DEP Deportate, esuli, profughe
Rivista telematica di studi sulla memoria femminile

The crime of forced pregnancy in international criminal law jurisprudence

by

Francesca Fiore

Introduction

International Criminal Law (ICL) is an evolving field. Considering its early origins, dating from the end of the First World War (WWI), ICL has developed substantially. From dismissing the reality of rape during wartime, to considering rape as a property crime or a crime against honour, to then again classifying it as a crime against humanity in the Rome Statute, ICL has indeed developed according to the times.

Nevertheless, though sexual violence has been acknowledged extensively in international criminal law as a crime against humanity (Rome Statute, Article 7) and as a war crime (Rome Statute, Article 8), this particular form of violence fails to cover a whole other set of forms of violence suffered by women.

One crime with which ICL still has failed to catch up is that concerning reproductive violence on women. Like a spectrum, this kind of violence can manifest itself in many different ways. Still, one thing which these "representations" all have in common is the way in which they are centred as an attack on women's reproductive capacity to get pregnant. These attacks can therefore be focused on ways to prevent pregnancy – by forcing contraceptives or by damaging the reproductive system so that it cannot sustain a pregnancy – or to make sure that it does not come to an end – by forcing an abortion through chemical or physical means. Another representation, which is even more disregarded than the former, is situated on the opposite side of this spectrum: it encompasses those kinds of violence that force women to get pregnant – such as the crime of forced impregnation – or that allow no autonomy over their reproductive system while pregnant. These "representations", besides the violence caused when inflicted, bear long-terms consequences or "secondary harms" (Grey 2017: 907) on women. These include, for example, the permanency of a sterilization; the dangers arising from miscarriages and abortions; the risk of death during childbirth; the likelihood of being "left with the burden of raising any children born as a result of the violence"; and the "social stigma that women who become pregnant by 'the enemy' and their children often face" (Grey 2017: 907).

By their very nature, these are crimes which, by being centred on pregnancy, only affect women with the reproductive capacity to get pregnant. As this is a sub-

 ISSN 1824 - 4483

stantial subset of the population, it is important that such crimes are not dismissed under the wider field of sexual-related crimes.

As such, this paper focuses on the right to reproductive autonomy and sexual equality, seeing how important the principle of fair labelling is in gender-based crimes, and how the field of ICL still has a long way to go in order to finally catch up.

Hence, this paper will dwell on the crime of forced pregnancy as part of a wider spectrum of reproductive crimes, focusing on its birth, evolution, and practice. Firstly, it will introduce the reality of reproductive crimes in ICL, seeing how they have been represented by different International Criminal Tribunals (ICTs). In particular, it will concentrate on the crime of forced pregnancy which, despite instances of it being reported throughout history, has never been prosecuted, as such, by any ICT.

Secondly, it will present the crime of forced pregnancy as represented in the Rome Statute. By presenting the particularly contentious negotiations for the crime, it will follow by analysing its various elements. Thirdly, it will provide an analysis of how the crime of forced pregnancy has been treated in practice. By addressing the attempts to prosecute the crime before the Extraordinary Chambers in the Courts of Cambodia (ECCC), it will examine the first ever ICT case successfully charging the crime of forced pregnancy: the Ongwen case. In particular, by addressing the Court's reasoning, it will provide an analysis of what this case's judgment means for the future role that reproductive violence will play in ICL.

Thence, this paper will argue that forced pregnancy, as charged in the Ongwen case, has paved the way to a revolutionary ICL understanding of reproductive violence. It aims to give importance to other reproductive crimes and emphasize the need for reproductive autonomy and freedom.

Forced pregnancy as part of the wider spectrum of reproductive crimes

Reproductive Violence in ICL

ICL has made considerable progress in shedding light on gender-based crimes. Special ICTs such as the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are important examples of ways in which the international community began (even before the Rome Statute) to pay attention to the role that sexual violence (and rape in particular) plays during conflict. It is thanks to these tribunals that the narrative of ICL started to change, recognizing women as victims of specific kinds of violence, and considering sexual violence, for the first time, as a tactic of war. Before these tribunals, though gender-based violence always existed during conflict, it had been significantly dismissed or considered as an attack on honour (Fourth Geneva Convention, Article 27).

However, what these tribunals have failed to shed light upon, is a different kind of harm: that arising from reproductive violence. This violence, like sexual violence, has been traditionally reported in all kinds of conflict. Still, as opposed to sexual violence, it has been often disregarded in the Statutes of different ICTs throughout history.

