rules,[40] it should be underlined that the Fund is, in its own words, not "a suitable forum" for the discussion of political and military issues.[41] The question, then, is: on what grounds should it tacitly approve discriminatory long-term unilateral security restrictions the legitimacy of which is being fiercely debated?

In all likelihood, this issue will resurface in the pending *Alleged Violations* case,[42] because that dispute was triggered by Executive Order No. 13846,[43] a security restriction that the United States promptly notified to the IMF Executive Board in 2018.[44]

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ICC—sexual and gender-based crimes—forced marriage—forced pregnancy—grounds for excluding criminal responsibility—mental disease or defect—duress—victim perpetrator

PROSECUTOR V. DOMINIC ONGWEN. Judgment on the Appeal of Mr. Ongwen Against the Decision of Trial Chamber IX of 4 February 2021 Entitled "Trial Judgment." *At* https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_07146.PDF.
Judgment on the Appeal of Mr. Dominic Ongwen Against the Decision of Trial Chamber IX of 6 May 2021 Entitled "Sentence." *At* https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_07148.PDF.
International Criminal Court, December 15, 2022.

On December 15, 2022, the Appeals Chamber of the International Criminal Court (ICC) upheld the conviction and sentence of Dominic Ongwen in two separate judgments.[1] The Trial Chamber had convicted Ongwen, a Lord's Resistance Army (LRA) commander, on sixty-two counts of crimes against humanity and war crimes committed in Northern

Partnership (RCEP) and Article 29.3 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

[40] When consistency with the IMF Articles is provided for in a balance-of-payments clause, it might become more difficult to contend that the exception also covers security restrictions not introduced for economic reasons.

[41] IMF Executive Board Decision, *supra* note 31.

[42] Iran would have to demonstrate that U.S. secondary sanctions amount to an "indirect" restriction on the transfer of funds to and from the territory of Iran under Article VII(3) of the Treaty or to a violation of the fair and equitable standard.

[43] Exec. Order No. 13846, Reimposing Certain Sanctions with Respect to Iran, 83 Fed. Reg. 38939 (Aug. 6, 2018).

[44] IMF, Annual Report, *supra* note 33, at 3911.

[1] Prosecutor v. Dominic Ongwen, ICC-02/04-01/15-2022-Red, Judgment on the Appeal of Mr. Ongwen Against the Decision of Trial Chamber IX of 4 February 2021 Entitled "Trial Judgment" (Dec. 15, 2022), *at* https://www.icc-cpi.int/court-record/icc-02/04-01/15-2022-red [hereinafter Appeal Judgment]; Prosecutor v. Dominic Ongwen, ICC-02/04-01/15-2023, Judgment on the Appeal of Mr. Dominic Ongwen Against the Decision of Trial Chamber IX of 6 May 2021 Entitled "Sentence" (Dec. 15, 2022), *at* https://www.icc-cpi.int/court-record/icc-02/04-01/15-2023 [hereinafter Sentencing Appeal Judgment].

Uganda between July 1, 2002 and December 31, 2005.[2] The Trial Chamber sentenced Ongwen to twenty-five years' imprisonment.[3]

Ongwen's trial marked a series of firsts for the ICC. Uganda was the first country to refer a situation to the Court. Ongwen was one of several LRA commanders, including its leader Joseph Kony, for whom the Court issued arrest warrants in 2005 and was the first and, so far, only one to go on trial. The case was novel in that it involved an accused who was also the victim of an international crime, with Ongwen abducted into the LRA as a child. Ongwen's case was the first time an accused raised grounds for excluding criminal responsibility at the ICC, invoking the defenses of mental disease or defect and duress. Unlike previous ICC cases dealing with situations in which sexual and gender-based crimes were prevalent, Ongwen was the first person to be charged with the crimes of forced marriage as an other inhumane act and forced pregnancy.

At trial, Ongwen was convicted of crimes including murder, torture, persecution on political grounds, recruitment and use of child soldiers, rape, sexual slavery, forced marriage, and forced pregnancy.[4] The Defense raised ninety grounds of appeal challenging, *inter alia*, the Trial Chamber's findings on Ongwen's individual criminal responsibility, the interpretation and factual findings concerning certain sexual and gender-based crimes, the entering of cumulative convictions, and findings on grounds for excluding criminal responsibility. Given the number of novel and complex issues at issue, the Appeals Chamber received written and oral observations from nineteen *amici curiae*.[5]

Ultimately, the Appeals Chamber rejected all of the Defense's appeal grounds, unanimously confirming Ongwen's conviction. The Appeals Chamber also rejected the eleven appeal grounds raised in relation to Ongwen's prison sentence and, by majority, confirmed the sentence imposed by the Trial Chamber. Judge Ibáñez Carranza disagreed with the majority on one sentencing appeal ground, asserting that the Trial Chamber had impermissibly double counted the same aggravating factor as enhancing gravity in relation to twenty counts. Judge Ibáñez Carranza would have reversed the sentence and remanded the matter to the Trial Chamber for a new determination, based also, in part, on Ongwen's childhood experience.

