Libera Università Internazionale
degli Studi Sociali Guido Carli
PREMIO TESI D'ECCELLENZA

The Notion of Genocide in the Practice of International Law: The Case of the Ad Hoc Criminal Tribunal for Rwanda

Cosimo Ceccarelli

2023-2024

LUISS

Libera Università Internazionale
degli Studi Sociali Guido Carli

Working Paper n. 1/2023-2024
Publication date: December 2025
The Notion of Genocidein the Practice of International Law: The Case of the Ad Hoc Criminal Tribunal for Rwanda

ISBN 979-12-5596-356-1

Luiss University Press is an imprint
of Luiss Guido Carli
Viale Pola 12, 00198 Roma
Tel. 06 85225485
E-mail universitypress@luiss.it
www.luissuniversitypress.it

The Notion of Genocide in the Practice of International Law: The Case of the Ad Hoc Criminal Tribunal for Rwanda

By Cosimo Ceccarelli

AUTHOR'S PREFACE

This publication represents a condensed version of my Master's Degree thesis, prepared for the purposes of publication. The work examines in depth the contribution of the International Criminal Tribunal for Rwanda to the understanding and application of the notion of genocide within the practice of international criminal law. It is primarily based on the analysis of primary sources, including judgments and procedural documents, reflecting a meticulous engagement with the original material.

Due to constraints of format and accessibility, the present publication may be considered as an abstract and therefore does not include footnotes. Readers who wish to explore the full documentation and detailed references are encouraged to consult the complete thesis, which is available for download online [The notion of genocide in the practice of international law: the case of the ad hoc criminal tribunal for Rwanda – LuissThesis]. This condensed version aims to present the central arguments and findings while maintaining the analytical rigor of the original work.

INTRODUCTION

Following the killing of at least 800,000 persons between April and July 1994 in Rwanda and acknowledging the failure of the international community to prevent and stop the atrocities, the United Nations (UN) established the International Criminal Tribunal for Rwanda (ICTR), firmly determined to punish those responsible for the factual commission of genocide. Attributing etiquette to events such as the mass killing that occurred in Rwanda is of vital importance for criminal law to allow a proper prosecution and punishment of the crimes. Being certain beyond any reasonable doubt that a genocide was committed in the African 'country of a thousand hills', the ICTR had nevertheless defined what genocide actually meant vis-à-vis the existing legal framework as of 1994. This thesis explores such effort, investigating the evolution of the notion of genocide in international criminal law through the jurisprudence of the ICTR. To properly

address this main research question, the thesis is divided into three chapters, each centered on a sub-research question. The first chapter aims to provide an understanding of the legal framework existing before the establishment of the ICTR in 1994, which is necessary to assess the degree of unconstraint from legal precedents enjoyed by the ad hoc tribunal for Rwanda. The second chapter, the core of this thesis, furnishes an evaluation of the ICTR's contribution to the definition of genocide in international criminal law, determining which characteristics of the crime of genocide were mainly handled, interpreted, and modified by the ICTR and how. The third chapter examines the legacy of the ICTR's jurisprudence on genocide in international criminal law, comprehending whether its case law is an authoritative precedent. Specifically, this study is carried out by comparing the ICTR's jurisprudence with the work of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Court (ICC), and the African criminal law context.

PART I – THE LEGAL FRAMEWORK OF GENOCIDE IN INTERNATIONAL CRIMINAL LAW

Defining genocide has largely been challenging, and still in 2024 scholarship is divided and unable to find a unanimously shared notion of the 'G' word. Following Raphael Lemkin's formulation of the word 'genocide' in 1944 to properly define the crimes committed by the Nazi regime that were perceived as something different from the traditionally recognized categories of crimes against humanity and war crimes, the crime of genocide was codified by the UN in the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG) in 1948. The CPPCG defines genocide in its article II through different acts, committed with the intent to destroy in whole or in part national, ethnic, religious, or racial groups. The CPPCG has been widely criticized for having excluded social and political groups, thus applying a discriminatory principle in ensuring the protection against the 'crime of the crimes', and for not taking into account the so-called cultural genocide, i.e. the destruction of the cultural heritage of a group. Departing from these shortcomings of the CPPCG, scholarship has proposed other definitions of genocide, attempting to expand its conventional notion. Notwithstanding that the CPPCG remains the exclusive point of departure for international criminal courts to adjudicate cases involving genocide, its criticisms by the literature represent a call for judges to jurisprudentially expand the conventional definition of genocide.

After the Second World War, the Allied established the International Military Tribunal (IMT) and the Nuremberg Military Tribunals (NMT, managed exclusively by the Americans) to prosecute Nazi criminals. For political reasons of shielding against potential backlashes, the crime of genocide was excluded by the *ratione materiae* of the two tribunals, which therefore had jurisdiction over two other mass atrocities crimes: crimes against humanity and war crimes. It is relevant to remark that the commission of crimes against humanity had to be proven in strict connection with the context of wartime, creating an additional burden on the

prosecution. Although formally absent from the charges, the IMT prosecutors, and in particular the British and French ones, were keen to remark the commission of acts of genocide as part of a wider genocidal plan or policy. The IMT judgment in *Göring* did mention genocide and was aware of its commission, though failing to recognize its nature as a crime *per se*. Indeed, the tribunal conceived the perpetration of genocide as actions consequent to an expansionary and aggressive foreign policy of Nazi Germany. In other words, the IMT failed to identify a Nazi genocidal *mens rea*, almost as if it had been planned and committed unintentionally by the Nazi armed forces and officials. This position was confirmed by the NMT in several trials, e.g. the *Medical* case, the *RuSHA* trial, and the *Pohl* case. However, it is worth noting that the NMT went somehow further in comparison with the IMT's jurisprudence, as it developed a wide range of actions that have to be intended as acts of genocide, such as enforced sterilization, abduction of children, and racial policies. In the attempt to evaluate the contribution of the IMT and NMT to the development of international criminal law, it is relevant to stress that the two tribunals, by their non-prosecution of genocide, implicitly called for the criminalization of genocide as a crime *per se*, demonstrating that without an evolution of the existing legal framework, genocide was destined not to be adjudicated before courts.

Following the Nuremberg trials, the state of Israel hunted former Nazi high officials who escaped prosecution, including Adolf Eichmann, the SS officer responsible for the transfer of prisoners to the concentration camps. Deciding to prosecute former Nazis before its national court, the District Court of Jerusalem, Israel established the Nazis and Nazi Collaborators (Punishment) Law 5710-1950 (NNCPL), which created a new category of crime, labeled as crimes against the Jewish people. Of note, this latter was legally defined by duplicating the CPPCG's definition of genocide, allowing this thesis to argue that 'crimes against the Jewish people' could consistently amount to genocide in examining how the Israeli judges prosecuted Eichmann in 1961. The *Eichmann* trial first anticipated a permanent issue in international criminal law, i.e. the blurred distinction between crimes against humanity and genocide. Indeed, the *actus reus* of the two crimes overlaps and the discriminant between the two remains the *mens rea*, considerably more difficult to prove beyond reasonable doubt. This apparent conflict was solved by recognizing that crimes against the Jewish people (genocide) represented the final stage of an escalating conflict. This finding is of paramount importance, as it draws a common thread between the IMT, NMT, and the District Court of Jerusalem since this latter strictly linked the commission of the most serious crimes to the final stage of the Second World War, i.e. the German aggression to the Soviet Union as already recognized during the Nuremberg Trials. However, it is fair to remark that the *Eichmann* trial remained the only jurisdictional application, even if indirect, of the CPPCG before the establishment of the ICTY and the ICTR between 1993 and 1994. Overall, considering the IMT, NMT, and *Eichmann* case, the existing jurisprudence on genocide available to the ICTR judges was poor and,

most importantly, still uncertain on specifically highlighting the *actus reus* and *mens rea* requirements. Further, genocide was recognized only as the ultimate escalation of an international conflict, leaving a vacuum for considering the commission of such crimes during internal conflicts and civil wars.

Jurisprudence is only one of the sources of international law recognized by the Statute of the International Court of Justice (ICJ). Together with case law, conventions, customs, and *jus cogens* form the framework of international legal sources available to lawyers and courts. As for customary international law, this thesis identifies the close and twofold relationship between this source and the CPPCG. First, the CPPCG represents the codification of an existing custom, thus highlighting that international customary law on genocide was already present before 1948 even if genocide did not exist as a notion. It follows that both a convention, the CPPCG, and a customs on genocide serve as sources for international criminal law when dealing with the crime of genocide. Second, the CPPCG is the point of departure for the development of international customs on genocide, specifically on jurisdiction in its extraterritorial dimension. Indeed, the *Eichmann* case provides consistent evidence of customary international law establishing the chance for any state to prosecute individuals charged with genocide offenses, i.e. the principle of universal jurisdiction allowing states to prosecute mass atrocities crimes no matter where committed. Concerning *jus cogens*, this script has assessed the existence of a peremptory norm of international law prohibiting genocide testing its customary, non-derogatory, and *erga omnes* nature on the jurisprudence of the ICJ and the ICTY. In sum, recognizing the existence of sources other than jurisprudence on genocide is of paramount importance to acknowledge that international courts enjoy a quite wide room of maneuver to prosecute such crime.