In fact, during the Second World War (WWII), reproductive violence, perpetrated under many different forms, was seldom recognized as a gender-based crime. For example, though there have been reports of reproductive violence perpetrated by Nazi Germany – such as forcibly sterilizing Jewish women by means of experimental x-ray machines, surgery, and various drugs – these have been treated as "medical" crimes, in relation to ethnic cleansing, and not as a specific attack on the reproductive capacity of women.

To further illustrate, reproductive violence during WWII has been reported also in the Japanese Imperial Army's "comfort stations", where so-called "comfort women" were detained for the purpose of sexual slavery. For these women, reproductive violence took many different forms ranging from forced contraception (The Prosecutors and the Peoples of the Asia-Pacific Region v. Hirohito Emperor Showa et al, §340), to forced abortion (The Prosecutors and the Peoples of the Asia-Pacific Region v. Hirohito Emperor Showa et al, §342). These crimes, however, have been taken into consideration only 54 years after the establishment of the International Military Tribunal for the Far East (IMTFE) by the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, created expressly because, in the IMTFE, reproductive crimes (and sexual crimes) had been considerably dismissed.

A final example, occurring many years after the end of WWII, has been reported in Rwanda. There, Hutu men reportedly raped Tutsi women until they became pregnant with children from the Hutu ethnicity. Also, there have been reports that Hutu men killed or enforced abortions on Hutu women pregnant with a baby whose biological father was of Tutsi ethnicity. Considering the circumstances, though no reference to reproductive violence was made in the ICTR Statute, the Prosecutor v. Akayesu case provided a very insightful analysis of various kinds of reproductive violence, but only in relation to the crime of genocide. In fact, when charging the crime of genocide, it treated the practice of sterilization, forced birth control, and deliberate impregnation as measures to prevent births within the "other" group, or to induce births by impregnating women from that group (Prosecutor v. Akayesu, §507). The main issue is that the judgement never mentioned these crimes as a form of reproductive violence *per se*, or as a particular form of gender-based violence. In particular, it never dwelled on the particular consequences of these crimes on the victims, leaving references to these only in the indictment (2017: 911).

Forced Pregnancy as Reproductive Violence

Though forced pregnancy is a fairly new crime in terms of codification, like other kinds of reproductive violence, it has frequently been perpetrated both during conflict and peacetime.

During conflict, one instance of such violence was perpetrated during the Bosnian war in the so-called Serbian rape camps, where Bosnian Muslim women were forced to bear Serbian babies. Though sexual violence (and rape in particular) has been charged in numerous cases before the ICTY, no reference was made to the reproductive violence (and its consequences) suffered by Bosnian Muslim women in those rape camps. In so doing, it limited the spectrum of the violence they had suffered to sexual violence (Brownmiller 1975; Boon 2001: 626).

The practice of forced pregnancy was also reported in Cambodia under the Khmer Rouge. During the late 1970s, the Communist Party of Kampuchea (CPK) established a regime based on control. While the country was failing and food was short, troops gathered people from many different villages and put them to work in rice fields. In these working sites, the CPK also established a policy for marriage regulation. In order to solve the country's low birth rate and enforce further control on the population, this policy forced men and women to marry and consummate their marriage that same night.

Unfortunately, when these conflicts were carried out, the crime of forced pregnancy was still not codified, and the only references to the crime were made in the 1993 Vienna Declaration and the 1995 Beijing Platform for Action. That is why, though there was extensive evidence of the crime, it has not been prosecuted, as such, neither by the ICTY – prosecuting it as rape – nor by the ECCC – prosecuting it as rape during forced marriage.

Forced pregnancy under the Rome statute

Though the Rome statute was drafted and signed on 17 July 1998, its drafting history goes back a few years. Considering the complexity of the Statute, the need to take into account the historical context of the time, and the most recent international criminal judgments and practice, the process lasted about four years. Interestingly, out of all the crimes codified in the statute, the most complex to draft was precisely that of forced pregnancy.

Negotiating History

The intention behind drafting the crime of forced pregnancy emerged from one tragic historical circumstance. The negotiations for the Rome Statute began only a few years after receiving reports of the violence committed in Serbia's so-called rape camps.