* * * *

Sexual and Gender-Based Crimes

The *Ongwen* case was the first time the ICC Prosecutor utilized Article 7(1)(k) of the Rome Statute, which penalizes "[o]ther inhumane acts of a similar character [to the listed crimes against humanity in Article 7] intentionally causing great suffering, or serious injury to body or to mental or physical health," to charge acts of forced marriage. In the *Katanga and Ngudjolo* case, acts involving forced marriage were charged under the crime of sexual

[2] Prosecutor v. Dominic Ongwen, ICC-02/04-01/15-1762-Red, Trial Judgment (Feb. 4, 2021), *at* https://www.icc-cpi.int/court-record/icc-02/04-01/15-1762-red [hereinafter Trial Judgment].

[3] Prosecutor v. Dominic Ongwen, ICC-02/04-01/15-1819-Red, Sentence (May 6, 2021), *at* https://www.icc-cpi.int/court-record/icc-02/04-01/15-1819-red [hereinafter Sentencing Judgment].

[4] Trial Judgment, *supra* note 2, para. 3116.

[5] Appeal Judgment, *supra* note 1, para. 36.

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slavery,[6] but the accused were acquitted of this charge.[7] As such, Ongwen's conviction for forced marriage as an other inhumane act at trial was a notable development in how instances of forced marriage were legally characterized at the Court. On appeal, the Defense argued that forced marriage was, *inter alia*, "jurisdictionally defective" on account of not being a stand-alone crime under the Rome Statute,[8] and that it was subsumed under the crime of sexual slavery.[9]

Significantly, this was also the ICC's first pronouncement on "other inhumane acts" as a crime against humanity. The Appeals Chamber consequently assessed the parameters of the crime, affirming the nature of "other inhumane acts" as a residual category of offenses limited to acts of a similar character and gravity to other crimes against humanity causing great suffering or serious injury. The Appeals Chamber found the crime to be consistent with international human rights law, and therefore not a violation of the *nullum crimen sine lege* principle, affirming jurisprudence of the *ad hoc* tribunals in this regard.[10] The Appeals Chamber then turned to whether forced marriage qualified as an "other inhumane act," concluding that: (1) the central element of forced marriage is the imposition of a conjugal union, not required to be formal in nature, with the resulting deprivation of relational autonomy as well as myriad associated violations being contrary to human rights law; and (2) the harms imposed on the forced marriage victim are similar to, but not fully captured by, other crimes against humanity.[11] This aspect of the *Ongwen* case is significant both in terms of cementing the utility of other inhumane acts as a crime to capture serious conduct not explicitly criminalized under the provisions on crimes against humanity, and for settling the place of forced marriage in ICC jurisprudence, in a manner consistent with the caselaw of the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia.[12]

The ICC is the first international court with jurisdiction to prosecute "forced pregnancy" as an international crime.[13] As such, the Court did not have any jurisprudential precedent on which to rely. The crime of forced pregnancy involves more than causing pregnancy through rape; the Rome Statute requires not only the confinement and forcible impregnation of a woman but also that the perpetrator intended either to affect the ethnic composition of a population or to use the forced impregnation to carry out other grave violations of

[6] Prosecutor v. Katanga & Ngudjolo, ICC-01/04-01/07, Decision on the Confirmation of Charges, paras. 431, 434–35 (Sept. 30, 2008).

[7] Prosecutor v. Katanga, ICC-01/04-01/07, Judgment Pursuant to Article 74 of the Statute, para. 659 (Mar. 7, 2014); Prosecutor v. Ngudjolo, ICC-01/04-02/12, Judgment Pursuant to Article 74 of the Statute, para. 197 (Dec. 18, 2012).

[8] Prosecutor v. Ongwen, ICC-02/04-01/15, Public Redacted Version of "Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021," Filed on 21 July 2021 as ICC-02/04-01/15-1866-Conf, paras. 147–48, 978 (Oct. 19, 2021) [hereinafter Ongwen Appeal Brief].

[9] *Id.*, para. 296; Prosecutor v. Ongwen, ICC-02/04-01/15, Corrected Version of "Defence Response to the *Amici Curiae* Observations," Filed on 17 January 2022 as ICC-02/04-01/15-1950, paras. 96–103 (Jan. 27, 2022).