As anticipated above, genocide, together with war crimes and crimes against humanity is comprised in the wider category of mass atrocities crimes. To allow a proper understanding of the difference between the crimes considered mass atrocities, this thesis compares the definitions of genocide, crimes against humanity, and war crimes existing as of 1994. First, genocide is distinguished from war crimes for context, intent, and targets. War crimes are chargeable only in the context of war, whilst genocide can occur during peacetime. Further, whilst genocide has a precise intent to destroy its targets as a group, war crimes may include acts not necessarily directed to annihilation. Finally, genocide targets members of a racial, national, religious, or ethnic group, whereas war crimes are mainly directed indiscriminately against civilians. It derives that distinguishing between genocide and war crimes is smooth when the crimes under scrutiny were not committed during wartime since the context necessary to charge war crimes is not present. Problems arise when acts of genocide are committed during wartime, and thus there may be an overlapping between genocide and war crimes. In this case, courts should resort to a more specific scrutiny of the offender's intent

and targets. Distinguishing between genocide and crimes against humanity seems even harder, as the former and the latter largely share the same *actus reus*, such as extermination. A preliminary distinction is drawn by relying on the fact that crimes against humanity are committed indiscriminately, whereas genocide targets by discriminating. However, crimes against humanity as persecution, thus targeting victims on discriminatory grounds, are theoretically identical to genocide. Hence, the sole factor allowing their distinction is the *mens rea*, as conversely to genocide and similarly to war crimes, crimes against humanity are not necessarily aimed at destroying in whole or in part the group their victims belong to.

In sum, the first chapter reveals that the ICTR faced a legal framework on genocide quietly rich in terms of sources, i.e. jurisprudence, convention, customs, and *jus cogens*, though poorly addressed jurisprudentially. It derives that the notion of genocide has not been reviewed and evolved in the period between its formulation by Lemkin in 1944 and the establishment of the ICTR in 1994, thereby allowing this latter to be theoretically unconstrained by jurisprudence in handling cases of genocide. This finding largely explains why the ICTR was able to considerably expand and evolve the definition of genocide provided by the CPPCG, as examined and demonstrated in the following chapter of this thesis.

PART II- THE RWANDAN CASE:
THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA FACING CRIMES OF GENOCIDE

From 6 April to the end of July 1994, the Hutu genocidal militias, backed by the Rwandan extremist government and armed forces, slaughtered at least 800,000 Tutsis and moderate Hutus, with the precise intent to exterminate the Tutsi minority. However, it is fair to remark that ethnic tensions were already present in the decades before the Rwandan genocide, and, most importantly, the interethnic conflict stemmed from the colonial heritage of Rwanda. Indeed, since the 19th century Rwanda was colonized by the Germans and then the Belgians, who exploited different physical traits among the Rwandan population to divide this latter into three ethnicities: the majority Hutu, the minority Tutsi, and the Twa. The colonial rules empowered the Tutsis to administrate Rwanda in a strategy of *divide et impera*, causing the discontent of the Hutus, who saw them, as a majority, politically subjugated by the Tutsi minority. The Hutus had the chance to conquer power in 1962 when Rwanda finally became independent. Years of growing discrimination against the Tutsi followed, and in 1973, Major Juvénal Habyarimana seized power through a coup, overthrowing Kayibanda and establishing a single- party dictatorship. Meanwhile, an increasing number of Tutsis began to flee Rwanda for Uganda, where they organized a paramilitary group named the Rwandan Patriotic Front (RPF), led by Paul Kagame, who aimed at returning to Rwanda and stop the abuses against the Tutsis (and possibly retook power). A conflict then erupted between the RPF and the Rwandan armed forces, and only in 1993 with the Arusha Accords the two combatants reach an agreement

for a ceasefire and the formation of a transition government in Rwanda. It is fundamental to highlight that in the years prior to 1994 the Hutu extremists, those aiming at 'cleaning' Rwanda from the Tutsis, started to organize into armed militias such as the *Interahamwe* and the *Impuzamugambi*. Moreover, extremist propaganda media were created, namely the newspaper *Kangura* and the radio broadcasting channel *Radio Television Libre de Milles Collines* (RTLM). Overall, the extremist militants and propaganda media were under the control of Colonel Théoneste Bagosora, considered the architect of the Rwandan genocide. On 6 April 1994, the presidential plane transporting Habyarimana was shot down by unknowns over Kigali's airport, causing the killing of the Rwandan president. Immediately after the killing of the president, RTLM started to spread information reporting the assassination as a plot by Hutu moderates and Tutsis. The radio urged to get rid of all the Hutu moderates and the Rwandan Tutsis, through killings: it was the beginning of the genocide. Children and women were the primary targets of the killers, as they were seen as the procreators of the Tutsi ethnicity. Apart from the mass killings mainly carried out with machetes, rape was extensively used to impregnate women with a Hutu fetus, destroy the reproductive organs of the victims, and spread HIV/AIDS infection. The *Interahamwe* and the *Impuzamugambi* received information on the shelters by radio, and with the support of the Rwandan armed forces and local politicians attacked the unarmed civilians seeking refuge. Sadly, the international community did not prevent or stop the mass atrocities, despite a peace-keeping mission, the United Nations Assistance Mission in Rwanda (UNAMIR), was present in the country and witnessed the genocide. The UNAMIR was underfunded and lacked peace-enforcement rules of engagement. More importantly, the UN Security Council (SC) was at the time locked by the United States (US) obstructionism, as Washington DC suffered heavy casualties during a UN mission in Somalia in October 1993, and thereof the American public opinion was not supportive of new military missions in Africa. Hence, in the first weeks of the killings in Rwanda, the international community avoided dealing with the situation, leaving General Romeo Dallaire, the UNAMIR commander, and his peacekeepers to protect Rwandans sheltering in UN facilities. Only at the end of May 1994 the UN recognized that genocide was actually carried out in Rwanda, and began to discuss the reinforcement of the UNAMIR. Simultaneously, the SC approved the unilateral deployment of French troops in Rwanda under *Operation Turquóise*, seeking to create a buffer zone to favor the flow of refugees into the neighboring Zaire (today's Democratic Republic of the Congo). The impact of *Operation Turquóise* remains debated still today: if one can argue that the French troops avoided mass killings in the areas under their control, it is also true that they favored the escape of genocidal militias into the North Kivu region of Zaire. Of note, the instability brought by the massive flow of refugees in eastern Zaire destabilized the region as a whole, and such a destabilization has been detected as one of the main causes of the First and Second Congolese wars (1996-2003). As of 2024, North Kivu is the

main cluster of extremist Hutus who target Congolese Tutsis and still represent a threat to Rwanda.

Having failed to prevent the genocide, the UN decided to mobilize to ensure at least the punishment of those responsible by creating an ad hoc criminal tribunal similar to the ICTY (established in 1993), the ICTR. The mandate of the ICTR gave preeminence to the punishment of genocide vis-à-vis other mass atrocities crimes, and it can be argued that it influenced the extensive work of the tribunal in producing jurisprudence on genocide. The main element of interest detected by the analysis of the ICTR Statute is the blurred distinction between the definition of genocide (which replicated the CPPCG's) and crimes against humanity, defined as committed on discriminatory grounds. Thus, in the statutorily perspective of the ICTR, both genocide and crimes against humanity were executed discriminately, targeting individuals for their belonging to an ethnic, racial, religious, or national group. It derives that the only difference between the two categories of criminal offenses remained the offender's *mens rea*, which for genocide took the form of a precise intent to destroy. As it is demonstrated through the scrutiny of the ICTR's jurisprudence, the ad hoc criminal tribunal for Rwanda leveraged the *mens rea* to transfer crimes against humanity's conduct under the category of genocide. This thesis argues that the ICTR consistently evolved the notion of genocide in international criminal law in four different features of the crimes: the interpretation of the four protected groups by the CPPCG's article II, the genocidal *mens rea*, the criminalization of hate speech as public and direct incitement to commit genocide, and the criminalization of rape and sexual violence as acts of genocide.

To permit the prosecution of the crime of genocide for those responsible for the Rwandan genocide, the ICTR was primarily entrusted to identify the Tutsis as an ethnic, racial, religious, or national group, the four protected categories under the CPPCG's article II. Without a proper categorization of the victims in one of the said groups, the criminal offense of genocide would not have subsisted, since its fundamental characteristic stands in the targeting of a specific group. In international law, the interpretation of groups was influenced by the Permanent Court of International Justice (PCIJ)'s position in the *Minorities in Upper Silesia* case and by the ICJ's ruling in the *Nottebohm* case. The common thread between the said cases was the embracement of a purely objective approach to interpreting group membership, i.e. an analysis based on tangible elements, such as the language spoken or legal bonds. The opposing approach is the subjective one, considering how the victims or the perpetrators of a crime interpret and understand group membership. Of note, this approach was never adopted by an international court before the establishment of the ICTR. In its first genocide judgment, the *Akayesu* case, the ICTR followed an objective approach, making the Tutsis fall under the category of ethnic group. Nevertheless, the approach adopted in *Akayesu* appeared not convincing, and subsequent trials shifted the line of

interpretation towards subjectivity, i.e. taking into consideration the victims and the perpetrators' perspectives. Between these latter, the perpetrator subjectivity was recognized as predominant, thus making it the necessary element to carry out the subjective analysis. However, the detailed analysis of the ICTR's jurisprudence in *Semanza*, *Gacumbitsi*, *Kajelijeli*, *Ndindabahizi*, and *Muvunyi*, revealed that the ad hoc tribunal for Rwanda did not embrace a fully subjective approach, as the literature as often argued. Instead, it adopted what this thesis labels as a hybrid approach, consisting of a preliminary objective analysis, completed by considering the subjective perspective of the perpetrators toward the victims. In sum, the ICTR hybrid approach appears to counterbalance the CPPCG's vacuum concerning the definition of the four protected groups by its article II.

