

Summary

International criminal justice and the path to the creation of International Criminal Court. Historical-juristic perspective

The subject of this master thesis is the evolution of the international criminal justice. The aim is to offer an overall view on this institute of international law and to give an overview of the most important moments and mechanisms determining this evolution, and chart the relatively complicated way, which led the international community to the establishment of the International Criminal Court. The point is an overview of both the perspective of substantial law, ergo the stabilization of the sphere of crimes under international law, and of the perspective of procedural law, ergo the endeavours of the creation of a procedural and institutional recourse of these crimes.

The initial chapters are concerned with theoretical concepts seeming to be the most important in the framework of the subject of this thesis. These are the distinctions between the responsibility of a state and an individual, the distinction of the international crime and the crime under international law, a rough description of the concepts of international criminal law, law of wars, armed conflicts law and international humanitarian law. Additionally, the institutes of international jurisdiction and international criminal jurisdiction are also defined.

Further the thesis is followed chronologically. Firstly and briefly concerned is the long period from the ancient times to World War I. At this time were the grounds of the international law formed and under the topic of the thesis the rules and customs of war and the behaviour of individuals in the wars were first shaped.

World War I became, by its extent and impact on the huge number of people, a very important turning point in the perception of war as a mechanism that should not be a usual part of international relations. That also confirms the effort to try German Emperor Wilhelm at the end of the World War I, as a principal offender of the war, and to punish the German perpetrators of war crimes too. This effort ended up just in the so called Leipzig Trials in 1921-1922.

The period between the two world wars can be characterized as a complex of endeavours to prevent another conflict that was in the end, not successful. In spite of it, this time brought an array of legal instruments that could be later used for condemnation

of World War II and the war criminals. It is necessary to emphasize first of all, the 'so called' Briand-Kellog Pact.

The next part of the thesis deals relatively in detail with the period of World War II, with preparing of the punishment of war criminals and in particular with the two post-war trials with the German and Japanese war criminals in Nüremberg and Tokyo. Here were shaped the important grounds for subsequent development of international criminal justice.

The chapter concerning with the post-war period and the time of Cold War, summarize the fifty long years of evolution, accompanied by the endeavours of confirmation of the prohibition of aggressive war as an instrument of international politics and law, of definition clearer rules of armed conflicts and of specification of the crimes under international law, but also by efforts to create a permanent judicial mechanism for the punishment of the crimes under international law.

The next section concentrates on the analysis of the legal basis and the operation of the two ad hoc UN tribunals from the first half of the 1990's, ergo International Criminal Tribunal for the former Yugoslavia and International Criminal Tribunal for Rwanda.

Lastly, is one chapter concerned with the detailed description of the foundation of International Criminal Court and also with the analysis of its Statute, especially dealing with the substantial regulations.

The last part of the thesis consists of a short survey of 'so called' mixed criminal tribunals. Among the most important belong to the Special Court for Sierra Leone, Extraordinary Chambers in the Courts of Cambodia or Special Tribunal for Lebanon.

Key words:

international criminal jurisdiction

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international criminal tribunals