[10] Appeal Judgment, *supra* note 1, paras. 1018–20.

[11] *Id.*, paras. 1021–24.

[12] *See, e.g.*, Prosecutor v. Brima, Kamara and Kanu, SCSL-04-16-A, Judgment, paras. 198–202 (Feb. 22, 2008); Prosecutor v. Sesay, Kallon and Gbao, SCSL-04-15-A, Judgment, para. 735 (Oct. 26, 2009); Prosecutor v. Khieu Samphân, 002/19-09-2007-ECCC/SC, Appeal Judgment, para. 1171 (Dec. 23, 2022).

[13] Rosemary Grey, *The ICC's First "Forced Pregnancy" Case in Historical Perspective*, 15 J. INT'L CRIM. JUST. 905 (2017).

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international law.[14] The *Ongwen* case therefore pioneered international criminal jurisprudence when convicting a defendant, for the first time, of the crime of forced pregnancy as both a crime against humanity and a war crime.[15]

On appeal, the Defense argued, *inter alia*, that the Trial Chamber failed to consider how its finding that the crime was grounded in the right to personal and reproductive autonomy affected Uganda's abortion laws.[16] The Appeals Chamber upheld that the essence of the crime of forced pregnancy is unlawfully confining the victim such that she cannot choose whether to continue the pregnancy and explained that the purpose of criminalization is to protect a woman's reproductive health and autonomy, as well as the right to family planning.[17] The Appeals Chamber further noted that the wording: "[the definition of forced pregnancy] shall not in any way be interpreted as affecting national laws relating to pregnancy," was specifically inserted to alleviate the concern that the provision might be interpreted as interfering with a state's approach to abortion, thereby dismissing the Defense argument in this regard.[18] These findings are a significant step in international criminal law, as the first conviction for a violation of reproductive capacity, a kind of gender-based violence that had heretofore been largely invisible in practice.[19]

Importantly in terms of recognition of sexual and gender-based crimes, the Appeals Chamber distinguished the crimes of forced marriage, forced pregnancy, rape, and sexual slavery from each other, confirming the distinct legal elements of each crime and the separate interests that they protect.[20] It did so in the context of dismissing Ongwen's claims that his convictions for multiple sexual and gender-based violence offenses were impermissibly cumulative.[21] By recognizing the nuances and distinct components of these crimes, the case sets a strong precedent for sexual and gender-based crimes. However, an issue that was not raised on appeal but bears significance was the Trial Chamber's holding that, where the crimes of enslavement and sexual slavery as crimes against humanity were both proven, a conviction would be entered only for the latter, to avoid cumulative convictions.[22] The Trial Chamber's rationale was that enslavement is entirely encompassed within sexual slavery.[23] Yet, as the *amici* argued, sexual slavery is not a separate form of enslavement. In situations where sexual autonomy and integrity are subjugated to ownership, the crime of enslavement is established.[24] The Trial Chamber's approach in *Ongwen* thereby failed to recognize that sexualized ownership exercised over victims can occur regardless of whether the victims were forced to engage in acts of a sexual nature.[25] For example, enslaved girls were

[14] Rome Statute of the International Criminal Court, Art. 7(2)(f), July 17, 1998.
[15] *Id.*, Arts. 7(1)(g), 8(2)(vi).
[16] Ongwen Appeal Brief, *supra* note 8, para. 962.
[17] Appeal Judgment, *supra* note 1, paras. 41, 1063, 1055.
[18] *Id.*, paras. 41, 1065.
[19] Grey, *supra* note 13, at 906, 926.
[20] Appeal Judgment, *supra* note 1, paras. 41, 1677–83.
[21] *Id.*, para. 1638.
[22] Trial Judgment, *supra* note 2, para. 3051.
[23] *Id.*
[24] Prosecutor v. Dominic Ongwen, ICC-02/04-01/15 A A2, *Amici Curiae* Observations on Sexual- and Gender-Based Crimes, Particularly Sexual Slavery, and on Cumulative Convictions Pursuant to Rule 103 of the Rules of Procedure and Evidence, paras. 2, 17 (Dec. 23, 2021).
[25] *Id.*, para. 11.

