GIURISPRUDENZA PENALE

Sexual crimes as weapons of war: new trajectories towards a more effective gender justice at the International Criminal Court.

by ***Federica Ceccaroni***

Table of contents. **1.** Introduction. – **1.1.** Problem. – **1.2.** Purpose and research questions. – **1.3.** Delimitations. – **1.4.** Method and legal framework. – **1.5.** Outline. – **2.** Analysis. – **2.1.** *The Prosecutor v. Germain Katanga*: the ongoing reluctance in considering sexual crime as a weapon of war. – **2.2.** *The Prosecutor v Lubanga*: the difficulty in linking the defendant with the sexual violence. – **2.3.** The superior responsibility: a possible trajectory to hold the commander responsible for sexual crimes. – **3.** Concluding remarks. – **4.** Bibliography.

1. Introduction

1.1. Problem.

The creation of the International Criminal Court (ICC) through the coming into force of the Rome Statute on 1 July 2002[1], constituted a moment of great effort for the prosecution of gender-based crimes.

Unlike the forerunner statutes establishing the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), the Rome Statute has been hailed as the 'most advanced articulation in the history of gender-based violence'[2].

Despite the codification of an increased number of the gender-based crimes as war crimes and crimes against humanity and the inclusion of a gender mandate within the ICC structures and procedures, the ICC seems to be failing its obligation to charge and prosecute these crimes[3]. This is clearly illustrated in the ICC's first case, *Lubanga*[4], in which no gender-based charges were brought despite extensive evidence of rape and sexual slavery by Lubanga's militia. In addition, in *Katanga*[5] the Trial Chamber could not succeed in finding sufficient evidence in order to link the accused to the charges of rape and sexual enslavement [6].

---

[1] Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9, July 17, 1998, 37 I.L.M. 1002, 1030 (entered into force July 1, 2002) [hereinafter Rome Statute].

[2] Women's Initiatives for Gender Justice, Inder, B., *Making a Statement: A Review of Charges and Prosecutions for Gender Based Crimes before the International Criminal Court*, (February 2010).

[3] For more information *see* Bonacker, Thorsten. & Safferling, Christoph. (2013*). Victims of International Crimes: An Interdisciplinary Discourse.* The Hague, The Netherlands: T. M. C. Asser Press.

[4] *Prosecutor v Lubanga* (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber I).

[5] *Prosecutor v Katanga* (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber II).

[6] *See* also *Prosecutor v Bemba Gombo* (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court).

The gap between the codified rules of international criminal law and their implementation and interpretation could be the result of different and contingent factors.
Significantly, it could be noted that a relevant circumstance that hinder the prosecution of these crimes is the way sexual and gender-based crimes[7] are conceptualized.
In particular, the essay will focus on the misleading interpretation of sexual crimes as individual acts, unrelated to the wider conflict.
This misinterpretation has dangerous effects on the effectiveness of the formal legal rules with regard to gender-based crimes due to the difficulty to *link* sexual violence to the high-level political or military leaders who, generally, are not the physical perpetrators[8].

1.2. Purpose and research questions.

This paper seeks to investigate the reasons behind the lack of convictions, so far, by the ICC for sexual crimes. This dissertation aims to answer the core questions of this essay:
what are the grey areas of the current state of international criminal law for providing an adequate level of protection and access to justice for women? Taking into account the special nature of wartime sexual violence, is the interpretation provided by the ICC appropriate for it?

1.3. Delimitations.

The paper does not intend to provide a comprehensive overview of the key reasons that are at the basis of the gap between written law and practise. Instead of concentrating on the institutional factors (e.g. institutional actors or historical factors)[9], that shape and influence the decision making at the ICC, the essay will focus on the legal interpretation of gender-based crimes in the context of a conflict.

