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Prosecutor v. Anto Furundžija (ICTY, Case No. IT-95-17/1): Foundation of Wartime Sexual Violence, Torture, and Military Interrogation Liability under International Humanitarian Law

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ABSTRACT

This paper examines Prosecutor v. Anto Furundžija (ICTY, Case No. IT-95-17/1; Trial Chamber Judgement of 10 December 1998, Appeals Chamber Judgement of 21 July 2000), which can be regarded as a foundational moment in the development of international criminal law governing wartime sexual violence, torture and military interrogation liability under international humanitarian law (IHL). The case, arising from the conduct of the Croatian Defence Council's (HVO) specialised unit known as the "Jokers" during the armed conflict in central Bosnia and Herzegovina in 1993, produced a Trial Chamber judgment of remarkable jurisprudential density. The Tribunal convicted Furundžija of torture as a co-perpetrator and of outrages upon personal dignity, including rape, as an aider and abettor, thereby articulating standards of individual criminal responsibility that would shape the interpretation of the Rome Statute and successive International Criminal Court (ICC) jurisprudence for decades to follow. The thesis advanced is that Furundžija is not merely a sexual-violence case. It is, at its intellectual core, a case about military detention, coercive interrogation, command discipline, the absolute prohibition on torture and the irreducible protection of human dignity in armed conflict. The Chamber's holding that the prohibition of torture has attained jus cogens status, as an absolute, non-derogable peremptory norm, remains one of the most cited propositions in post-Cold War international criminal jurisprudence.

Keywords: *Prosecutor v. Furundžija, ICTY, jus cogens, torture, war-time sexual violence, military interrogation liability, aiding and abetting, individual criminal responsibility, IHL, Rome Statute*

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I. INTRODUCTION, RESEARCH QUESTIONS, THESIS AND METHODOLOGY

The judgment of the International Criminal Tribunal for the former Yugoslavia (ICTY) in *Prosecutor v. Anto Furundžija*¹ occupies a position of pre-eminent significance in the modern history of international criminal law. Delivered on 10 December 1998, Human Rights Day, the Trial Chamber's findings crystallised a comprehensive legal framework governing wartime sexual violence as both torture and an outrage upon personal dignity, establishing standards that would echo through the International Criminal Court (ICC) for decades.

Anto Furundžija was a local commander of the "Jokers", a special unit of the Croatian Defence Council (HVO). His conduct during interrogation sessions, in which a witness was subjected to sustained sexual violence while he continued to interrogate her, gave rise to two counts: torture as a violation of the laws or customs of war (Count 13) and outrages upon personal dignity, including rape (Count 14).² The conviction, confirmed on appeal on 21 July 2000,³ produced a body of doctrine that has since been applied, refined and expanded across the full spectrum of international criminal adjudication.

A. Research questions

This paper addresses four central research questions:

1. What legal standards did the Chamber establish for the definition of torture and rape under international humanitarian law?
2. How did the Chamber define the *actus reus* and *mens rea* of aiding and abetting as a form of individual criminal responsibility under Article 7(1) of the ICTY Statute?
3. To what extent did the Chamber's reasoning on *jus cogens* elevate the torture prohibition beyond treaty law?
4. What is the legacy of *Furundžija* for Rome Statute jurisprudence at the ICC?

B. Thesis

The thesis advanced in this paper is threefold: first, that *Furundžija* represents a watershed in the juridical treatment of sexual violence, not merely as a moral wrong but as a legally cognisable instrument of torture and outrage under customary international humanitarian law

¹ *Prosecutor v. Furundžija*, Case No. IT-95-17/1-T, Judgement (Int'l Crim. Trib. for the Former Yugoslavia Dec. 10, 1998), <https://www.icty.org/case/furundzija/4> (last visited Apr. 18, 2026) [hereinafter *Furundžija* Trial Judgement].

² *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 2, 38.

³ *Prosecutor v. Furundžija*, Case No. IT-95-17/1-A, Judgement (Int'l Crim. Trib. for the Former Yugoslavia July 21, 2000), <https://www.icty.org/case/furundzija/4> (last visited Apr. 18, 2026) [hereinafter *Furundžija* Appeal Judgement].

(IHL); second, that the Chamber's articulation of *jus cogens* in relation to the torture prohibition constitutes one of the most significant contributions to the normative hierarchy of international law in the post-Cold War era; and third, that the case's legacy for the Rome Statute, in particular Articles 7 and 8, is both direct and durable, informing the ICC's approach to sexual crimes, command responsibility and modes of liability.⁴

C. Methodology

The methodology employed is essentially doctrinal. Primary sources, namely the Trial Chamber and Appeals Chamber judgments, the ICTY Statute,⁵ the Geneva Conventions,⁶ Additional Protocol II⁷ and the Rome Statute,⁸ are analysed using the doctrinal method. Secondary literature⁹ and comparative case analysis¹⁰ are deployed to situate the judgment within the wider architecture of international criminal law.

II. FACTS OF THE CASE AND PROCEDURAL HISTORY

A. Background: the armed conflict in central Bosnia

The events underlying the charges took place against the backdrop of the armed conflict in the Lašva Valley of central Bosnia and Herzegovina between the HVO and the Army of Bosnia and Herzegovina (ABiH) in 1993.¹¹ Whether the conflicts in Bosnia and Herzegovina were international or non-international in character was then an unsettled jurisdictional question. In *Tadić*, the Trial Chamber held, by majority, that after 19 May 1992 the armed conflict between the Bosnian Serb forces and the central authorities could not be treated as international for the purposes of the grave breaches regime in Article 2 of the Statute; the Appeals Chamber reversed that finding in July 1999 and classified the conflict as international. In *Furundžija* itself, the Trial Chamber held that, for the purposes of Article 3 of the Statute, the nature of the armed

⁴ WILLIAM A. SCHABAS, *THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY ON THE ROME STATUTE* 167–171 (2d ed. 2016).