The definition of the genocidal *mens rea* by the ICTR is considered the pivotal element that allowed the ad hoc tribunal to evolve the notion of genocide. The *mens rea* is the perpetrator's intent to commit a wrongful act or omission, that together with the *actus reus*, the tangible element of a wrongful act or omission, generates criminal liability. The ICTR first examined the genocidal *mens rea* in the *Akayesu* case, recognizing its twofold nature. Indeed, the crime of genocide, from the *mens rea* perspective, was not limited to its *dolus generalis*, i.e. the intent to commit acts of genocide, such as killings. Instead, the *dolus generalis* was accompanied by a *dolus specialis*, the specific intent to destroy in whole or in part a group; if the *dolus generalis* has to be considered the basis of the *mens rea*, this latter becomes genocidal when the *dolus specialis* is detected. Hence, detecting the *dolus specialis* was prioritized by the ICTR, as it was the only venue to ascertain responsibility for the commission of genocide. However, detecting the *mens rea* was a difficult process for the ICTR, due to the non-cooperative behavior of the defendants and the difficulties in reconstruction of the facts by adducting evidence in each trial. Thus, the ad hoc tribunal had to overcome these difficulties to allow the prosecution of the crimes under its jurisdiction and decided to do so by embracing an approach based on inference, mainly developed in the *Akayesu*, *Rutaganda*, *Kayishema and Ruzindana*, and *Gacumbitsi* trials. The inferential approach empowered the ICTR to employ deduction, considering as a basis circumstantial pieces of evidence, e.g. among the most important the general context, words pronounced by and additional deeds of the defendants, the number of victims, the weapons employed, and the methodological pattern of conduct. Overall, the difficulty to prove the *dolus specialis* was counterbalanced by the flexibility of the inferential approach. The thesis demonstrates the efficiency of such flexibility by analyzing different cases (*Kayshema and Ruzindana*, *Musema*, *Zigiranyirazo*, *Niyitegeka*, *Semanza*, *Gacumbitsi*, and *Ntakirutimana and Ntakirutimana*) in which the ICTR dealt with the crime of genocide, conspiracy to commit genocide, planning genocide, and aiding and abetting genocide. In conclusion, the ICTR contributed to the definition of the *mens rea* requirement of genocide in international criminal law, sanctioning its *dolus specialis* feature and promoting its detection by adopting an interpretative approach based on inference from circumstantial evidence.

The propaganda media industry in Rwanda played a fundamental role in inciting, supporting, and leading the extermination of the Tutsis and the Hutu moderates in 1994. The criminalization of a written or verbal act of speech naturally conflicts with the right to freedom of expression, universally recognized in different international legal instruments. Thus, the ICTR's consideration of hate speech as a criminal offense found limitations in terms of international law sources, such as the International Covenant on Civil and Political Rights (ICCPR) and the UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Yet, the ICCPR and the CERD provided a preliminary limitation to the freedom of expression, prohibiting the usage of speech for discrimination purposes based on racial, national, or religious ideas. Speech has been already criminalized at Nuremberg, during the Allied trials against former Nazis responsible for the regime's propaganda. There, the IMT and NMT considered hate speech as persecution, i.e. a crime against humanity, during the *Göring* and *The Ministries* cases. Hence, the available legal precedents to the ICTR concerning the criminalization of hate speech ascribed this latter conduct as a crime against humanity of persecution. Of note, the IMT and NMT implicitly recognized a specific intent to promote the extermination of the Jews behind the hate speeches spread by the Nazi propaganda, somehow resembling a *dolus specialis* but avoiding any discussion on the relationship between hate speech and genocide. Thus, when called to deal with the role of speech during the Rwandan genocide, the ICTR was forced to completely reinterpret the existing legal framework and produce innovative jurisprudence to allow the prosecution of hate speech and its specific criminalization as direct and public incitement to commit genocide. The ICTR, in *Akayesu*, defined the core elements allowing the criminalization of hate speech as incitement to commit genocide, namely its *dolus specialis*, directness, and publicity. Further, the ICTR recognized the inchoate nature of incitement, as no causal relation with the commission of further crimes was requested to entail responsibility. Hence, hate speech as public and direct incitement to commit genocide was considered a criminal offense *per se*, criminalizable when direct, public, and aiming at inciting the destruction of a protected group. The *Akayesu*'s standards were then integrated by the *Kambanda*, *Ruggiu*, and *Niyitegeka* cases, recognizing that incitement did not necessarily have to be expressed in the form of orders (i.e. imperative verbs) and that congratulating was a retrospective form of incitement. In the trial and appeal judgments of the *Media Case*, prosecuting the directors of RTLM and *Kangura*, the ICTR created a landmark precedent in the categorization of hate speech as public and direct incitement to commit genocide. By considering *Akayesu*'s standards of incitement to genocide mentioned above, relying upon its characteristics of publicity, directness, and *dolus specialis*, the ICTR in the *Media Case* elaborated four criteria to detect the distinction between legitimate speech and hate speech, and between this latter and incitement to commit genocide: purpose, text, context, and the relationship between the speaker and subject. It emerged that the genocidal intent, i.e. *dolus specialis*,

represented by the intent could have been inferred from the analysis of the words pronounced or written and their contextualization. The context can be considered as the dominant criterion, as it allowed the detection of a genocidal intent even in metaphors, euphemisms, and mild expressions. Additionally, as specified by the appeal chamber, the causal relation between the incitement and the commission of genocidal acts as well as the relationship between the speaker and the subject, could have served as additional proof. Thus, the appeal judgment hierarchized the criteria established by the trial chamber in the *Media Case*, giving greater prominence to the context and the text to determine when hate speech turned into incitement to commit genocide. In *Bikindi*, the ICTR was called to deal with music, as songs were composed before and during the Rwandan genocide to incite the mass killings of the Tutsis through the usage of derogatory language. The *Bikindi* case stressed the relevance of the contribution of the speaker to the dissemination of his or her speeches to categorize such conduct as public and direct incitement to commit genocide. In the view of the court, the mere composition of songs, which can include hate speech in their lyrics, is not a crime of incitement, as the element of publicity is missing. Hence, the dissemination of hatred songs *per se* does not imply the liability of the author for incitement to commit genocide. A composer and singer of a hateful song can therefore be held liable for public and direct incitement to commit genocide only if he or she directly and personally sings and spreads his or her songs, containing hate speech, in the context of genocide. In conclusion, the ICTR's jurisprudence unprecedentedly stressed the relationship between hate speech and genocide, enshrining their link in the criminal offense of public and direct incitement to commit genocide. The ad hoc tribunal for Rwanda properly defined hate speech and elaborated a chief strategy to detect its evolution into incitement to commit genocide, allowing international criminal law to acknowledge that language could cause mass killings just like machetes.

Finally, prosecuting adequately rape was fundamental to ensure justice, since the widespread execution of sexual violence in 1994 was employed as a weapon of terror by the extremist militias. The international legal framework existing as of 1994 provides a certain degree of protection from rape and other forms of sexual violence for women both during internal and external armed conflicts. However, a fundamental vacuum was present, as no international legal source provided an internationally accepted definition of rape, thus requiring the ad hoc tribunal to formulate it. Furthermore, rape needed to be categorized as a specific criminal offense, taking into account its moral and physical dimension concerning the typology of violence stemming from sexual violence. The International Military Tribunal for the Far East (IMTFE) during the sentencing of Japanese war criminals mentioned rape, considered as a war crime, and peacetime rape, categorized as a crime against humanity. More relevantly, the Control Council Law no. 10 (CCL10, the legal basis of the NMT jurisdiction) distinguished between wartime rape as a war crime and peacetime rape as a crime against humanity. However, the NMT

did not prosecute any individual for rape and sexual violence charges. Hence, when the ICTR was called to deal with rape and other forms of sexual violence in 1994, it had a *carte blanche* before it, entailing the burden of creating a precedent for the prosecution of rape in international criminal law. The distinction between rape as a war crime or as a crime against humanity depending on the context was embraced by the ICTR Statute, thus ensuring continuity with the CCL10. The ICTR defined rape in the *Akayesu* judgment, stressing its invasive and coercive nature. Of note, the *Akayesu*'s notion of rape will be contested by the ICTY, and this latter's definition of rape will be embraced in further cases by the ICTR. Setting apart discussions on the definition of rape, the ICTR in *Akayesu* criminalized the act as genocide. The ad hoc tribunal pointed out that when a *dolus specialis* is detectable in the minds of the rapists and sexual violence perpetrators, i.e. the intent to commit such criminal offenses to pursue a genocidal plan of destruction of a targeted group, rape and sexual violence had to be considered as acts of genocide under the ICTR Statute article II. Thus, the *dolus specialis* was the element that caused the shifting of rape and sexual violence from the categories of crimes against humanity and war crimes to genocide. The *Akayesu* approach to rape and sexual violence was then enriched by the *Rutaganda* and *Musema* judgments. In *Musema*, the court distinguished between rape and sexual violence, with the latter defined as any act of sexual nature committed coercively, not necessarily entailing penetration as instead required by rape. In *Rutaganda*, the ICTR expanded the list of acts allowing the categorization of sexual violence and rape as genocide, including sexual mutilation, enforced sterilization, and forced birth control. Overall, the ICTR in *Akayesu*, *Musema*, and *Rutaganda* finally provided a comprehensive framework not only to define and prosecute rape and sexual violence as war crimes and crimes against humanity but even to criminalize those conducts as acts of genocide by recognizing their *dolus specialis*.