1.4. Method and legal framework.

The essay is mainly based on legal analysis, using a legal dogmatic method. It consists in clarifying the meaning and significance of legal rules, proceeding from its own content. The formal dogmatic approach studies law as such, without considering it in politics, ethics and other social sciences[10]. This method will be typical of doctrinal research with a focus upon the law itself - analysing the primary sources: relevant international legal sources and the recent body of case law.
Besides, this essay will considerably use various secondary sources, such as reports of international organizations, journal articles, written commentaries on the case law

---

[7] Connellan, Mary Michele. & Fröhlich, Christiane. (2018). A Gendered Lens for Genocide Prevention. London: Palgrave Macmillan UK.
[8] Munro, Vanessa & McGlynn, Clare. (2010). *Rethinking rape law: international and comparative perspectives.* Abingdon: Routledge-Cavendish.
[9] For more information about these components *see* Chappell, Louise A. (2015). *The politics of gender justice at the International Criminal Court: legacies and legitimacy*. New York: Oxford University Press.
[10] Alexander V., Petrov & Alexey V., Zyryanov. (2018). *Formal-Dogmatic Approach in Legal Science in Present Conditions*. Journal of Siberian Federal University. Humanities & Social Sciences.

and legislation, etc. The principle aim here is to identify ambiguities and grey zones of the law which can affect its enforcement.
This method will be used together with a gender-oriented perspective, as the thesis deals with issues which require the focus to be put on gender related issues specific to women. Indeed, it is an acknowledged fact that sexual violence primarily and disproportionately affects women. According to feminist theory, international law is structurally biased in a way that permits and sometimes even requires the subordination of women[11]. This perspective is useful in understanding why gender-based crimes are often treated differently compared to other crimes.

1.5. Outline.
The essay is structured so that this introduction is followed by a second chapter on the issues related to the implementation of the gender-based provisions. In particular, chapter 2.1 is concerned with the scrutiny of *The Prosecutor v Katanga* with regard to sexual crimes. The assessment of the tricky questions of this case would provide useful tools to reflect on the ongoing weaknesses in the ICC's approach to address sexual crimes. These missteps should be considered to advance the gender-based goals and the record of the ICC's early years. Section 2.2 seeks to strengthen the results of the analysis of the Katanga Trial offering another example of the ICC's case-law: *The Prosecutor v Lubanga.* The following 2.3 chapter provides a suggestion to overcome the difficulties highlighted in the previous analysis. The essay ends with some concluding remarks in chapter 3 followed by a bibliography in chapter 4.

2. Analysis.
Despite the progressive codification of a broad range of sexual and gender-based crimes, the poor ICC's record in prosecuting sexual violence highlights significant gaps between these recognition provisions and their implementation. The following paragraphs seek to explore possible explanations of this discrepancy.
The scrutiny of *The Prosecutor v Katanga,* the first case involving sexual violence crimes to complete full trial at the ICC, serves this purpose. This judgement is symptomatic of an inconsistent factual treatment of sexual violence as compared to other violent crimes and an improper attention to the specific nature of these crimes, in particular within the wide context of armed conflict.
The case shows the ICC's orientation in classifying sexual violence, as opposed to other types of violence, as falling outside of *common plans* under Article 25(3) (a) and (d) of the Rome Statute. The common plan is one of the essential requirements to convict high-level military or political leaders. Indeed, they are often not the direct perpetrators of crimes thus they must be connected to sexual violence for the participation in, or contribution to, a common criminal plan[12].
The Prosecutor v Katanga illustrates the hurdles to connect the defendant to the sexual violence committed by his militia due to a limited interpretation of the law relating to sexual crimes. Accordingly, it should be questioned whether these modes

[11] Klamberg, Mark, Power and Law in International Society: International relations as The Sociology of International Law (Routledge, 2015).
[12] Kortfält, Linnea. (2015). *Sexual Violence and the Relevance of the Doctrine of Superior Responsibility in the Light of the Katanga Judgment at the International Criminal Court.* Nordic Journal of International Law 84, 4, 533-579.

of liability have been interpreted in a way that enables the attribution of liability to leaders for wartime sexual violence.
It will be demonstrated the failure of the ICC in considering sexual crimes foreseeable and orchestrated in a conflict, as 'weapons of war'. This perspective impedes to consider these crimes within the common criminal plans in order to efficiently prove the elements of Article 25(3)(a) and (d).
The Prosecutor v Lubanga in 2.2 is another emblematic case that shows the lack of a gender sensitive and gender conscious strategy when pursuing convictions at the ICC.

