

ABSTRACT

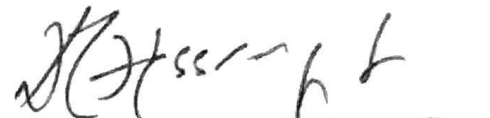
This dissertation examines the admissibility of the defence of obedience to superior order in the contemporary context of the international criminal law with special reference to Nuremberg model and Rome Statute. Further, a comparative study of international criminal law has been carried out on the research topic, comparing different theories and perspectives of the various jurists and law scholars. Particularly, it has been studied the international customary law principles which the national legal systems have been adopted prior to the WWO II, the standard of IMT (Nuremberg) and new approach of Rome Statute for ICC pertaining to the admissibility of defence of obedience to superior order.

Citing the leading reported military cases on the issue, the struggle between the international humanitarian perspectives and rights of military troops to plea the defence of obedience to superior order to avoid the criminal liability to battlefield activities have been comprehensively emphasized in this dissertation. Thus, the requirement of practically balanced legal provision at the international level to give due fairness to the bottom line subordinates for their official commitments has been highlighted. This dissertation concludes by proposing some recommendations to military justice system and some changes to military culture of the Sri Lanka Army, which is required for betterment of the military personnel.

Even though, the area which I have discussed in the dissertation may be well known to some expert individuals in the profession of law, there is no publication in the Sri Lankan context which has been codified by analyzing the customary international law principles, provisions and related cases of the International Military Tribunal (Nuremberg) and provisions of the Rome Statute for the International Criminal Court with regard to the admissibility of defence of

obedience to superior order. If aforesaid analysis had been done earlier, there would not have been any doubt that it should be a most common and reputed codification among military personnel. Specially by selecting this research topic, I was more concern about the less knowledge and less awareness of military troops of the area of admissibility of defence of obedience to superior order.

This research has been carried out not only as a partial fulfillment of the requirement to complete the Master of Laws Programme, but also due to the interest and desire to contribute for the development of the military justice system of Sri Lanka Army to the international standard.


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