Overall, the second chapter finds that the ICTR's jurisprudence produced a flexible notion of genocide, both in terms of ensuring the protection of different communities through the hybrid approach and of criminalizing a wide range of conducts as genocide, by relying on inference to detect the *dolus specialis* characterizing the genocidal *mens rea*. Of note, the criminalization of hate speech and rape demonstrates that acts of genocide do not necessarily correspond to lethal conduct provoking the death of the targets. Instead, hate speech and rape may serve as drivers for the extermination, not only physically but even, and specifically, in its psychological and moral dimension.

PART III – THE RELEVANCE AND LEGACY OF THE ICTR'S JURISPRUDENCE ON GENOCIDE IN INTERNATIONAL CRIMINAL LAW

Assessing the long-lasting impact of the ICTR's jurisprudence in terms of influence in international criminal law requires comparison, and such a process must begin with comparing the ad hoc criminal tribunal for Rwanda with another tribunal of

the same typology, the ICTY. As a premise, this thesis compares the ICTR and the ICTR on five different themes: statute and mandate, interpretation of the four protected groups by the CPPCG's article II, the *mens rea* requirement for genocide, and the criminalization of ate speech and rape as genocidal acts.

Following the eruption of wars during the dissolution of Yugoslavia, in 1993 the SC decided to create an ad hoc tribunal to punish those responsible for the mass atrocities increasingly reported in the Balkans. Differently from the ICTR, the ICTY was not politically entrusted by mandate to give preeminence to the prosecution of genocide. Rather, the ad hoc tribunal for the former Yugoslavia was requested to generally prosecute serious violations of international humanitarian law. Subsequently, the ICTY Statute did include in its *ratione materiae* genocide, but the main emphasis was set on war crimes and crimes against humanity. Thus, a preliminary consideration stemming from the comparison of the ICTR and ICTY mandates is that the former has been politically encouraged by the SC to prosecute genocide, whereas the latter has not. Notably, the ICTY Statute linked the commission of crimes against humanity (not defined on discriminatory grounds, thus differing from the ICTR Statute) to wartime, clearly resembling the nexus required by the IMT Charter. Overall, the ICTY Statute reflected an ad hoc tribunal structured to give preeminence to wartime crimes, primarily dealing with war crimes, accurately listed, and allowing the

prosecution of crimes against humanity, though necessitating their link with conflict. Otherwise, the ICTR Statute was less restrictive, giving preeminence to the prosecution of genocide and crimes against humanity committed with a discriminatory aim. In terms of jurisprudence concerning the interpretation of the four protected groups by the CPPCG, both the ICTY and the ICTR indeed embraced a mainly subjective approach, yet including objective elements, i.e. a hybrid approach favoring the genocide perpetrators' perspective. This thesis then argues that the *mens rea* requirement for genocide is the element that provokes a discordance between the ICTY's and ICTR's jurisprudence over the criminalization of similar acts, i.e. hate speech and rape. Notwithstanding the ICTY agreed on the ICTR's recognition of a genocidal *dolus specialis*, it went further by elaborating a more sophisticated notion of *mens rea* for genocide in different trials (*Jelišić*, *Krstič*, *Stakić*, *Popović et al.*). First, the ICTY increased the possibility of prosecuting genocidal acts by adopting a qualitative *mens rea*, meaning recognizing as a genocidal intent the killing of specific individuals fundamental for the survival of a group. According to this version of the *mens rea*, quality (the status of the target within the group) was prioritized over quantity (the number of victims, regardless of their status within the group). Second, the ICTY considerably limited the chance to prosecute genocide with the geographical *mens rea*, i.e. the need to prove the existence of a genocidal plan targeting the specific area where the crimes under trial were committed. Further, the ICTY longly considered the existence of a wider genocidal plan as necessary evidence to assess the subsistence of genocidal acts. This position was then clarified by the ICTY by referring to the ICTR's

jurisprudence in *Kayishema and Ruzindana*, holding that a wide genocidal policy could have constituted a useful basis for inference, but not a strict requirement to prosecute acts of genocide. However, the strictness, uncertainty, and discordance among the ICTY's jurisprudence on the genocidal *mens rea* requirement generated an obstruction to allow the categorization of certain conducts as acts of genocide.

The ICTY's approach to the *mens rea* of genocide led the ad hoc tribunal's jurisprudence on hate speech and rape to completely diverge from the ICTR's one. This thesis argues that the ICTY's jurisprudence of hate speech is scarce and not effective in criminalizing such conduct (as a crime against humanity and incitement to commit genocide) for two main reasons, which have been identified through a comparison with the ICTR's case law. First, the ICTY was 'bound' by its statute to limit the criminalization of hate speech as a crime against humanity. The ICTY Statute, drafted in 1993, still reflected the 1945 nexus between wartime and crimes against humanity established by the IMT Charter. Such a strict link implied that the offenses categorizable as crimes against humanity had to provoke harms of a consistent gravity, as clearly notable in the cases of extermination, murder, and torture. Thus, considering that hate speech *per se* did not entail any consistent damage to the targets, but is 'only' susceptible to provoke further crimes, was not believed to reach the gravity threshold set by the ICTY in *Kupreškić* and referring to article V of the ICTY Statute. Of note, according to the gravity threshold, the acts not listed by the statute could have been prosecuted by the tribunal only if they were of a gravity similar to those of crimes against humanity. The fact that hate speech was considered persecution, i.e. a crime against humanity, only in 2018 by the Residual Mechanism for International Criminal Tribunal (RMICT) appeal chamber in *Šešelj* leaves no doubts on the statutory and jurisprudential limitation preventing the criminalization of speech. Further, the ICTY failed to properly refer to the ICTR's jurisprudence to incorporate this latter's approach to deal with hate speech, e.g. the scrutiny of speeches, journal articles, radio broadcasts, and the primary importance attributed to their contextualization. Second, regarding the potential criminalization of hate speech as public and direct incitement to commit genocide, sanctioned by the ICTR in *Akayesu*, its limitation has to be found in the ICTY's jurisprudence. As illustrated above, the ICTY adopted a strict approach in verifying the subsistence of a *dolus specialis*, requiring evidence of both a national and a targeted/local genocidal plan. Since the detection of the *dolus specialis* behind a hate speech was the element that allowed the ICTR to categorize speeches, articles, and radio programs as public and direct incitement to commit genocide, a similar smooth process was not possible before the ICTY chambers. Hence, the strict requirements to identify a defendant's *dolus specialis* limited the detection of such a *dolus* in the *mens rea* of the hatred inciters, creating an entire vacuum in the relation between speech and genocidal acts during the wars in the territory of the former Yugoslavia. Overall, it is possible to argue that the ICTY was more skeptical in criminalizing hate speech, particularly in linking it to genocidal acts. The complete avoidance of the context as well as the scrutiny of speeches, journal articles, and radio broadcasts by the ICTY and the underscoring of the

capacity of hate speech to cause damage of a certain gravity corroborate this statement, stressing that the ICTY did not take into account the ICTR's accurate and contextual approach to hate speech.

Similarly to Rwanda, rape was largely weaponized during the wars in the territories of the former Yugoslavia, mainly employed by Serbs militias against Bosnian Muslim women. The ICTY Statute categorized rape as a separate criminal offense under the category of crimes against humanity, whilst the ICTR Statute did include rape as a crime against humanity but also contained a provision ascribing sexual offenses of rape, enforced prostitution, and any form of indecent assault as war crimes. In the *Furundzija* case, the ICTY contested the definition of rape provided by the ICTR in *Akayesu*, arguing that the ad hoc tribunal for Rwan- da violated the *nullum crimen sine lege stricta* principle by setting the notion in a wide and conceptual framework. The ICTY defined the main *actus reus* of rape using the word 'penetration' rather than 'physical invasion' as the ICTR did, exclusively considering an 'instrument' of penetration the penis or objects, categorically excluding other parts of the body. In *Kunarac*, the ICTY complemented its position on rape expressed in *Furundzija* by adding a test to verify the non-consensual nature of sexual intercourse, i.e. the subsistence of rape. Of note, the ICTY's rulings on rape influenced the ICTR in cases such as *Semanza, Kamuhanda*, and *Gacumbitsi*. Finally, in the *Muhimana* and *Muvunyi* cases, the ICTR reconciled the two approaches to rape by recognizing that such a criminal offense differed in terms of *actus reus* according to the two ad hoc tribunals' definitions but was coherent as for its *mens rea*. The ICTY prosecuted rape either as torture ascribable as a war crime, or as a crime against humanity, *per se,* or as persecution depending on the model of liability adopted in the different trials. It is worth remarking that the ICTY did not consider any room for criminalizing rape and sexual violence as acts of genocide. As for hate speech, the strict approach adopted by the tribunal for detecting the *dolus specialis* prevented its recognition in association with rape. However, this thesis argues that the ICTY had the objective capability to consider rape as a genocidal act, considering that the rapists specifically target Muslim women for their belonging to the Bosnian Muslim ethno-religious group. Overall, the judges of the ICTY could have delved into the motivations behind the rapes and thereby highlighted the underlying *dolus specialis*, which would have enabled the criminalization of rape as an act of genocide. In conclusion, it appears that the 'decentralization' of jurisdiction in international criminal law during the 1990s through the creation of the ICTY and the ICTR led to discordant jurisprudence, creating two different approaches to similar issues, entailing different impacts and influence on international criminal courts.

