Gender-Based Violence in International Criminal Law: A Closer Look at the Elements of Rape

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While wholly condemned and severely punished in domestic jurisdictions, the crime of rape is not as well-defined in the realm of international criminal law. While rape is recognized as a cruel reality in cases of war and international conflict, the punishments for its perpetrators and thus, the justice sought by their victims is still subject of controversy and debate.

In this Article, the Author examines the treatment of rape in international law. She uses several international statutes as well as two landmark cases from International Criminal Tribunals in order to examine several facets of rape as an international crime — its classification as a war crime or crime against humanity, the differing treatments and doctrines such tribunals have established, and the elements needed to prove it as a crime under the International Criminal Court.