⁵ Updated Statute of the International Criminal Tribunal for the Former Yugoslavia (Sept. 2009), *adopted by S.C. Res. 827* (May 25, 1993), *annexed to U.N. Doc. S/25704* (1993), https://www.icty.org/x/file/Legal/%20Library/Statute/statute_sept09_en.pdf (last visited Apr. 18, 2026) [hereinafter ICTY Statute].

⁶ Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 U.N.T.S. 135 [hereinafter Third Geneva Convention].

⁷ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977, 1125 U.N.T.S. 609.

⁸ Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 3 (entered into force July 1, 2002), <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf> (last visited Apr. 18, 2026) [hereinafter Rome Statute].

⁹ ANTONIO CASSESE, *INTERNATIONAL CRIMINAL LAW* 88–120 (2d ed. 2008).

¹⁰ GERHARD WERLE & FLORIAN JESSBERGER, *PRINCIPLES OF INTERNATIONAL CRIMINAL LAW* 195–220 (3d ed. 2014).

¹¹ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 51–59.

conflict was irrelevant.¹² The HVO maintained a special unit known colloquially as the “Jokers”, of which Anto Furundžija was a local commander.¹³

B. The interrogation at the Bungalow: May 1993

In mid-May 1993 (the Amended Indictment alleged “on or about 15 May”; the Trial Chamber found that the arrest took place on or about 18 or 19 May), Witness A, a Bosniak Muslim woman, was arrested in Vitez and taken to the Jokers’ headquarters in Nadioci, known as “the Bungalow”, where she was held in a nearby house, the Holiday Cottage. Witness D, an HVO soldier she knew, had been arrested and taken to the Bungalow on or about 16 May.¹⁴ Furundžija interrogated Witness A while another HVO commander, identified in the proceedings as Accused B, subjected her to sustained sexual violence, including forced oral, vaginal and anal penetration, in the presence of Furundžija and an audience of soldiers.¹⁵ Throughout this prolonged ordeal, Furundžija continued to question Witness A, seeking military information, and made no effort to intervene.¹⁶

C. Charges and procedural history

Furundžija faced two counts under Article 3 of the ICTY Statute: Count 13, torture; and Count 14, outrages upon personal dignity, including rape.¹⁷ The trial opened on 8 June 1998 and the hearings closed on 22 June 1998; after the Prosecution’s late disclosure of documents concerning Witness A’s psychological treatment, the proceedings were re-opened from 9 to 12 November 1998. Judgment was delivered on 10 December 1998, imposing sentences of ten years’ imprisonment on Count 13 and eight years’ imprisonment on Count 14, to be served concurrently.¹⁸ The Appeals Chamber dismissed all grounds of appeal on 21 July 2000.¹⁹

III. ISSUES BEFORE THE TRIAL CHAMBER

The issues that the Trial Chamber was required to resolve arose at the intersection of factual complexity, contested legal definitions and genuinely unsettled doctrine.²⁰

¹² *Prosecutor v. Tadić*, Case No. IT-94-1-T, Opinion and Judgment, ¶¶ 562–568, 607–608 (Int’l Crim. Trib. for the Former Yugoslavia May 7, 1997), <https://www.icty.org/case/tadic/4> (last visited Apr. 18, 2026) [hereinafter *Tadić* Trial Judgment]; *Prosecutor v. Tadić*, Case No. IT-94-1-A, Judgment, ¶ 162 (Int’l Crim. Trib. for the Former Yugoslavia July 15, 1999) [hereinafter *Tadić* Appeal Judgment]; *Furundžija* Trial Judgment, *supra* note 1, ¶ 258.

¹³ *Furundžija* Trial Judgment, *supra* note 1, ¶¶ 39–40, 62, 262.

¹⁴ *Id.* ¶¶ 38, 121–123, 262.

¹⁵ *Id.* ¶¶ 124–128, 262, 266.

¹⁶ *Id.* ¶¶ 128, 266, 273.

¹⁷ *Id.* ¶ 38.

¹⁸ *Id.* ¶¶ 17, 20, 34, 36 & pt. IX (Disposition).

¹⁹ *Furundžija* Appeal Judgment, *supra* note 3, pt. VIII (Disposition).

²⁰ Werle & Jessberger, *supra* note 10, at 205–215.

A. The armed conflict nexus

Article 3 of the ICTY Statute vests the Tribunal with the authority to adjudicate violations of the laws or customs of war. As one might expect in the dense terrain of international humanitarian law, however, this jurisdiction does not attach automatically.²¹

Two fundamental prerequisites must be satisfied before the framework is triggered. First, the existence of an armed conflict must be established.²² Second, and this is often where the real legal work lies, a sufficiently close nexus must be shown between the acts alleged and the hostilities.²³

B. Definition and elements of torture

In determining what amounts to torture under Article 3 in armed conflict, the Chamber scrutinised the definition in the Convention against Torture (CAT),²⁴ reading it alongside customary international law²⁵ and the specific setting of military interrogation.²⁶ One of the most disturbing yet legally vital issues it had to resolve was the purposive element: if sexual violence is deliberately used as a means to extract information, does it meet the threshold required to be classified as torture?²⁷

C. The legal status of rape and forced oral penetration

A further question was whether forced oral penetration, which no international tribunal had yet classified as rape, constitutes rape for the purposes of international criminal law or falls into the lesser category of outrages upon personal dignity.²⁸ The Chamber's answer, that forced oral penetration is rape, departed from the broader, conceptual definition adopted in *Akayesu* and was as significant for victims as for the development of the law.²⁹

²¹ ICTY Statute, *supra* note 5, art. 3.

²² *Tadić* Trial Judgment, *supra* note 12, ¶¶ 561–568.

²³ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 60, 65; *Tadić* Trial Judgment, *supra* note 12, ¶¶ 572–573.

²⁴ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, Dec. 10, 1984, 1465 U.N.T.S. 85 (entered into force June 26, 1987) [hereinafter CAT].

²⁵ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 134–147, 159–161.

²⁶ *Id.* ¶¶ 162–163.

²⁷ *Id.*

²⁸ *Id.* ¶¶ 174–186.

²⁹ Patricia Viseur Sellers, *The Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as Means of Interpretation* 20 (Off. of the U.N. High Comm'r for Hum. Rts., n.d.), https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Paper_Prosecution_of_Sexual_Violence.pdf (last visited Oct. 5, 2026).

