

## ABSTRACT

International Humanitarian Law and Genocide in Rwanda thesis is the study of Rwanda's genocide events in the scope of International Humanitarian Law. The International Humanitarian Laws applied to the study in this thesis are the Convention on the Prevention and Punishment of the Crime of Genocide 1948 and the Statute of the International Tribunal for Rwanda 1994. The assumptions of thesis are (1) to study the principals, elements and responsibilities for the crime genocide in view of the International Humanitarian Law; (2) to study the Rwanda's genocide events in the scope of International Humanitarian Law; and (3) to study the consequences of the Rwanda's Genocide events that effect to the world communities.

Although the crime of genocide appeared in the period of both World War I and World War II, the term "genocide" was defined in the International Humanitarian Law after the World War II because the level of cruelty of the crimes just happened in the World War II in the case of the Holocaust. After the world communities defined the term "genocide", the United Nations Organization started the process of drafting the Convention on the Prevention and Punishment of the Crime of Genocide for the purpose of defining the unique aspect and the level of cruelty.

The crime of genocide is a crime in the International Humanitarian Law. The Convention of Prevention and Punishment of the Crime of Genocide 1948 divides the elements of a crime into 3 main aspects as follows:

### (1) The Physical Element

The Convention defines 5 acts which are deemed to be an action of the crime: killing, causing serious bodily or mental harm to the members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group and forcibly transferring children of the group to another group. These principles were

adopted by the Statute of International Criminal Tribunal Court for Rwanda 1994 and, on the trial and judgment, the tribunal defined each act thoroughly.

### (2) The Mental Element or the Special Intent of Crime

This element is the element that brings uniqueness to the crime. The mental element or the special intent of crime is "intent to destroy in whole or in part of the target group". In other words, the target is the group, not an individual person in the group.

### (3) The Target Groups

The Convention on Prevention and Punishment of the Crime of Genocide 1948 classifies the target groups of a crime of genocide into 4 categories: a national group, an ethnical group, a racial group and a religious group. To consider as the crime of genocide, the acts as aforementioned must be done against these 4 groups only. Otherwise, it will not be considered as a crime of genocide.

The situations in Rwanda on 1994 were considered, in every element, as a crime of genocide according to the Convention on the Prevention and Punishment of the Crime of Genocide 1948 and the judgment of the International Tribunal for Rwanda. Beside a crime of genocide, the Tribunal extended its jurisdiction to the acts violating the provision of the Common Article 3 of the Geneva Convention 1949 and the additional protocol II of the Geneva Convention 1949 in order for covering all aspects of the International Humanitarian Law which involved with this situation.

The consequences of the Rwanda's events to the world communities have 2 aspects: firstly, at the time of the event, there were more attention and concern from the world communities to the situations in Rwanda; on the other hand, the real aid was less to be seen. These leave the question to the world that what is the most importance between the benefit and the humanity. Secondly, after the situations were over, there has been consequences with regard to developments of the International Humanitarian

Law's principles derived from the trial and judgment of the International Tribunal for Rwanda and introducing the legal principles with respect to a crime of genocide to the Rome Statute of International Criminal Court 1998 which is one of the important instruments of the International Humanitarian Law. Therefore, that is to say that Rwanda's genocide has crucial effects to the development of the international security and the International Humanitarian Law.