Having introduced the theme of the 'decentralization of international criminal law' began in the 1990s, it is necessary to remark that a certain degree of centralization was restored between 1998 and 2002 with the creation of the ICC. At the time of the establishment of the ICC, the ICTR was fully operational and prosecuting

individuals, hence influencing the drafting of the ICC Statute (Rome Statute) and the ICC Elements of Crimes. Indeed, the ICTR's inferential approach was adopted by the ICC, attributing primary importance to the context to infer the *mens rea*. Specifically, it appears that in stressing the relevance of contextual consideration the ICC embraced the ICTR's strategy to infer an individual *dolus specialis* starting from the subsistence of a collective *dolus specialis*, i.e. a contextual *dolus specialis*. The ICC sanctioned the ICTR's finding about the chance of rape and sexual violence to constitute acts of genocide and adopted their definition as established by the ad hoc tribunal for Rwanda, i.e. the ICC is statutorily allowed to consider rape as an act of genocide. Nevertheless, two main shortcomings are detected by this script stemming from the comparison between the ICC Statute and Elements of Crimes and the ICTR's Statute and jurisprudence. First, the ICC Statute configures public and direct incitement to commit genocide as a mode of liability rather than a criminal offense *per* se. This detail jeopardizes the preventive role of the CPPCG and broadly international criminal law, as liability emerges only after a crime is committed. Second, the ICC Statute does not consider discriminatory grounds to be a prerequisite for the subsistence of crimes against humanity, thus eliminating the blurred distinction between that category and the crime of genocide present in the ICTR Statute which allowed the ad hoc tribunal a certain degree of flexibility in categorizing traditionally considered crimes against humanity as genocidal acts centering their reasoning on the *dolus specialis* of the offender's *mens rea*.

This thesis considers the ICC pre-trial decision in *Al-Bashir* as a proxy to assess and in a certain measure predict how the ICC deals and will deal with cases involving genocide and genocide-related offenses, as such case represents the only chance the court had to pronounce on genocide. As a premise, the ICC produced a majority decision and a concurring and partially dissenting opinion (by Judge Ušacka), both referring to the ICTR's jurisprudence to deal with the counts of genocide against the defendant, the former head of state of Sudan Omar Al-Bashir, though with different conclusions. Coherently with the ICTR, both the majority decision and the dissenting opinion in *Al-Bashir* recognized the unique feature of the genocidal *mens rea*, i.e. the *dolus specialis* originating from the intent to destroy in whole or in part the targeted group. Of note, the majority's position implicitly created an additional element necessary to verify the subsistence of a *dolus specialis*, i.e. a constant pattern of alleged genocidal acts. Indeed, a decrease in the intensity of violence for a certain period led the court not to infer a clear genocidal intent. As for the interpretation of the four protected groups by the CPCCG's article II, the majority decision adopted a purely objective approach, deviating from the ICTR's hybrid approach, instead embraced by the dissenting opinion. The comparison between this latter and the majority position in terms of interpretative approach reveals the opposed results of adopting a purely objective or a hybrid approach. The objective approach led the majority to recognize three different ethnic groups targeted, thus creating the burden to prove a specific intent to destroy each of them. Conversely, the hybrid approach of Judge Ušacka grouped

the three ethnic communities, reducing the threshold to prove the genocidal *mens rea* to the intent to destroy a wider group comprising the three ethnic communities. Hence, this comparative analysis displays the flexibility of the ICTR's hybrid approach and its adequacy to deal with complex cases in terms of group identification and interpretation. By the analysis of the majority's position, it is possible to understand that incitement to commit genocide, in light of the ICC Statute's consideration of it as a mode of liability rather than a crime *per se*, has no value to infer the genocidal *dolus specialis*. Indeed, to recognize incitement the ICC Statute requests the previous assessment of genocidal acts. It derives that in the absence of a clear and distinct verification by the court of the actual commission of genocide, hate speech cannot serve as proof of genocidal intent. This position has been implicitly challenged by the dissenting opinion, as it deepened the scrutiny of Al-Bashir's speeches and considered this latter as a valid element to infer the *dolus specialis* from, thus strictly applying the ICTR's approach to hate speech. Further, the absence of a blurred distinction between crimes against humanity and genocide in the ICC Statute prevented the ICC from enjoying the same degree of flexibility as the ICTR in categorizing crimes traditionally falling under the category of crimes against humanity as instead genocide, leveraging on the detection of a *dolus specialis*. The only blurred distinction between genocide and crimes against humanity provided by the ICC Statute consisted of the crime of persecution and genocide, being both based on discriminatory conduct. However, the majority decision clarified this ambiguity by detecting a persecutory *dolus specialis*, damaging the individual as such based on discrimination, and a genocidal *dolus specialis*, damaging the whole group by targeting one of its members. Hence, the ICC in *Al-Bashir* deviates from the ICTR's approach, as it unambiguously separates by statute and jurisprudence the category of crimes against humanity from genocide. It can therefore deduced that the ICC, in handling cases of genocide, is not likely to replicate the ICTR's jurisprudence in making crimes listed by statute as crimes against humanity falling under a genocide conviction. Differently, the dissenting opinion in *Al- Bashir* safely considered hate speech and rape as both the *actus reus* of genocide and a basis to infer the genocidal *mens rea*, fully and unquestionably embracing the ICTR's jurisprudence. In sum, in *Al-Bashir,* both the majority decision and the dissenting opinion applied the ICTR's jurisprudence on genocide. Whilst the majority appeared to be more skeptical regarding the possibility of safely inferring a *dolus specialis* from the scrutiny of contextual and circumstantial elements, especially in the absence of recognized genocidal acts, the dissenting opinion was bolder in embracing the ICTR's jurisprudence, not contesting the ad hoc tribunal for Rwanda's approach. Overall, it is expected that the ICC will be less ambitious in handling cases of genocide compared with the ad hoc criminal tribunal for Rwanda, and the precedent created by the majority decision in *Al-Bashir* considerably raised the threshold to infer a genocidal *mens rea*, thus negatively departing from the ICTR's jurisprudence.

Tragically being a continent affected by a number of civil wars and internal conflicts often involving the commission of mass atrocities crimes, Africa represents a laboratory for the application of international criminal law. The African organization existing at the time of the Rwandan genocide, the Organization of African Unity (OAU) was unable to prevent and stop the mass killings due to the absence of legal and political mechanisms to intervene in member states. Furthermore, the inability of the international community and its disinterest in African internal conflicts led the OAU to gradually evolve into the African Union (AU), a new continental organization entrusted by its member states with stronger instruments in terms of prevention and punishment of mass atrocities. Being called to establish those instruments, the AU did refer to the ICTR's jurisprudence. The examination of the impact of the ICTR's case law on the African criminal law context reveals that the ad hoc tribunal for Rwanda did influence regional legal mechanisms for the prevention and punishment of genocide, such as the Malabo Protocol and the Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and all forms of Discrimination. Further, the ICTR's jurisprudence impacts the work of different African institutions, namely the AU, the African Union Court of Justice and Human Rights, and the International Conference on the Great Lakes Region. However, as of 2024, African institutions still struggle to define genocidal hate speech, as demonstrated by the annual meetings of the AU on the matter. This thesis suggests that African institutions should rely more on the guidance provided by the ICTR's jurisprudence. Indeed, such an objective could be achieved relatively smoothly, as this script elaborates from that source a definition of genocidal hate speech embracing the notion of genocide studied in chapter two stemming from the ICTR's jurisprudence.

Although the Special Court for Sierra Leone (SCSL) did not adjudicate charges of genocide, the court differently referred to the jurisprudence of the ad hoc tribunal for Rwanda, particularly in dealing with rape and sexual violence. It is therefore fair to remark that notwithstanding the SCSL did not deal with genocide offenses, it referred to and transplanted ICTR's findings related to genocide into its judgment to deal with crimes against humanity and war crimes, as detectable in the *AFRC Accused*, *RUF Accused*, and *Taylor* cases. It derives that the ICTR's jurisprudence provides a consistent legal framework possessing a certain degree of flexibility to be adapted to crimes ranging from war crimes to crimes against humanity to genocide. The work of the ICTR thus presents certain features, typically linked to genocide under the ad hoc tribunal's jurisdiction, that other national, hybrid, and international criminal courts can use to adjudicate different cases involving mass atrocities crimes.

The detection of the ICTR's influence on the African continent leads this thesis to argue that the ad hoc criminal tribunal for Rwanda not only impacted the drafting of legal instruments for the prevention and punishment of the crime of genocide and on the jurisprudence of the SCSL but even to consider the ICTR as a suitable solution for legal problems affecting the region. If the Rwandan genocide has been

the shock raising awareness on the need to establish mechanisms to prevent and punish genocide, the ICTR's jurisprudence has constituted and still constitutes the response to such a shock, providing a case law tailored to a scenario often recurring in the African continent, i.e. an escalating internal conflict contextualized in preexisting ethnic, religious, racial, or national tensions. From the analysis of different cases, it has emerged that the most frequent crimes committed in Africa are rape and other forms of sexual violence. It is thus safe to assume that the ICTR may furnish a certain degree of guidance in the prosecution of those criminal offenses since the ICTR reviewed the notion of rape in detail and produced a consistent jurisprudence on it. For this reason, this thesis proposes that the Ugandan International Crimes Division and the Gambian criminal jurisdiction should embrace the ICTR's jurisprudence as a pillar to address and punish mass atrocities crimes.