At the beginning of the negotiations, the definition of the crime relied heavily on the circumstances of this case, where the intent behind those rapes was that of affecting the ethnic composition of the Bosnian Muslim population. In fact, the initial definition of the crime covered only the intent to change the ethnic composition which, ultimately, began to be considered as being too reductive. As such, this definition would have allowed the prosecution of forced pregnancy only (or for the most part) in cases of genocide. In order to encompass also other reasons for which such crime might be perpetrated, the drafters agreed to include also the intent of carrying out other grave violations of international law.

During the negotiations, as a result of the evidence collected at the ICTY, a necessity emerged to shed light on a crime which differed extensively from the act of rape. Abiding to the principle of fair labelling, rape – though it is more encompassing – does not adequately represent the extent to what Bosnian Muslim women endured in Serbia's rape camps. In particular it fails to give the adequate insight into the reproductive violence they suffered in conjunction with the crime of rape. That

is, the attack on their reproductive capacity under the form of unwanted pregnancies and, subsequently, the inability to choose about the fate of their pregnancy.

During the negotiations, most issues arising from the codification of the forced pregnancy crime were very contentious. In particular, the Holy See – along with other states – feared that the original formulation of the crime would interfere with national legislation regarding abortion and the "broader right to reproductive self-determination" (Boon 2001: 658). In particular, it feared that the *actus reus* of keeping a woman pregnant – through unlawful confinement – would go against its anti-abortion principles forbidding women to terminate their pregnancies.

In the end, in order to make the crime more comprehensive and to bypass the issues on abortion and marital sexual relations, the negotiations led to a compromise. Its definition is provided in article 7(2)(f) of the Statute:

> "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy (Rome Statute, Article 7).

Elements of the crime

Actus Reus

The *actus reus* of this crime is the unlawful confinement of a woman forcibly made pregnant. As a result, various requirements must be satisfied: the victim was unlawfully confined; the victim is a woman; the victim was pregnant during any time of the confinement; and the pregnancy was caused by a forcible act.

The element of unlawful confinement is perhaps the most contentious material element to assess. Since no such definition exists under international criminal law, this element is subject to interpretation. According to a human rights law interpretation, unlawful confinement amounts to any violation of the right of liberty including, but not limited to, unlawful imprisonment (HRC, 2014: 34). Also, given that the definition does not provide any specific duration of the confinement, as stated by Amnesty, "[...] it is [...] sufficient that the person who has been made forcibly pregnant is unlawfully confined for *any* period of the pregnancy" (Amnesty International, 2020: 11).

In order to satisfy all these elements, it is necessary that the woman was confined in the time frame beginning from when she is thought to be pregnant and until the termination of the pregnancy. The termination can occur "by giving birth, by miscarriage, by abortion or by the limit permitted by local laws for obtaining an abortion" (Boon 2001: 662–63).

1) Mens Rea

Since the actus reus non facit reum nisi mens sit rea, as provided by article 30(1) of the Rome Statute, it is necessary that the material elements previously outlined need to be conducted with specific knowledge and intent.

Firstly, the perpetrator must be aware that the victim was pregnant and that she has been made pregnant forcibly: that can be through the use of physical force (or

the threat thereof), psychological coercion, and deception – such as deceiving the victim into getting a certain treatment without informing her that it is artificial insemination, or not using (or stopping) contraceptives without the knowledge of the victim.

Secondly, the alternate intent of the crime, as according to the definition, is to either affect the ethnic composition of any population, or to carry out other grave violations of international law. The first intent, clearly inspired by the case of Yugoslavia, allows this crime to be prosecuted especially (but not specifically) in relation to cases of genocide or ethnic cleansing. The second intent, instead, broadens the scope of the crime, allowing its prosecution also in cases where the intent was to carry out other grave violations of international law, "whether related to the pregnancy or not" (2020: 20) or whether they are expressly criminalised in international criminal law or any other international law instrument.

2) Additional Provision

The last component of the definition that it "shall not in any way be interpreted as affecting national laws relating to pregnancy" is perhaps the most surprising (2020: 20). Nonetheless, it has become more understandable, and less surprising, given the issues which emerged during the negotiations. In fact, given the need to find a compromise that would suit all parties, this provision has somewhat ensured that the right of abortion would not be taken under the jurisdiction, or scrutiny, of the International Criminal Court (2020: 20).