2.1. The Prosecutor v. Germain Katanga: the ongoing reluctance in considering sexual crime as a weapon of war.

On the 7 March 2014, Germain Katanga, the leader of the militia group *Forces de Résistance Patriotique d'Ituri* (FRPI) in the Democratic Republic of Congo (DRC), was condemned for his involvement in a common criminal plan to wipe out the village of Bogoro (in the DRC).
He was convicted with the charge of murder as a crime against humanity; murder, attack against a civilian population, destroying the enemy's property and pillaging as a war crime. The conviction for these crimes was based on article 25(3)(d) in the Rome Statute, i.e. *contribution to a group crime*.
Conversely, Katanga was found not guilty of charges relating to sexual violence (rape and sexual slavery as war crimes and crimes against humanity). The reason for the acquittal was the lack of evidence of Katanga's direct participation in the clearly established occurrences of sexual violence and the failure to, in any other way, *link* him to said crimes.
The Chamber concluded that, even if the sexual violence was an integral part of the attack in question, it was not possible to conclude that it was a part of the *common purpose* of the group that carried out the attack.
The Chamber explained the concept of *common purpose*:

> *the participants in the common purpose must harbour the same intent: they must mean to cause that consequence which constitutes the crime or be aware that the crime will occur in the ordinary course of events. […] Crimes ensuing solely from opportunistic acts by members of the group and which fall outwith the common purpose cannot be attributed to the group's concerted action*[13].

Establishing that the crime fits within the common purpose is a constituent element of Article 25(3)(d). Since the requirements of this specific mode of liability were not fulfilled, it was not possible to *link* the Katanga to these specific crimes[14].
The Chamber reached these findings based on evidence that in the weeks leading up to the attack Katanga had been responsible for the transportation, stockpiling and distribution of weapons and a large amount of ammunition to his militia. The Trial Chamber found that these actions demonstrated planning, intent and preparation for the attack and proved Katanga's contribution to the common purpose under Article 25(3)(d), except for the acts of sexual violence[15].

---

[13] *The Prosecutor v Katanga* (*supra* note 4), para 1627.
[14] Kortfält, L. (*supra* note 10).
[15] Women's Initiatives for Gender Justice, Inder, B., Making a Statement: A Review of Charges and Prosecutions for Gender Based Crimes before the International Criminal Court, (February 2010).

It appears that the majority explicitly connected the amassing and distribution of weapons with the ability of the combatants to commit the crimes of murder, destruction of property, pillaging and an attack on the civilian population. In other words, it appears that the Judges made an explicit connection between the type of contribution to the plan and the types of crimes committed[16].
Based on this reasoning, it is difficult to understand what form of contribution the Court would require for the proof of the intent to commit sexual violence, in order for this crime to be considered part of the *common purpose*.
Overall, this case reveals a reluctance towards using alternative modes of liability broadly with regards to sexual violence as compared with other international crimes. It seems that leaders should not be held accountable for sex crimes unless there is incontrovertible proof that they ordered the crimes or that they knew about them and personally intended their commission[17]. Indeed, why the proof of the *common purpose* in other crimes -e.g. pillage- differs from sexual crimes? Judges seems to require in cases of sexual crimes, subconsciously, a higher level of proof than in other types of cases. The treatment of sexual violence so differently is unjustified. This attitude is legally and factually inaccurate and provides a flawed, sexist historical record of the events, and denies justice to victims.
The words of Barbara Goy point out these challenges[18]:

