

A COMPARATIVE ANALYSIS OF THE ABSOLUTE
RIGHT TO PROHIBITION OF TORTURE IN LIMITS OF
INTERNATIONAL CRIMINAL LAW:
THE TRANSNATIONAL, NATIONAL, AND
EUROPEAN CRIMINAL LAW PERSPECTIVE

MUJTABA, GHULAM
PHD STUDENT

University of Szeged

Academic supervisor: Prof. Dr. Krisztina Karsai univ. professor

Research field: Criminal Law and Criminal Justice

E-mail: gh.mujtaba@hotmail.com

Comparative law, which historically has been the most narrowly focused of legal specialties, is regarded to necessitate comparing one country's law with that of another or maybe with international criminal law. The ability to impose punishment is directly related to the capacity to rule and, in fact, to the whole notion of political might. Without the ability to punish, a state lacks sovereignty, which is the foundation of statehood. This perspective invades all of the analysis, and the transitional justice paradigms that define the area emphasize the restoration of stability, justice, and the rule of law following an exceptionally turbulent time period. With a focus on crimes committed in crisis situations, although international criminal law is utilized to punish and deter war crimes and mass atrocities.

International human rights courts have been formed by regional organizations to advance international standards in their national legal frameworks. The most notable example is the European Court for Human Rights of the Council of Europe, while the Inter-American Court for Human Rights of the Organization of American States has encouraged domestic systems in Colombia, Argentina, Guatemala, and other countries.

This study examines these issues and comes to the conclusion that there is no absolute justification for restricting the application of international criminal law to mass murder and war crimes, but that it might be better suited to dealing with persistent crimes than urgent crises. The International Court of Justice ought to give priority to cases where their role is likely to save human suffering instead of focusing solely on catastrophes, using international criminal law theories to make this prioritizing possible. No "ordinary" crimes would be made international under this strategy, nor would the "most serious" crimes turn out to be at the core of the justices. However, it would entail accepting the fact that unusual crimes do not always occur in exceptional circumstances.

Keywords: International criminal law, criminal law, comparative law, EU