Forced Pregnancy in Practice

After having explained how the definition of the crime of forced pregnancy came into being, it is interesting to see that it is one of the few crimes contained in the Rome statute which has never been charged, as such, by any international tribunal, including the International Criminal Court (ICC). That is, until the Prosecutor v. Ongwen case, whose trial began on 6 December 2016.

Efforts prior to the Ongwen case

The crime of "forced pregnancy" was officially codified in ICL when the Rome Statute entered into force on 1 July 2002. Since then, neither the ICC nor any other tribunal had prosecuted the crime. This, however, does not mean that no efforts were made.

Namely, the ECCC, established in 2006, included no provision for the crime of forced pregnancy in its statute. Still, many – though inconclusive – efforts were made to charge it in its Case 4. On 4 March 2016 the Civil Party Lawyers (CPL) filed a request for investigative action against Ao An and Yim Tith before the Office of the Co-investigating Judges. In particular they requested "supplementary investigations to determine the intent [...] to carry out grave violations of international law through the confinement of one or more women made forcibly pregnant"(Civil Party Lawyers, 2016: 2). Since no such crime exists in the Statute of the ECCC, the CPL proposed to prosecute the crime of forced pregnancy under its

"crimes against humanity of other inhumane acts" provision (ECCC Treaty, Article 5).

As introduced in the first part of the paper, the CPK established a marriage policy forcing men and women to marry and consummate their marriage that same night. These acts were prosecuted, and subsequently charged, by the Trial Chamber in the Case 002/2 as "forced marriage" and "rape in the context of forced marriage" under the crimes against humanity provision of "other inhumane acts"(ECCC, 2018: 18).

Nevertheless, according to the CPL, such crimes did not fully reflect the extent of women's suffering. In particular, they did not adequately represent the physical and psychological consequences of the pregnancies arising from those rapes. These – thoroughly described in the CPL's request for further investigation – describe dreadful living conditions where "the vast majority of the Cambodian population was forced to perform hard physical labour and subjected to physical violence while having no access to sufficient food or medical treatment" (2016: 11). These conditions remain unchanged for pregnant women, who were held to the same standards of all people: having to work as much, and not receiving the medical assistance they required.

> Pregnant women would get [...] feet with open wounds and scabs from working in the paddy. Some of the pregnant women were swelling because of lack of basic nutrition [...]. Khmer Rouge did not care about the health of pregnant women they focused only on forcing everyone to work to follow the rule (de Langis, 2013).

After the pregnancy, the consequences of it put an additional burden on their victimisation. Women and their new-born babies, as reported by the CPL, rarely received any assistance. They were forced to work right after the delivery and, due to the fatigue and anxiety, many women were unable to breast-feed their babies (2016: 13). Also, along with the stigma arising from a pregnancy forcibly conceived during a forced marriage, these conditions contributed to the psychological harms suffered by women.

During the pregnancy, other issues emerged with the lack of medical assistance. As a result, many pregnancies followed in miscarriages and stillbirths, bearing critical psychological and physical consequences on the women. Furthermore, due to the inexistence of safe abortion measures, women who felt they could not bear the consequences arising from a pregnancy in those conditions, had no other choice than to perform abortion themselves, or helped by others, using unsafe methods which could result in physical and psychological traumas. These, as reported by the CPL, included "using a branch of a palm tree to open the stomach", "jumping down from heights", punching the abdomen, and rolling down a hill (2016: 15).

In their request, the CPL used the Rome Statute definition of forced pregnancy. This meant that various elements needed to be covered: the unlawful confinement, the forced impregnation, and the *mens rea*.

The first was assessed on the basis of the nature of the CPK rule. That is, according to the words of the CPL, one that established policies forcing nearly all citizens to live in cooperatives and worksites, whilst physically or morally restraining them under threats of violence (2016: 21).

The second requirement concerns the knowledge of the perpetrator that the victim was forcibly made pregnant. This knowledge rests in the policies adopted by the CPL. In fact, the enforced consummation of the marriage was intrinsic of the wider policy of forced marriage. Also, considering that no access to contraceptive methods was provided (2016: 21), the situation, according to the CPL, met the requirement of forced impregnation (2016: 21).

The last element, instead, concerns the mental intent to carry out the crime. In this case, the CPL found evidence that the CPK intended to carry out "other grave violations of international law". Namely, "the intention [...] to impose forced labour, forced conscription, restriction of movement, and other forms of serious human rights violations on the children born out of the forced marriages" (2016: 21).