> *While in principle the foreseeability requirement applies to all categories of crimes—not just sexual violence—in practice we have seen that particular challenges emerge in persuading fact-finders that sexual violence is foreseeable. Our experience suggests a risk that sexual violence crimes may be conceptualized differently from other violent crimes because of their sexual component and that this may result in higher evidentiary standards being applied to prove foreseeability in sexual violence cases.*

Furthermore, it emerges that rape and sexual slavery, in the opinion of the Court, were not *instrumental* in the taking of the village of Bogoro.
The Court held[19]:

> *Hence, although the acts of rape and enslavement formed an integral part of the militia's design to attack the predominantly Hema civilian population of Bogoro, the Chamber cannot, however, find, on the basis of the evidence put before it, that the criminal purpose […] necessarily encompassed the commission of the specific crimes proscribed by articles 7(1)(g) and 8(2)(e)(vi) of the Statute. Accordingly, and for all of these reasons, the*

---

[16] *See* also the inconsistencies with regard to the mental element: Katanga was found guilty of murder and for an attack against a civilian population under *dolus directus* in the first degree, meaning that these were acts he intended to engage in. However, the Chamber did not consider *dolus directus* in the second degree as regards rape and sexual slavery, meaning whether Katanga knew that in the ordinary source of the attack, crimes of sexual violence would occur. By contrast, under this theory of intent, the majority did find him guilty of pillaging and destruction of property.
[17] Askin, Kelly Dawn (2006) *Holding Leaders Accountable in the International Criminal Court (ICC) for Gender Crimes Committed in Darfur.* Genocide Studies and Prevention: An International Journal: Vol. 1: Iss. 1: Article 6.
[18] Barbara Goy, Michelle Jarvis and Giulia Pinzauti. *Contextualizing Sexual Violence and Linking it to Senior Officials: Modes of Liability.* in Baron Serge Brammertz and Michelle Jarvis (eds) Prosecuting Conflict-Related Sexual Violence at the ICTY (Oxford University Press, Oxford, 2016) 220 at 244.
[19] *Prosecutor v Katanga* (*supra* note 4), para 1664.

Chamber cannot find that rape and sexual slavery fell within the common purpose.

This reasoning seems to imply that physical destruction carried greater weight in the purpose than the fracture of community structures through acts of sexual violence.
This argument needs to be criticised. Do rape and sexual violence represent an exception in Katanga? Are they merely opportunistic acts? This interpretation fails in considering the fact that sexual crimes has been used as an instrument to wipe out the village of Bogoro. Therefore, they should be considered, at least, as *occurring in the ordinary course of the event.*
Sexual crimes should not be seen as incidental and as an inevitable collateral damage of war – a private act of unbridled male lust. A similar trend[20] ignores that wartime rapes are integral to larger conflicts and are used strategically as weapons of war[21].
Only contemplating these acts as committed to advance the larger goals of party in conflict would allow sexual crimes to be prosecuted as war crimes under Article 25 (d) of the Rome Statute. If sexual crimes are recognized as a tool for the achievement of political and military objectives, they could not be considered extraneous to the common purpose.
For these reasons, it is desirable that the ICC would recognise, in future cases, wartime sexual violence as capable of falling within the scope of the common criminal purpose of the group.
It is the only way to treat crimes against women in the same way of other crimes finally giving women the long-hoped-for visibility in the international scenario.

2.2. The Prosecutor v Lubanga: the difficulty in linking the defendant with the sexual violence.

The *Prosecutor v Lubanga* is another controversial case with regard to issues of gender-based crimes. Lubanga was charged and convicted of conscripting and actively using child soldiers in hostilities in the DRC.
However, the Office of the Prosecutor (OTP) has been criticised for failing to include sexual violence charges in the indictment, despite evidence that girls had been kidnapped into Lubanga's militia and were often raped and kept as sex slaves.
The words of the former prosecutor Luis Moreno-Ocampo are emblematic of the hurdles related with the linking theories in sexual crimes: "I knew to arrest Lubanga I had to move my case fast. So, I had strong evidence about child soldiers. I was not ready to prove the connection between Lubanga and some of the killings and rapes"[22].

