LUND UNIVERSITY

European Master's Programme in Human Rights and Democratisation
A.Y. 2020/2021

Words That Hurt

A legal semantic analysis of Sexual Violence and Rape in international judicial bodies of criminal character with the help of Natural Language Processing

Minos Papakyriakopoulos
Karol Nowak

Acknowledgments

First and foremost, I would like to thank my supervisor, Karol Nowak, for believing in my topic and providing me with support and insight during my semester in Lund.

The EMA Team, Wiebke Lamer, George Ulrich, Chiara Altafin and Orla Ní Cheallacháin, who have created a wonderful educational environment in Lido, that has inspired me to become a better person. Words cannot describe my gratitude.

My brother, Orestis, whose help has been immense and who inspired this thesis.

Sandrina Vyse, my sunshine and mentor in life, who taught me everything I know.

Eleni Alexiou, who showed me the road less traveled and how one should care about the world.

My family: Irini, Kyriaki, Nefeli, Dimitris and Chloe whose support and love mean everything to me.

Maria – Aikaterini Chaidemenou, my person, who has always been there for me and will always be pushing me to achieve new things.

Anastasia Chaidemenou, for caring and being my second mother.

Maria Merkou and Konstantina Gavala, my chosen family, with whom no matter the distance, we are always together.

The Vaffa Team for making this year amazing, full of laughter and unforgettable moments. In particular, Stella, Sophia, Rion, Mona and Alessio, I admire you so much and this is just the beginning…

Fanni was waiting for me at the door

“How was school? ”

“Very well. I learnt how to speak, to answer and to think in syllables. ”

“Then why are you crying? ”

“It’s the syllables. It hurts, when I cut words in the middle. ”

“You’ll get used to it”, said Fanni. «You’ll get used to it. ”

Kassandra and the Wolf

Margarita Karapanou

Abstract

A lot of attention has been given to issues concerning Sexual and Gender Based Violence, which by many is synonymous to violence targeting only women, while neglecting how sexual violence affects male victims. Yet, there has been even less analysis on the language used to describe these crimes and in particular how International Criminal Law and the decisions of international judicial bodies of criminal character portrait this situation. The legal semantics used to try and to describe sexual crimes in Court documents have been an uncharted territory, creating various questions in regards to how sexual violence and rape against women and men is being portrayed by judicial bodies or even what ideas and messages are being conveyed in the cases where the perpetrators of such crimes have been convicted. With the help of the methodology of Natural Language Processing and the tools of Word Frequency and Word Embeddings, I analyze the Cases of Akayesu, Simić, Ntaganda and Ongwen to identify semantic differences in the portrayal of sexual violence and rape in regards to the gender and the role of the victim in the armed conflict.

Key Words: legal semantics, rape, sexual violence, natural language processing, word embeddings, word frequency

TABLE OF CONTENTS

1. Introduction

Until recently, sexual violence in armed conflict settings and particularly the crime of rape have been long pushed aside as a field of interest by the academic community (Baaz and Stern, 2014). The majority of the existing literature has focused on issues concerning Sexual and Gender Based Violence, which by many is synonymous to violence targeting only women, while neglecting how sexual violence affects male victims. Moreover, there has been even less analysis of the language used to describe these crimes and in particular how International Criminal Law and the decisions of international judicial bodies of criminal character portrait this situation. Little is still known on the the legal semantics used to try and to describe sexual crimes in Court documents, creating various questions in regards to how sexual violence and rape against women and men is being portrayed by judicial bodies or even what ideas and messages are being conveyed even in the cases where the perpetrators of such crimes have been convicted.

The importance of language in legal and political life is undisputed. Language transmits messages, portrays ideas and stereotypes. Many have tried to encrypt the meanings behind the legal documents and decisions but scholars have faced difficulties in analyzing this particular field of study due to the high volume of legal text available and as a result they have difficulties to come up with concrete results, as they rarely manage to manually read all these corpora (Grimmer and Stewart, 2012).

Nowadays, however, with the use of new methods such as Legal Text Processing researchers have been able to engage with an in depth analysis of not only Legal Semantics but also with other applications such as legal text segmentation, legal topic classification, legal judgment prediction and analysis, legal question answering and even the importance of legal precedent through Footnotes in international criminal cases (Chalkidis, 2021).

This thesis, will make use of the discipline of data analysis and its groundbreaking contribution in research methodology by analyzing legal corpora, decisions of the various international judicial bodies of criminal character, with the aim to identify patterns and issues with the language used to depict sexual violence and rape in armed conflict settings.

Before proceeding, I find it important for clarity purposes and for the overall coherence of this research to name some of the various problems identified during my investigation on the issue, that show how the academic society and the international legal system have neglected a homogeneous prosecution of sexual violence regardless of the gender

of the victim and how various procedural aspects may negatively affect the legal language used.

1.1. Problem Statement

The engagement with the research of Legal Semantics of Sexual Violence and Rape in International Criminal Law has unfolded a number of problems both in the core of the International Criminal Court and in regards to the use of Legal Language in general.

First and foremost, the supranational judicial bodies of criminal character that have been created through the years have always focused on what Kuo defines as "greater crimes" that take place in conflict zones such as, murder, mass deportation and mass enslavement of civilians (Kuo, 2002). This means, that crimes of sexual nature have been left in the shadows and their prosecution has been minimum or even non – existent, as they have been receiving less attention compared to their occurrence.

This for example, as it will later be analyzed, can be seen from the aftermath of the Second World War, where rape crimes were not included, neither in the Nuremberg nor in the Tokyo Charter. The Tokyo Tribunal prosecuted the crimes that took place during the Rape of Nanjing interestingly under the prohibition of "inhumane treatment" and "failure to respect family honour and rights" (Uhlířová, 2018), but it completely failed to address other wartime sexual violence, such as the rape and sexual slavery of the so-called "comfort women", even though there was general public awareness of the sexual crimes committed (Henry, 2010).

Additionally, many scholars share the belief that the ICC in its first years struggled to prosecute Sexual and Gender Based Crimes and was criticized for the lack of charges and prosecutions (Mannix, 2014). One of the most infamous cases has been the Lubanga Case, as the Prosecutor, Luis – Moreno Ocampo, declined to investigate SGBC and amend the indictment even though there had been a great amount of evidence provided by both the UN Secretary General and other NGOs proving the accused's involvement in these type of crimes (Chapell, 2014).

Nowadays, however, many praise Fatou Bensouda, Former Prosecutor of the ICC, who seems to have turned a new leaf in the operation of the Office of the Prosecutor (OTP) by prioritizing gender justice and the investigation of SGBC. In 2014 the OTP issued the Policy Paper on Sexual and Gender Based Crimes, which crystallized this shift of focus as it specifies sexual crimes and their elements with the aim to combat impunity for SGBC and to strengthen the homogeneity of the application of the legal framework of the Rome Statute.

In practical terms, this has been also evident in the Ntaganda Case where we have for the first time the investigation and prosecution of intra party rape and in the recent Ongwen Case of 2021 who was found guilty on 19 counts of SGBC. The latter has been received as a remedy of the controversial Appeals Court decision in the Bemba Case, which unanimously acquitted the accused of all charges including Rape as Crime against Humanity and Rape as War Crime, neglecting the testimonies of the 40 witnesses who were called in Court.

Even though there seems to be a somewhat positive shift within the gulfs of the ICC, where more and more criminal acts of sexual violence are included in the indictments, regardless of the case's outcome, a problem that hasn't been yet resolved has been the lack of attention given by the international community on men and boys who have been targeted for sexual violence during armed conflicts.

SGBC against masculinities has rarely been prosecuted in international judicial bodies of criminal character, with the majority of the case law stemming from the International Criminal Tribunal for the former Yugoslavia (ICTY), which for the first time in the history of international justice shed light on the issue. However, it failed to prosecute the violence that took place as a sexual crime obscuring its sexual character due to the various legal gaps within the Statute of the ICTY (Oosterveld, 2014).

Even though other cases from the Tribunal formulated definitions of rape in a gender-neutral manner, in its ten cases of sexual violence targeting men, the judges failed to address the sexual nature of the crimes as the definitions focused on the elements of penetration by the perpetrator, while in these cases sexual acts were committed between detainees/ victims and as a result did not meet the necessary criteria. Moreover, in the two cases where the perpetrators forced foreign objects in the victims' anus and subsequently met the criteria of the definition, the judges obscured the sexual nature of the crimes and ruled over them as crimes of torture, degrading or inhuman treatment. This gap was later also addressed in the Furundžija Case where the Trial Chamber Chamber held that the prohibition of rape under Article 5 (g) of the ICTY Statute embraces all serious abuses of a sexual nature and in the Česić Plea Agreement which found that the accused had to "cause the victims to be sexually penetrated without their consent and that a sexual penetration occurs" to be convicted for rape (Prosecutor v. Česić, IT-95-10/1-PT, Plea Agreement, 28 October 2003, § 5). The Trial Chamber accepted this extended understanding of the offence. However, it was not utilized in any other case of the ICTY (Isaac, 2016).

From the ICTY case law to the ICC practice one can definitely see the new Court is not shy to prosecute male sexual violence as rape (Bemba and Ntaganda), however, the

number of cases handling similar issues has been limited, proving that international criminal law still hasn't comprehended or fully addressed issues of sexual violence against men. This particularly creates issues not only because justice is not being served and crimes/perpetrators are being left unpunished, creating a sense of impunity for specific crimes, but also because it seems to be a lack of understanding towards all forms of sexual violence in legal science.

On the other hand there are also issues concerning the lack of continuity on how sexual violence and rape is being portrayed within the judgments and as a result their legal semantic meaning. This issue could stem from the legal and ethnic background of the judges in each case.

Finally, the role of the judge is supposed to be objective and impartial, however, as it has become clear by various studies and papers, ethnic background, gender or personal experiences affect the decision making process and as a result the decision itself (Capurso, 1998). Practically, and from the experience of the ICC we can see that these values can be reflected in various positions, e.g. former female prosecutor Fatou Bensouda, who prioritized the investigations of SGBC and the inclusion of such offences in the various indictments issued.

1.2. Research Questions

This thesis focuses on the Legal Semantics of Sexual Violence and Rape, as seen on the judgments of the various international criminal tribunals such as the ICTY, ICTR and the International Criminal Court (ICC). With the help of the tools of Natural Language Processing and the methods of Word Frequency Analysis and Word Embeddings it will shed light upon the question of whether rape and other sexual crimes are worded differently depending on the gender and the role of the victim in the armed conflict.

Finally, the thesis will put under the microscope and critically assess the potential progressive development of International Criminal Law by scrutinizing how the various international tribunals have approached and defined sexual violence since the first international criminal cases of sexual crimes.

1.3. Outline of the Thesis

This thesis is comprised by five different Chapters, which focus on the above mentioned research questions. Chapter 2 will provide the background of the research,

focusing on historical aspects of sexual violence and rape and how the prosecution and the definition of these crimes have evolved through the years in the gulfs of the various international judicial bodies from the end of WWII until the establishment of the International Criminal Court.

In Chapter 3 the methodological framework for the following discussion is provided, by introducing the key concepts of Natural Language Processing and of the tools of Word Frequency and Word Embeddings, with emphasis on their contributions in this particular research. Moreover, in the same Chapter the cases chosen will be presented and the reasons of preference will be explained, followed by the restrictions I faced while conducting the research.

Later, in Chapter 4, the results of both the Qualitative and Quantitative research will be presented for each case separately, then a comparative analysis will follow, where the findings will be thoroughly discussed in order to detect any possible discrepancies in regards to how the various judges present sexual violence depending on the gender of the victim and its role in the conflict.

Finally, the concluding chapter will summarize the main findings of the thesis while posing questions for further analysis.

2. Historical Aspects of Prosecution of Sexual Violence and Rape in International Judicial Bodies of Criminal Character

In this Chapter, I will provide the reader with some background information in order to better comprehend how the prosecution of sexual violence and rape has evolved in international justice through the various international judicial bodies of criminal character. Specifically, for a better analysis of their contribution in the prosecution of SGBC and how the perception of rape as a Crime against the Humanity and War Crime has evolved, I decided to present the information following a chronological order.

I will begin by introducing the key aspects of the International Military Tribunals of Nuremberg (IMT) and of the Far East (IMTFE) and the lack of prosecution of rape crimes, then I'll explore the important contributions of the ad hoc Tribunals of Rwanda and the Former Yugoslavia (ICTY and ICTR) and finally I will dwell on how the International Criminal Court (ICC) has addressed and most importantly how it has tried SGBC during the first two decades of its operation. Additionally, I will present and analyze the meaning behind the various definitions the Courts have given to describe sexual violence and rape in order to see how the legal semantics have evolved through the time.

The importance of this chapter lies on the fact that the prosecution of sexual violence under International Criminal Law has been a relatively new field of study and by providing its historical background it will help us critically assess the results of the research, which will be presented in Chapter 4. From the elements of crimes to the definitions given and particularly what the international community considers to be victories in prosecuting SGBC can only be understood under the historical and social circumstances at the time of their crystallization.

2.1. The Second World War and the International Military Tribunals

Sexual violence and rape are common practices of warfare and are being used as a way to demonstrate total domination of the civilian population, to suppress moral, discourage, humiliate people and it can even be considered as some kind of perverse trophy of a conquest. Ultimately, rape has been even characterized as crime that aims at altering the ethnic composition of a region, or even depending the scale of the crimes to exterminate a specific ethnic group as a tactic of genocide and ethnic cleansing, when committed with the intent to destroy.

Historically, we have seen these methods take place from ancient times such as the rape of civilian women by the Crusaders during the siege of Constantinople in 1204 or by Genghis Khan, who after his conquest he and his troops would rape, loot and pillage with the intent to spread terror or even expand their manpower (Hagay – Frey, 2011).

Unfortunately, it shouldn't come as a surprise that SGBC took place during the most violent war humanity has ever met. Both the Nazi and the Japanese government supported acts of forced prostitution, forced sterilization, forced nudity and rape. The latter regime infamously established the institution of "comfort women", where after kidnapping women they would imprison them with the purpose to be raped by the Japanese soldiers as a way to satisfy their sexual desires.

What, however, has drawn attention, initially from feminist scholars, is the fact that SGBC were left in their totality unpunished with the IMTs not even touching upon the issue while the international community ignored the high frequency that these crimes where committed. Consequently, this period has been named the Era of Silence, due to the inadequacy and unwillingness of the Allies to address, investigate, prosecute and above all provide justice for crimes of sexual character, even though they were fully aware of the atrocities that were being carried out.

On the contrary, the IMTFE touched upon such issues and successfully convicted people for the Rape of Nanking, however, it still faced criticism for its lack of attention on the system of "comfort women", a state governed brothel which sexually enslaved women, and its non existent prosecution of this crime.

2.1.1. The Various Forms of SGVC in the European Theatre

2.1.1.1. A German Story

What was previously left in the shadows, but today is considered to be well – know is that women not only suffered starvation, torture, and inhuman treatment along with men, but were also targeted on the basis of their gender. From forced nudity, intrusive body searches to forced sterilization, forced or solicited prostitution and rape, women and girls were the object of brutal sexual violence, committed not only by countrymen but also from irregular partisan forces (Burds, 2009). The eastern theater of operation was where the majority of these atrocities took place, without however neglecting the amount of pain that was caused also in Western Europe and particularly towards the women residing in these areas. Consequently,

the Slavic and German population was then one who mostly was initially affected, as sexual relations between Aryans and Jews were strictly forbidden by the Nazi Law. However, this did not hinder the Wehrmacht from committing SGBC towards the later.

Interestingly enough, Paragraph 2 of the 1935 Nuremberg Law stated that: "Extramarital intercourse between Jews and subjects of the state of Germany or related blood is forbidden." This was an attempt to impose a ban against sexual contact and obstruct the "mixing of bloods", also known as *Rassenschande*, between Aryans and other races with the goal to keep intact the ethnic purity of the nation (Bock, 1986). As a result, a racial hierarchy was created, where the Aryans were considered to be the purest and the Jews would find themselves at the bottom of this twisted pyramid, with Slavic *Untermenschen* somewhere in the middle.

Other legal prohibitions in Germany would try to restrict sexual fraternization between German women and Eastern workers (*Ostarbeiter)*, such as the guideline issued by the Reich Ministry of Justice on June 14, 1943 which stated that: "German women who engage in sexual relations with prisoners of war have betrayed the front, done gross injury to their nation's honor, and damaged the reputation of German womanhood abroad.". Yet, these policies did not have the expected results, due to the fact that the majority of the male German population was away at the front and with the war casualties mounting, the illicit associations could not be restrained (Kundrus and Szobar, 2002).