D. Individual criminal responsibility: aiding and abetting

Since Furundžija did not personally perpetrate the sexual violence, the question arose whether his continued interrogation while the abuse was ongoing constituted aiding and abetting under Article 7(1) of the ICTY Statute.³⁰

The Chamber had to define the *actus reus* and *mens rea* of aiding and abetting (A&A) in international criminal law and to determine whether presence combined with authority can amount to substantial assistance.³¹

E. Judicial impartiality (appeal)

On appeal, the question was whether the prior service of Judge Mumba, the Presiding Judge, on the United Nations Commission on the Status of Women gave rise to an appearance of bias sufficient to invalidate the judgment.³² The Appeals Chamber's resolution of that question added an important body of doctrine on judicial impartiality in international criminal proceedings.³³

IV. APPLICABLE LAW UNDER IHL AND THE LAW OF ARMED CONFLICT

A closer look at the legal architecture underpinning the charges in *Furundžija* shows how multifaceted its foundation is. The applicable framework draws on a carefully considered synthesis of treaty law and customary international law, anchored in the general principles of law recognised by civilised nations.³⁴

A. Article 3 of the ICTY Statute and the laws or customs of war

The jurisdictional reach of Article 3 of the ICTY Statute is pivotal to the legal framework. It empowers the Tribunal to prosecute persons violating the laws or customs of war, through a list of violations that “shall include, but not be limited to” the acts it enumerates. Outrages upon personal dignity are not among the enumerated acts: they fall within Article 3 through its open-ended reference to international humanitarian law, including common Article 3 of the Geneva Conventions, as the Trial Chamber held, and the Rome Statute now lists them expressly as a war crime.³⁵

³⁰ ICTY Statute, *supra* note 5, art. 7(1).

³¹ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 190–249.

³² *Furundžija* Appeal Judgement, *supra* note 3, ¶¶ 164–215.

³³ *Id.* ¶¶ 177–191.

³⁴ Statute of the International Court of Justice art. 38(1)(c), June 26, 1945, 59 Stat. 1055, 33 U.N.T.S. 993.

³⁵ ICTY Statute, *supra* note 5, art. 3; *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 158, 173; Rome Statute, *supra* note 8, art. 8(2)(c)(ii).

As the Appeals Chamber established in its *Tadić* jurisdiction decision,³⁶ Article 3 is to be read as a residual or “catch-all” provision. It captures those norms of customary international humanitarian law that are not expressly articulated elsewhere in the Statute.³⁷ Applied to the Bungalow interrogations, there was very little room for debate. The conduct fell squarely within Article 3, satisfying both the threshold requirement of an armed conflict and the nexus connecting the acts to the hostilities.³⁸

B. The absolute prohibition of torture: treaty and customary law

The absolute prohibition of torture is anchored in a wide array of instruments, most notably Article 7 of the International Covenant on Civil and Political Rights (ICCPR),³⁹ Article 3 of the European Convention on Human Rights (ECHR),⁴⁰ Articles 1 and 2 of the CAT⁴¹ and common Article 3 of the Geneva Conventions.⁴² What is particularly compelling is the Trial Chamber’s layered method. Having undertaken an exhaustive survey of the international legal landscape, it affirmed that the prohibition has transcended treaty obligation and attained the status of *jus cogens*. In practical terms, the ban on torture is a peremptory norm of general international law, a bedrock principle from which no derogation is permitted, however extreme the circumstances.⁴³

C. Elements of torture under IHL

The Chamber held that torture in an armed conflict requires:

1. the infliction, by act or omission, of severe pain or suffering, whether physical or mental;
2. that the act or omission be intentional;
3. that it aim at obtaining information or a confession, or at punishing, intimidating, humiliating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or a third person;
4. that it be linked to an armed conflict; and

³⁶ *Prosecutor v. Tadić*, Case No. IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 89 (Int’l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995), <https://www.icty.org/x/cases/tadic/acdec/en/51002.htm> (last visited Oct. 5, 2026) [hereinafter *Tadić* Jurisdiction Decision].

³⁷ *Id.* ¶ 91.

³⁸ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 59, 65, 258–259.

³⁹ International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.

⁴⁰ Convention for the Protection of Human Rights and Fundamental Freedoms art. 3, Nov. 4, 1950, E.T.S. No. 5, 213 U.N.T.S. 221.

⁴¹ CAT, *supra* note 24, arts. 1–2.

⁴² Third Geneva Convention, *supra* note 6, art. 3(1)(a).

⁴³ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 143–157.

5. that at least one of the persons involved in the torture process be a public official or act in a non-private capacity.⁴⁴

The Chamber did not insist on a public official in the strict sense: it sufficed that a person involved acted in a non-private capacity, for example as a *de facto* organ of a State or of any other authority-wielding entity.⁴⁵

D. Definition of rape in international criminal law

Before *Furundžija*, the International Criminal Tribunal for Rwanda (ICTR) in *Akayesu*⁴⁶ had adopted an expansive, dignity-based approach, defining rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”. The Trial Chamber in *Furundžija* surveyed national legal systems and found broad agreement that rape requires forced sexual penetration, but a divergence over forced oral penetration; it resolved that divergence by resort to the general principle of respect for human dignity, holding that coercive sexual penetration, whether vaginal, anal or oral, constitutes rape.⁴⁷ This definition set the foundational parameters for later ICTY and ICC jurisprudence.

E. The tenets of aiding and abetting under Article 7(1) of the ICTY Statute

Article 7(1) of the ICTY Statute imposes individual criminal responsibility on any person who “planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution” of a crime within the Tribunal’s jurisdiction.⁴⁸ Drawing on post-Second World War precedents⁴⁹ and common law traditions, the Chamber held that aiding and abetting requires:

1. practical assistance, encouragement or moral support;
2. which has a substantial effect on the perpetration of the crime;
3. with knowledge that the acts assist the commission of the offence.⁵⁰

⁴⁴ *Id.* ¶ 162.