---

[20] The judgement perpetuates the trend of the ad hoc tribunals in classifying sexual violence as outside the common criminal purpose. *See*, *inter alia, Prosecutor v. Lukič*, Case No. IT-98-32/1-A, Appeals Judgment (Dec. 4, 2012).
[21] *See* also Lemkin's position at Nuremberg: *sexual crimes committed within occupied Europe during the war were a fundamental part of the German program of genocide—just as much as the notorious camps and ghettos.* […] *Sexual crimes should be seen as weapons of war or acts of genocide, not as secondary offenses that occur because more serious atrocities create conditions that allow for the commission of these acts*. Connellan, Mary Michele. & Fröhlich, Christiane. (2018). *A Gendered Lens for Genocide Prevention.* London: Palgrave Macmillan UK.
[22] Interview with Luis Moreno-Ocampo in, Pamela Yates (Director). The Reckoning: The Battle for the International Criminal Court [Motion picture on DVD]. United States: Skylight Pictures, 2009.

As in *Katanga* trial, the prosecutor seems to have adopted an understanding of these crimes as merely incidental or opportunistic occurrences.
Also in this case sexual crimes were not considered as a fundamental part of larger criminal programs, committed with the same common purpose as other actions for which defendants are charged.
In view of all as been illustrated so far, it could be argued that the prosecution of rape in Lubanga failed because sexual crimes were interpreted as incidental attacks on child soldiers by individual soldiers. Only the interpretation of these crimes as a systematic aspect of a larger program of using child soldiers could lead to the establishment of the *mens rea* of the defendant. In fact, Lubanga, as the founder and president of the Union of Congolese Patriots (UPC), would have known that sexual crimes were a strategic aspect to the UPC's program of using child soldiers[23].
This interpretation of these crime as an integral part of the plan of using child soldiers was confirmed, during the trial, by three witnesses. In particular, Witness 299 declared: "the girl child soldiers only had two jobs, to carry bags and be the 'wives' of the commanders"[24].
The choice of the Prosecutor to not bringing forward charges relating to sexual violence is the result of the interpretation of this acts as private, unrelated to the whole criminal plan.
This position was objected by the noteworthy dissenting opinion of Judge Odio-Benito[25]. However, it has to be mentioned the comment of the ICC Trial Chamber with regard to the judicial strategy of the Prosecutor in this case[26]:

> *The Chamber strongly deprecates the attitude of the former Prosecutor in relation to the issue of sexual violence. He advanced extensive submissions as regards sexual violence in his opening and closing submissions at trial, and in his arguments on sentence he contended that sexual violence is an aggravating factor that should be reflected by the Chamber. However, […] the former Prosecutor fails to apply to include sexual violence or sexual slavery at any stage during these proceedings, including in the original charges.*

Conclusively, the facts of this case highlight the ongoing tricky issue in the field of wartime sexual violence: the misleading position of viewing sexual crimes as mainly extraneous to the strategic plans of the perpetrators.
It could be argued that such approach constitutes one significant gap to hold the leaders responsible for sexual crimes and contributes to the denial of justice for women victims.

---

[23] Connellan et al. (*supra* note 13).
[24] Witness 299: ICC-01/04-01/06-T-122-ENG, page 26, lines 23–25.
[25] T*he Prosecutor v Lubanga* (Separate and Dissenting Opinion of Judge Odio Benito) Case No. ICC-01/04-01/06 (March 14, 2012), §16. *By failing to deliberately include within the legal concept of "use to participate actively in the hostilities" the sexual violence and other ill-treatment suffered by girls and boys, the Majority of the Chamber is making this critical aspect of the crime invisible. Invisibility of sexual violence in the legal concept leads to discrimination against the victims of enlistment, conscription and use who systematically suffer from this crime as an intrinsic part of the involvement with the armed group.*
[26] *The Prosecutor v Lubanga* (*supra* note 3), para 60.