Similar race – based prohibitions were also in effect for soldiers in the front, which as well had little impact on containing sexual relations, whether forced or consensual, between German soldiers and Slavic women. One of the initiatives the central government introduced in order to limit this type of contacts was the concept of *Einsatzfrauen*, traveling state sponsored brothels which were staffed by racially suitable volunteers who were to provide sexual comfort to German soldiers. But with the huge demand outweighing the supply of available women, the Nazis started drafting local girls from Russia, Serbia and Poland, with more "Aryan" characteristics in exchange with safety and food, and as they were victims of the coerced environment they were living in, they had to choose between forced labor and a "safer" life in a brothel (Ringdal, 2004). However, even these methods did not manage to cover the "sexual needs" of the Wehrmacht and soon enough, reports of sexual violence and rape started to surface in Belarus and Ukraine.

Additionally, forced marriages were also a method for women to avoid forced labor or even deportation. There have been many testimonies confirming these ways of survival from the Eastern front, which also suggests that getting pregnant and a wartime husband were the

best choices a young female had for her survival.

Soon enough the outcomes of the sexual relations, forced or consensual, between German soldiers and Eastern women were evident and the Reich introduced a new number of practices to prevent pregnancies of mixed ethnic background and lift forced laborers from the distraction of taking care of their children. Heinrich Himmler suggested that approximately one million babies were born to Ukrainian women and German soldiers, and it was this high number that alarmed the Nazi authorities in implementing compulsory abortions and forced sterilizations (Zarubinsky, 1997). A research by Gisela Bock has found that approximately two million women, where subjected to these cruel SGBC in order to regulate and avoid the racial undesirable results.

As far as the sexual violence against Jewish women is concerned, due to the strict prohibitions imposed by the Nazi regime, it was assumed that rape and forced prostitution were not crimes that affected the Jewish female population. However, as it was later established, SGBC were not targeted towards a specific ethnicity or a specific part of the society, but all women and girls in general. Yet, from the little evidence existing, violations of these restrictions in the West were heavier prosecuted by bringing soldiers to court with short term imprisonment and even transfer to the eastern front, comparing to the East where German soldiers exploited sexually Jewish women to the point where in 1943 Heinrich Himmler had to establish camp brothels. Only in Ravensbrück concentration camp it is believed that around 35,000 Jewish women worked in these brothels where each one of them, where raped by seven or more men daily, as part of their "duty".

Moreover, the sexual assaults and violence that occurred in the camps took other various forms such as forced nudity and rape prior to their execution. SS guards would visit female inmates in showers and latrines where they were verbally and physically humiliated in order to intimidate and crush moral, while in order to avoid being blamed for illegal sexual intercourse with Jewish women, they would follow the tactic of raping them before mass executions. Witnesses in Belorussia and Poland has argued that "I saw the Germans herd young girls into a shed next to the mass graves and rape them before shooting them." and that soldiers would take girls into the forests and once they had raped them, they would be the only ones who would return in the camp (Haberer, 2001).

Other violent practices that did not involve intercourse or physical contact, but still could be characterized as sexual violence included the humiliation of shaving of hair and the forced pubic nudity before being put in gas chambers. In these situations, women and girls would be made fun of and have their bodies inspected and ridiculed by the guards, which was

also a method used against men. However, it is believed that it was not a gender - neutral way of humiliating the Jewish inmates but it was done in a way to harm them in a different distinct way from men, as according to Judaism women place a very high value on chastity, modesty and obedience in regards to their body (Goldenberg, 1990).

Furthermore, the Nazi ideology was based on a paradigm of misogyny, as women were reduced to their biological capacities and functions, which made femininities even more vulnerable to SGBC. As German women where expected to give up work and focus on their domestic responsibilities, such as bearing and raising children for the Nazis to achieve world domination through the increase of the Aryan population, Jewish women where being prosecuted on the same ideas, meaning that they were not allowed to reproduce.

As a result sexism manifested in a genocidal form, where women were killed, raped and even forcibly sterilized. In the "Doctors' trial, a subsequence to the Nuremberg Trials, in which 23 Nazi doctors were put in trial for carrying out biological experiments on both men and women, evidence was presented that women underwent sterilization. Interestingly enough, it was also the only case, where women were called to testify in a legal process and only on crimes relating their ability to carry out one of their “biological functions”, that of carrying children.

2.1.1.2. An Allies' Story

The SGBC that were committed by the Nazi regime, were based on the idea that the Aryan nation was racially superior to other people and combined with the chauvinistic perception of women being inferior to men, women saw their bodies and mental health get violated extensively in addition to the horrific influence a war can have on people.

On the other hand, the sexual violence and rapes that were committed by the Red Army was fueled on hate and the desire to avenge for the atrocities the Wehrmacht brought to the Soviet people, which became known to them as they were marching on their way to Berlin. German and Soviet women who, under the coercive environment they lived in, turned to German soldiers for protection, where to victims of the Soviet sexual violence which just like the Nazis, took various forms as well.

The intensity of sexual violence had reached a new high during the first months of the Soviet occupation of East Germany, where it is calculated that approximately two million women and girls were raped, and particularly gang raped, with no mercy in public or even in front of their husbands and family (Biddiscombe, 2001). But it was not only rape that the

Soviets committed. Forced impregnation was a method used to affect the German society and avenge the idea of *Untermenschen*, as women would have to bear children with distinct Slavic and Central Asian features. Other methods included forced nudity in public in order to humiliate both German and Slavic women, which would be continued by rape, torture and eventual death.

In regards to the sexual crimes committed by the rest of the Allied powers, little became public after the end of WWII, but as the years went by, scholars and journalists have investigated the matter and have found out numerous cases where SGVC were committed even during the liberation of the occupied countries.

According to a study of military court records, it is estimated that only American soldiers perpetrated 14.000 rapes in the U.K., France and Germany between 1942 and 1945. However, the documentation has been weak and we can only imagine the extensiveness of these crimes, and since the Allies were welcomed with joy and as heroes, the crimes that they committed where left unpunished (Lilly, 2007). Additionally, Germany and the Axis Powers did not have the ability to ask for the prosecution of their opponents' crimes, as the international community and the whole European continent had negative feelings against them.

However, the IMT of Nuremberg completely failed to address the issue, both in regards to the SGBC that took place from both sides. The level of impunity in regards to sexual violence and rape reached new highs in the Nuremberg Trials crystallizing how marginalized this category of crimes has always been.

Finally, it is worth mentioning that not only the IMT but also scholars and historians have shown little interest in documenting the various sexual offences the LGBT community and men faced during the war. Even today, male victimhood is considered of lesser importance and the prosecution of such crimes has been scarce.

2.1.2. The International Military Tribunal at Nuremberg

After the end of WWII, the Allied Powers agreed on the establishment of the International Military Tribunal at Nuremberg (IMT) and the International Military Tribunal for the Far East in Tokyo (IMTTFE) to prosecute the criminal acts that took place during the conflict and the hideous atrocities like the Jewish Holocaust and the brutal treatment in the concentration camps.

The contribution of these two Tribunals has been of great importance for the

progressive development of International Humanitarian and Criminal Law as they introduced for the first time in international law the concepts of direct criminal responsibility of individuals, crimes against peace, war crimes and crimes against humanity (Futamura, 2008). Moreover, in connection to the general environment that existed after the war, the jurisprudence of the two Tribunals pushed for the further codification of International Human Rights Law by the drafting and signing of various treaties such as the Geneva Conventions of 1949 and the Treaty System of the United Nations.

Despite these positive contributions, the IMT cannot be considered a success story as it failed to provide justice to all the victims of the war and in particular to those who experienced sexual violence. Mostly women, but also men, were completed neglected by the Tribunal even though it has been argued that the then existing international legal framework already prohibited these sexual criminal acts and could have provided the necessary base for the IMT to prosecute these crimes (Hagay-Frey, 2011).

Article 10 of the Nuremberg Charter, the legal document that provided the Tribunal with the authorization to try and prosecute war criminals of the European Axis, enabled the Court to declare a group or an organization as criminal in order to prosecute Nazi criminals and individuals in general. Furthermore, it was Article 6 that introduced the categories of charges of crimes against peace ("planning, preparation, initiation or waging a war of aggression") war crimes, crimes against humanity ("murder extermination, enslavement, deportation, and other inhumane acts" and the concept of crimes against peace. The latter was based on the prohibition of aggressive war in international law as it was incorporated in the Briand – Kellog Pact of 1928 which was integrated in the peace and security policies of the Allies when rebuilding the post – WWII international system. The same ideas where also reflected in Stimsons' plan on how the Nuremberg Tribunal should operate, believing that it should serve as "a comprehensive war criminal trial system, systematically punishing Nazi leaders and organizations, as the best means of settling the Allies' score with the Third Reich and securing the future peace of the world."

Additionally, Article 6 defined crimes against humanity as "murder, exterminations, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated." In the definition given above one can instantly recognize the exclusion of sexual offences under the international criminal justice of the time, crystallizing the notion that Nuremberg's legacy in prosecuting SGBC has

been non - existent. Some argue that the reasons behind this impunity lay on the fact that the status of women and the perspective of female experience during the “Era of Silence” were supplanted in all legal systems and western societies.

This is also evident in the infamous “Doctors’ Trial” in which 23 Nazi doctors where tried for operating biological experimental surgeries on humans, which was also the only trial to legally scrutinize gendered violations. From the evidence presented it was demonstrated that thousand inmates, and mostly women, underwent forced sterilization. However, it was the only case where women were called to testify and share their experience in a legal process and interestingly enough it was only when a sexual crime aimed at their biological function to reproduce.

This patriarchal and medieval perception of the role of women in a society as children bearers can be traced back to even international human rights treaties such the Hague Conventions of 1899 and 1907. Until then the legal prohibition of wartime rape was developed on a gradual and non – uniform way and mostly on domestic levels, hence the Hague Conventions being the first international treaties to explicitly refer to the prohibition of sexual violence in armed conflict settings. However, the language used can be considered problematic or at least old fashioned since SGBC were prohibited as an obligation towards “family honors” and “religious convictions and practice”, granting a vague protection to women based on an archetype of a wife and completely neglecting the fact that masculinities can be affected by sexual violence (Hagay-Frey and Khen, 2013).

What is also important to acknowledge is the fact that these treaties where considered valid law during WWII which makes the neglect of the IMT to prosecute SGBC even more disappointing since it was also known that these type of crimes occurred with great intensity during the conflict. Specifically, when the French Prosecutor at the Nuremberg Trials was asked about his opinion on the rape of women prior to the end of the war, he responded: "The tribunal will forgive me if I avoid citing the atrocious details. Rather than directly confronting rape and treating it like other crimes, it was regarded as something too atrocious to prosecute, and so impossible to prevent that it was unworthy of prosecution" (Balthazar, 2006).

This perception of rape and sexual violence as unavoidable was not the only explanation given for the impunity of Nazi criminals who violated women in concentration camps. Other patriarchal attitudes of the era that led to this outcome would include the general political context that pushed for the prosecution of specific crimes during WWII, which completely disregards the human perspective. That is mostly based on the assumption that only men led the initiative of the IMT, as all the tribunal’s judges and prosecutors were males

who naturally would consider under their male perception what was important leading to the absence of gendered offences in the indictments.

Yet, many scholars share the belief that it was a conscious choice to add the crime of rape at the bottom of the list of offenses, as the Charter was flexible enough to have allowed an interpretation of it and thus enabling the prosecution of SGBC. As we saw above there was no mention to sexual violence or rape on Article 6, however it does not offer an exhaustive list of offenses that could be considered crimes against peace (paragraph a), war crimes (paragraph b) or crimes against humanity (paragraph c) since each paragraph begins with "namely" which would be synonymous of "Such violations shall include, but not be limited to …". As a result and by taking into consideration the expansive language of the Article, prosecution could have taken place also for crimes not explicitly mentioned in the Charter, which would have been considered as sufficiently egregious to be classified as "other inhumane acts". Moreover, as stated above, the Hague Conventions were also applicable law and according to Article 6 (a) violation of international treaties, agreements or assurances would initiate the jurisdiction of the Tribunal over SGBC.

Consequently, one can assume that the failure to try sex crimes was not due to the lack of a legal context of protection but a result of the general predominant notion during the "Era of Silence" which diminished the significance of SGBC and the trauma of the victims. This affected the general contribution of the IMT, as it failed to establish a meaningful legal precedent for the criminalization of rape and sexual violence during conflict.

Without forgetting the drawbacks of the IMT, it still managed to hold a very important legacy and contribution in the development of international law, human rights and criminal law. Most notably, is the Resolution 95(I) titled "Affirmation of the Principles of International Law recognized by the Charter of the Nuremberg Tribunals" which was adopted by the UN General Assembly in 1946 and the work of the International Law Commission in 1950, which developed the Nuremberg Principles, guidelines in determining what constitutes war crimes (Futamura, 2008). Moreover, it introduced the concepts of crimes against peace and humanity, the individual criminal liability, denial of state official immunity and the denial of the notion of superior orders, tools that even today aid the work of the ICC to prosecute SGBC.

Finally, the IMT changed the legal and moral framework of regulating breaches of international humanitarian law by introducing the ability of the international community to try perpetrators of war crimes committed against their own citizens, as until then these breaches where handled by the state and its legal system. Furthermore, it introduced the concept of

crimes against humanity, shifting the focus and the legal responsibility from the state to the international law, as human rights violations where now not only a matter of the state but also of the international community. Even though it took more than half a century for a permanent judicial body like the ICC to be established, concrete foundations where laid, but due to the Cold War that followed any multilateral cooperation of that kind froze.

2.1.2. The Various Forms of SGVC in the Asian Theatre and the IMTFE

Sexual Violence in the Asian theater manifested in various forms, however, scholars have focused on two specific incidents perpetrated by the Imperial Japanese Army (IJA), the Rape of Nanking and the concept of "comfort women", a governmental organized scheme of sexual slavery of mainly Korean and Chinese Women, who were raped with the hope to minimize the incidents of wartime rape. The IMTFE touched upon only the SGBC that took place in Nanking, while neglecting the issue of sexual slavery of these women, a rather dark side of WWII, for which no justice was served.

The atrocities that took place in Nanking were a result of the expansive war Japan initiated back in 1895. That year, the IJA successfully colonized Taiwan and within a decade, Korea was also established as a Japanese protectorate. From there, they declared war on China, where in 1937 they managed to invade Nanking, the capital city of Chiang Kai-shek's Nationalist government, marching within the city with heightened aggression, pillaging villages and raping women. According to estimations, approximately 80.000 women were victims of sexual violence, while more than 300.000 civilians were brutally murdered.

Even though the Statute of the IMTFE did not explicitly criminalize rape, the Court eventually, charged the defendants with violations of laws and customs of war, persecuting rape under general grounds rather than specific ones, while remaining silent to the other forms of sexual violence that took place.

The judgments of the IMTFE have drawn little attention for their legal contributions, as they where criticized for their heavy political influence. In regards to the Nanking Rape, Judge Pal issued a dissenting opinion, as he felt that the Statute of the Court lacked legal base to try such crimes, as it was drafted in such a manner in order to produce political gains, and that the accused were innocent. It is important to clarify that he never denied the atrocities and the crimes that took place in Nanking, but he believed that the perpetrators of these crimes were not the ones standing in the courtroom; hence they should not be criminally responsible. In his 1,235 pages long dissenting opinion, he objectified to judgment of the majority, as there

were issues with the procedure, the rules of evidence and the jurisdiction of the Tribunal. Both Matsui and Hirota, the first General in the IJA and the later prime minister of Japan, had proven, according to Pal, that were not responsible for what happened in Nanking, as Matsui was vocal about how broken the machinery of the military organization in Japan was at that point where orders were not being followed. Additionally, he found Hirota's intervention to the War Minister about the crimes the IJA was committing true and a reason to exclude him from criminal responsibility (Brook, 2001).

As far as the crime of sexual slavery is concerned, comfort women were pressed into service from 1931 until the end of the war in various stations. The idea behind these institutions of mass rape was to restore the image of the IJA as the government wanted to prevent atrocities like the one in Nanking from taking place again. Moreover, Japanese soldiers were raping women uncontrollably creating as a result an anti Japanese sentiment among the local community of the newly occupied lands. Third, as in Germany, they wanted to prevent the spread of venereal diseases in order to reduce medical expenses and loss of soldiers. Finally, these sexual slaves where drafted with force both by the military and by agencies from countries such as Korea, Taiwan and the Philippines, where they could not speak the language and understand the captors, meaning they could hide from spies in comparison to local brothels.