Overall, the third chapter highlights that the ICTR's jurisprudence on genocide exercises an authoritative influence over criminal courts, from the ICC to the African continent. The ad hoc tribunal for Rwanda's legacy consists of a hybrid approach for interpreting the CPPCG, a sophisticated inferential methodology to detect the *dolus specialis*, and the criminalization of hate speech and rape as acts of genocide. Whether this legacy has been fully embraced or contested, what emerges is that the ICTR provided an interpretation of the CPPCG and jurisprudence that still holds authority and may lead to further developments, both in international criminal law and in a perspective of regional instruments for the prevention and punishment of the crime of genocide. Moreover, as the ICC and the SCSL cases have demonstrated, the ICTR's jurisprudence is such a breakthrough that its findings, which originally emerged in relation to genocide, have been translated by other jurisdictional bodies into cases concerning crimes against humanity and war crimes. Therefore, although this thesis is centered on the notion of genocide provided by the ICTR, this latter jurisprudence has proved to possess the necessary flexibility to be adapted to all the categories of mass atrocities crimes.

CONCLUSION

In conclusion, this thesis provides an extensive analysis of the notion of genocide in international criminal law. It can be argued that in terms of conventional, customary, and *jus cogens*, criminal tribunals face a similar point of departure to prosecute the crime of genocide. The detailed examination of the ICTR's jurisprudence revealed that the ad hoc tribunal consistently contributed to the evolution of the notion of genocide in international criminal law and the prosecution of the 'crime of the crimes', particularly by providing a hybrid approach to interpret the protected groups and an inferential strategy to assess the genocidal *dolus specialis*, as well as recognizing non- lethal acts, i.e. hate speech and rape, as acts of genocide. Comparing the work of the ad hoc tribunal for

Rwanda with other tribunals and evaluating its influence on the African criminal framework highlights the far-reaching impact of the ICTR's jurisprudence. Still, challenges in achieving consistency in international criminal law are noticeable, as divergent approaches to genocide stem from the discordant jurisprudence of the ICTY and the ICTR. Nevertheless, this thesis endorses a continuous adoption and adaptation of the ICTR's jurisprudence to prosecute mass atrocities crimes, thus assisting the achievement of justice and accountability globally.

DOCUMENTS

Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone, 16 January 2002, U.N.T.S 38342.

Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, 8 August 1945, 59 Stat. 1544, 82 UNTS 279.

Charter of the United Nations, 26 June 1945, XV UNCIO 335, amendments in 557 UNTS 143, 638 UNTS 308, and 892 UNTS 119 Charter.

Charter of the Organization of African Unity, 25 May 1963, U.N.T.S. 1963 no. 6947.

Codes et Lois du Rwanda, 31 December 1994 Update, *Penal Code*.

Communiqué of the 678th Meeting of the Peace and Security Council of the African Union, 11 April 2017, PSC/PR/COMM.(DCLXXVIII).

Communiqué of the 1147th Meeting of the Peace and Security Council of the African Union, 6 April 2023, PSC/PR/COMM.1147 (2023).

Constitutive Act of the African Union, 11 July 2000, OAU Doc. CAB/LEG/ 23.15.

Control Council Law no. 10, 20 December 1945, *Punishment of Persons Guilty of War Crimes, Crimes against Peace, and Crimes against Humanity.*

Convention with Respect to the Laws and Customs of War by Land and its Annex: Regulations Respecting the Laws and Customs of War on Land, 29 July 1899.

Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, 18 October 1907.

Convention (V) respecting the Rights and Duties of Neutral Powers and Per- sons in Case of War on Land, 18 October 1907.

Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 UNTS 276.

Convention on Non-Statutory Limitations to War Crimes and Crimes against Humanity, 26 November 1968, U.N.T.S., Vol. 754, 73.

Decision of the Organization of African Unity Council of Ministers, 7 June 1998, CM/2063 (LXVIII), *Establishment of the Panel of Eminent Personalities to Investigate the Genocide in Rwanda and the Surrounding Events*.

Decision of the Assembly of the African Union, 3 February 2009, Assembly/ AU/Dec. 213 (XII), *Decision on the Implementation of the Assembly Decision on the Abuse of the Principle of Universal Jurisdiction.*

European Convention on Non-Statutory Limitations to War Crimes and Crimes against Humanity, 25 January 1974, E.T.S. no. 82.

General Orders No. 100 by President Lincoln, 24 April 1863, *Instructions for the Government of Armies of the United States in the Field, prepared by Francis Lieber*.

Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 6 U.S.T. 3516; 75 U.N.T.S. 287.

Government White Paper on the Report of The Truth, Reconciliation and Reparations Commission, 25 May 2022.

International Criminal Court Press Release, 2005, ICC-CPI-20051014-110, *Warrant of Arrest unsealed against five LRA Commanders (The Prosecutor v. Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen)*.

International Criminal Court Press Release, 2008, ICC-OTP-20080714- PR341, *ICC Prosecutor presents case against Sudanese President, Hassan Ahmad AL BASHIR, for genocide, crimes against humanity and war crimes in Darfur.*

Law no. 64 of the First Knesset, 1 August 1950, *Nazis and Nazi Collaborators (Punishment) Law 5710-1950*.

Law no. 59 of 2018, 25 September 2018, *Law on the Crime of Genocide Ideology and Related Crimes*.

Ley orgánica 1/2014, de modificación de la Ley orgánica 6/1985 del Poder Judicial relativa a la justicia universal, 13 March 2014.

Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002, United Nations Publications, Sales no. E.03.V.2, part. II.B., as reviewed by the 2010 Review Conference are replicated from the Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May-11 June 2010, International Criminal Court publications RC/11, *Elements of Crimes.*

Pact on Security, Stability, and Development in the Great Lakes Region, 15 December 2006, 2nd summit of the International Conference of the Great Lakes Region.

Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977, 1125 U.N.T.S 609.

Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and Peoples' Rights, 10 June 1998, 34th ordinary session of the Assembly of the Heads of State and Government of the Organization of African Unity.

Protocol Relating to the Establishment of the Peace and Security Council of the African Union, 9 July 2002, 1st ordinary session of the Assembly of the African Union.

Protocol of the Court of Justice of the African Union, 11 July 2003, 2nd ordinary session of the Assembly of the African Union.

Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and all forms of Discrimination, 29 November 2006.

Protocol on the Statute of the African Court of Justice and Human Rights, 1 July 2008, 11th ordinary session of the Assembly of the African Union.

Protocol on the Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 27 June 2014, 23rd ordinary session of the Summit of the African Union.

Report of the United Nations Secretary-General, 3 May 1993, S/25704, *Re- port of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993).*

Report of the United Nations Secretary-General, 27 May 1994, S/1994/674, *Letter Dated 24 May 1994 from the Secretary-General to the President of the Security Council.*
Report of the International Law Association Committee on International Human Rights Law and Practice, 2000, *Final Report on the Exercise of universal jurisdiction in respect of gross human rights offenses.*
Reservation of the United States of America to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, 25 November 1988, U.N.T.S. 78 277.
Resolution of the United Nations General Assembly, 10 December 1948, A/ RES/217, *Universal Declaration of Human Rights*.
Resolution of the United Nations General Assembly, 11 December 1946, A/ RES/96(I), *The Crime of Genocide*.
Resolution of the United Nations General Assembly, 21 December 1965, A/ RES/2106(XX), *International Convention on the Elimination of All Forms of Racial Discrimination.*
Resolution of the United Nations General Assembly, 16 December 1966, A/ RES/2200(XXI), *International Covenant on Civil and Political Rights*.
Resolution of the United Nations Security Council, 21 February 1992, S/ RES/743, *Socialist Federal Republic of Yugoslavia.*
Resolution of the United Nations Security Council, 22 February 1993, S/ RES/808, *International Criminal Tribunal for the former Yugoslavia (ICTY)*.
Resolution of the United Nations Security Council, 25 May 1993, S/RES/ 827, *International Criminal Tribunal for the former Yugoslavia (ICTY)*.
Resolution of the United Nations Security Council, 5 October 1993, S/RES/ 872, *Rwanda*.
Resolution of the United Nations Security Council, 21 April 1994, S/RES/ 912, *Adjustment of the mandate of the UN Assistance Mission for Rwanda due to the current situation in Rwanda and settlement of the Rwandan conflict*.
Resolution of the United Nations Security Council, 17 May 1994, S/RES/ 918, *The expansion of the mandate of the UN Assistance Mission for Rwan- da and imposition of an arms embargo on Rwanda*.
Resolution of the United Nations Security Council, 22 June 1994, S/RES/ 929, *Establishment of a temporary multinational operation for humanitarian purposes in Rwanda until the deployment of the expanded UN Assistance Mission for Rwanda.*
Resolution of the United Nations Security Council, 8 November 1994, S/ RES/955, *Establishment of the International Criminal Tribunal for Rwanda (ICTR) and adoption of the Statute of the Tribunal*.
Resolution of the United Nations Security Council, 22 October 1999, S/RES/ 1270, *The situation in Sierra Leone.*
Resolution of the United Nations Security Council, 14 August 2000, S/RES/ 1315, *The situation in Sierra Leone*.
Resolution of the United Nations Security Council, 22 December 2010, S/RES/1966, *International Criminal Tribunal for the former Yugoslavia (ICTY)*.