⁴⁵ *Id.*; *Prosecutor v. Delalić*, Case No. IT-96-21-T, Judgement, ¶¶ 459–496 (Int’l Crim. Trib. for the Former Yugoslavia Nov. 16, 1998), <https://www.icty.org/case/mucic/4> (last visited Apr. 18, 2026) [hereinafter *Čelebići Trial Judgement*].

⁴⁶ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement, ¶¶ 597–598 (Int’l Crim. Trib. for Rwanda Sept. 2, 1998), <https://www.unict.org/en/cases/ict-96-4> (last visited Apr. 18, 2026) [hereinafter *Akayesu Trial Judgement*].

⁴⁷ *Furundžija Trial Judgement*, *supra* note 1, ¶¶ 177–185.

⁴⁸ ICTY Statute, *supra* note 5, art. 7(1).

⁴⁹ *Furundžija Trial Judgement*, *supra* note 1, ¶¶ 193–226 (surveying the post-Second World War case law); see also Judgment of the International Military Tribunal, in 1 TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL 171 (1947).

⁵⁰ *Furundžija Trial Judgement*, *supra* note 1, ¶¶ 235, 249.

V. JUDGMENT ANALYSIS: FINDINGS OF THE TRIAL AND APPEALS CHAMBERS

A. Factual findings

The Chamber accepted the testimony of Witness A and Witness D as credible.⁵¹ It found beyond reasonable doubt that Furundžija interrogated Witness A in the large room and in the pantry of the Holiday Cottage; that Accused B subjected her to repeated rapes by oral, vaginal and anal penetration; that Furundžija persisted in his interrogation throughout; and that he knew that crimes, including rape, were being committed.⁵² The crimes were committed in close relation to the armed conflict.⁵³

B. Torture as co-perpetration (Count 13)

On Count 13, Furundžija's interrogation, conducted while Accused B inflicted severe suffering of a sexual nature, satisfied all the elements of torture.⁵⁴ The purposive element was established by the interrogation itself: its aim was to obtain information which the accused believed would benefit the HVO.⁵⁵ The severity element was satisfied by the combined physical and mental suffering.⁵⁶ Furundžija was convicted as a co-perpetrator, and the Chamber held that all co-perpetrators of torture are principals: his interrogation was an integral part of the torture.⁵⁷

C. Rape as aiding and abetting (Count 14)

On Count 14, the Chamber rejected the proposition that forced oral penetration falls outside the definition of rape.⁵⁸ Drawing on a comparative analysis of national legislation, it found that States diverge on whether forced oral penetration is rape or sexual assault, and resolved that divergence through the general principle of respect for human dignity, which requires that so serious a sexual outrage be classified as rape.⁵⁹ Furundžija, present and interrogating throughout, aided and abetted the rape of Witness A: his presence and continued interrogation encouraged Accused B and substantially contributed to the crimes.⁶⁰

⁵¹ *Id.* ¶¶ 108–119.

⁵² *Id.* ¶¶ 120–130, 264, 266.

⁵³ *Id.* ¶ 65.

⁵⁴ *Id.* ¶¶ 264–269.

⁵⁵ *Id.* ¶¶ 265, 267.

⁵⁶ *Id.* ¶¶ 264, 266–267.

⁵⁷ *Id.* ¶¶ 257, 267–269.

⁵⁸ *Id.* ¶¶ 182–185.

⁵⁹ *Id.* ¶¶ 179–183.

⁶⁰ *Id.* ¶¶ 270–275.

D. The *jus cogens* holding

Perhaps the most quoted passage in the judgment is the Chamber's analysis of the normative status of the torture prohibition.⁶¹ After surveying treaty law, customary law and the decisions of international and regional human rights bodies, the Chamber held that "the prohibition of torture imposes upon States obligations *erga omnes*, that is, obligations owed towards all the other members of the international community", and that "[b]ecause of the importance of the values it protects, this principle has evolved into a peremptory norm or *jus cogens*, that is, a norm that enjoys a higher rank in the international hierarchy than treaty law and even 'ordinary' customary rules".⁶² These passages have been widely cited, including by the European Court of Human Rights and the House of Lords, as authoritative confirmation of the *jus cogens* character of the prohibition.⁶³

E. Appeals Chamber findings

The Appeals Chamber dismissed all grounds of appeal.⁶⁴ First, on judicial impartiality, it held that Judge Mumba's prior service with a United Nations body concerned with the status of women would not lead a reasonable observer, properly informed, to apprehend bias.⁶⁵ Second, on the sufficiency of the evidence, it upheld the Trial Chamber's assessment of the credibility and reliability of Witness A.⁶⁶ Third, within the same impartiality ground, it rejected the contention that the Trial Chamber's definition of rape revealed bias: the definition had not been in issue at trial, both the ICTY and the ICTR had already defined the crime, and the Trial Chamber "was entitled to interpret the law as it stood". The Trial Chamber had itself held that classifying forced oral penetration as rape did not offend the principle *nullum crimen sine lege*.⁶⁷

VI. MILITARY-BASED OUTCOMES UNDER INTERNATIONAL HUMANITARIAN LAW

A. The interrogation as a military act

In analysing this chain of events, it is vital to recognise that the Bungalow cannot be dismissed as a chaotic, rogue crime scene. It functioned as an active operational site of a military unit. The

⁶¹ *Id.* ¶¶ 143–157.

⁶² *Id.* ¶¶ 151, 153.

⁶³ *Al-Adsani v. United Kingdom*, App. No. 35763/97, 34 Eur. H.R. Rep. 11, ¶¶ 30, 60–61 (2001), <https://hudoc.echr.coe.int/eng?i=001-59885> (last visited Oct. 5, 2026); *Jones v. Ministry of Interior of the Kingdom of Saudi Arabia* [2006] UKHL 26, [2007] 1 AC 270 [51]–[53] (Lord Hoffmann) (appeal taken from Eng.).

⁶⁴ *Furundžija* Appeal Judgement, *supra* note 3, pt. VIII (Disposition).

⁶⁵ *Id.* ¶¶ 189–215.

⁶⁶ *Id.* ¶¶ 98–123.