The gravity of this crime, one can instantly comprehend, realizing that approximately 90.000 to 200.000 women were taken forcibly from their houses to "serve" as comfort women. For that reason, many scholars express their opposition towards that term as it minimizes the pain and suffering, both physical and mental, of these women. The UN report on the comfort women by Radhika Coomaraswamy, former UN Special Rapporteur on Violence against Women, and by Gay J. McDougall, former UN Special Rapporteur on Violence against Women, addressed the semantic issue of the term "comfort women". In particular, it is believed that the term distracts from the crime of sexual slavery and diminishes its occurrence. Furthermore, it fails to reflect the pain and the multiple types of abuses these women suffered and for that purpose the term military sexual slaves was proposed for being more accurate and appropriate, since it recognizes the coercive environment these women endured. Finally, the term "comfort women" reflects only the ideas of the perpetrators, as "comfort" is what they gave the soldiers, helping as a result the conservation of the Japanese colonial language and the concealment of the true nature of these crimes, which was rape and sexual slavery (Yonson, 2019).

To conclude, the IMTFE produced the first international conviction of SGBC by explicitly mentioning rape through out the judgment, a novelty in ICL for the time, however due to its heavily political influence from the West, failed to produce prestigious and respected decisions. Despite, also, the heavy evidence existing and the knowledge of the Allies of the other atrocities that took place, such as the sexual slavery of thousands of women, the Court failed to investigate and bring justice for such crimes.

Overall, both the IMT and the IMTFE undertook a very difficult task, which helped in the progressive development of ICL and the prosecution of grave crimes that stigmatized the whole world. Yet, they failed to address the numerous offences of sexual violence that occurred during the world and silencing the trauma of these people.

2.2. The Era of Honor and the ad hoc Tribunals

As previously analyzed, the IMT and IMTFE did not incorporate SGBC within their Statutes and mandates, failing to investigate and prosecute such violence and allowing the impunity of the biggest war humanity has ever met. Thus, the incidents of the time where classified under the Era of Silence.

However, a new Era was introduced shortly after the War, the Era of Honor, as the international community, realized the importance of prosecuting sexual crimes and rape, by adding in the various IHL and IHRL Conventions provisions regarding the protection of people from such violence. Particularly, the Geneva Conventions and its Additional Protocols, pushed not only for the codification of existing IHL rules but also for its progressive development, as it touched upon such issues. Yet, as we will see in this subchapter, various issues arise concerning the semantic value of the definitions used, but also with regards to the use of these Conventions in order to effectively prosecute sex crimes.

It was only a half a centuary later, with the establishment of the ICTY and ICTR that a new era, the Third Era, commenced, where SGBC were included in indictments and the international judicial bodies started producing jurisprudence on the matter.

2.2.1.The Era of Honor

The second era, the Era of Honor, commenced with the signing of the Geneva Conventions of 1949 which codified the breaches of IHL in both the context of international and non international armed conflicts, as Common Article 3 prohibits a number of acts in

these settings, without however mentioning SGBC.

The first explicit mention of rape in an international treaty, makes its appearance on Article 27 of the 4th Geneva Convention, which states that: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault." Even though, this provision recognizes the vulnerability of women during armed conflicts and the duty of the army to protect them and abstain from such a violent conduct, the wording of the article still remains problematic (Ellis, 2007). Immediately, one can identify a distinction between rape as a crime that affects honor and other non gendered crimes that are perceived as an injury of dignity, minimizing as a result the physical and mental suffering of such a conduct by relating it to social norms of women's status. This patriarchal notion reinforces the idea of women as a property of men, neglecting the gendered aspect of such a crime, while agreeing with the wording seen on the Hague Conventions where such acts where perceived as a prohibition in regards to the obligation of "family honors." Moreover, the Conventions fail to extend their protections equally to men and boys, denying as a result their victimhood while the use of honor instead of dignity, shows how sexual crimes where understood only as an injury to masculine honor, perpetuating toxic stereotypes for both genders.

The incorporation of rape in the Geneva Conventions was definitely a step forward in the acknowledgment of SGBC, however, it seems to have only scratched the surface, as it did not provide a list of sexual conduct that should be considered punishable or included rape and sexual violence in Common Article 3 under «grave breaches», extending the protection in both internal and international armed conflicts. However, the adoption of the Additional Protocols of 1977 try to cure the semantic maladies caused by the association of rape with dignity and not honor. First and foremost, Article 76 and 77 of the AP I acknowledge the vulnerability of women and children in armed conflicts and explicitly mentions rape and forced prostitution. Yet, it is the AP II and the provision under Article 4 that not only defines rape as an outrage upon personal dignity but also extends the protection in all types of armed conflicts, even in situations of occupation.

2.2.2.The ad hoc Tribunals

Even though, the Conventions and their AP criminalized rape and forced prostitution under international criminal law due to the lack of proper mechanism and institutions capable of investigating and providing justice, the international community did not engage with the

prosecution of SGBC. However, this changed after the end of Cold War, as the world saw the atrocities and genocides in Yugoslavia and Rwanda, with their intensity reaching similar levels of WWII, where the establishment of the ad hoc Tribunals to investigate these crimes was needed.

2.2.2.1.The ad hoc International Criminal Tribunal for the Former Yugoslavia (ICTY)

The intensity of the war in Former Yugoslavia was enormous, with researches estimating the victims of rape and sexual violence close to 100.000. Initially, scholars and feminists expected that SGBC would be one more time silenced, however civil society pushed for the inclusion of these offences both in the Statue of the ICTY and the indictments published.

Under the authority of Chapter VII of the UN Charter, the Security Council established the ICTY in order to prosecute individuals who committed crimes of "genocide", "war crimes" and "crimes against humanity" including rape, for the first time in ICL history, under article 5(g) as a "crime against humanity". The explicit mention of this crime marks a departure from the Statues and the jurisprudence of previous international judicial bodies of criminal character, the IMT and IMTFE to be precise, which completely neglected the prosecution of SGBC. However, it was the only sexual crime that it was enumerated under the Statute, without mentioning practices of forced pregnancy, sexual slavery and others, which were very common and known to the international community. Furthermore, the noticeable absence of the categories of "genocide" and "war crimes" and "grave breaches of the Geneva Convention" was a missed opportunity to acknowledge and prosecute the real intensity of the SGBC. Third, the Statute remains silent in defining both the crime of rape and the gendered aspects of these crimes, leaving up to the various judges to decide upon the issue, affecting the uniformity of the Tribunals jurisprudence, putting a difficult task to the Court and failing to identify to atrocities that took place (Weiner, 2013).

Still, the contribution of the ICTY is very significant and it should not be overshadowed by these setbacks, as it still managed to produce innovative judgments in the prosecution of SGBC and establish important procedural elements of crimes. In regards to the latter, the Tribunal created more flexible rules for survivors of sexual violence in order to guarantee their participation in trials and their effective protection. E.g. is Rule 96 of the Rules of Procedure and Evidence, according to which, no corroboration is required of the victim's testimony, prior sexual conduct should not be considered and consent cannot be used

by the defense in cases of duress or other types of pressure. Additionally, Article 22 of the Statute states that rules for the protection of victims and witnesses should be established, while Rule 34(A) of the Rules suggests the creation of a Unit to provide counseling and support of these victims, with paragraph B acknowledging the need to appoint qualified female staff.

As far as its ground breaking jurisprudence is concerned, the first trial of the ICTY created very important legal precedents that pushed for the progressive development of ICL in terms of the prosecution of sexual violence. In the case of Dusko Tadić, the accused was charged for his involvement in "campaign of terror which included killings, torture, sexual assaults, and other physical and psychological abuse", and for his participation in the torture of 12 detained women, who were victims of gang rapes. Moreover, the Prosecutor included sexual offences under the "grave breaches of the Geneva Conventions", as breaches of the customary laws of war, and as "genocide", a major step forward for the recognition of SGBC under the Geneva Conventions, while also convicting Tadić for other sexual offenses and sexual mutilation, recognizing a number of sex crimes under ICL. Particularly, the Court recognized the male victimhood in these situations, as detained men and boys where forced to engage in oral sexual activities with each other, or experienced mutilation of their sex organs. This is a milestone for the prosecution of sexual crimes, as for the first time, we have a conviction for offences targeting men.

Another important indictment was the one of Hazim Delić, who was accused of sexual exploitation and sexual torture of prisoners in the Celebici Camp. He was found guilty of violating articles 2 and 3 of the ICTY Statute, as he repeatedly raped two female detainees with such intensity that it reached the level of torture. Thus, rape was for the first time recognized under ICL as a form of torture and a primary offence in an indictment, rather its inclusion under other crimes. Similarly, the Furundžija Case crystallized the above novelty in ICL while also providing for the first time in ICL history a definition of the crime of rape. The issue that the Chamber had to tackle was whether forced oral penetration should be considered as rape or sexual assault. Due to lack of legal precedent, the Tribunal had to find a solution by itself on the matter and interpreted IHL's goal to protect human dignity, independent of gender, and therefore a forced oral act degrades human dignity and thus rape. According to this definition, the elements of the crime of rape include "the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator". The gender neutral character of the definition may not be noticeable at first

glace, however, it finds the penetration of the anus or of the oral cavity a punishable act, thus including male rape. The issue here lays on the fact, that it can only be considered as rape, when committed by the perpetrator, excluding the cases where inmates where forced to perform sexual acts on each other. Finally, the definition adds another element, the one of coercion or force, and not the one of consent.

In 2002, two only years, after the Furundžija Case, the Kunarac case produced another definition of rape, similar to the one mentioned above, but with one key difference; the elements of coercion and force where replaced by the notion of consent. Before analyzing this difference, it is important to mention the significance of this case, as it convicted Kunarac for sexual acts of enslavement and rape as a form of torture. Yet, it failed to define sexual slavery and touched the issue of women and girls through the lens of being property of men, ignoring the sexual aspect of the enslavement and the gendered reasons of their objectification. This would have been a perfect opportunity for the Tribunal to recognize the various forms sexual violence can take and push for the further development of ICL.

Returning to the issue of the definition of rape, as seen in the Kunarac Case, the Court found that the mens rea of rape was the intent of the perpetrator to penetrate the victim, knowing that the victim has not provided its consent and not the element of coercion. In regards to this clash between the two definitions, the Chamber during the Appeal stage responded that the aim was not to discharge previous jurisprudence but to explain the relationship between force and consent, as "force or threat of force provides clear evidence of non-consent, but force is not an element per se of rape.".

Summing up, the ICTY took major steps forward in the prosecution of SGBC and finishing impunity for the crimes that took place in Former Yugoslavia. From the first convictions to defining rape, its contributions have been undisputed.

2.2.2.2.The ad hoc International Criminal Tribunal for Rwanda (ICTR)

The genocide of the Tutsi tribe in Rwanda was one of the darkest events that took place in the 90s, where once again sexual violence was used in order to achieve the militaristic aims of destroying a population. After various reports and investigation committees were sent, the decision to establish an ad hoc Tribunal was taken, under the same authority of the ICTY. As a result, in 1995 the ICTR was created, with a mandate to prosecute the ones responsible for the genocide and other breaches of international law, for the events that occured between January and December 1994.

Similar to the ICTY, the Statute of ICTR enumerated rape as «crime against humanity» under Article 3(g), showing once again the recognition of rape as a punishable act under international law. Article 4, however, is the provision that contributed the most, as it extends the Tribunal's authority by stipulating that rape can be prosecuted as a *breach* of common Article 3 of the Geneva Conventions and Protocol II, a wording carefully chosen, since the GC used the term grave breaches, for which rape was not included.

Still, the prosecution of SGBC faced various difficulties, as the members of the international panel were to neglect the investigation and the prosecution of such crimes, until Judge Navanethem Pillay, former UN High Commissioner for Human Rights, addressed the issue and ordered the prosecutors to revise their reports and investigate for crimes of sexual violence. These moves led to the discovery of horrendous sexual offences against the Tutsi ethnicity with only a few of these cases making it in front of the Court. Yet the importance of these cases is remarkable as they contributed to the prosecution of SGBC and created a legal precedent that inspired even the Rome Statute (Ellis, 2007).

The remarkable contribution of the ICTR can be mostly traced back to the Akayesu Case, where the accused was convicted of rape and acts of sexual abuse as genocide, a novelty under ICL, while the Court provided a groundbreaking definition of rape.

Initially, the indictment did not include charges of SGBC, but after pressure put by civil society organization and a testimony about gang rapes against minors, Judge Pillay, the only female judge on the panel, pushed for a new investigation and an amended indictment, as sex crimes were deeply connected with the genocide of Tutsi tribe members.

The amended indictment suggested that the factual elements of sexual abuse as "Forcible sexual penetration of the vagina, anus or oral cavity by a penis and/or of the vagina or anus by some other object, and sexual abuse, such as forced nudity." The inclusion of forced nudity is of great importance, as the Tribunal recognizes other forms of sexual violence, apart from rape, which hold criminal responsibility, while also the occurrence of the psychological harm caused to the victims after such offences, stating that physical harm is not always necessary in cases of sexual violence. Furthermore, the Court acknowledged a great number of sexual offences, which constitute genocide, such as "sexual mutilation, sterilization, prohibition of marriages and stated that there is a link between rape and genocidal intent: "in patriarchal societies, where membership of a group is determined by the identity of the father, an example of a measure intended to prevent births within a group is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not

belong to its mother's group." Another significant development in the recognition of the gendered aspects of genocide, was the fact that the Tribunal found that the prevention of births within a particular ethnic group can be both physical and mental, meaning that apart from sterilization practices, survivors of rape may be appalled by the idea of baring children due to the trauma they experienced and this psychological effect constitutes a crime.

As far as the definition of rape is concerned, the Court reasoned that the elements of such a crime cannot be captured in a mechanical description of objects and body parts, expanding the protection to various acts which are not limited to the penetration of the victim's genitals, and to all genders. In comparison to the definitions provided by the ICTY, we have a galore of acts that amount to sexual prosecution, as the term invasion is used and not penetration of specific body parts. Although the latter term has a strong sexual semantic value, the word invasion is more expansive as to the body parts that can be assaulted, such as the eye, ear and mouth cavity, while also adding a quality element to the offense, as penetration is usually understood "as a movement into something or someone" while invasion is defined as just the act of entering with force. The legal effect of invasion over penetration would be that a larger number of practices could be prosecuted, such as piercing through the ear or eye with a penis, under the category of sexual violence and not torture.

In regards to the gender - neutral character of the definition, the fact that the Court did not engage in a mechanical analysis of naming the genitals of both the victim and the perpetrator and with the use of the term person, the protection expands to both male and female victims. Additionally, it recognizes the fact that both women and men can be the perpetrators of sexual crimes, distancing itself from the traditional perception of rape, as a crime solely targeting women.

Another feature of this definition, which distinguishes it from the jurisprudence of the ICTY, is the inclusion of the element of coercion, which does not need to be proven by the use of physical force, as the Chamber later explained. In particular, coercive circumstances can be a result of duress, threat or intimidation, elements inherent in the situations of armed conflicts. In doing so, the Tribunal chose not to include the elements of consent or mens rea when defining rape.

The progression towards a gender equal justice can also be seen in the gulfs of ICTR, with the first ever conviction of a woman, Pauline Nyiramasuhuko, and he son, Arsene Ntahobali, of sexual crimes, as "crime against humanity", "breach of the Geneva Convention" and "genocide". The mother and son, using their political power, created roadblocks with the intent to obstruct the fleeing of Tutsi people, by abducting, raping and killing them. Similarly

to the Akayesu Case, they were charged with the violation of Article 3 of the GC, as they caused outrages to the personal dignity of the victims, particularly humiliating and degrading treatment, by forcing them to public nudity. Nyiramasuhuko was charged with indirect participation, while her son for as a direct perpetrator of rape and sexual violence.

To conclude, the ICTR's contribution was significant for the progressive development of ICL and as we will see on the following subchapter it not only pushed for the creation of the ICC but also through its jurisprudence it inspired various aspects of the Rome Statute. However, the ICTR has received a lot of criticism for failing to investigate properly SGBC and leading to a culture of impunity, even if the Akayesu Case has formed ICL to what we know today.

2.3. The International Criminal Court (ICC)

While the ICTY and the ICTR, slowly yet steadily, produced ground breaking legal precedents by including SGBC in the traditional crime categories, the authority of the Rome Statute founded the ICC, the first permanent international criminal court, which was heavily influenced by the legal experience of the ad hoc tribunals.

The inclusion and acknowledgment of sexual violence and rape as punishable international crimes in its Statute was welcomed as a long awaited desire by the international community and as a continuum of the Third Era, that was initiated by the ad hoc Tribunals, where SGBC were no longer silenced or considered an injury of honor, but as criminal offenses punishable under a prestigious international court.