Report of the United Nations Secretary-General, 4 October 1994, S/ 1994/1125, *Letter Dated 1 October 1994 from the Secretary-General Ad- dressed to the President of the Security Council*.
Report of the UN Commission on Human Rights, Subcommittee on the Prevention of Discrimination & Protection of Minorities, 29 January 1996, E/ CN.4/1996/68, *Report on the Situation of Human Rights in Rwanda.*
Rome Statute of the International Criminal Court, 17 July 1998, U.N.T.S. Vol. 2187, no. 38544.
Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda adopted on 29 June 1995, as last amended on 10 November 2006.
Special Proclamation Establishment of an International Military Tribunal for the Far East, 19 January 1946, Treaties and Other International Acts Series 1589.
Special Report of the Panel of Eminent Personalities to Investigate the Genocide in Rwanda and the Surrounding Events, 7 July 2000, 40 ILM 141.
Statute of the International Court of Justice, 18 April 1946, 33 UNTS 993.
Statute of the International Criminal Tribunal for Rwanda, 8 November 1994, S/RES/955, (as last amended by the Resolution of the UN Security Council, 13 October 2006, S/RES/1717, *International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouri*).
Statute of the Special Court for Sierra Leone attached to the Agreement bet- ween the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone, 16 January 2002, U.N.T.S 38342.
Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September - 10 December 1948, Official Records of the General Assembly.
The High Court (International Crimes Division) Practice Directions, 2011, *Legal Notice No. 10*, sect. VI.
The Report of the Secretary-General on the Fundamental Changes Taking Place in the World and their Implications for Africa, approved by the Decla- ration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, 11 July 1990, AHG/Decl. 1 (XXVI).
The Report of the Secretary-General on Conflicts in Africa: Proposals for an OAU Mechanism for Conflict Prevention and Resolution, adopted by the 28th Ordinary Session of the Assembly of Heads of State and Government, 1 July 1992, AHG/Decl. 1 (XXVIII).
Vienna Convention on the Law of Treaties, 23 May 1969, U.N.T.S., Vol. 1155, 331.
Völkerstrafgesetzbuch, Code of Crimes against International Law, 26 June 2002 (Federal Law Gazette I, p. 2254), as last amended by Article 1 of the Act of 22 December 2016 (Federal Law Gazette I, p. 3150).
Witness Statement, DAR-OTP-0088-0187 (Annex 20), attached to ICC-02/05-151-US-ExpandICC-02/05-151-US-Exp-Anxsl-89; Corrigendum ICC-02/05-151-

US-Exp-Corr and Corrigendum ICC-02/05-151-US- Exp-CorrAnxsl & 2. Public redacted version of the Prosecution Application, ICC-02/05-157-AnxA.

JURISPRUDENCE

District Court of Jerusalem & Supreme Court of Israel

Indictment presented by Attorney General to the District Court of Jerusalem, 15 April 1961, Case no. 40/61, *Attorney General v. Adolf Eichmann.*
Judgment of the District Court of Jerusalem, 11 December 1961, Case no. 40/61, *Attorney General v. Adolf Eichmann*.
Judgment of the Supreme Court of Israel, 29 May 1962, Appeal 336/61, *Attorney General v. Adolf Eichmann.*

European Court of Human Rights (ECtHR)

Judgment of the European Court of Human Rights, 23 September 1994, Case no. 15890/89, *Jersild v. Denmark.*
Judgment of the European Court of Human Rights, 25 September 1997, Case no. 57/1996/676/866, *Aydin v. Turkey*.
Judgment of the European Court of Human Rights, 25 November 1997, Case no. 69/1996/688/880, *Zana v. Turkey*.

Inter-American Court of Human Rights

Judgment of the Inter-American Court of Human Rights, 1 March 1996, Case 10.970, Report No. 5/96, *Raquel Martí de Mejía v. Perú.*

International Criminal Court (ICC)

Decision of the International Criminal Court on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al-Bashir, 4 March 2009, ICC-02/05-01/09, *Situation in Darfur, Sudan, in the Case of The Prosecutor v. Omar Hassan Ahmad Al-Bashir ("Omar Al-Bashir")*.
Judgment of the International Criminal Court, 14 March 2012, ICC-01/04-01/06, *Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Thomas Lubanga Dyilo.*
Judgment (Appeal) of the International Criminal Court, 30 May 2012, ICC-01/04-01/10 OA 4, *Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Callixte Mbarushimana.*
Judgment of the International Criminal Court, 7 March 2014, ICC-01/04-01/07, *Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Germain Katanga.*

Judgment (Appeal) of the International Criminal Court, 8 March 2018, ICC-01/05-01/13 A6 A7 A8 A9, *Situation in the Central African Republic in the Case The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Ari- do.*

Judgment of the International Criminal Court, 8 July 2019, ICC-01/04-02/06, *Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Bosco Ntaganda.*

Judgment (Appeal) of the International Criminal Court, 15 December 2022, ICC-02/04-01/15 A, *Situation in Uganda in the Case of The Prosecutor v. Dominic Ogwen.*

Separate and Partly Dissenting Opinion of Judge Anita Ušacka, attached to the Decision of the International Criminal Court on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al-Bashir, 4 March 2009, ICC-02/05-01/09, *Situation in Darfur, Sudan, in the Case of The Prosecutor v. Omar Hassan Ahmad Al-Bashir ("Omar Al-Bashir")*.

International Crimes Division, High Court of Uganda (ICD)

Judgment of the International Crimes Division of the High Court of Uganda, 30 August 2018, HCT-00-WCD-Criminal Case No. 0002 OF 2010 (Arising from Criminal Case No. BUG RD. Court Case 09/2010), *The Prosecutor v. Thomas Kwoyelo Alias Latoni*, para. 64 (c).

International Criminal Tribunal for the former Yugoslavia (ICTY)

Consideration of the Indictment within the framework of Rule 61 of the Ru- les of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia, 11 July 1996, IT-95-5-R61 and IT-95-18-R61, *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Ratko Mladić.*

Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction of the International Criminal Tribunal for the Former Yugoslavia, 2 October 1995, IT-94-1-T, *Prosecutor v. Dusko Tadić a/k/a "DULE"*.

Judgment of the International Criminal Tribunal for the former Yugoslavia, 16 November 1998, IT-96-21-T, *The Prosecutor v. Zejnil Delalić, Zdravko Mucić a/k/a "PAVO", Hazim Delić, Esad Landzo a/k/a "Zenga"*.

Judgment of the International Criminal Tribunal for the former Yugoslavia, 10 December 1998, IT-95-17/1-T, *The Prosecutor v. Anto Furundzija*. Judgment of the International Criminal Tribunal for the former Yugoslavia, 14 December 1999, IT-95-10-T, *The Prosecutor v. Goran Jelišić.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 14 January 2000, IT-95-16-T, *The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić Drago Josipović, Dragan Papić, Vladimir Santić a/k/a "VLADO"*.

Judgment of the International Criminal Tribunal for the former Yugoslavia, 22 February 2001, IT-96-23-T&IT-96-23/1-T, *The Prosecutor v. Dragoljub Kunarac, Radomir Kovač, and Zoran Vucović.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 26 February 2001, IT-95-14/2-T, *The Prosecutor v. Dario Kordić and Mario Čerkez.*

Judgment (Appeal) of the International Criminal Tribunal for the former Yugoslavia, 5 July 2001, IT-95-10-A, *The Prosecutor v. Goran Jelišić*.

Judgment of the International Criminal Tribunal for the former Yugoslavia, 2 August 2001, IT-98-33-T, *The Prosecutor v. Radislav Krstič.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 2 November 2001, IT-98-30/1-T, *The Prosecutor v. Miroslav Kvočka, Dragoljub Prcać, Milojica Kos, Mlađo Radić, Zoran Žigić.*

Judgment (Appeal) of the International Criminal Tribunal for the former Yugoslavia, 12 June 2002, IT-96-23 & IT-96-23/1-A, *The Prosecutor v. Dragoljub Kunarac, Radomir Kovač, and Zoran Vucović.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 31 July 2003, IT-97-24-T, *The Prosecutor v. Milomir Stakić.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 11 March 2004, IT-95-10/1-S, *The Prosecutor v. Ranko Češić.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 1 September 2004, IT-99-36-T, *The Prosecutor v. Radoslav Brđanin.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 10 June 2010, IT-05-88-T, *The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolič, Ljubomir Borovčanin, Radivoje Miletič, Milan Gvero, Vinko Pandurevič*.

Judgment of the International Criminal Tribunal for the former Yugoslavia, 12 December 2012, IT-05-88/2-T*, The Prosecutor v. Zdravko Tolimir*.

Judgment (Appeal) of the International Criminal Tribunal for the former Yugoslavia, 30 January 2015, IT-05-88-A, *The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolič, Ljubomir Borovčanin, Radivoje Miletič, Milan Gvero, Vinko Pandurevič.*

Judgment of the International Criminal Tribunal for the former Yugoslavia, 31 March 2016, IT-03-67-T, *The Prosecutor v. Vojislav Šešelj*.

Opinion and Judgment of the International Criminal Tribunal for the former Yugoslavia, 7 May 1997, IT-94-1-T, *The Prosecutor v. Dusko Tadić a/k/a "DULE"*.

Partially Dissenting Opinion of Judge Shahabuddeen, attached to the Judgment (Appeal) of the International Criminal Tribunal for the former Yugoslavia, 5 July 2001, IT-95-10-A, *The Prosecutor v. Goran Jelišić.*

International Criminal Tribunal for Rwanda (ICTR)

Indictment presented to the International Criminal Tribunal for Rwanda on 13 February 1996 as amended on 17 June 1997, 17 June 1997, ICTR-96-4-T, *The Prosecutor v. Jean-Paul Akayesu*.

Judgment of the International Criminal Tribunal for Rwanda, 2 September 1998, ICTR-96-4-T, *The Prosecutor v. Jean-Paul Akayesu.*

Judgment of the International Criminal Tribunal for Rwanda, 4 September 1998, ICTR-97-23-S, *The Prosecutor v. Jean Kambanda*.