⁶⁷ *Id.* ¶¶ 208–212; *see also Furundžija* Trial Judgement, *supra* note 1, ¶ 184.

interrogations conducted there were not random, isolated acts of brutality but were deliberately and calculatedly aimed at extracting military intelligence.⁶⁸

This context matters for the analysis. It situates the acts of torture squarely within the military command structure of the HVO, the armed forces of the Croatian Community of Herzeg-Bosna, and highlights the institutional nature of the abuse, even though, somewhat frustratingly for those parsing the jurisprudence, superiors within that hierarchy were not pursued under the command responsibility provisions of Article 7(3) in this case.⁶⁹

B. Implications for military interrogation doctrine

The Chamber's finding that the use of sexual violence as an instrument of coercive interrogation satisfies the purposive element of torture has profound implications for military law.⁷⁰ It is a monumental legal marker. It forecloses the dangerous proposition that so-called "enhanced interrogation techniques", in particular those predicated on sexual humiliation, could somehow circumvent the definition of torture simply because they were ostensibly deployed to gather intelligence.⁷¹

C. The prohibition of sexual violence as a weapon of war

Furundžija further contributes to the normative enterprise of treating sexual violence as a weapon of war, subject to the full force of international humanitarian law and its related jurisprudence.⁷² The Chamber's treatment of rape as a means of torture, rather than as collateral harm, elevates it to a category attracting the absolute prohibition applicable to torture.⁷³ This departed from earlier practice, which had tended to treat sexual violence as a matter of honour rather than as a primary violation.⁷⁴

D. The nexus requirement under Article 3

The case applies the nexus requirement to charges under Article 3, which the Trial Chamber held applicable whatever the character of the armed conflict.⁷⁵ Following *Tadić*, it suffices that the acts are closely related to the hostilities; they need not be part of a policy officially endorsed or tolerated by a party to the conflict. In *Furundžija*, the link was established because a civilian

⁶⁸ MARCO SASSÒLI, ANTOINE BOUVIER & ANNE QUINTIN, *HOW DOES LAW PROTECT IN WAR?* 266–278 (3d ed. 2011).

⁶⁹ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 2, 130, 189, 262.

⁷⁰ *Id.* ¶¶ 163, 265–267.

⁷¹ *Id.* ¶¶ 162–163.

⁷² Rhonda Copelon, *Surfacing Gender: Re-Engraving Crimes Against Women in Humanitarian Law*, 5 HASTINGS WOMEN'S L.J. 243 (1994).

⁷³ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 163, 171.

⁷⁴ Theodor Meron, *Rape as a Crime Under International Humanitarian Law*, 87 AM. J. INT'L L. 424, 425 (1993).

⁷⁵ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 65, 258.

in the hands of the Jokers was questioned by a commander of that unit who was an active combatant.⁷⁶

What is noteworthy about this comparatively low threshold is that it was by no means an isolated anomaly. It was relied upon and applied consistently in later ICTY proceedings, and a comparable approach can be seen at the International Criminal Court, where the nexus element of war crimes has been treated as satisfied by showing a connection between the conduct and the armed conflict. The *Lubanga* judgment is an example.⁷⁷

E. The question of command responsibility: what *Furundžija* did not decide

Absent from the *Furundžija* judgment is any analysis under Article 7(3), the command responsibility provision of the ICTY Statute.⁷⁸ The Prosecution's reliance on Article 7(1) alone limits the judgment's utility as a precedent for superior responsibility, though other cases, most notably *Čelebići*, decided weeks earlier, and, at the ICC, *Bemba* (whose conviction was reversed on appeal in 2018), addressed that gap.⁷⁹

VII. SIGNIFICANCE FOR ROME STATUTE CORE-CRIME JURISPRUDENCE

A. The Rome Statute framework and the *Furundžija* legacy

The Rome Statute, adopted on 17 July 1998, only months before the *Furundžija* judgment, codified sexual violence as both a crime against humanity and a war crime. Article 7(1)(g) enumerates rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity, and Article 8(2)(b)(xxii) lists the same acts as war crimes.⁸⁰ The Elements of Crimes, adopted in 2002, define rape in terms of an “invasion” of the body resulting in “penetration, however slight”, language that echoes the ICTY jurisprudence, including *Furundžija*.⁸¹

⁷⁶ *Id.* ¶ 65; *Tadić* Trial Judgment, *supra* note 12, ¶ 573.

⁷⁷ *Prosecutor v. Lubanga Dyilo*, Case No. ICC-01/04-01/06-2842, Judgment pursuant to Article 74 of the Statute, ¶ 571 (Mar. 14, 2012), https://www.icc-cpi.int/CourtRecords/CR2012_03942.PDF (last visited Apr. 18, 2026) [hereinafter *Lubanga* Trial Judgment].

⁷⁸ ICTY Statute, *supra* note 5, art. 7(3).

⁷⁹ *Čelebići* Trial Judgement, *supra* note 45, ¶¶ 330–400; *Prosecutor v. Bemba Gombo*, Case No. ICC-01/05-01/08-3343, Judgment pursuant to Article 74 of the Statute, ¶¶ 170–213 (Mar. 21, 2016), https://www.icc-cpi.int/CourtRecords/CR2016_02238.PDF (last visited Apr. 18, 2026) [hereinafter *Bemba* Trial Judgment], *rev'd*, Case No. ICC-01/05-01/08-3636-Red, Judgment on the Appeal of Mr Jean-Pierre Bemba Gombo Against Trial Chamber III's “Judgment pursuant to Article 74 of the Statute” (June 8, 2018), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2018_02984.PDF (last visited Oct. 5, 2026).

⁸⁰ Rome Statute, *supra* note 8, arts. 7(1)(g), 8(2)(b)(xxii).

⁸¹ Elements of Crimes, Int'l Crim. Ct. Doc. ICC-ASP/1/3 (Part II-B) (Sept. 9, 2002), <https://www.icc-cpi.int/resource-library/Documents/ElementsOfCrimesEng.pdf> (last visited Apr. 18, 2026).