Although, gender issues and sexual violence were neglected during the preparatory stages, the final document successfully overcame such obstacles and explicitly stipulates a list of sex crimes as "war crimes" and "crimes against humanity" as well as considerations of gender issues in both the administration of the Court and in its legal processes. Particularly, Article 7(1)(g) includes, in the definition of a "crime against humanity": "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" and Article 8(2)(b)(xxii) includes, in the definition of a "war crime": "Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual

violence also constituting a grave breach of the Geneva Conventions". As we can see, both categories allow for a dynamic interpretation of the Statute expanding the ability to prosecute sexual crimes, which are not being enumerated in the list, whilst providing recognition and legal force to a vast number of SGBC. Another important contribution of the Rome Statute is the fact that the provisions of Article 8 considering sexual violence as "war crimes" are applicable in both cases of international and non – international armed conflicts expanding, as a result, the protection given by the Geneva Conventions (Mouthaan, 2011).

Moreover, inspired by the ICTY and ICTR, the Statute pushes for further gender equality within the gulfs of the ICC, by stating that a fair representation of both female and male judges is required, while also recognizing the need for their specialization in certain legal areas such as violence targeting women and children. As we also saw in the Introduction, these prerequisites can have a positive impact on the Case Law produced by the Court, since female judges are most likely to try or investigate cases, which feel closer to their idiosyncrasy and experiences, while a proper background on prosecuting SGBC can result in more concrete legal argumentations of the Judgments and legal precedents that allow the uniform progressive evolution of international criminal law. A typical example of the female influence in this type of positions could be drawn from the ICC itself, when comparing the work of the two first Prosecutors, Luis Moreno Ocampo (2003 – 2012) and Fatou Bensouda (2012 – 2021). During the first decade of its operation the ICC infamously failed to bring justice to victims of SGBC or even include them in its indictments. On the other hand during the years of Ms. Bensouda, the Court not only produced its first decision on sexual violence but also shed light on the matter of Sexual Violence and Rape by including investigations of sexual crimes in various Indictments. However, this should also be taken *cum grano salis*, as Mr. Ocampo had to face the difficult task of a newly established institution where he had to find and prosecute criminals in a short period of time (Altunjan, 2021).

Other procedural innovations of the Court, that admit how the protection of victims of sexual violence is a crucial part of this institute, are the establishment of a Victims and Witnesses Unit which provides protection, safety, assistance and counseling to those who feel their integrity would be in danger should they testify in court. The Statute states that the Court should adopt appropriate measures, such as the exemption from the principle of public hearings, in order to protect the dignity and privacy of witnesses and victims by taking into consideration their best interest and the general circumstances (Mouthaan, 2011).

However, the ICC has not been revolutionary in its entirety, as there are a number of missteps in the treatment of issues concerning sexual violence and rape. In the following

subsections we will dwell on the issue of how the ICC defines gender, rape and its elements and how the Court has tried SGVC until now.

2.3.1.Defining Gender

The Rome Statute is the first international criminal law treaty to incorporate a gender mandate within its jurisdiction under Articles 7(1)(h) and 7(3), proving that SBVC are directed to persons, not only on the basis of their ethnicity or religious believes, but also solely in regards to their gender.

Article 7(1)(h) crystallizes this important step towards the recognition of gender issues in conflict zones, as it explicitly mentions that prosecution on the basis of gender, between others, is a "crime against humanity". The incorporation of the term is a testament that men and women are in need of a greater protection system under international law as the danger of being prosecuted for just being themselves is real.

Yet, this innovation might start to look a bit problematic under closer analysis due to the rather circular and limited definition the drafting members agreed to. Article 7(3) defines gender as "the two sexes, male and female, within the context of society", a heavily criticized provision, as it is restrictive of interpretation, lacks relativity to the current ideas of the world on gender and sex, and deviates from other more detailed and accurate definitions of gender that can be found in other UN documents. Moreover, it fails to extend its protection to victims who are targeted on the basis of their sexuality, a missed chance that could have resulted in a novelty in International Law by explicitly recognizing homosexuality as a ground of prosecution.

This ambiguous definition was the result of controversial negotiations between the delegations of more liberal countries and Christian and Arab Countries who feared that the term gender could eventually include sexual orientation since some of the latter countries find homosexuality to be a punishable crime within their domestic legal systems. As a result, the term stems from a heteronormative background, which conceptualizes sex exclusively as a biological binary.

This definition has been characterized as a missed opportunity for the ICC, and ICL in general, to adopt a clear and complete definition of gender, as it now puts the heavy duty on the judges of the Court to interpret and clarify the concept of gender in the Statute. The ICC had the perfect opportunity to crystallize the progress that has been achieved in Gender Studies, while now it faces the challenge of being scrutinized on how it understands gender in

investigations, judgments, or even in issues concerning the protection of victims and witnesses.

Due to the confusion caused by Article 7(3), the Court failed to engage with issues concerning the interpretation of the provision and issues of gender in general, up until the Office of the Prosecutor (OTP) released in 2014 the Policy Paper on Sexual and Gender Based Crimes, which provides ways of interpretation of the gender perspectives of the Rome Statute while also confronting the ambiguity of the above mentioned article. In particular, the interpretation of Article 7(3) takes place by commenting that under "gender" the ICC acknowledges "the social construction of gender, and the accompanying roles, behaviors, activities, and attributes assigned to women and men, and to girls and boys". Furthermore, the Policy Paper indicated that the Court applies the definition of gender "in accordance with internationally recognized human rights" as they evolve over time, and "without any adverse distinction founded, inter alia, on gender or 'other status.'" This means, that the Court is on a constant dialogue with International Human Rights Law, where ideas and definitions evolve within the context of society.

Based also on this notion, the OTP substantiated the position that by recognizing the dynamic relation between ICL and IHRL and the fact that Law is constantly evolving, Article 7(3) tackles the issue of sexual orientation and gender identity. It continues mentioning General Recommendation 28 of the CEDAW, which states that discrimination against women should be viewed as a totality, by considering factors such as sexual orientation and gender identity.

Summing up, we see that even though the definition of gender that is being used is outdated, the Policy Paper managed successfully to give answers to questions and dilemmas regarding the interpretation of Article 7(3), by confirming that it refers to socially constructed norms of the male and female idea, which can result in a particular treatment of both sexes during armed conflicts, while also including victims who have been persecuted on the basis of their sexuality.

2.3.2. Defining Rape

The inclusion of SGBC in the ICC's Statute has been a glorifying moment in the history of International Criminal Law and for the prosecution of sexual violence and rape, showing how far the international community has come in the protection of human rights in armed conflicts. By many scholars, this was an expected step forward, since much of what the

Statute codified, was initially articulated in the ICTY and ICTR. In neither of the two ad hoc Tribunals' Statutes there was a definition of rape as an individual crime or of other forms of sexual violence. Yet, both of them produced judgments and convicted people for crimes such as sexual slavery and sexual violence.

The criminalization of such acts by the ICC is of great importance, as it accepts that sexual acts are explicitly punishable under ICL without having to turn to more general provisions in order to prosecute sexual violence, a practice that was rarely seen in international judicial bodies of criminal character, leaving a great number of criminal conduct unpunished. In addition to the non - exhaustive list of what constitutes a manifestation of sexual violence, this covers any legal gaps in understanding a potential criminal act that should be investigated and prosecuted, provides recognition to the harm entailed in those acts and better precision in qualifying correctly the character or category of the offence. As a natural consequent, the judges are not only able to assess more adequately the perpetrators' criminal responsibility but also recognize the gendered experiences of the victims that have led to an unimaginable amount of physical and mental suffering, which is significant in the healing process, especially in post – conflict scenarios, where survivors face stigmatization.

This codification process that explicitly criminalizes sexual violence and the Elements of Crimes and the Rules of Procedure and Evidence succeeded in producing a number of fundamental provisions that ensure the effective prosecution of sexual crimes in a gender – neutral manner. In the Elements of Crimes, rape is defined in such a way that recognizes the fact that not only women but also men can be victims of sexual SGBC, proving that not only the ICC is a progressive organization but also a Court that has learnt from the mistakes of the past, especially from the negligence the previous tribunals have shown towards male victimhood.

Moreover, in regards to the definition and the elements of the crime of rape, the ICC has been heavily inspired both by the judgments of the ICTY and ICTR and the elements of crimes used in their case law. A combination of the elements from the Akayesu, Furundzija, Kunarac, Kovac and Volkovic cases can be detected in the ICC's definition. Specifically, both the Akayesu and the Furundzija case have inspired the ICC's gender - neutral character and the inclusion of the elements of force and coercion. However, the definition produced by the ICC follows the precise language used in general by the ICTY in the cases of Furundzija and Kunarac and not the more abstract one of the Akayesu case, where the Chamber found that "the central elements of the crime of rape cannot be captured in a mechanical description of objects or body parts." Finally, an important element of the ICC's definition is the idea of

consent, as it expressed in the Kunarac judgment.

In the Elements of Crimes of the ICC rape is defined as follows:

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.

Paragraph 1 focus on the conduct of rape, or even more accurately of the penetration, as it seems to be a key element in distinguishing rape from sexual violence, since the latter covers all kinds of acts of a sexual nature when committed by threat of force or coercion. The description, however, is very extensive as it covers all types of situations where the victim is penetrated by the perpetrator, or the opposite; where the victim penetrates the perpetrator. Additionally, it implies also cases of forced sexual intercourse between victims, a common practice during the War in Yugoslavia, where inmates where forced to perform oral sex to each other. Moreover, the focus point of the second part of the first paragraph is the circumstances surrounding the vaginal or anal penetration. It suggests that invasion of sexual organs and penetration with sexual organs or other objects constitute rape. However, the paragraph remains silent in cases of forced masturbation, which even though could be prosecuted under the umbrella of sexual violence, it would discriminate and minimize the importance of male victimhood.

As far as paragraph 2 is concerned, it provides the criteria under which the conduct described in paragraph 1 constitutes rape. Unlike ICTY and ICTR, which focus on the lack of consent, ICC's definition puts emphasis on the notion of threat of force or coercion, elements inherent in wartime, setting up as a result a low threshold of satisfying this element and expanding the level of protection to victims of SGBC. In regards to consent, in the paragraph it is given that the will of the victim is not in question and consequently does not bare the burden of proof while also recognizing certain categories of people such as the elderly, children or people suffering from mental conditions that are unable of consenting. Moreover,

although there is no mention to the mens rea within the elements of the crime, article 30 of the Statute states that the "material elements are committed with intent and knowledge", meaning that to have the requisite mens rea, the perpetrator must intend to penetrate a person's body and know that the invasion was carried out with the use of force, threats, coercion, or taking advantage of a coercive environment, or a person incapable of willingly agreeing. Hence, taking the lack of consent for granted not only amplifies the legal process in Court but also eases the victim's position, since they do not have to re – live their trauma. Finally, it should be noted that both paragraphs are non – cumulative, as any element from the first paragraph in conjunction with any element of the second one cover the necessary legal requirements for a crime of rape to be considered punishable.

To conclude, the Rome Statute has pushed for the inclusion of SGBC in criminal proceedings by recognizing rape both as a "war crime" and as "crime against humanity", contrary to the ICTY and ICTR Statutes, which did not consider rape as a "war crime" or as a grave breach of the Geneva Conventions. In these cases, the elements of these acts ultimately remain the same, notwithstanding if they have been committed as part of a widespread or systematic attack on civilian population or just in the context of war. Furthermore, the important contribution of the ICC is evident by the codification of a standard definition of the crime of rape, inspired by the legal precedent of the ad hoc Tribunals and its gender – neutral language. However, the ICC has also been criticized for its shortcomings, such as the fact that it failed to codify the Akayesu Case as in the Rome Statute there is no explicit mention to SGBC as prohibited acts that constitute genocide or the infamous Article 7(3) that defines gender in a conservative way.

2.3.3. The Case Law

Even though the ICC has contributed significantly in the progressive development of ICL and the acknowledgment of sexual violence as one of the most horrific criminal acts that take place in conflicts, it has had many difficulties in prosecuting SGBC effectively. Since its establishment in 2002 it has only managed to convict two people for sexual violence and rape, while it enumerates a long list of cases that failed to try sexual violence at all stages of the proceedings. Although, the success of an international court should not only be measured simply by the numbers of convictions it has become clear that the ICC has not succeeded in ending impunity for SGBC. The current subchapter will review some of the work of the Court in order to identify the achievements and the missteps in the persecution of sexual violence.

One of the biggest failures of the ICC during its first years of operation was the fact that it completely neglected investigations of sexual violence, showing a lack of interest or priority in identifying and prosecuting such crimes. Particularly in its first conviction ever, in the case of Mr. Thomas Lubanga Dyilo, which focused on issues of conscription and use of child soldiers, the Prosecution timely identified evidence of sexual violence, however, it did not consider such acts to be of a sufficiently systematic nature to meet the crimes against humanity threshold, and thus investigations into the subject were halted. Later on the legal process more evidence surfaced, proving the occurrence of SGBC, yet former Prosecutor Mr. Ocampo rejected an amendment of the indictment and the inclusion of sexual violence. Similarly in the case of Mr. Callixte Mbarushimana, the Pre – Trial Chamber refused to confirm charges of SGBC, even though they were included in the original arrest warrant. As the evidence presented by the prosecution was based only on indirect documentation, it was perceived to feeble to confirm such charges.

The take away from the above - mentioned cases is that the need for prompt and effective investigation is necessary in uncovering crimes of sexual violence and rape since the chances of these charges to be dropped are very likely even at a very early stage of the proceedings, if not prioritized. Investigators should be properly trained in order to identify SGBC, as their implications are more difficult to identify in comparison to other crimes, and also be able to show gender sensitivity to these issues, as the victims experience stigmatization and relive their trauma during interviews.

Another challenge that was identified in the prosecution of sexual violence and rape as seen from the Katanga and Bemba Case is related to the vulnerability of proving the command responsibility in SGBC due its strict rationale. In the first case, the Court found the accused guilty on the majority of the charges but was acquitted of the crimes of rape and sexual slavery, as the violence was executed by militia members and failed to prove the common purpose of the group under Article 25(3)(d) of the ICC Statute. Ergo, showing that the judges drew a line between acts of sexual violence and other crimes such as pillaging, where a higher threshold should be met. Similarly, in the case of Jean-Pierre Bemba Gombo (Bemba Case) of 2016, the Appeal Chamber acquitted Bemba of all charges, including the ones of sexual violence, as he was initially and for the first time in the ICC history, found guilty of rape both as “crime against humanity and “war crime”. The reasons behind his acquittal lay on the establishment of stricter requirements at the confirmation level in order to identify the charges, which restricted the prosecution from introducing further evidence at a later stage, making it necessary to portrait a concrete picture of the relevant conduct with all

the necessary documentation and witnesses from the initiation of the process. Taking into consideration that the investigation of sexual violence has always been inferior and hence delayed, and the fact that survivors are usually reluctant and hesitant to testify, the Appeal's judgment prevented the emergence of new evidence. Additionally, as we saw, the stricter the threshold to prove the commander's responsibility and the lack of evidence of the commander's knowledge of the crimes committed, makes the prosecution of sexual violence challenging and the judges hesitant to incriminate the accused.

Moreover, the Court has failed to conceptualize crimes properly and even incorporate them in the charges, distancing itself from the legal precedent of the ad hoc Tribunal. In the Bemba Case, the OTP included in the indictment charges of forced nudity against male civilians, however, the Pre – Trial Chamber stated that the gravity of the conduct did not meet the necessary threshold of the crimes against humanity. This position, has been heavily criticized, as in the 1998 Judgment of the Akayesu Case of the ICTR, such acts were penalized as crimes of sexual violence, with the judges not providing any substantial reasoning behind this decision. In the Uhuru Muigai Kenyatta and Francis Kirimi Muthaura Case, again the Pre – Trial denied the fact that forced circumcision and penile amputation are regarded acts of sexual violence. On the contrary, it suggested that such acts were not sexual in nature but aimed at demonstrating cultural superiority, thus chose to investigate them under the lens of crime against humanity of other inhumane acts. Such a decision shows that the Court denied the principle of intersectionality, as many times some sexual criminal acts are a tool to affect ethnic composition and assert this cultural superiority. The conclusion drawn is that there is still no clear comprehension of what constitutes a crime of sexual violence under the Statute of the ICC.

Despite the drawbacks mentioned above, the ICC has recently seem to have overcome some of theses issues, with convicting, for the first time since its establishment, Bosco Ntaganda and Dominic Ongwen for SGBC and in particular for acts such as rape, sexual slavery, forced pregnancy and forced marriage. Both cases have been praised for their innovative and gender – sensitive approach in pushing for the further development of ICL and recognizing new areas and persons who are in need of protection.

The significance of the Ntaganda Case lies primarily on the fact that for the first time in an international judicial body of criminal character we have the conviction of charges of rape crimes that have targeted men. This is a testament to the fact that the definition given in the Rome Statute is gender – neutral while showing the fact that impunity of male victimhood will no longer exist under international criminal law. As we saw previously, ICTY also tried

cases of male rape, yet it always chose to prosecute them under different categories of crimes such as torture or other inhumane treatment, minimizing the experience of the victims and perpetuating the stigma that surrounds male rape.

