark cases, the special issue aims at disclosing some of the most relevant violent conduct against women perpetrated by States or non-State actors in the perspective of criminal international law and human rights law.

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The proposed analysis features a selection of the examined forms of violence against women and they are regrouped into the following categories: sexual enslavement; genocidal rape. Each form of violence is read and interpreted through the lens of the examined case, following the purposes of unravelling, and showing major traits, developments, challenges, and criticisms.

Judgments issued by Human Rights and International Criminal Courts on sexual violence against women generate a significant constitutional and human rights law concern as of their severe impact on women's human rights.

Despite the inherent limits of international law, mainly related to States will accept the contentious jurisdiction of International Courts and the enforceability of their judgments, the international judicial doctrine, developed on sexual and gender-based violence against women in contexts where gender-based violence constitutes a structural problem as the consequence of armed conflicts (as in cases held by the International Criminal Tribunal for Former Yugoslavia, the International Criminal Court for Ruanda, the International Criminal Court, the Special Court for Sierra Leona or even in some judged by the Inter-American Court of Human Rights) or for structural violence against women by action or omission of the State (as in the cases of Turkey or Mexico), highlights that constitutional principles and national laws are no longer enough.

However, the intervention of international law is deemed necessary and the phenomenon of the constitutionalization of international law somehow tends to correct those weaknesses shown under international law. Therefore, a constitutional paradigm in analyzing international case law is still fundamental. Furthermore, the choice to focus the analysis on international jurisprudence aims to highlight the fundamental role of judges and Courts in protecting women's rights. Not surprisingly, it was at the international level that movements in favor of women's rights took their first steps and put pressure on national agendas in different parts of the world.

The aim of the Special Issue is, therefore, to analyse the international and constitutional arguments, principles, and criteria, Human Rights and Criminal International Courts developed in their case-law on sexual violence by separately looking at its variety of forms: sexual violence in and beyond armed conflicts, sexual slavery, sexual torture, genocidal sexual violence, among the others. The choice is since, although gender violence is a much wider concept, judgments concerning sexual violence against women provide reliable indicators to assess the status of the health of women's rights in contemporary democratic states.

Mindful of the need to analyse international leading cases under a constitutional and comparative paradigm, the Special Issue includes relevant case-law issued from

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International Criminal Courts, such as the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Ruanda, and the International Criminal Court, Regional Human Rights Courts, as the Inter-American Court of Human Rights and the European Court of Human Rights.

The selected case-law analysis will be preceded by an introductory article describing the importance of the selected topic (sexual violence against women) and the chosen methodology (the case-law analysis under the constitutional perspective of international law).

A Keynote article on the evolution of the international judicial doctrine on sexual and gender-based violence against women will precede the proposed case-law analysis.

The Special Issue is multidisciplinary in its aim and scope. It embraces a constitutional, comparative, and international human rights law approach, without neglecting the political and economic resonance of the phenomenon at stake.

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