B. Aiding and abetting and Article 25(3)(c) of the Rome Statute

Article 25(3)(c) of the Rome Statute provides that a person is criminally responsible if, “[f]or the purpose of facilitating the commission of such a crime”, he or she “aids, abets or otherwise assists in its commission or its attempted commission”.⁸² *Furundžija*’s elaboration of the *actus reus* and *mens rea* of A&A, in particular the substantial effect test,⁸³ has been referenced by the ICC, notably by Trial Chamber I in *Lubanga*, where the Majority relied on it in distinguishing accessory liability from co-perpetration.⁸⁴

C. *Jus cogens* and the ICC’s approach to torture

The *jus cogens* pronouncement in *Furundžija* has proved remarkably enduring. It has become a definitive reference point for affirming the absolute, non-derogable nature of the ban on torture.⁸⁵ The Rome Statute reflects that status, criminalising torture both as a crime against humanity and as a war crime, in international and non-international armed conflicts alike.⁸⁶

D. The consent framework: *Furundžija* and *Kunarac* compared

Tracking the jurisprudential timeline, the *Kunarac* judgments of 2001 and 2002 mark a genuine watershed. They retained *Furundžija*’s penetration-based description of the physical act but replaced its requirement of coercion, force or threat of force with the absence of the victim’s consent, assessed in the context of the surrounding circumstances; the Appeals Chamber added that circumstances such as detention may be so coercive as to negate any possibility of consent. That shift towards a consent-based approach is, in all honesty, far more attuned to the harrowing realities of these violations.⁸⁷ *Furundžija*, while not the final word, was the essential first step.

The ICC’s Elements of Crimes take a related but distinct path. Rather than a prescriptive, mechanical list of physical acts, they define rape by reference to an “invasion” of the body committed by force, threat of force or coercion, by taking advantage of a coercive environment, or against a person incapable of giving genuine consent. This represents a more sophisticated and, above all, a more humane legal understanding of the crime as a whole.

⁸² Rome Statute, *supra* note 8, art. 25(3)(c).

⁸³ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 235, 249.

⁸⁴ *Lubanga* Trial Judgment, *supra* note 77, ¶ 997 & n.2704.

⁸⁵ Schabas, *supra* note 4, at 257.

⁸⁶ Rome Statute, *supra* note 8, arts. 7(1)(f), 8(2)(a)(ii), 8(2)(c)(i).

⁸⁷ *Prosecutor v. Kunarac*, Case No. IT-96-23 & IT-96-23/1-A, Judgement, ¶¶ 127–133 (Int’l Crim. Trib. for the Former Yugoslavia June 12, 2002), <https://www.icty.org/case/kunarac/4> (last visited Apr. 18, 2026) [hereinafter *Kunarac* Appeal Judgement]; cf. Elements of Crimes, *supra* note 81, art. 7(1)(g)-1.

E. Sexual violence in the Rome Statute: structural legacy

Furundžija established that international criminal law was capable of holding individual combatants accountable for sexual violence as a primary crime.⁸⁸ The Rome Statute, adopted in the same year, went further, creating the most comprehensive framework for sexual and gender-based violence in treaty law.⁸⁹ The ICC's prosecution of cases such as *Ongwen*⁹⁰ reflects the jurisprudential inheritance of *Furundžija*, *Akayesu* and *Kunarac*.

VIII. CRITICAL EVALUATION AND LIMITS OF THE JUDGMENT

Furundžija is, on any fair assessment, a landmark judgment. But a landmark can mark a beginning as much as an achievement, and it is worth reflecting, with candour, on what the case left unresolved.⁹¹

What the judgment settled is considerable: the *jus cogens* status of the torture prohibition;⁹² the elements of torture in armed conflict;⁹³ the inclusion of forced oral penetration within rape;⁹⁴ the substantial-effect test for A&A;⁹⁵ and the principle that an interrogator's presence and continued questioning during ongoing abuse can constitute criminal participation.⁹⁶ These are durable contributions, repeatedly applied.

What it left open is equally significant. First, the judgment addresses the relationship between aiding and abetting and joint criminal enterprise only briefly.⁹⁷ *Furundžija* preceded the joint criminal enterprise (JCE) doctrine as the *Tadić* Appeals Chamber developed it in July 1999, although the Trial Chamber did distinguish aiding and abetting from participation in a common design,⁹⁸ and the two frameworks sat in tension in subsequent ICTY proceedings.⁹⁹

Second, the judgment's rape definition was refined within three years by the consent-based approach in *Kunarac*.¹⁰⁰ Third, the Chamber did not address command responsibility under

⁸⁸ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 165–169.

⁸⁹ Valerie Oosterveld, *The Definition of "Gender" in the Rome Statute of the International Criminal Court: A Step Forward or Back for International Criminal Justice?*, 18 HARV. HUM. RTS. J. 55 (2005).

⁹⁰ *Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15-1762-Red, Trial Judgment, ¶¶ 2703–2730 (Feb. 4, 2021), https://www.icc-cpi.int/CourtRecords/CR2021_01026.PDF (last visited Apr. 18, 2026) [hereinafter *Ongwen* Trial Judgment].

⁹¹ Werle & Jessberger, *supra* note 10, at 210–215.

⁹² *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 153–157.

⁹³ *Id.* ¶ 162.

⁹⁴ *Id.* ¶¶ 183–185.

⁹⁵ *Id.* ¶ 249.

⁹⁶ *Id.* ¶¶ 273–274.

⁹⁷ MOHAMED ELEWA BADAR, *THE CONCEPT OF MENS REA IN INTERNATIONAL CRIMINAL LAW: THE CASE FOR A UNIFIED APPROACH* 305 (2013).

⁹⁸ *Tadić* Appeal Judgement, *supra* note 12, ¶¶ 185–229; *cf.* *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 216, 249.

⁹⁹ Badar, *supra* note 97, at 298–310.

¹⁰⁰ *Kunarac* Appeal Judgement, *supra* note 87, ¶¶ 127–133.