Furthermore, the Trial Chamber in the Ntaganda Case pushed for the further progressive development of ICL and IHL by prosecuting intra – party sexual violence as "war crime". Between others, it found that rape and sexual slavery of conscripted child soldiers is a punishable act under its mandate, showing that it does not exclude members of an armed group from protection against acts that were committed by members of the same armed group. However, this part of the judgment was received with mix feelings by various scholars, as it seems that there is a division between IHL and ICL, even though it extends protection against sexual violence to a highly neglected portion of people who are also affected by the atrocities of the war.

As far as the Ongwen Case is concerned, the Court found the accused guilty of 61 counts of "war crimes" and "crimes against humanity" including 19 counts of SGBC within which forced marriage and forced pregnancy, making it probably the most innovative case to date. With regard to the later, we have for the first time in international criminal justice history the prosecution of a reproductive crime, overcoming the impunity of the IMT and IMTFE, which barely touched upon issues of reproductive rights under the charges of enforced sterilization and forced abortion.

Considering the fact that the crime of forced marriage is neither explicitly mentioned in the Statute nor in the 2014 Policy Paper and the fact that in the Katanga Case it was charged and confirmed under the category of sexual slavery, it was surprising to see the Pre Trial Chamber confirming the differentiation between the acts of sexual slavery and forced marriage stating that even though forced marriage takes place in situation of enslavement, the key element is the imposition of marriage, the duties associated with it and the mere fact of being the perpetrators wife. The Trial Chamber elaborated on the issue a bit further stating that it "does not necessarily require the exercise of ownership over a person, an essential element for the existence of the crime of enslavement", that the essence of this crime cannot be captured in the crime of rape either as there is "trauma and stigma beyond that caused by being a rape victim alone". As I will analyze on Chapter 4, I find this distinction somewhat true, yet its legal impact seems to minimize the sexual character of this crime, as seen above, where the Court failed to explore the nexus of forced pregnancies with other crimes such as rape or sexual slavery or even its gendered aspects. It cannot be argued that the trauma experienced by the survivors of such conducts is immense, as they find themselves in

environments of constant duress and stress, while also being raped and having no real free will whatsoever. Consequently, one can immediately identify the sexual and gendered implications of such a crime, which is why I believe that it should have been prosecuted under Article 7(1)(g) as "any other form of sexual violence of comparable gravity" and not under the general category of subparagraph (k). However, the Court also recognized the social, ethnic and religious effects of forced marriage, but somehow did not touch upon the gendered impact of such a criminal act missing a great opportunity to address the intersecting gendered grounds with this crime.

In the on going trial of Al-Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, the ICC will have the chance to address for the first time these issues concerning crimes of gender based persecution, while the judges will get to visit unexplored territories of law and make the most out of the Rome Statute in regards to its provisions on SGBC. Moreover, it is worth mentioning that the crime of persecution is charged on intersecting religious and gender grounds, a very progressive step for the ICC, as until now it has been shy on applying the principle of intersectionality within its mandate, giving it as a result the perfect chance to redeem itself from the setbacks of the Ongwen Case. Finally, gender – based persecution has been also investigated in Afghanistan and during the preliminary examination of Nigeria, with emphasis on its impact on men and boys, who have been forcibly conscripted by Boko Haram in order to participate in hostilities or even who have been targeted by the Nigerian State for suspected membership in the organization.

2.3.4. Sexual or Gender - Based Violence?

Even though limited, the Case Law of the ICC confesses that lately SGBC has been a central issue of its mandate, producing innovative jurisprudence and focusing on the progressive development of prosecuting sexual violence. However, it also evident that the Court has not managed to distinguish what constitutes an act of sexual violence or gender based violence. This is an important task, that the Court has to quickly resolve, in order to be able to try such crimes effectively without any impunity. In the Elements of Crimes, sexual violence is simply referred to as "an act of a sexual nature" without elaborating any further on the issue, allowing as a result to produce inconsistent judgments.

There have been various approaches on what constitutes an act of sexual violence. Alexander Schwarz, inspired by the 1998 report of the UN Special Rapporteur on Contemporary Forms of Slavery that focused on rape, sexual slavery and other acts, found

that an act is an act is sexual in nature when it targets a person's sexual characteristics or his or her sexuality, violates the value of sexual autonomy or is sexually motivated. On the other hand, Anne – Marie de Brouwer, following in the steps of the ad hoc Tribunals, asserted that sexual violence cannot be restricted and a broader interpretation of the crime is needed, since physical contact is not always a prerequisite. Others, such Kai Ambos, follow the opposite path and consider physicality to be necessary, as violations of dignity can be categorized under their own separate right.

Still, many of these definitions fail to concretely disjoint sexual violence from gender – based violence, which colloquially speaking refers to violence targeting victims solely on their gender without necessarily manifesting itself in sexual ways. A typical act, penalized also by the Rome Statute, would be forced pregnancy and enforced sterilization, two reproductive rights, which directly restrict the freedom and autonomy of a person to decide how to reproduce. Even though these crimes, do not directly impact the victim's sexual independence, heavily affect its ability to make reproductive choices.

Even though, the ICC chose to define sexual violence in a broad manner in order to include as many acts as possible and extend its jurisdiction, this has resulted in being counterproductive, especially if one analyzes this issue in relation to the problematic Article 7(3), which defines gender. As we have seen, gender issues have been left untouched, until recently with the Al – Hassan Aziz Case, but we still do not know what direction the Court will follow, paralyzing the Court in taking a stand on the matter. Moreover, such issues might lead in the complete marginalization of specific crimes, due to the complex nature and impact of some acts. For example, drawn from the Ongwen Case, forced marriage, a gender – based crime usually has a sexual aspect, since the victims are also being raped and subjected to other sexual acts. As I will later analyze, in its judgment, the judges completely neglected to prosecute these crimes, leaving the victims with no sense of justice or liberation from their trauma.

To conclude, we see that such a theoretical question has immediate repercussions not only to the legal process but also to the survivors of such violence. The determination of what makes a violent act sexual or gender – based is something that even the scholars still have not agreed on, yet, the ICC should acknowledge the issue and try to provide some guidelines not only for the sake of law and its progressive development but also for the justice that is expected.

2.3.4. Subchapter's Concluding Remarks

The ICC's contribution in the prosecution of SGBC has been undeniably important, beginning with its Statute that provides a non - exhaustive list of sexual acts that constitute punishable crimes and the codification of sexual violence as both a "crime against humanity" and "war crime". Moreover, it defined a number of terms such as gender and rape, crucial in fighting impunity and understanding how specific crimes should be tried, even though sometimes it resulted in creating more confusion. Particularly, the definition of gender reflects heteronormative ideas and was a missed the opportunity to incorporate the element of sexuality. However, the Policy Paper on SGBC managed to resolve such issues by emphasizing that gender is a social construct which reflects roles and behaviors assigned to men and women by proclaiming the dynamic relation between ICL and IHRL. In regards to the definition of rape, the ICC was heavily inspired by the terms produced by the ICTY and ICTR, incorporating some of their elements while also emphasizing on the level of coercion. More importantly, the definition follows a gender - neutral spirit, which has even been put in practice in the Ntaganda Case, where for the first time we have prosecution of male rape. Yet, during the first years of its operation, the OTP failed to investigate SGBC properly and incorporate them in the legal process, while also conceptualizing the crimes e.g in the Kenyatta and Bemba Case, where issues surfaced regarding the categorization of sexual criminal acts. Some of these questions have not yet been answered, as in the Ongwen Case forced marriage was considered as a gender based crimes neglecting as a result the sexual violence of the victims, proving that the Court still has to develop guidelines and deliver more concrete elements to differentiate Sexual Crimes with Gender Based and Reproductive Crimes.

Nevertheless, the ICC has managed in the Ongwen and Ntaganda case to touch upon issues of sexual violence that previously no light has been shed upon, such as the criminalization of intra – party rape, and consequently proved that as a Court it is able to address sexual violence in an adequate manner. Furthermore it shows great promise, as the Al - Hassan Aziz Case has incorporated gendered persecution in relation to religion and ethnicity in its indictment, proving that it is learning from previous mistakes by recognizing the principle of intersectionality of crimes.

Finally, one can only hope that the new Prosecutor, Karim Khan, will follow the footsteps of Ms. Bensouda and prioritize the investigation and prosecution of SGBC, by making sure, that such crimes will be reaching the trial and appeal stages of the Court.

2.4. Overall Review of the Chapter

As we saw, the prosecution of SGBC under ICL has been divided in three Eras. Beginning with the Era of Silence, where the two military tribunals of WWII, failed to address the issue and provide justice. However, the IMTFE produced the first conviction for the crime of rape, but due to its political implications, the judgment's importance has been minimized and therefore neglected. Moreover, the fact that the IMTFE failed to prosecute the crimes related to the institution of "comfort women", where women were sexually enslaved, diminished the whole construct of the Court.

After the failure of both Courts, the international community recognized a legal gap in the protection of human rights under international law and drafted a number of treaties for the progressive development of the field. As a result, the Era of Honor was initiated, based on the inclusion of provision mentioning rape in the Geneva Conventions. Aside the importance of such a development, the wording of the article, did not depart from previous patriarchal ideas, where SGBC are perceived as an injury upon a woman's honor and not upon her dignity.

The progressive jurisprudence of the ICTY and ICTR cured many of these issues of the past and established sexual crimes as of equal importance offences under ICL, by trying them as "crimes against humanity" and "genocide". Both Tribunals contributed by providing gender – neutral definitions of rape, with different elements each, while enumerating a long list of sexual acts that were punished. However, ICTY failed to try male rape under the category of sexual violence, but under torture, showing the indifference of the judicial system towards male victimhood. Additionally, ICTR produced a limited amount of cases, failing to prosecute criminals, in spite of the existence of evidence of sexual crimes.

Finally, we saw how the ICC failed to investigate successfully in order to prosecute sexual violence during its first decade of operation, even though the Rome Statute contributed in the development of ICL by codifying what constitutes rape and recognizing it as both "crime against humanity" and "war crime". Finally, it has shown prominence with its two latest convictions in targeting core issues of sexual violence, even though it failed both times to touch upon issues of intersectionality and define gender aspects of crimes.

3. Methodology and Restrictions

This thesis exploits Natural Language Processing methodologies to understand whether rape and other sexual crimes are worded differently in legal documents depending on the gender and the role of the victim in armed conflicts. In this chapter, I describe the preliminary foundations of extracting knowledge by data analysis, machine learning, and natural language processing, which will allow the reader to understand how I generate knowledge by the quantitative processing of legal documents. I provide an overview on how knowledge is extracted from databases, give definitions of machine learning and natural language processing, while I describe in detail the two tools I use in this thesis: word frequency analysis and word embeddings.

Moreover, I will present the cases on which I decided to conduct my research by providing also the reasons behind this decision, such as their contribution in the progressive development of ICL and the various forms of sexual violence that they touced upon.

The final subchapter's objective is to explain the various restrictions I faced during this research both in regards to the tools of Natural Language Processing and to the existing pool of cases, from which I draw the corpora analyzed.

3.1. Methodology

3.1.1. Knowledge discovery in databases

Knowledge discovery in databases (KDD) is a fundamental process that aims to extract new knowledge from the unprecedented amount of unstructured data existing in the world. The KDD process includes following steps:

A data curator collects information in a raw format. This means that the collected information is not ready for data-analysis, but might be noisy and incomplete. Therefore, the curator processes it, repairs it and transforms it into a format that can be further used. For example, legal documents in .pdf format need to be transformed into raw text format, in a way that the footnotes do not interfere with the normal flow of the text.

The cleaned data can now be stored in a so called data warehouse, from which they can be easily retrievable. A data warehouse represents the availability of appropriate software and hardware infrastructure, which can ensure that the data are safely stored, but also

efficiently retrievable. Depending the case and data-analysis project, the nature of a data warehouse can vary from someone's computer to a cloud-based server infrastructure.

The third step of the KDD process involves data selection. Given a specific research question or exploratory task, a data scientist chooses a part of the data. The scientist further processes the data to comply to specific software and hardware constraints, and any other potential statistical processing requirements.

Fourth, the data scientist applies appropriate statistical and machine learning algorithms that extract information that was not visible in the initial dataset. The algorithms are able to uncover and recognize new patterns, associations and inferences, that can be used by the scientist to answer their research question or perform their exploratory task.

Last, the data scientist transforms the extracted knowledge into narratives about the world. The KDD process differs substantially from the classical scientific method. Although the classical scientific method follows the classic hypothetico-deductive model, the KDD process tries either to inductively create knowledge about the world or to generate accurate predictions. Thus, following the KDD process, the scientist holds new subjective knowledge about the world, which comes through the systematic interaction with the model results. Given the evaluation of these results, the scientist repeats steps 3 to 5 until the built narratives satisfy their expectations.

This thesis follows the KDD process to transform legal documents into a format usable in data analysis. It then applies natural language processing algorithms, partly using machine learning, to understand how rape was represented in various court decisions. Based on the findings, I generate inductive knowledge about how legal decision makers approached the concept of rape under different conditions, and compare the new knowledge with findings existing in the scientific literature.

3.1.2. Machine Learning

To answer my research question, I exploit the capabilities of natural language processing methods, which are largely based on the tools developed by machine learning research. The last years, more and more researchers use machine learning algorithms to generate knowledge about the world, legal scholars included. For example, political scientists, psychologists, and sociologists use machine learning to understand political behavior online or offline (Lazer et al., 2009). Environmental and medical researchers use ML tools to make predictions about climate change and the mortality rates of specific deceases. Similarly legal

scholars exploit machine learning to, among others, assist them in court decisions, legal document understanding, and legal question answering (Zhong et al., 2020). In addition, the last years, the new field of Legal Tech has emerged, which exploits new technologies and methodologies to advance various aspects of legal processes (Dale, 2019).

In the following, I provide a short overview of machine learning and its properties. Machine learning includes any algorithm, which solves an optimization problem given a dataset of observations. The algorithm optimizes specific parameters by minimizing a cost function, and then makes specific inferences based on them.

Machine learning models are supervised, unsupervised, or semi-supervised. Supervised algorithms have as input and output N observations, which contain a set of X_M features and Y_K labels, with $M, K \geq 1$. The algorithms try to capture the real relationship f between X_M and Y_K. They do so by minimizing the cost function $L\left(Y_K, \hat{f}(X_M)\right)$, thus learning learning the approximated relationship $\hat{f}$. The ability of a model to approximate $\hat{f}$ well depends on the available input data and the nature of the algorithm used. Supervised learning algorithms can generally perform two tasks: regression and classification, depending if an output feature is numerical (e.g. the price of a product) or categorical/ordinal (e.g. the brand of a car or the educational level respectively). Examples of supervised learning models are linear and logistic regression, random forests, and neural networks.

Unsupervised learning models have as input N observations, which contain a set of features X_M and optimize a cost function $L\left(\hat{g}(X_M)\right)$. In unsupervised learning there is no real function $\hat{f}$ existing between input and output features that the model tries to approximate. The algorithm learns a function $\hat{g}$, which creates a mathematical representation of the observations that was not apparent in the initial dataset. Unsupervised learning algorithms are generally used among others for clustering and latent factor modeling. Clustering tries to aggregate observations into a number of clusters based on their (dis)similarity. Prominent clustering methods are k-means and hierarchical clustering. Latent variable modeling algorithms to project input variables to transformed mathematical spaces, reducing in this way the noise in the data and uncovering previously not visible properties. Factorization models include methods such as singular value decomposition, or non-negative matrix factorization, or other transformations such as embeddings' algorithms (Pennington et al., 2014), which I use also as part of this thesis.

3.1.3. Natural Language Processing

The objective of this thesis is to understand how legal practitioners approached cases of gender-specific rape. The primary source of this information are the available court documents, protocols and decisions, which all include verbal or written text. This text is nothing else than sets of lingual propositions, which follow a specific syntactic structure and are able to transmit a specific semantic content. This happens, because they belong to a \textit{natural language} existing in a society. To understand therefore the various legal semantics used by legal practitioners, it is necessary to use appropriate natural language processing methodologies.

Natural language processing (NLP) is an interdisciplinary research area at the intersection of Linguistics, Computer Science, and Artificial Intelligence. Its scope is to process, generate and make sense of textual data in a valuable way (Manning et al., 1999). NLP includes multiple sub-areas such as text categorization, machine translation, speech recognition and question-answering, Most NLP techniques either use statistical processing or machine learning algorithms to make sense of the raw text. In this thesis, I use the statistical technique of word frequencies to understand the vocabularies used by legal practitioners when describing or arguing about rape cases, while I use the unsupervised learning technique of word embeddings to understand the conceptual associations these practitioners consciously or unconsciously generate and promote around rape.

