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Defences for war crimes and crimes against humanity ? : duress and the Rome Statute / Clare Frances Moran

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Abstract:	<p>Modern armed conflict has changed the way in which we understand the fighting of wars and the breakdown of diplomatic discourse. The Rome Statute, which was created to enforce the provisions of the law of war and international criminal law on a complementary basis, already appears dated because it deals with war crimes in a very traditional manner. At the same time, the Rome Statute has introduced a number of new ideas and new approaches. One such is the area of defences, which are now codified by the Rome Statute. This approach, of clarification through codification, is novel as the previous international criminal tribunals and domestic war crimes tribunals have dealt with the concept of defences on an ad hoc basis, or by excluding certain defences. The provisions in the Rome Statute codify six defences in total, one of which is duress. The defence of duress has not been accepted previously as a defence for serious crimes in international law and thus makes an interesting topic for discussion, particularly at this juncture where more and more cases are being heard by the International Criminal Court. This work examines the use of the defence of duress in international law and explores the problems of the current approach to defences in general, and duress in particular, in the Rome Statute.</p>
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