

Sexual and Gender-Based Crimes against LGBTI

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Abstract

The paper will provide a snapshot on those crimes committed against people, whether male or female, because of their sexual orientation, gender identity and expression. Since ever, crimes and gross violations of human rights against LGBTI people have been recorded across the world, anytime.

The paper will analyze the issue from the international and national perspectives because the vulnerabilities are compounded by a serious lack of systematic legal protection, monitoring, documenting, data collection and accountability in the International Criminal Law (ICL) system and from the wider international community.

Crimes motivated by a bias toward gender identity are a global pandemic in the contemporary society. In particular, sexual and gender-based crimes (GBC) are rising in the past few years. GBC are those crimes committed against persons, whether male or female, because of their biological sex or social gender roles.

In the international criminal law (ICL) context, sexual and GBC are considered grave violations of international law. Under the Rome Statute, they can be categorized as crimes against humanity, war crimes or acts of genocide depending on how the crimes are committed and in what context. However, it does not exist a specific formulation and definition of GBC, the only crime is persecution on the ground of gender, Article 7(1)(h) of the Rome Statute.

Most of LGBTI people who experienced these crimes did not report the event to anyone, including to the police, support organizations, local authorities or health care system. The main reasons are the fear of harassment and further victimization from the criminal justice system and also fear of discrimination from medical providers.

Keywords: accountability; ICL; impunity; persecution; Rome Statute.