Article 7(3).¹⁰¹ That question has been addressed in other proceedings, most notably *Čelebići* and *Bemba*.¹⁰²

IX. CONCLUSION

Prosecutor v. Furundžija is a judgment of enduring and multidimensional significance. At the level of individual accountability, it demonstrated that a mid-level military commander who does not personally commit the sexual violence, but conducts an interrogation in the presence of ongoing sexual violence and derives tactical benefit from it, is criminally liable, as a co-perpetrator of torture and as an aider and abettor of rape.¹⁰³

At the normative level, the Chamber's *jus cogens* finding affirmed that the prohibition of torture is not merely a widely ratified treaty obligation but an absolute, non-derogable norm of general international law.¹⁰⁴ That affirmation remains the judgment's most durable and widely cited contribution; it has featured in decisions of the European Court of Human Rights and of national courts.¹⁰⁵

At the definitional level, the Chamber's engagement with the elements of rape, though subsequently revised in *Kunarac*¹⁰⁶ and refined by the ICC's Elements of Crimes,¹⁰⁷ was the essential first step in a progressive jurisprudential journey. The ICC's elaboration of the sexual crimes enumerated in Articles 7 and 8 of the Rome Statute rests in material part on the doctrinal groundwork laid in cases such as *Akayesu*, *Furundžija* and *Kunarac*. *Furundžija* began one of the most important conversations in the history of international criminal law, and the law is richer for it.¹⁰⁸

X. RELATED ICTY AND ICC CASE LAW

The jurisprudential significance of *Furundžija* cannot be fully appreciated in isolation, without situating it within the broader constellation of ICTY and ICC decisions that preceded and followed it.

A. *Prosecutor v. Tadić* (ICTY, IT-94-1)

No case precedes *Tadić* in importance for the ICTY framework underpinning *Furundžija*. The Appeals Chamber's 1995 jurisdiction decision held that Article 3 covers acts committed in both

¹⁰¹ ICTY Statute, *supra* note 5, art. 7(3); *Čelebići* Trial Judgement, *supra* note 45, ¶¶ 330–400.

¹⁰² *Bemba* Trial Judgment, *supra* note 79, ¶¶ 170–213.

¹⁰³ *Furundžija* Trial Judgement, *supra* note 1, ¶¶ 264–269, 273–275.

¹⁰⁴ *Id.* ¶¶ 153–154.

¹⁰⁵ *Al-Adsani*, *supra* note 63, ¶¶ 60–61; *Jones*, *supra* note 63, [51]–[53].

¹⁰⁶ *Kunarac* Appeal Judgement, *supra* note 87, ¶¶ 127–133.

¹⁰⁷ Elements of Crimes, *supra* note 81, art. 7(1)(g)-1.

¹⁰⁸ Cassese, *supra* note 9, at 120.

international and non-international armed conflicts; the Trial Chamber judgment (7 May 1997)¹⁰⁹ defined the nexus requirement; and the Appeals Chamber judgment (15 July 1999)¹¹⁰ developed joint criminal enterprise as a mode of liability that ran in parallel, and sometimes in tension, with *Furundžija*'s aiding and abetting analysis.

B. *Prosecutor v. Delalić et al. (Čelebići)* (ICTY, IT-96-21)

Decided on 16 November 1998, just weeks before *Furundžija*, the *Čelebići* Trial Chamber judgment¹¹¹ was the first ICTY judgment to address command responsibility under Article 7(3) in depth. It confirmed that superiors may be held responsible for crimes committed by subordinates if they knew or had reason to know of such crimes and failed to take the necessary and reasonable measures to prevent or punish them. Together, *Čelebići* and *Furundžija* map two primary modes of liability for sexual violence in armed conflict: command responsibility and aiding and abetting.

C. *Prosecutor v. Kunarac* (ICTY, IT-96-23)

The *Kunarac* Trial Chamber judgment (22 February 2001)¹¹² and Appeals Chamber judgment (12 June 2002)¹¹³ represent the most significant post-*Furundžija* development in the definition of rape in international criminal law. The Appeals Chamber upheld the Trial Chamber's definition, under which the *actus reus* of rape is sexual penetration, as described in *Furundžija*, occurring without the consent of the victim, and held that the coercive circumstances of the case made consent impossible. This consent-based approach built upon and extended the doctrinal framework that *Furundžija* had established. *Kunarac* also confirmed that rape may constitute a crime against humanity.

D. *Prosecutor v. Kvočka* (ICTY, IT-98-30/1)

The *Kvočka* Trial Chamber judgment of 2 November 2001¹¹⁴ provides a fascinating progression of these principles. The Chamber had to grapple with attributing liability to camp personnel for the sexual violence that pervaded the Omarska detention camp. In doing so, it leaned explicitly on the aiding and abetting analysis crystallised in *Furundžija*.

¹⁰⁹ *Tadić* Trial Judgment, *supra* note 12, ¶¶ 562–573; *Tadić* Jurisdiction Decision, *supra* note 36, ¶ 137.

¹¹⁰ *Tadić* Appeal Judgement, *supra* note 12, ¶¶ 185–229.

¹¹¹ *Čelebići* Trial Judgement, *supra* note 45, ¶¶ 330–400, 459–496.

¹¹² *Prosecutor v. Kunarac*, Case No. IT-96-23-T & IT-96-23/1-T, Judgement, ¶¶ 436–460 (Int'l Crim. Trib. for the Former Yugoslavia Feb. 22, 2001), <https://www.icty.org/case/kunarac/4> (last visited Apr. 18, 2026).

¹¹³ *Kunarac* Appeal Judgement, *supra* note 87, ¶¶ 127–133.

¹¹⁴ *Prosecutor v. Kvočka*, Case No. IT-98-30/1-T, Judgement, ¶¶ 249, 253–257 (Int'l Crim. Trib. for the Former Yugoslavia Nov. 2, 2001), <https://www.icty.org/case/kvočka/4> (last visited Apr. 18, 2026).

What is particularly compelling is the Chamber's conclusion that an individual performing a significant function within a joint criminal enterprise that contributes to sexual violence can incur criminal liability even if he never physically perpetrated the abuse, keeping his own hands clean. This carries the aiding and abetting architecture constructed in *Furundžija* into the often complex, systemic realm of JCE, a vital doctrinal step for capturing the collective nature of these atrocities.