Judgment of the International Criminal Tribunal for Rwanda, 21 May 1999, ICTR-95-1-T, *The Prosecutor v. Clément Kayishema and Obed Ruzindana.*

Judgment of the International Criminal Tribunal for Rwanda, 6 December 1999, ICTR-96-3-T, *The Prosecutor v. Georges Anderson Nderumbuwe Rutaganda.*

Judgment of the International Criminal Tribunal for Rwanda, 27 January 2000, ICTR-96-13-T, *The Prosecutor v. Alfred Musema.*

Judgment of the International Criminal Tribunal for Rwanda, 1 June 2000, ICTR-97-32-I, *The Prosecutor v. Georges Ruggiu.*

Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 1 June 2001, ICTR-95-1-A, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*.

Judgment of the International Criminal Tribunal for Rwanda, 7 June 2001, ICTR-95-1A-T, *The Prosecutor v. Ignace Bagilishema*.

Judgment of the International Criminal Tribunal for Rwanda, 21 February 2003, ICTR-96-10 & 96-17-T, *The Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana.*

Judgment of the International Criminal Tribunal for Rwanda, 15 May 2003, ICTR-97-20-T, *The Prosecutor v. Laurent Semanza.*

Judgment of the International Criminal Tribunal for Rwanda, 16 May 2003, ICTR-96-14-T, *The Prosecutor v. Eliéner Niyitegeka*.

Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 26 May 2003, ICTR-96-3-A, *Georges Anderson Nderumbuwe Rutaganda v. The Prosecutor*.

Judgment of the International Criminal Tribunal for Rwanda, 1 December 2003, ICTR-98-44A, *The Prosecutor v. Juvenal Kajelijeli.*

Judgment of the International Criminal Tribunal for Rwanda, 3 December 2003, ICTR-99-52-T, *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze (Media Case)*.

Judgment of the International Criminal Tribunal for Rwanda, 22 January 2004, ICTR-95-54A-T, *The Prosecutor v. Jean de Dieu Kamuhanda.*

Judgment of the International Criminal Tribunal for Rwanda, 17 June 2004, ICTR-2001-64-T, *The Prosecutor v. Sylvestre Gacumbitsi*.

Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 9 July 2004, ICTR-96-14-A, *Eliézer Niyitegeka v. The Prosecutor*.

Judgment of the International Criminal Tribunal for Rwanda, 15 July 2004, ICTR-2001-71-I, *The Prosecutor v. Emmanuel Ndindabahizi.*

Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 13 December 2004, ICTR-96-17-A, *The Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana.*

Judgment of the International Criminal Tribunal for Rwanda, 28 April 2005, ICTR-95-1B-T, *The Prosecutor v. Mikaeli Muhimana.*

Judgment of the International Criminal Tribunal for Rwanda, 13 April 2006, ICTR-00-60-T, *The Prosecutor v. Paul Bisengimana*.
Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 7 July 2006, ICTR-2001-64-A, *Sylvestre Gacumbitsi v. The Prosecutor*.
Judgment of the International Criminal Tribunal for Rwanda, 11 September 2006, ICTR-01-65-T, *The Prosecutor v. Jean Mpambara*.
Judgment of the International Criminal Tribunal for Rwanda, 12 September 2006, ICTR-2000-55A-T, *The Prosecutor v. Tharcisse Muvunyi*.
Judgment of the International Criminal Tribunal for Rwanda, 20 September 2006, ICTR-98-44C-T, *The Prosecutor v. André Rwamakuba*.
Judgment of the International Criminal Tribunal for Rwanda, 13 December 2006, ICTR-2001-66-I, *The Prosecutor v. Athanase Seromba*.
Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 21 May 2007, ICTR-95-1B-A, *The Prosecutor v. Mikaeli Muhimana*.
Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 28 November 2007, ICTR-99-52-A, *Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze v. The Prosecutor (Media Case)*.
Judgment (Appeal) of the International Criminal Tribunal for Rwanda, 12 March 2008, ICTR-2001-66-A, *The Prosecutor v. Athanase Seromba*.
Judgment of the International Criminal Tribunal for Rwanda, 2 December 2008, ICTR-01-72-T, *The Prosecutor v. Simon Bikindi*.
Judgment of the International Criminal Tribunal for Rwanda, 18 December 2008, ICTR-01-73-T, *The Prosecutor v. Protais Zigiranyirazo*.
Judgment of the International Criminal Tribunal for Rwanda, 18 December 2008, ICTR-98-41-T, *The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva*.

International Military Tribunal (IMT)

Indictment presented to the International Military Tribunal sitting at Berlin on 18th October 1945, 18 October 1945.
Judgment of the International Military Tribunal, 30 September 1946, 22 IMT 203, *France and ors v. Göring (Hermann) and ors*.
Summation for the Prosecution by Justice Robert Jackson, 26 July 1946.
Summation for the Prosecution by Sir Hartley Shawcross, 27 July 1946.
Summation for the Prosecution by M. Auguste Champetier de Ribes, 29 July 1946.
Summation for the Prosecution by General Roman Rudenko, 29 July 1946.

International Military Tribunal for the Far East (IMTFE)

Indictment presented to the International Military Tribunal for the Far East sitting at Tokyo on 3 May 1946, 3 May 1946, Annex A-6 to the Judgment of the International Military Tribunal for the Far East.

Judgment of the International Military Tribunal for the Far East, 4 November 1948, *United States et al. v. Araki et al.*

Nuremberg Military Tribunals (NMT)

Closing Statement of the Prosecution, 13 February 1948, Nuremberg Military Tribunals Case no. VIII, *United States v. Ulrich Griefelt, et al.*
Concurring Opinion by Judge Musmanno of the Nuremberg Military Tribunals, 3 November 1947, Nuremberg Military Tribunals Case no. IV, *United States of America v. Oswald Pohl, et al.*
Opening Statement of the Prosecution, 9 December 1946, Nuremberg Military Tribunals Case no. I, *United States. v. Karl Brandt et al*.
Opinion and Judgment of the Nuremberg Military Tribunals, 19 August 1947, Case no. I, *United States. v. Karl Brandt et al.*
Opening Statement of the Prosecution, 29 September 1947, Nuremberg Military Tribunals Case no. IX, *United States of America v. Otto Ohlendorf,*
Opening Statement of the Prosecution, 20 October 1947, Nuremberg Military Tribunals Case no. VIII, *United States v. Ulrich Griefelt, et al.*
Judgment of the Nuremberg Military Tribunals, 4 December 1947, Nurem- berg Military Tribunals Case no. III, *United States of America v. Josef Altstoetter et. al.*
Opinion and Judgement of the Nuremberg Military Tribunals, 10 March 1948, Nuremberg Military Tribunals Case no. VIII, *United States v. Ulrich Griefelt, et al.*
Opinion and Judgment of the Nuremberg Military Tribunals, 8-9 April 1948, Nuremberg Military Tribunals Case no. IX, *United States of America v. Otto Ohlendorf, et al.*
Judgment of the Nuremberg Military Tribunals, 11 April 1949, Nuremberg Military Tribunals Case no. XI, *United States of America v. Ernst von Weizsäcker et al. (Ministries Trial)*.

Permanent Court of International Justice (PCIJ)
& International Court of Justice (ICJ)

Advisory Opinion of the International Court of Justice, 28 May 1951, ICJ Reports (1951), *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*.
Judgment of the Permanent Court of International Justice, 2 January 1928, P.C.I.J Rep. Series A, No.12, *Rights of Minorities in Upper Silesia (Germany v. Poland)*.
Judgment of the International Court of Justice, 6 April 1955, ICJ Reports (1955), *Nottebohm (Liechtenstein v. Guatemala)*.
Judgment of the International Court of Justice, 5 February 1970, ICJ Reports (1970), *Case concerning the Barcelona Traction, Light and Power Company Ltd. (Belgium v. Spain)*.

Judgment of the International Court of Justice, 26 November 1984, ICJ Re- ports (1984), *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States)*.

Separate Opinion Judge Ammoun, 5 February 1970, ICJ Reports (1970), *Case concerning the Barcelona Traction, Light and Power Company Ltd. (Belgium v. Spain)*.

Judgment of the International Court of Justice, 14 February 2002, ICJ Re- ports (2002), *Case Concerning the Arrest Warrant of 11 April 2000, Democratic Republic of Congo v. Belgium.*

Judgment of the International Court of Justice, 1 September 2004, ICJ Re- ports (2004), *Case on the Application of the Genocide Convention (Bosnia and Herzegovina v. Serbia and Montenegro)*.

Residual Mechanism for International Criminal Tribunals (RMICT)

Judgment of the Residual Mechanism for International Criminal Tribunals, 11 April 2018, MICT-16-99-A, *The Prosecutor v. Vojislav Šešelj.*

Special Court for Sierra Leone (SCSL)

Judgment of the Special Court for Sierra Leone, 20 June 2007, SCSL-04-16- T, *The Prosecutor v. Alex Tamba Brima, Brima Bazzy Kamara, Santigie Barber Kanu (AFRC Accused)*.

Judgment of the Special Court for Sierra Leone, 2 March 2009, SCSL-04-15-T, *The Prosecutor v. Issa Hassan Sesay, Morris Kallon, Augustine Gbabo (RUF Accused)*.

Judgment of the Special Court for Sierra Leone, 18 May 2012, SCSL-03-01- T, *The Prosecutor v. Charles Ghankay Taylor*.

United Nations Human Rights Committee

Communication of the United Nations Human Rights Committee, 8 November 1996, Communication No. 550/1993, U.N. Doc. CCPR/C/58/D/550/1993(1996), *Robert Faurisson v. France*.