2.3. The superior responsibility: a possible trajectory to hold the commander responsible for sexual crimes.

The abovementioned trend of the ICC in classifying sexual violence as outside of a *common purpose* could be an obstacle to successful prosecutions of this crime.

However, the doctrine of superior responsibility could be a possible alternative charging strategy in these situations due to the fact that Article 28 of the Rome Statute does not require the *common purpose*.

The prerequisites to liability under Article 28 of the Rome Statute are: 1) a commander/subordinate relationship; 2) "knowledge" that subordinates are committing or about to commit the crimes; and 3) the failure to prevent or punish the crimes.

As demonstrated in the case against Katanga, it is difficult to prove that there exists a *common plan* to commit these crimes, especially due to the biases and perceptions about the relationship between sexual violence and conflict. Therefore, the doctrine of superior responsibility is an appropriate means to establish liability for high level superiors. Under that form of liability, prosecutors would have had to show that Katanga knew about the crimes but did not take steps to prevent them happening or punish his subordinates for committing them. They would not have had to demonstrate that crimes of sexual violence were a pre-planned tactic. The prosecutor could have tried to show that although such acts were not part of the militia's planned criminal conduct, Katanga should have been in control of his troops, and as their leader would be responsible for conduct that he should have foreseen or known about.

It is not in the objectives of this essay to provide an inquiry on this doctrine and its lower level of the proof required in comparison with the linking theory under Article 25(3)(d). What has to be highlighted is the fact that this doctrine would overcome the impasse of proving the *common purpose*. Charging Katanga for responsibility under article 28, could very likely, have helped in securing a conviction for sexual violence.

As a matter of fact, in *Prosecutor v Bemba*[27] the use of this doctrine successfully resulted in the first conviction before the ICC with regard to gender-based crimes[28]. In addition, in this case, has been finally recognized the systematic and strategic use of rape in war.

While command responsibility is an indirect way to address women's visibility as conflict victims, it could be effective at awarding responsibility for wartime sexual violence[29].

---

[27] *Prosecutor v Bemba Gombo* (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber III).

[28] *Note* that Bemba has been acquitted by the Appeal Chamber. The Appeals Chamber found that Bemba cannot be held criminally liable under article 28 of the ICC Rome Statute and that he must be acquitted because the Trial Chamber had made serious errors in its finding that Mr Bemba had failed to take all necessary and reasonable measures to prevent or repress the crimes of the MLC troops. Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo* ICC-01/05-01/08-3411, 08 June 2018.

[29] D'Aoust, M. (2017). Sexual and Gender-based Violence in International Criminal Law: A Feminist Assessment of the Bemba Case, International Criminal Law Review, 17(1), 208-221.

3. Concluding remarks.

Convictions for sexual violence crimes is a fundamental goal of the ICC. It is the only way to bring justice for victims of sexual violence and to enable the reconstruction of post-conflict societies. In addition, it should be considered holding the leaders accountable for these crimes could result in maximizing the prevention of gender-based crimes in armed conflict (deterrent effect).

Failing to hold the leaders accountable for sex crimes could undermine the achievement of the most fundamental aims of the Rome Statute, set forth on its Preamble: i.e. that *the most serious crimes of concern to the international community as a whole must not go unpunished*[30].

The ICC's rules prohibiting and criminalizing sexual violence remain dead letters if they are not adequately implemented.

In particular, it has been demonstrated, throughout the essay, that the interpretation of sexual violence as an unforeseeable and private act committed by soldiers leads to the impossibility to successfully prosecute leaders.

Only through a change of this perspective the longstanding trend seeing the sexual offences as "the least condemned war crime"[31] could be reversed.

Bibliography

Law

Rome Statute of the International Criminal Court (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 90/37 ILM 1002.

Court Cases

Prosecutor v Katanga (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber II, Case No ICC-01/04-01/07-3436-tENG, 7 March 2014) 658−9 ('Katanga Trial').

Prosecutor v Bemba Gombo (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber III, Case No ICC-01/05-01/08-3343, 21 March 2016) ('Bemba Trial').