E. *Prosecutor v. Blaškić* (ICTY, IT-95-14)

The *Blaškić* Appeals Chamber judgment (29 July 2004)¹¹⁵ affirmed the *Furundžija* standard for A&A. The Appeals Chamber held that knowledge that one's acts assist the commission of the principal's crime suffices for the *mens rea*, and that the Trial Chamber had erred in requiring more; it also endorsed *Furundžija*'s holding that the aider and abettor need not know the precise crime intended, provided he is aware that one of a number of crimes will probably be committed and one of them is in fact committed. Article 25(3)(c) of the Rome Statute, by contrast, requires that the accessory act "for the purpose of facilitating" the crime.

F. *Prosecutor v. Akayesu* (ICTR, ICTR-96-4)

The *Akayesu* Trial Chamber judgment (2 September 1998),¹¹⁶ rendered by the ICTR some three months before *Furundžija*, was the first international judgment to find that rape could constitute an act of genocide and to provide an expansive, dignity-based definition of rape. The two judgments are frequently read together. *Akayesu* defined rape broadly, without reference to specific body parts; *Furundžija*'s narrower, act-based definition created a productive tension that the ICC's Elements of Crimes subsequently sought to reconcile.

G. *Prosecutor v. Bemba Gombo* (ICC, ICC-01/05-01/08)

The *Bemba* Trial Chamber judgment (21 March 2016)¹¹⁷ was the ICC's most significant engagement with command responsibility under Article 28 of the Rome Statute for sexual violence committed by troops. Jean-Pierre Bemba, commander of the Mouvement de libération du Congo (MLC), was convicted of murder and rape as crimes against humanity and of murder, rape and pillage as war crimes, on the basis of his failure to prevent or repress crimes committed by his soldiers in the Central African Republic. On 8 June 2018 the Appeals Chamber, by majority, reversed the conviction and acquitted him. The Trial Chamber drew on ICTY

¹¹⁵ *Prosecutor v. Blaškić*, Case No. IT-95-14-A, Judgement, ¶¶ 45–50 (Int'l Crim. Trib. for the Former Yugoslavia July 29, 2004), <https://www.icty.org/case/blaskic/4> (last visited Apr. 18, 2026).

¹¹⁶ *Akayesu* Trial Judgement, *supra* note 46, ¶¶ 596–598, 731.

¹¹⁷ *Bemba* Trial Judgment, *supra* note 79, ¶¶ 170–213.

precedents, citing *Furundžija* for the proposition that forced oral penetration can amount to rape.¹¹⁸

H. *Prosecutor v. Ntaganda* (ICC, ICC-01/04-02/06)

The *Ntaganda* Trial Chamber judgment (8 July 2019)¹¹⁹ applied the Court's earlier holding, upheld by the Appeals Chamber in 2017, that members of an armed group may be victims of the war crimes of rape and sexual slavery committed by members of the same group, provided there is a nexus to the armed conflict, and convicted Ntaganda of those crimes against children under the age of fifteen within his own forces. It thereby carried forward the protection of sexual integrity that *Furundžija* and its successors placed at the centre of international humanitarian law.

I. *Prosecutor v. Ongwen* (ICC, ICC-02/04-01/15)

The *Ongwen* Trial Chamber judgment (4 February 2021)¹²⁰ is the most comprehensive ICC decision on sexual and gender-based violence as an instrument of armed group strategy. Dominic Ongwen was convicted of crimes including forced marriage, sexual slavery, rape, forced pregnancy and torture, charges drawing on definitional frameworks developed in *Furundžija*, *Kunarac* and *Akayesu*. The judgment reflects the full maturation of the jurisprudential tradition that *Furundžija* helped to inaugurate in 1998.

J. Summary comparative table: key related cases

Case	Tribunal	Year	Key contribution	Relationship to <i>Furundžija</i>
<i>Tadić</i> (IT-94-1)	ICTY	1997/99	Nexus requirement; JCE liability	Foundational precedent on armed conflict jurisdiction
<i>Čelebići</i> (IT-96-21)	ICTY	1998	Command responsibility, Art. 7(3)	Complements A&A; addresses the Art. 7(3) gap
<i>Kunarac</i> (IT-96-23)	ICTY	2001/02	Consent-based rape definition	Refined and expanded the rape definition
<i>Kvočka</i> (IT-98-30/1)	ICTY	2001	JCE and sexual violence liability	Extended <i>Furundžija</i> A&A into the JCE framework
<i>Blaškić</i> (IT-95-14)	ICTY	2004	A&A mens rea: knowledge suffices	Affirmed the <i>Furundžija</i> A&A standard

¹¹⁸ *Id.* ¶ 101 & n.260.

¹¹⁹ *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06-2359, Judgment, ¶¶ 964–986 & pt. VII (Disposition) (July 8, 2019), https://www.icc-cpi.int/CourtRecords/CR2019_03568.PDF (last visited Apr. 18, 2026).

¹²⁰ *Ongwen* Trial Judgment, *supra* note 90, ¶¶ 2703–2730.

Case	Tribunal	Year	Key contribution	Relationship to <i>Furundžija</i>
<i>Brđanin</i> (IT-99-36)	ICTY	2004/07	Significant contribution in JCE	Applied and extended the A&A/JCE framework
<i>Akayesu</i> (ICTR-96-4)	ICTR	1998	Rape as genocide; expansive definition	Sister judgment; counterpoint on rape definition
<i>Bemba</i> (ICC-01/05-01/08)	ICC	2016 (reversed on appeal 2018)	Command responsibility for sexual violence	Applied ICTY heritage, citing <i>Furundžija</i> on forced oral penetration
<i>Ntaganda</i> (ICC-01/04-02/06)	ICC	2019	Intra-party sexual violence as war crime	Extended war-crime protection against rape to members of the same armed group
<i>Ongwen</i> (ICC-02/04-01/15)	ICC	2021	SGBV as systematic armed group strategy	Embodies the full legacy of the <i>Furundžija</i> rape doctrine

Table 1: Key related cases