The Ongwen Case

The Ongwen case was revolutionary according to many aspects: one of these is that it was the first international tribunal ever charging the crime of forced pregnancy. This means that future interpretations of this crime would base themselves on the interpretations provided for this case.

On 4 February 2021, the ICC Trial Chamber IX found Dominic Ongwen guilty of 31 counts of war crimes and 30 counts of crimes against humanity, charging the crime of forced pregnancy as both a crime against humanity and war crime against two women.

These women were both abducted, while still minors, in Northern Uganda and taken into Dominic Ongwen's household. There, they became Ongwen's so-called "wives", threatened with murder if they ever decided to leave (Prosecutor v. Domnic Ongwen §206). As "wives", they mainly had to provide for Ongwen's wellbeing, including treating his wounds, bathing him, and pleasing him sexually. They were both forced to have sexual relations with him, under threat and against their will, suffering great pain and fear (Prosecutor v. Domnic Ongwen §2027, §2048).

> Dominic Ongwen [...] asked [...] "[h]ave you seen this gun? If you refuse to sleep here, then you're going to face the consequences". [The first woman] told him that she was young and had never had sexual relations with any man. Dominic Ongwen's escorts then held her hands as Dominic Ongwen held her by force and penetrated her. [She] cried and bled a lot (Prosecutor v. Domnic Ongwen §2046).

> [...] Dominic Ongwen told [the second woman] he wanted her to be his "wife" and to come to his room. She refused to go. She then saw three escorts with sticks in front of Dominic Ongwen's house and decided to obey. [...] Dominic Ongwen [...] got on top of her and put his penis into her vagina. [She] felt pain and fear because she had never slept with a man before. (Prosecutor v. Domnic Ongwen §2048).

As a result of these rapes, the two women became pregnant and were forced, while pregnant, to keep serving Ongwen.

The Court's Interpretation

Before assessing whether the collected evidence amounted to forced pregnancy, the Chamber began its analysis by commenting on the crime of forced pregnancy, its history, and its meaning. It begins with an impactful phrase: "The crime of forced pregnancy is grounded in the woman's right to personal and reproductive autonomy and the right to family" (Prosecutor v. Domnic Ongwen §2717). It proceeds, with no less impact, to qualify the definition codified in the Statute as "too narrow", and stated the importance of interpreting forced pregnancy "[...] in a manner which gives this crime independent meaning from the other sexual and gender-based violence crimes in the Statute." Prosecuting it as a combination of other crimes, according to the Chamber, would not be enough. As such, they could not encompass the extent of the woman's deprivation of reproductive autonomy – a direct effect of the forced pregnancy crime (Prosecutor v. Domnic Ongwen §2722).

After this "comment", it proceeds by interpreting, element by element, all the material and mental requirements listed in the crime's definition, providing new interpretations for these. Firstly, while interpreting the material elements, it held that "[t]he forcible conception of the woman could occur prior to or during the unlawful confinement" and that "[t]he perpetrator need not have personally made the victim forcibly pregnant [...]" (Prosecutor v. Domnic Ongwen, §2723). Also, what is particularly interesting is the importance given to *consent*, including circumstances in which she is physically or mentally threatened or coerced through "violence, duress, detention, psychological oppression or abuse of power, against her or another person" (Prosecutor v. Domnic Ongwen, §2725).

Secondly, it interpreted the mental elements by clarifying something very important: that "the crime of forced pregnancy consists in the confinement of a forcibly pregnant woman [...], regardless of whether the accused specifically intended to keep the woman pregnant" (Prosecutor v. Domnic Ongwen, §2729). The only intent which should be considered, in this case, is that of carrying out other grave violations of international law: namely, to keep confining them with the intent to continue raping, sexually enslaving, enslaving, and/or torturing them (Prosecutor v. Domnic Ongwen, §2727).

The impact on "reproductive violence"

Though the judgement was a real breakthrough for the way in which reproductive violence, and forced pregnancy in particular, would be considered in the future of criminal law, it could have relied more on its Pre-Trial judgment where more emphasis was put on choice and, especially, on the lack thereof in getting pregnant, and in the fate of the pregnancy (2017: 925).

Also, the judgement made no reference to the wider spectrum of consequences that reproductive violence like forced pregnancy might cause. Though these were briefly mentioned in the Pre-trial phase, more importance could have been given to both the physical and psychological consequences of this crime without limiting the suffering to the act of forcible impregnation.