Prosecutor v Lubanga (Judgment Pursuant to Article 74 of the Statute) (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-2842, 14 March 2012) ('Lubanga Trial').

Prosecutor v. Lukič, Case No. IT-98-32/1-A, Appeals Judgment (Dec. 4, 2012).

[30] *See* Rome Statute, *supra* note 1, pmbl. (stating that in order to ensure proper prosecution of serious international crimes, measures must be taken at the national level and there must be enhanced international cooperation).

[31] Special Rapporteur on Violence Against Women, Preliminary Report, §263.

Books and articles

Chappell, Louise A. (2015). The politics of gender justice at the International Criminal Court: legacies and legitimacy. New York: Oxford University Press.

Connellan, Mary Michele. & Fröhlich, Christiane. (2018). A Gendered Lens for Genocide Prevention. London: Palgrave Macmillan UK.

Munro, Vanessa & McGlynn, Clare. (2010). Rethinking rape law: international and comparative perspectives. Abingdon: Routledge-Cavendish.

Cryer Robert, Friman Håkan, Robinson Darryl & Wilmshurst Elizabeth, An Introduction to International Criminal Law and Procedure, 3rd ed., Cambridge University Press, Cambridge, 2014.

Bonacker, Thorsten. & Safferling, Christoph. (2013). Victims of International Crimes: An Interdisciplinary Discourse. The Hague, The Netherlands: T. M. C. Asser Press.

Kortfält, Linnea. (2015). Sexual Violence and the Relevance of the Doctrine of Superior Responsibility in the Light of the Katanga Judgment at the International Criminal Court. Nordic Journal of International Law 84, 4, 533-579.

Schwartz, Sarah. (2017). Wartime Sexual Violence as More than Collateral Damage: Classifying Sexual Violence as Part of a Common Criminal Plan in International Criminal Law UNSWLawJl 4; 40(1) University of New South Wales Law Journal 57.

Sophie O'Connell. (2010). Gender Based Crimes at the International Criminal Court, in Plymouth Law Review vol. 3.

Mouthaan, Solange. (2011). The prosecution of gender-based crimes at the ICC: challenges and opportunities. International Criminal Law Review, Vol.11 (No.4).

Askin, Kelly Dawn. (2006). Holding Leaders Accountable in the International Criminal Court (ICC) for Gender Crimes Committed in Darfur. Genocide Studies and Prevention: An International Journal: Vol. 1: Iss. 1: Article 6.

D'Aoust, Marie-Alice. (2017). Sexual and Gender-based Violence in International Criminal Law: A Feminist Assessment of the Bemba Case, International Criminal Law Review, 17(1), 208-221.

Barbara Goy, Michelle Jarvis and Giulia Pinzauti. Contextualizing Sexual Violence and Linking it to Senior Officials: Modes of Liability. in Baron Serge Brammertz and Michelle Jarvis (eds) Prosecuting Conflict-Related Sexual Violence at the ICTY (Oxford University Press, Oxford, 2016) 220 at 244.

SáCouto, Susana and Katherine Cleary. Importance of Effective Investigation of Sexual Violence and Gender-Based Crimes at the International Criminal Court.

American University Journal of Gender, Social Policy & the Law. 17, no. 2 (2009): 337-359.

Klamberg, Mark. Power and Law in International Society: International relations as The Sociology of International Law (Routledge, 2015).

Other documents

ICC Prosecutor Fatou Bensouda, ICC Press Release: Policy Paper (5th June 2014).

Women's Initiatives for Gender Justice, Inder, B., Making a Statement: A Review of Charges and Prosecutions for Gender Based Crimes before the International Criminal Court, (February 2010). http://www.iccwomen.org/publications/articles/docs/MaS22-10web.pdf

Interview with Luis Moreno-Ocampo in, Pamela Yates (Director). The Reckoning: The Battle for the International Criminal Court [Motion picture on DVD]. United States: Skylight Pictures, 2009.