3.1.4. Preliminaries of natural language processing

The application natural language processing techniques requires first the appropriate preprocessing of the available textual data. The total collection of text when answering a specific research question is called a *corpus*. Depending the data scientist's scope, they split the corpus into smaller chunks of so-called *documents*. In my case, I define as a document either a single legal document or each chapter of the legal document, depending the granularity of the analysis.

Then, the data-scientist splits the documents into even smaller units by the process of tokenization, in order to create the methodologies' input features. Units might be words, sets of words, syllables, or characters depending the model architecture. In my case, the granular level of analysis is each word.

Because the complexity immanent in text is very high, the data scientist uses specific techniques to simplify the information in their content. Such techniques include *stemming*, *lemmatization*, *pruning* and *stopwords* removal. Stemming and lemmatization aggregate words with common root, while pruning and stopwords remove very rare or very frequent terms that appear in the corpus, and hence are not of significant importance to the researcher. In this thesis, I only deploy stopwords removal, taking out of the corpus common terms such as articles and sentence connectors, which are not useful for analyzing legal semantics.

Depending the scope and the method used by the data-scientist, the syntactic and grammatical relations in the text might be of primary or secondary importance. In cases that such relations are secondary, the data-scientist adopts a so-called *bag of words* approach. The approach evaluates each document as a multi-set of words. The researcher practically ignores the order and grammar of words, and only keeps their multiplicity. The bag of words approach is used e.g. when performing word frequency analysis, as what is important is the understanding of the prevalence of specific terms. In contrast, when analyzing complex lingual interrelations, as it is the case when using word embeddings, the bag of words-approach is unsuitable. In such cases, the data-scientist mathematically manipulates words by using a *one-hot encoding*. One-hot encoded representations are vectors of length equal to the vocabulary V of a corpus. For a word w_i, its one-hot encoded vector has an i_{th} element of value one, while the rest of the vector elements are zero. E.g. The corpus C = {Law And Order}, contains three one-hot vectors constructed as following:

Law: [1,0,0]
And: [0,1,0]
Order: [0,0,1]

The above preprocessing techniques are combined for transforming raw text into meaningful features for natural language processing. Next, I present the two NLP techniques I use for answering the thesis' research questions.

3.1.5. Word Frequency Analysis

Word Frequency Analysis is the first technique used in the thesis for understanding the framing of rape in legal documents. It is probably the most basic technique for describing the content of a set of documents. The technique practically counts the occurrence of each

term /word in a document, allowing the researcher to understand how often specific concepts appear, and thus evaluating what are the key elements in the text. This process is formalized as follows:

Given is a document D in a document vector space VS, whose length is equal to the unique number of words in the corpus. The vector space for the document is $VS_D = \{W_1, W_2, \ldots, W_n\}$, and $W_1, W_2, \ldots, W_n$ is a value that describes the prevalence of the word in the document. In my case, each value W_1 is calculated by the following function:

W_1 = (Number of times word t appears in a document) / (Total number of words in the document).

In this way, I calculate the relative frequency of each word in a document. I calculate word frequency by judgment and find specific words related to SGBC, with the aim to compare the occurrence of these words between the various documents analyzed.

3.1.6. Word Embeddings

Word embeddings' methods comprise a set of models that map words or documents to numerical vectors. These vectors can either be useful for understanding properties of the corpus they were trained on, or to improve the predictive accuracy of further machine learning models.

Word embeddings are popular because they achieve something that neither the bag of words approach or simple one-hot encoding are able to. The projection of lingual concepts to mathematical spaces based on their co-occurrence, leads to the generation of mathematical vectors that are able to capture semantics existing in the initial corpus. Therefore, many NLP architectures take words as input in the form of word embeddings, and not in one-hot encoding form, in order to improve their inferences.

Researchers have found that word embeddings are able to model very complex semantic, syntactic, grammatical and contextual properties of text. As Figure 3.1. shows, the words are positioned in the mathematical space by the algorithm in such a way that term-specific properties such as the gender, tense, and country – state relationships are mathematically preserved.

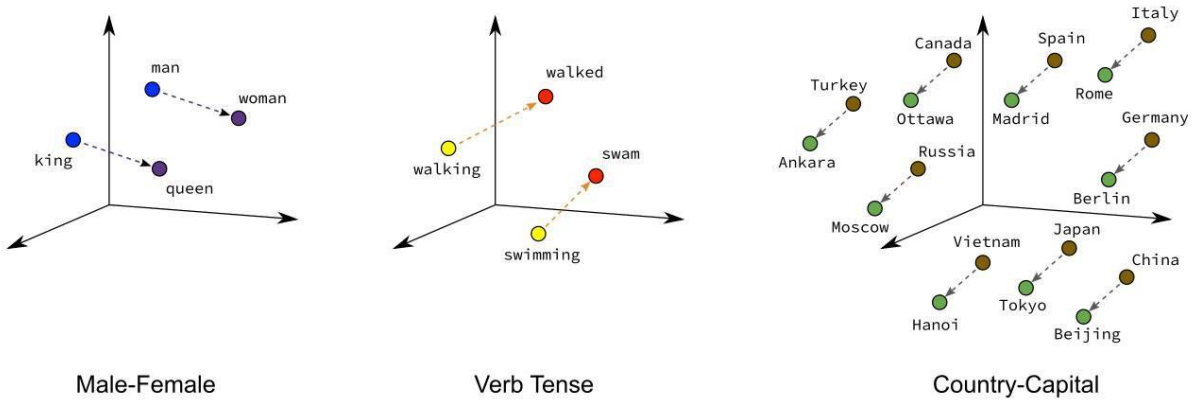

Figure 3.1. Word embeddings encode semantic and syntactic associations of words in the mathematical space.

(source: https://developers.google.com/machine-learning/crash-course/embeddings/translating-to-a-lower-dimensional-space)

Furthermore, a data-scientist can calculate how often words appear together in a similar context. This is done by calculating the cosine similarity of two word vectors A and B, by the formula:

$$similarity = cos(\theta) = \frac{A \cdot B}{|A||B|} = \frac{\sum A_i B_i}{\sqrt{\sum A_i^2}\sqrt{\sum B_i^2}}$$

This equation gives a value between -1 and 1, with values close to one showing that two words co-appear on the same semantic case.

In this thesis, I use the wWord2vec model (Mikolov et al., 2013) to generate the word embeddings, and specifically the skip-gram algorithm, which is a generalized logistic regression architecture that places words in such a way in the mathematical space so that it can predict the neighbouring words based on a target word in the corpus in an optimal way. I apply the model on each judgment separately, creating a document specific set of word embeddings. Then, by applying the cosine similarity between words I investigate which concepts around rape were used simultaneously by legal practitioners.

3.2. Reasoning behind the Cases Chosen

The driving force behind this thesis was to identify any semantic discrepancies concerning rape within the judgments of international judicial bodies of criminal character.

The interest on rape layed on the fact that scholars from Gender Studies and feminist lawyers consider this particular offence as the capstone of sexual violence and as it was analyzed on the previous chapter, a crime that has been rarely prosecuted.

Consequently, my primary criterion, when I was investigating the various cases available, was that the various verdicts included crimes of rape and that the accused was successfully found guilty on these counts, meaning that cases such as the Bemba Case, the Gbagbo and Blé Goudé Case where the accused where acquitted on the Appeal Stage, were instantly dismissed. The reasons why relate to the fact that I wanted to see the semantic value on cases where justice was served, where the trauma of the victims, both male and female, will, hopefully, somewhat be healed. In addition, should these cases perpetuate stereotypes, willingly or not, present the experiences of the victims in a paradoxical manner, then the suggestions for the future judges and judgments drafters will be of higher significance.

Furthermore, another parameter I wanted to include on this research was that I wanted to scrutinize how the various judicial bodies have tried rape and sexual violence through the time. Providing this type of universality and temporal character will portray to the reader the general picture of how prosecution of SGBC has evolved through the systems and time and what steps forward have been made for the progressive development of ICL. Thus, I draw one case from the ICTY, one case from the ICTR and two cases from the ICC, beginning with the first Tribunal that defined rape and concluding the research with the latest judgment that has tried SGBC, issued six months ago.

The final criteria I set for this research was the inclusion of the gender aspect and the status of the victim during the conflict. Since the main question of the thesis is to identify any discrepancies between the portrayal of male and female rape, I had to undertake the difficult task of seeking cases that had successfully convicted SGBC targeting men and boys. Unfortunately, as of today we only have one such case, hence I additionally analyzed another case where male victims where penetrated, since this is an important element of rape under the ICC, by foreign objects, but the crime was ultimately charged under the category of torture, for a more rounded input on the matter. Finally, the same issue applies for survivors of rape, who at the moment the violence occurred, had the status of a combatant.

3.2.1. The Akayesu Case

It was important to me to analyze this particular case due to its gravity in ICL, as it provided the first definition of rape and prosecuted this crime as an act of genocide.

Specifically, its definition, as mentioned above, inspired the one included in the Rome Statute, yet it also drifts away concerning some elements of the crime, making the research richer in its semantic analysis. Moreover, it scrutinized various forms of SGBC, such as forced nudity, a never before seen type of sexual crime, enumerated in any Statute or Convention. Finally, being one of the first cases to try crimes of sexual violence in an international judicial body, I consider it to be a great starting point to see the development of legal semantics.

3.2.2. The Simić et al. Case

Initially, I thought of analyzing the Tadić Case from the ICTY, however due to its strong similarity to the Akayesu case, first case to try and define rape, and the lack of persecution of sexual violence targeting men and boys in other judicial systems, I decided on the Simić Case. In reality, the judges tried those sexual crimes under the category of torture making it worthy to compare how male victimhood has been portrayed when prosecuted as rape and when as other acts. Yet, the ICTY has plenty of such cases, where SGBC against men were tried under other categories of crimes. What makes this case stand out is the fact that in the ten cases of the Tribunal that touched upon the issue of sexual violence against men, only in two of them the threshold given by the definition of rape was met, as the perpetrators had to be physically involved in the punishable act. In the Simić case not only this prerequisite was met but also, as mentioned earlier, the inclusion of the element of penetration, as seen on the Rome Statute, created questions on how much its semantic value has changed until today.

3.2.3. The Ntaganda Case

The significance of this case lays on the fact that for the first time the ICC achieved to successfully convict an accused on the grounds of sexual violence and rape. What is more, it also produced the first judgment where male rape is explicitly mentioned and tried as such and not under categories of torture or other inhumane acts. Generally speaking, the Ntaganda Case is the crown jewel of the ICC, as it pushed for the progressive development of ICL by also considering intra – party rape punishable under the Court's mandate.

3.2.4. The Ongwen Case

Together with the Ntaganda Case, they compose the most recent judgments that include the conviction of sexual violence and rape, and the only of the ICC in regards to this category of crimes, making them the cornerstone of the research when it comes to observing the semantic evolution of these terms. Furthermore, it includes an extended list of SGBC such as forced marriage and forced pregnancy, which have never been tried in a legal process before while also touching upon gendered issues rather than sexual, due to their character and societal implications. Finally, it touched upon the issue of sexual violence committed by a female soldier on another women. Since the Ntaganda Case is the only case to try rape of soldiers, I wanted to examine whether there is a semantic difference in the portrayal of women as perpetrators and victims.

3.3. Restrictions

The current research faced a number of limitations both in relation to its legal research and to its Artificial Intelligence methodology.

As far as the first is concerned, due to time restrains, the research focused on the above four cases only, limiting both the corpora analyzed and the overall data collected. For a more concrete idea of how the various judicial bodies of criminal character portray sexual violence, a further analysis of additional cases is highly recommended. Specifically, one could examine the jurisprudence of other Courts such as the IMTFE's judgments on the Nankin Rape and the Special Court for Sierra Leone, in order to cover all institutional manifestations of criminal justice through the history. Moreover, the inclusion of other types of documents, such as the Statutes, Elements of Crimes and Conventions would expand the research to the core of ICL, where one could also identify semantic discrepancies between judgments and codification initiatives.

As already mentioned, the international jurisprudence on SGBC is very limited, especially in relation to male victimhood. Only the Ntaganda Case has successfully convicted someone for sexual violence targeting men, while also explicitly recognizing it as rape. Hence, the semantic value of this judgment is very important, but at the same time, not definite, as one cannot compare stricto sensu rape, as defined under ICL, through the years. However, the fact that sexual violence against men has always been categorized under torture or other inhumane acts, still demonstrates the semantic evolution of male victimhood, especially when compared to the explicit conviction of rape crime in the Ntaganda Case.

Same problems arise in regards to the status of the victim in the armed conflict. Again, only the Ntaganda Case has tried SGBC targeting combatants. Consequently, I chose to focus on the gendered aspect of the combatant in order to draw as many conclusions from this innovation as possible. Yet, one will have to wait for further jurisprudence in order to get a more round insight on the matter.

With regards to the gendered semantics of these judgments, only the Ongwen case has prosecuted such crimes and as already established it did not even touch upon this matter. However, this is the purpose of this methodology, to identify and uncover any semantic meanings that might slip under the naked eye, when reading one of the most extensive judgments in the history of international criminal justice. Should the Al Hassan Case of the ICC touch upon the gendered issues as expressed previously, then a comparative analysis of these two cases, could provide us with an extensive amount of information concerning the legal semantics of gender based violence and its intersectionality with other aspects.

Finally, Natural language processing techniques have the ability to process fast and efficiently a huge amount of text. Nevertheless, they come with specific limitations. First, these techniques are not able to cope with the issue of polysemy, the property of some words to have more than one meaning. Furthermore, although the methods used in this thesis are able to quantify the prevalence and co-occurence of specific words, they are not able to quantify semantic associations at the sentence level, or to uncover the exact argumentation strategies the legal practitioners followed in their decisions. The results provide a macroscopic view on how rape was discussed and presented in the legal cases, and any interpretation should be backed up by further theoretical and empirical work. The specific quantitative analysis of the legal corpus should be seen as complementary and a tool that can help qualitative analysis, and not as a technique that can make qualitative research methods redundant.

4. Results

In this Chapter, I will present the result of both the qualitative and quantitative research with regards to legal semantics used to describe rape and sexual violence in the judgments of the above - mentioned cases.

First, the remarks of the qualitative analysis will be demonstrated, such as key concepts and wording used by the Court in order to portray SGBC. Then, the outcomes of the Word Frequency research will be illustrated, such as the amount of times the word rape was used or other elements of the crime such as coercion and force. When comparing the occurrence of these terms with other words, namely murder or torture, one can instantly see on which crimes and wordings the Court gravitated the most. Furthermore, based on the results of the previous methods, I will present the cosine distance between key words and terms with the help of the tools of Word Embeddings, in order to further scrutinize the hypothesis and results that have been already established.

4.1. Qualitative Results

4.1.1. Reading Akayesu

The Akayesu case acknowledges one of the most difficult tasks, the Court faces, which is the correct translation of the testimonies of witness. Due to cultural gaps and the inability to directly interpret meanings and words, there is sometimes the danger of neglecting evidence of a particular criminal conduct. Additionally, as we saw with the term of “comfort women”, the false use of terms can result in the concealment of the sexual offence and the experiences and the trauma of the victims.

Thus, the judges incorporated in the final judgment a Chapter explaining the semantic difficulties they faced, such as the proper translation of words that may not exist in Kinyarwanda.

First and foremost, on paragraph 145 of the judgment, they identify the particularities of the Kinyarwanda language, its syntax and every day expressions that complicated they translations and interpretations to English and French. Then, they explained the translation process from Kinyarwanda to French and then to English, and since discrepancies between the transcripts could occur, the French transcript was used for accuracy. Moreover, the Chamber relied on Dr. Mathias Ruzindana, a linguist, to provide the exact meaning of certain

words and expressions in regards to rape due to its significance in the trial, in order to be conceptualized correctly.

Paragraphs 152 – 154 provide the various expressions used from the victims/witnesses and their meaning in Kinyarwanda, which were translated as rape. For example, the word gusambanya translates "to bring (a person) to commit adultery or fornication", kurungora "to have sexual intercourse with a woman" kuryamana "to share a bed" or "to have sexual intercourse", all these expressions do not include the element of force or coercion in comparison to the term gufata ku ngufu means "to take by force" and also "to rape". However, the Court established that depending the context of the sentence, all of these expressions could be translated as rape.

The effort put by the Court and the inclusion of such a paragraph within the judgment is very important, as it demonstrates the will of the judges to identify objectively and extensively the true nature of the SGBC that took place in the conflict. Moreover, it supports the survivors to share their story and reach some closure with the conviction of the accused for the crimes against them.

