

In search of a Fair Label for Forced Marriage at the International Criminal Court

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Abstract

In early 2021, Dominic Ongwen was found guilty of crimes against humanity through, inter alia, forced marriage. It was the first conviction of forced marriage in the history of the International Criminal Court. In the trial proceedings, it came clear that labelling forced marriage would be challenging. The Defense argued in favor of categorizing this conduct under sexual slavery. On the contrary, the Judges considered forced marriage as an independent conduct that should be prosecuted under the category of other inhumane acts. Taking into account the principle of fair labeling, this article seeks a fair label for forced marriage as an international crime. For this purpose, following the conceptualization of forced marriage, the fair labelling principle is studied. Then, this article analyzes labeling forced marriage as an indistinct crime from pure sexual crimes. As will be discussed, due to the expressive function of the Court, forced marriage should be charged independently to represent separate harms inflicted to its victims.

Keywords: Sexual Crimes; Other Inhumane Acts; Sexual Slavery; Fair Labeling; International Criminal Court.

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