Nonetheless, the references made to reproductive autonomy and consent in the final judgement were still able to give a sign of openness and regard to the generally overlooked reality of reproductive violence. Essentially, this judgment emphasized the need to acknowledge the extent of women's deprivation of reproductive autonomy, possibly taking the whole extent of reproductive crimes under the spotlight and, finally, providing the accountability these crimes deserve.

Conclusion

This paper has presented the reality of reproductive violence in ICL. By focusing on the crime of forced pregnancy, it has provided an insight into one of the most contentious crimes ever to be drafted. By examining its origins and negotiating history, this paper has provided an analysis of the various elements that make up forced pregnancy crime. In so doing, it has paved the way towards understanding its complexity and its emergence as the one of the few reproductive crimes represented in the Rome Statute.

Finally, this paper has represented the crime of forced pregnancy in practice. Since this crime has been one of the most neglected in the history of ICL, the acknowledgment of such efforts to prosecute it represents a reality of ICL which gives hope. A hope that, over time, reproductive violence centred on the reproductive autonomy of women will be represented and prosecuted by the various ICTs, effectively carrying out accountability.

What the Ongwen case has demonstrated, is that reproductive autonomy is under attack and that it should be prosecuted as such, "calling the crime by its true name" (Prosecutor v. Domnic Ongwen, §2722). Still, this case has also demonstrated that the ICC still has a long way to go into fully acknowledging the extent of this particular kind of violence: the consequences and "secondary harms" (2017: 907) that women suffer as a result of the forced pregnancy.

Only when these are acknowledged and given suitable importance, will a charge of forced pregnancy be able to properly represent the reality of women's sufferings.

References:

Amnesty International. 2020. Forced Pregnancy: A Commentary on the Crime in International Criminal Law. https://www.amnesty.org/en/documents/ior53/2711/2020/en/ (accessed April 2020).

Boon, Kristen. 2001. "Rape and Forced Pregnancy Under the ICC Statute: Human Dignity, Autonomy, and Consent." *Columbia Human Rights Law Review* 32: 625-676.

Brownmiller, Susan. 1975. *Against Our Will: Men, Women and Rape*. New York: Simon & Schuster.

de Langis, Theresa. 2013. "Cambodian Women's Oral History Project: Life Stories of Survival under the Khmer Rouge Regime," accessed April 2021, http://cambodianwomensoralhistory.com/sok-samith-52-phnom-penh.

Civil Party Lawyers. 2016. "Civil Party Lawyers' Request for Investigative Action Against Ao an and Yim Tith Concerning the Crime of Forced Pregnancy," accessed April 2021, https://tinyurl.com/958vv5f6

ECCC. 2018. "Summary of Judgement Case 002/02," accessed April 2021, https://it.scribd.com/document/477416964/20181217-Summary-of-Judgement-Case-002-02-ENG-FINAL-FOR-PUBLICATION.

"Geneva Convention Relative to the Protection of Civilian Persons in Time of War." Adopted 12 August 1949, entered into force 21 October 1950. *United Nations Treaty Series 75*, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf (accessed April 2021).

Grey, Rosemary. 2017. "The ICC's First 'Forced Pregnancy' Case in Historical Perspective," *Journal of International Criminal Law* 15(5): 905–930, accessed April 2021, https://doi.org/10.1093/jicj/mqx051.

HRC. General Comment 35: Article 9 (Liberty and Security of Person). https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC35-Article9LibertyandSecurityofperson.aspx (accessed April 2021).

ICC. 2021. Prosecutor v Dominic Ongwen. https://www.icc-cpi.int/CourtRecords/CR2021_01026.PDF (accessed April 2021).

ICTR. 1998. Prosecutor v Akayesu. https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-96-4/trial-judgements/en/980902.pdf (accessed April 2021).

International Criminal Court. *Rome Statute of the International Criminal Court 2002.* https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf (accessed April 2021).

The Women's International War Crimes Tribunal on Japan's Military Sexual Slavery. 2001. The Prosecutors and the Peoples of the Asia-Pacific Region v. Hirohito Emperor Showa et al. https://www.asser.nl/upload/documents/DomCLIC/Docs/NLP/Japan/Comfort_Women_Judgement_04-12-2001_part_2.pdf (acccessed April 2021).