In regards to the Tribunals preference of word usage, this becomes clear from the beginning of the judgment, as in paragraph 10A the judges distinguish between sexual violence and sexual abuse. The first category includes, crimes such as “sexual penetration of the vagina, anus or oral cavity by a penis and/or of the vagina or anus by some other object” and sexual abuse such as forced nudity. First, one can identify that the elements of sexual violence could be interpreted as the elements of the act of rape, even though the Court denied defining it in mechanical terms. Furthermore, the distinction between sexual violence as penetration and sexual abuse as forced nudity seams to be on the basis of the physical involvement on the act and not on the mental harm caused that usually is linked to abuse. This conclusion can be drawn from the fact that in paragraph 508 the Court acknowledges the effects of rape on the mental state of the victims and therefore its use as a way to prevent births.

Finally, throughout the judgment the court uses the word of rape explicitly when describing the evidence and how the victims suffered from these crimes. It is important also to mention the use of the expressions “penetrated her vagina with his penis”, “forcing a piece of wood” and the use of penetration in general as it is always accompanied by the term rape, making a clear connection between the action and the type of sexual act. This is particularly interesting, as this will not be the case in other judgments. On the other hand, as seen on paragraph 598, the Court defined rape using the term invasion and not penetration, a term that

as we saw previously, extends protection to a greater number of acts, proving how the Court truly was not willing to use a mechanical definition. However, the appearance of the word penetration in this judgment, might be related to the fact that the Court only heard of cases of forced sex, where penetration is indeed a substantial element and not incidents where other cavities of the victim where sexually assaulted.

.

4.1.2. Reading Simić

As we saw previously, the ICTY handled a great number of cases of sexual violence targeting men with none of them persecuting these acts separately as rape or sexual violence but under the category of torture. Similarly, in the Simić Case, where a foreign object was forced in the anus of a detainee and two others were forced to perform oral sex on each other and on the accused Stevan Todorović, the judges found that these acts constituted torture and not rape or sexual violence.

The Judgment in its entirety remains silent on sexual violence and rape, excluding paragraphs 728 and 772, which are the only ones shedding light on these crimes. Specifically, the first one describes the incidents of sexual violence, with no mention to rape, but defines these acts as sexual assaults. Similarly to the Akayesu case, the word assault is preferred and not abuse, as the element of penetration is very clear in those incidents. The latter paragraph, only explains that the Chamber includes sexual assaults under the category of torture.

Finally, in the case where a detainee was beaten in the crotch and was told, "Muslims should not propagate" the Court makes no connections to the act with sexual violence and fails to recognize the gendered and sexual character of such an act. This could have been a golden opportunity for the Court to recognize the connection to the beatings of the genitals with the intent to affect the disposition of an ethnicity and investigate the issue of genocide.

4.1.3. Reading Ntaganda

The Ntaganda Case has received a lot of praise, as the first ever conviction of SGBC in the ICC, touching upon issues of sexual slavery and rape of both men and women. However, after closer examination, its portrayal of the sexual offences is a bit ambiguous, as the word rape is used very conservatively and with cautious. Particularly, what strokes me the most was its choice to describe male rape in a descriptive manner avoiding the usage of the word rape or even sexual assault.

This particular parsimonious approach can be traced not only from the beginning of the judgment, but also throughout, as the Court uses the word "alleged" when mentioning a specific criminal conduct. Furthermore, whenever there are mentions to rape, then the word is seen in brackets, while footnote 1154 states "The Chamber clarifies that the use of the word 'rape' within the factual findings is intended to have a purely factual meaning, as it transpires from the evidence before the Chamber, and is not intended to pre-suppose legal findings, which are addressed subsequently". Some suggest that the European based Court was trying to be sensitive to the criticism that it had been receiving, of white people pointing the finger to African countries and only persecuting African officials.

Another issue noticed, is the lack of consistency on how the Court presented sexual violence and rape. Sometimes the judges would explicitly name the conduct as rape, other times they would tiptoe around the issue and use blunt expressions such as: witnessed and experience sexual violence §148, "performed sexual activity with the enemy" §404, "became pregnant during her time in the UPC" §407, "UPC/FPLC soldiers forced women and girls to have sexual intercourse with them" §518 or "Saidi then penetrated the girl with his fingers... penetrated her vagina with his penis" §519.

The same issue appears when portraying male rape, where the Court avoids mentioning the incidents in a direct manner, rather chooses a descriptive one. The expression "men who were penetrated by UPC/FPLC soldiers with their penises or by using 'bits of wood'" is always used when portraying male victimhood, as if the drafters of the judgment were copying and then pasting the sentence. Whether this is a product of sluggishness or the Court wanted to focus on presenting the elements of the crime according to the definition of rape in the Statute to justify the later decision to prosecute the conduct under rape, it ended up minimizing the suffering and trauma of the victims. Once again male victimhood seems to be ignored, or at least semantically obscured.

On the other hand, it is important to acknowledge the fact that the Chamber took some steps in favor of the prosecution of rape, such as the inclusion under paragraph 88 of the judgment, a number of reasons why the credibility of rape victims should not be questioned in cases of late reporting, such as "cultural or communal stigmatization, shame and fear, as well as the general lack of trust in authorities".

Furthermore, the court seems to have learnt from the mistakes of previous Tribunals in regards to addressing the victims of SGBC properly. Contrary to the use of "comfort women" the Court successfully mentions under footnote 458 that the term wife refers to a coerced

sexual relationship, while there is no use of the term when describing the sexual violence these women have experienced.

Finally, concerning the language used to portray the rape of female child soldiers of the UPC/FPLC, the Court does not follow a particular phrasing. On paragraph 407, they are addressed under their status in the conflict, "Female members of the UPC/FPLC" or paragraph 792 "young female recruits and soldiers were additionally subjected to a continuous exposure to the risk of sexual abuses, including rape, accompanied by severe physical violence", while explicitly mentioning the fact that they were raped. Other times, they are depicted based on their gender "…UPC/FPLC soldiers forced women and girls to have sexual intercourse with them." as seen on paragraph 518 or according to their witness number "The named UPC/FPLC commander had sexual intercourse with P-0113 that night, which she stated she could not refuse…", see paragraph 629.

4.1.4. Reading Ongwen

The Ongwen Case is another celebrated case of the ICC, where the accused was found guilty for a great number of SGBC targeting women, including rape, forced marriage, forced pregnancy and sexual slavery.

The first novelty of the case is the inclusion of the term Sexual and Gender Based Violence, as it seems that the Court is adopting the terminology established and used at the moment by feminist scholars, creating uniformity between the various sciences and a better understanding of which criminal conduct is related to sexual violence. However, as mentioned above, the Court failed to clarify the meaning behind gendered violence, as well as to define the term sexuality. As seen on paragraph 2716, the judges tried to present what is understood under acts of sexual nature, stating that penetration and physical contact are not necessary elements, while sexual means that they are carried out through sexual means or target sexuality, without elaborating any further. Taking into consideration the problematic definition of gender in the Rome Statute, and the fact that the Policy Paper of 2014 translated this provision as including sexual orientation, one finds themselves in a dead end.

Whether sexuality stands here for sexual orientation or whether it is translated as every type of offence that targets the victim sexually or their sex parts, the paragraph suggests that the sexual character of these acts should analyzed on each case separately, depending on the circumstances under which the conduct took place. This ambiguity can be dangerous

considering ICC past in prosecuting sexual crimes, as it the Court might be too flexible in identifying and trying such crimes.

What made the Ongwen case so significant, was the prosecution of forced marriage, a huge step forward for the progressive evolution of ICC, yet many issues arise concerning the wording used by the Court. Specifically, they continuously call the victims "so called wives" throughout the entirety of the judgment, a term with similar connotation to the notorious "comfort women". What is more, there seems to be a distinction between the sexual violence the civilians and these sexually enslaved women experienced. As seen on paragraph 1157, which states that civilians, were abducted, enslaved and used as sexual slaves while "wives" were domestic servants, neglecting completely the sexual character of the crime. This can be seen throughout the judgment, where the judges describe circumlocutory the rapes these women endured and not explicitly. This brings as back to the discussion on what constitutes a crime sexual and what gendered based. As expressed previously, such distinctions are tricky and may lead to a neglect of one aspect, as seen in this case. Similarly, the aspect of forced pregnancies seems to be classified as a lower violation, as it is only scrutinized towards the end of the judgment.

The final semantic issue of this case is related to the language that was used to portray the rape of a civilian woman by a female soldier of the LRA. As one of the questions of this thesis is to identify semantic discrepancies depending on the role of the victim in the conflict and due to the lack of cases that have prosecuted intra party rape, I chose to analyze this particular incident. Apart from the mention to the gender of the soldier/perpetrator, no other differentiations are noticeable, except of the fact that the court used the word rape. In comparison to the Ntaganda Case, where we also had the similar sexual offence, a soldier penetrated with a foreign object the victim, here the judges explicitly call the act rape, while in the Ntaganda Case, the Court followed a descriptive portrayal of the crime, when targeting a man without explicitly calling it rape.

4.2. Word Frequency Results

4.2.1. Word Frequency of the Akayesu Case

As this case is famous for recognizing rape as crime that constitutes genocide and due to the gravity of such a crime, one would expect genocide and rape to be the most frequent words in the judgment. In particular, the word genocide appears 247 times and rape, including

other similar derivatives such as raped and rapes, 243 times consisting approximately 0,25 % of the overall words used in the judgment.

These results show how important the crime of rape under the Akayesu judgment and how much gravity the Court gave to its prosecution. To put things into perspective, the word killed appears 224 times, murder 78 times, torture 37, sexual 125 and violence 131 times, showing the equal attention both "traditional" crimes such as murder and newer ones like rape, received.

Furthermore, comparing the 243 times the word rape was used with the 6 times occurrence of penetration, 5 of intercourse, assault 10 and 6 of oral, it would be safe to assume that the court followed a more explicit language when wording sexual violence. Instead of choosing a more indirect and descriptive tongue with words such as penetration, force, assault and genitals, as we saw in the Ntaganda Case, when portraying male rape victimhood, the judges here directly name these acts rape or state the victim was raped.

Other interesting findings are the occurrence of the word abuse 10 times, and only 9 of them were related to the abuse of power and not the sexual abuse of forced nudity. As we initially saw the Tribunal distinguished sexual violence and sexual abuse, between acts including penetration and acts such a forced nudity, without elaborating any further. The tools of Word Embeddings will help us clarify the issue further, by seeing the cosine distance between the terms of violence, abuse, penetration and nudity.

Finally, coercion and its derivatives appear 9 times in the judgment and all of them refer to the general coercive environment while one of them is directly connected to sexual violence. This could seem peculiar, considering how it is not included as an element of rape according to the Akayesu judgment. Word Embeddings will help us establish this connection when we will analyze the cosine distance between the words rape and coercion.

4.2.2. Word Frequency of the Simić Case

As already analyzed, the Simić Case failed to recognize the sexual acts committed against male detainees as rape or even sexual violence but rather prosecuted it under the category of torture.

The results of the Word Frequency research confirm this position, as words related to the crime of torture appear the most such as cruel 69 times, degrading 2 times, dignity 4 times, humiliating 19 times, inhumane 109 times and torture 52. Rape on the other hand is never even mentioned, with sexual appearing only 2 times, anus 1 time and genitals 2 times.

Most frequent terms are detention with 206 times, force with 211 times, work with 169 times, beatings with 139 times and labor with 93 times, showing that the main focus of the case was the physical abuse of the detainees and the forced labor they had to engage with.

4.2.3. Word Frequency of the Ntaganda Case

The qualitative research demonstrated many of the gaps of the Ntaganda judgment, such as the ambiguous portrayal of rape, sometimes explicitly using the word rape, sometimes using descriptive language, and the lack of attention given to male victimhood.

Still, rape is mentioned 181 times in comparison to other "traditional crimes" such killed 126 times, murder 67 times and assault 179, which in this context was only used in relation to attacks. However, upon closer look, we see that rape and its derivatives comprise less than 0,15 % of the overall words in the judgment, 40% less than the Akayesu Judgment of 17 years earlier. At the same time there is a rise in words used to describe sexual violence descriptively such as vagina 7 times, penetrate 26 times, intercourse 12 times, subjected 30 times, experienced 17, anal 7, abuse 7, sexual 139 and violence 68 times. This shows a tendency of the Court of avoiding to use the term rape and follow a more detailed portrayal of sexual violence. The results of the Ongwen Case will be decisive on this hypothesis.

Another key issue of the Ntaganda Case was the prosecution of conscription and rape of child soldiers. The term soldiers is the most frequent one, appearing 386 times, while children 141, age 150 and abducted 40 times. Even though soldiers is a word used to describe both perpetrators and victims in this case, the high occurrence of children is significant to confess the focus of the Court on minors. Additionally, the fact that age is one of the most frequent words, might suggest that the judges gravitated on the element of age to prove conscription of minors and admit that age is the most important element in identifying such a crime, in comparison to the element of abduction.

Finally, in relation to the gender aspect of the decision, greater focus was given to women, as one would expect, considering the majority of the charges were linked to violence that had targeted them. To be precise, woman/women appear 135 times, girls and female 60 and 30 times respectively, while man 56 times, male 19 and boys only 6 times.

4.2.4. Word Frequency of the Ongwen Case

As discussed previously, the Ongwen Case produced various novelties in the prosecution of SGBC with the first conviction of forced marriage and forced pregnancies. On the other hand, we saw in the qualitative analysis that these crimes were addressed in a rather superficial way, as they were mentioned rarely in judgment. The tools of Word Frequency will help us explore the issue in greater detail.

In particular, in the lengthiest decision yet of 311.359 words, the terms pregnancy and marriage appear only 75 and 70 times respectively, while enslavement 60 and slavery 50 times. This proves the lack of attention paid by the Court on the issue. Furthermore, rape is used only 80 times, which consists 0,03% of the total amount of words in text, even lesser than in the Ntaganda Case, while other terms which we have seen to be used alternatively to rape, in order to portray the crime descriptively, are being used even less often, e.g. penetrate 8, penis 6, hand 64, intercourse 20, anal 3, abuse 39, violence 80, experience 150 and sexual 179 times! Consequently, one can identify how the Court chose to shift the focus on other categories of crimes, while touching upon the issue of SGBC only superficially.

The most frequent words, were abduct and its derivatives with 1640 mentions, consisting 1% of the decision, force appearing 362 times, mental 202 times, beating 235 times and killed 612 times. What one could find surprising is the focus on the abduction of women and children, an act that is not included as an element of any crime related to SGBC, but only to enforced disappearances, even though such crime was not included in the indictment.

Another disappointing outcome of the research is the fact that the terms so called appears 245 and wife 380 times, in comparison to women which is used 329 times, proving that the Court preferred to use this diminishing and insensitive term than women or even more descriptive terms, such as victims of sexual slavery.

4.3. Word Embeddings Results

4.3.1. Word Embeddings of the Akayesu Case

The first thing that comes to mind when thinking of the Akayesu Case is the persecution of rape as a crime of genocide, however the results of the Word Embeddings research showed that the cosine similarity between the word rape and genocide is 0,15 while genocide and murder are closer with a distance of 0,19. Still, I find this difference somewhat expected, as the extermination of an ethnicity as a prerequisite of genocide has long been established.

What was interesting was the fact that genocide was closer to other words such as "complicity", "crime" with a distance of 0,48, "dolus" with 0.46 and "convention" with 0.45, mostly elements of the crime to prove the guilt of the accused.

With regards to issue of the differentiation between abuse and violence, sexual was closer to violence with a distance of 0.75, while abuse only 0.29, proving that abuse was not used to depict sexual crimes. In particular, the words closest to "abuse" were "promises" with a similarity of 0.78, "threats: with 0.63 and "posters" with 0.62. The only word with a sexual connotation that had a high similarity with abuse was the word penis with a distance of 0.51. Furthermore, forced nudity was closer to abuse than violence, as "naked" and "abuse had a distance of 0.3, while no results were found for the relation of the words "naked" and "violence". This confirms the position of the Court, when it linked both words in the Introduction of the judgment.

Finally, I wanted to research the cosine similarity of the word "rape" for a comparative analysis with the other cases, and the results showed a firm relation with other crimes. The first words were "numerous" and "dignity" with a distance of 0.4, then followed "inhumane" with 0.37 and "outrages" and "torture" with 0.35.

4.3.2. Word Embeddings of the Simić Case

Unfortunately, due to the fact that the Simić Case paid little attention to the forced oral sex between two detainees and the penetration of another one's anus with a truncheon by mentioning this conducts only in two paragraphs, Word Embeddings could not even calculate the cosine distance between the terms "anus", "penetration", "oral" and "assault".

Consequently, there are no results with the use of this tool, only the proof that the ICTY, in this case at least, completely neglected sexual violence against men.

4.3.3. Word Embeddings of the Ntaganda Case

In this case, I wanted to investigate the semantic relation between the term "wife" and words related to rape such "violence", "penetrate", anal and "force", in order to establish that the judges refrained from its use and directed the victims of sexual violence, whether under their witness code or under the gender.

First of all, the seventh and ninth words, which have the closer cosine relation with the term wife, where “penetrated” and intercourse with 0.3, in comparison to “woman” and these terms which showed a closer cosine similarity. Yet, “wife” and “rape” have a distance of 0,07 while “women” and “raped” 0,37. This shows us the few times that the term “wife” was used, was rarely in relation to rape and when so, a descriptive manner of depicting the crime was chosen.

With regards to the portrayal of rape depending the gender of the victim, the tool of Word Embeddings, provides great clarity. As seen in the previous paragraph, “women” and “raped” have a cosine distance of 0.37 while “men” and “raped” only 0.07, proving again that the judges where very shy in calling the sexual violence against men rape.

This was further scrutinized by analyzing the words used in the judgment to depict sexual criminal acts in a descriptive way. For example, the word anally, seen mostly in cases of male victimhood in the judgment, had the biggest cosine similarity with the following words. “Penises” and “penetrated” 0.8, “bits” and “penetrate” 0.7, “wood” 0.6, “men” and sticks” 0,5. On the other hand, “rape” and “anally” have a cosine distance of only 0.4 and “anally” and “women” 0.4 and “anally” and “man” 0.6. From these results, we can see the high association between descriptive terms and men, and the great distance between the terms “rape” and “women”. Similarly, the term “hand” shows bigger cosine similarity with descriptive terms such as “penetrated” and “men” 0.4, while “women” and “rape” 0.2. Finally, the terms “wood” and “penises”, used when portraying the rape of a man, have a closer cosine similarity with “penetrate” and “men” (0.5) than “women” (0.2).

It is beyond doubt, that the judges were shy in addressing the issue of male rape.

Finally, the terms with the closer cosine similar to the word “rape”, where “slavery” with a distance of 0.4, “sexual” with 0.4, “murder”, “nuns”, “raped” and “humanity” with 0.3.

4.3.4. Word Embeddings of the Ongwen Case

The use of Word Embeddings in this case was focused on the issue of the so - called “wives”, as seen in the judgment, a term that I find similar to the one of “comfort women”, where the pain and suffering of the victims and the true nature of the abuse and violence they experienced, gets lost. Furthermore, I wanted to see how the Court classified the various crimes of sexual nature in tried on and if one seemed to be of greater importance.

Beginning with the latter question, I searched for the terms that had the closest cosine similarity with the word “forced”, a crucial element in all the crimes of sexual violence. The shortest cosine distance was with the word “pregnancy” and “marriage” with 0.4 and labour with “0.4”, while with “intercourse” and other words with similar connotation only 0.1. This shows have gendered crimes, such forced marriage and pregnancies where prioritized in the courtroom, while rape was scrutinized less. Furthermore, upon analysis the word “sexual” gave a cosine distance of 0.6 with the word “slavery”, while with “intercourse” 0.5. and “rape” 0.4, showing again the shift of focus of the Court.

As far as the term of the “wives” is concerned, the results showed the Court’s preference in using the term when talking about the victims and the sexual violence they experienced. When comparing the terms “women” and “wives” with other words the following results were given: “intercourse” and “women” 0.1, while “intercourse” and “wives” 0.3, “penetration” and “wives” 0,09 while “penetration” and “women” 0.04, “marriage” and “wives” 0.25 while “marriage” and “women” 0.24, “raped” and “wives” 0.2 while “raped” and “women” 0.2 and “slavery” and “wives” 0.17 while “slavery” and “women” 0.14. Overall, wives are closer to the sexual violence than women, except from the case of the term “pregnancies” where “women” had a 0.2 cosine similarity and “wives” a 0.1.

5. Epilogue

The first question this thesis posed was how much the International Criminal Law has evolved in regards to the prosecution of SGBC. As we scrutinized in Chapter 2, the first international Tribunals contribution was scarce, with the IMT and IMTFE allowing the impunity for such crimes, even though the Hague Conventions, with its conservative wording, were applicable law at the time. Then the Era of Honor was initiated with the inclusion of rape under the Geneva Conventions, which initially failed to acknowledge the impact of rape on both genders, while also relating the crime with the patriarchal notion of honor and not dignity, as it is inherent in every person.

A third Era commenced with the creation of the ICTY and ICTR, two ad hoc Tribunals, which created a vast amount of judgments while focusing on the prosecution of SGBC. From the recognition of rape as a form of genocide to the multiple and sometimes contradicting definitions of rape, the Courts successfully provided justice over such victims, showing that impunity was not anymore an option.

Still, the ICC needed almost 15 years to produce its judgment of sexual crimes, and when it did, as the results of Chapter 4 showed, many more questions were created. Obviously, the codification of the law that protects people from SGBC has progressed greatly, however, the Court has to seize the opportunity of the Al Hassan and provide clarification in regards to the gendered aspects of theses crimes and show finally its ability to try crimes under the principle of intersectionality. Furthermore, the investigations of sexual crimes should continue and expand the indictments with the inclusion of all crimes related to the sexuality of the victim or forced sterilization.

The second question of this thesis was whether the various Courts depict rape in a different way depending on the gender of the victim and its role in the armed conflict.

With the help the methodology of Natural Language Processing we identified many semantic issues concerning the portrayal of sexual violence and rape in these judgments. First and most importantly, there seems to be a tendency for the courts to refer to the crime of rape explicit less and less in every case. Instead, a more descriptive language is chosen, covering all potential elements of the crime, while providing a vivid picture to the reader. Considering how sexual violence was obscured in the past, I firmly believe, that rape and other sexual crimes should be called by their name within the judgment. This leaves no place for misinterpretations, acknowledges the trauma of the victims and presents clearly what constitutes a sexually punishable act.

Moreover, there seems to do be a clear distinction on the portrayal of rape in regards to the gender of the victim. In the Ntaganda case, male rape was demonstrated indirectly and with no explicit mentions to the fact that this conduct was rape, but thankfully the Court charged the crime as rape, in comparison to the Simić Case and the typical practice of the ICTY of trying sexual violence against men under the category of torture.

Finally, concerning the role of the victim in the conflict, the Ntaganda Case did not follow a particular way of wording the sexual crimes that were perpetrated against child – soldiers. Sometimes the victims where addressed with their witnesses code name, other times as women and other times as soldiers, but never as children. I found particularly interesting the fact that the Court did not touch upon the issues of pedophilia.

Furthermore, in the Ongwen Case where a female soldier raped a woman, in a similar way, as in the Ntaganda Case where a man was raped, the Court followed the same descriptive language, but explicitly mentioned that the unfortunate woman was raped. This may show that the Ongwen Case moved past these issues or that this is a proof of the fact that Courts hesitates to address male rape. Finally, we saw that in the case of the so – called "wives" the Chamber, granted them this insulting term in order to address the SGBC they experienced.

Moving forward, I hope to see that the ICC has found its feet in the prosecution of sexual violence and more similar cases will make their way in the Trial Chamber, including more cases of male rape. However, it is important for the judges to be able to address these crimes by their name.

References

Ahn, Y. (2019). Whose Comfort?

Altunjan, T. (2021). The International Criminal Court and Sexual Violence: Between Aspirations and Reality. German Law Journal, [online] 22(5), pp.878–893. Available at: https://www.cambridge.org/core/journals/german-law-journal/article/international-criminal-court-and-sexual-violence-between-aspirations-and-reality/6B37A67C8196A6159237A893D2A5722A [Accessed 21 Aug. 2021].

Baaz, M.E. & Stern, M., Understanding sexual violence in conflict and post-conflict settings. The SAGE Handbook of Feminist Theory, pp.585–605.

Balthazar, S. (2006). Gender Crimes and the International Criminal Tribunals. Gonzaga Journal of International Law, [online] 10, p.43. Available at: https://heinonline.org/HOL/LandingPage?handle=hein.journals/gjil10&div=7&id=&page= [Accessed 21 Aug. 2021].

Biddiscombe, P. (2001). Dangerous Liaisons: The Anti-Fraternization Movement in the U.S. Occupation Zones of Germany and Austria, 1945-1948. Journal of Social History, [online] 34(3), pp.611–647. Available at: https://www.jstor.org/stable/3789820 [Accessed 21 Aug. 2021].

Bock, G. (1986). Zwangssterilisation im Nationalsozialismus: Studien zur Rassenpolitik und Frauenpolitik. [online] Open WorldCat. Opladen: Westdeutscher Verlag. Available at: https://www.worldcat.org/title/zwangssterilisation-im-nationalsozialismus-studien-zur-rassenpolitik-und-frauenpolitik/oclc/13620690 [Accessed 21 Aug. 2021].

Brook, T. (2001). The Tokyo Judgment and the Rape of Nanking. The Journal of Asian Studies, 60(3), pp.673–700.

Burds, J. (2009). Sexual Violence in Europe in World War II, 1939—1945. Politics & Society, 37(1), pp.35–73.

Capurso, T. (1998). How Judges Judge: Theories on Judicial Decision Making. University of Baltimore Law Forum, [online] 29(1). Available at: http://scholarworks.law.ubalt.edu/lf/vol29/iss1/2 [Accessed 21 Aug. 2021].

Chappell, L. (2013). Conflicting Institutions and the Search for Gender Justice at the International Criminal Court. Political Research Quarterly, 67(1), pp.183–196.\

Ellis, M. (2007). Breaking the Silence: Rape as an International Crime. Case Western Reserve Journal of International Law, [online] 38(2), p.225. Available at: https://scholarlycommons.law.case.edu/jil/vol38/iss2/3 [Accessed 21 Aug. 2021].

Gottlieb, R.S. (1990). Thinking the unthinkable: meanings of the Holocaust. [online] Open WorldCat. New York: Paulist Press. Available at: https://www.worldcat.org/title/thinking-the-unthinkable-meanings-of-the-holocaust/oclc/21302136 [Accessed 21 Aug. 2021].

Grimmer, J. and Stewart, B.M. (2013). Text as Data: The Promise and Pitfalls of Automatic Content Analysis Methods for Political Texts. Political Analysis, 21(03), pp.267–297.

Hagay-Frey, A. (2011). Sex and Gender Crimes in the New International Law: Past, Present, Future. [online] brill.com. Brill Nijhoff. Available at: https://brill.com/view/title/18899 [Accessed 21 Aug. 2021].

Henry, N. (2011). Silence As Collective Memory: Sexual Violence And The Tokyo Trial. Beyond Victor's Justice? The Tokyo War Crimes Trial Revisited, [online] pp.263–282. Available at: https://brill.com/view/book/edcoll/9789004215917/B9789004215917-s018.xml [Accessed 21 Aug. 2021].

Kundrus, B. and Szobar, P. (2002). Forbidden Company: Romantic Relationships between Germans and Foreigners, 1939 to 1945. Journal of the History of Sexuality, [online] 11(1/2), pp.201–222. Available at: http://www.jstor.org/stable/3704556 [Accessed 21 Aug. 2021].

Kuo, P. (2002). Prosecuting Crimes of Sexual Violence in an International Tribunal. Case Western Reserve Journal of International Law, [online] 34(3), p.305. Available at: https://scholarlycommons.law.case.edu/jil/vol34/iss3/8 [Accessed 21 Aug. 2021].
Law and word order: NLP in legal tech. [online] Available at: https://www.researchgate.net/publication/329795998_Law_and_word_order_NLP_in_legal_tech [Accessed 21 Aug. 2021].

Lazer, D., Pentland, A., Adamic, L., Aral, S., Barabasi, A.-L. ., Brewer, D., Christakis, N., Contractor, N., Fowler, J., Gutmann, M., Jebara, T., King, G., Macy, M., Roy, D. and Van Alstyne, M. (2009). SOCIAL SCIENCE: Computational Social Science. Science, [online] 323(5915), pp.721–723. Available at: https://science.sciencemag.org/content/sci/323/5915/721.full.pdf [Accessed 14 Jan. 2020].

Lilly, J.R. (2007). Taken by Force: Rape and American GIs in Europe during WWII. [online] Amazon. Available at: https://www.amazon.com/Taken-Force-American-Europe-during/dp/023050647X [Accessed 21 Aug. 2021].

LOVE FOR SALE: A World History of Prostitution by Nils Johan Ringdal, Author, Richard Daly, Translator , trans. from the Norwegian by Richard Daly. Grove $26 (435p) ISBN 978-0-8021-1745-8. [online] Available at: https://www.publishersweekly.com/978-0-8021-1745-8 [Accessed 21 Aug. 2021].

Mannix, Bridget --- "A Quest For Justice: Investigating Sexual and Gender-based Violence at the International Criminal Court" [2014] JCULawRw 2; (2014) 21 James Cook University Law Review 7. [online] Available at: http://www.austlii.edu.au/au/journals/JCULawRw/2014/2.html [Accessed 21 Aug. 2021].

Mikolov, T., Chen, K., Corrado, G. and Dean, J. (n.d.). Distributed Representations of Words and Phrases and their Compositionality. [online] Available at: https://papers.nips.cc/paper/5021-distributed-representations-of-words-and-phrases-and-their-compositionality.pdf.

Moodrick Even Khen, H.B. and Hagay Frey, A. (2013). Silence at the Nuremberg Trials: The International Military Tribunal at Nuremberg and Sexual Crimes against Women in the Holocaust. [online] papers.ssrn.com. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3407213 [Accessed 21 Aug. 2021].

Mouthaan, S. (2011). The Prosecution of Gender-based Crimes at the ICC: Challenges and Opportunities. International Criminal Law Review, 11(4), pp.775–802.

Oosterveld, V. (2014). Sexual Violence Directed Against Men and Boys in Armed Conflict or Mass Atrocity: Addressing a Gendered Harm in International Criminal Tribunals. Journal of International Law and International Relations, [online] 10, pp.107–128. Available at: https://ir.lib.uwo.ca/lawpub/109 [Accessed 21 Aug. 2021].

Pennington, J., Socher, R. and Manning, C. (2014). Glove: Global Vectors for Word Representation. Proceedings of the 2014 Conference on Empirical Methods in Natural Language Processing (EMNLP). [online] Available at: https://www.aclweb.org/anthology/D14-1162/ [Accessed 18 Nov. 2019].

Routledge & CRC Press. (n.d.). War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremburg Legacy. [online] Available at: https://www.routledge.com/War-Crimes-Tribunals-and-Transitional-Justice-The-Tokyo-Trial-and-the-Nuremburg/Futamura/p/book/9780415495141 [Accessed 21 Aug. 2021].

Stanford.edu. (2019). Foundations of Statistical Natural Language Processing. [online] Available at: https://nlp.stanford.edu/fsnlp/ [Accessed 29 Oct. 2019].

The German police and genocide in Belorussia, 1941-1944. Part I: Police deployment and Nazi genocidal directives | Haberer, Eric | download. [online] Available at: https://af.booksc.org/book/41636110/c0ff78 [Accessed 21 Aug. 2021].

The Prosecution of Sexual Violence against Men in Armed Conflict in International Criminal Law: Past Omissions and Future Prospects for the Enhancement of the Visibility of Male Victimhood. [online] Available at: https://www.researchgate.net/publication/284176404_The_Prosecution_of_Sexual_Violence_against_Men_in_Armed_Conflict_in_International_Criminal_Law_Past_Omissions_and_Future_Prospects_for_the_Enhancement_of_the_Visibility_of_Male_Victimhood [Accessed 21 Aug. 2021].

Uhlířová, K. (2019). Contribution of the International Criminal Court to the Prosecution of Sexual and Gender-Based Crimes: between Promise and Practice. [online] www.muni.cz. Brill Nijhoff. Available at: https://www.muni.cz/vyzkum/publikace/1501918 [Accessed 21 Aug. 2021].

United Nations High Commissioner for Refugees (2019). Refworld | Charter of the International Military Tribunal - Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis ("London Agreement"). [online] Refworld. Available at: https://www.refworld.org/docid/3ae6b39614.html.

Weiner, P. (2013). The Evolving Jurisprudence of the Crime of Rape in International Criminal Law. Boston College Law Review, [online] 54(3), p.1207. Available at: http://lawdigitalcommons.bc.edu/bclr/vol54/iss3/14 [Accessed 21 Aug. 2021].

Women & The Holocaust - Scholarly Essays. [online] Available at: http://www.theverylongview.com/WATH/essays/sexrapesurvival.htm [Accessed 21 Aug. 2021].

Zarubinsky, O. (1997). Collaboration of the population in occupied Ukrainian territory: Some aspects of the overall picture. The Journal of Slavic Military Studies, 10(2), pp.138–152.

Zhong, H., Xiao, C., Tu, C., Zhang, T., Liu, Z. and Sun, M. (2020). How Does NLP Benefit Legal System: A Summary of Legal Artificial Intelligence. arXiv:2004.12158 [cs]. [online] Available at: https://arxiv.org/abs/2004.12158 [Accessed 21 Aug. 2021].