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forcibly checked for the onset of menstruation, and enslaved "wives" were controlled through exclusive sexual relationships. Ongwen thus exercised powers of ownership over persons' sexuality, sexual integrity, and sexual and reproductive autonomy, separate from the commission of any act of a sexual nature.[26] The Trial Chamber's approach, as the *amici* pointed out, reinforces a misconception that enslavement primarily involves deprivation of liberty, forced labor, or violence against enslaved persons, and that sexual slavery involves rape-like acts in the course of the enslavement of women and girls.[27] While sexual slavery may have been included as a separate crime in the Rome Statute with good intentions, there is an evolving understanding that all international crimes may be gendered in the manner of their commission.[28] It must be noted in this context that, while the *Ongwen* Trial Chamber underscored the social, ethnic, and religious effects of forced marriage and its serious impact on victims,[29] the gendered harm went unrecognized until acknowledged by the Appeals Chamber.[30] The Trial Chamber also concluded that Ongwen and other LRA leaders had "engaged in a coordinated and methodical effort . . . to abduct women and girls," and force them to perform traditionally women's roles,[31] further demonstrating the gender ground common to the commission of crimes, namely that women were targeted because of their gender, but without addressing it as such.[32] The use of sexual and gender-based crimes to establish political or ethnic persecution in *Ongwen*, though positive, highlights the lack of focus on gender as a discriminatory ground and serves to underline the importance of an intersectional approach to advance the visibility of gender persecution in addition to other more recognized forms of persecution.[33]

The Victim as Perpetrator

Uniquely, Ongwen was in the "situation of a perpetrator who willfully and lucidly brought tremendous suffering upon his victims, but who himself had previously endured grave suffering at the hands of the group of which he later became a prominent member and leader."[34] Though not subject to appeal, the issue of Ongwen's own victimization is significant. Ongwen was abducted by the LRA in 1987 at the age of about nine and remained in the group up to and including the period relevant to the charges in 2005.[35] The Trial Chamber considered that the extreme gravity of Ongwen's crimes justified a sentence of

[26] *Id.*, paras. 18–19.

[27] *Id.*, para. 20.

[28] Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Conflict-Related Sexual Violence Symposium: Conversations Under the Rome Statute–Enslavement and Sexual Slavery*, OPINIO JURIS (June 11, 2021), *at* http://opiniojuris.org/2021/06/11/conflict-related-sexual-violence-symposium-conversations-under-the-rome-statute-enslavement-and-sexual-slavery.

[29] Trial Judgment, *supra* note 2, para. 2748.

[30] Appeal Judgment, *supra* note 1, paras. 15, 1024.

[31] Trial Judgment, *supra* note 2, paras. 212, 213–21.

[32] Alexandra Lily Kather & Amal Nassar, *The* Ongwen *Case: A Prism Glass for the Concurrent Commission of Gender-Based Crimes*, VOELKERRECHTSBLOG (Mar. 15, 2021), *at* https://voelkerrechtsblog.org/de/the-ongwen-case-a-prism-glass-for-the-concurrent-commission-of-gender-based-crimes.

[33] Marina Kumskova, *Invisible Crime Against Humanity of Gender Persecution: Taking a Feminist Lens to the ICC's* Ntaganda *and* Ongwen *Cases*, 57 TEX. INT'L L.J. 240, 241 (2022).

[34] Sentencing Judgment, *supra* note 3, para. 388.

[35] Trial Judgment, *supra* note 2, paras. 27–31, 1013–83.

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life imprisonment, but that his early "socialisation in the extremely violent environment of the LRA" could not be disregarded when determining his sentence.[36] Ultimately, the Trial Chamber held that life imprisonment would be excessive in the circumstances and sentenced Ongwen to twenty-five years.[37] The case breaks new ground in international criminal justice by finding that Ongwen's experience as a child soldier justified a reduction in his sentence even though it was found not to have resulted in a mental disease or disorder or to have had any lasting consequences from that perspective.[38] Strikingly, the Trial Chamber noted that many others victimized in a similar way to Ongwen by the LRA did not go on to commit crimes and that Ongwen had made his own choices in this regard.[39] Prior jurisprudence from the ICC in the *Katanga* case and the Special Court for Sierra Leone found that a convicted person's personal experience was not considered as mitigating where they otherwise had the ability to make different choices regarding the criminality of which they were part.[40] The Trial Chamber did not provide any basis for differentiating Ongwen's situation from such cases.[41] The Trial Chamber's approach may be justifiable by resort to consideration of the "individual circumstances" of a convicted person under Article 78(1) of the Rome Statute, but it did not specify whether the reason for viewing Ongwen's own victimization as mitigation was the fact that it occurred or a belief that it was at least partially a cause of his criminality, or both.[42] Because the issue was not appealed, no greater clarity was provided. Nonetheless, Judge Ibáñez Carranza stated in her partial sentencing dissent that not enough attention was paid to Ongwen's upbringing and the long-lasting impact this had on his personality and the development of his brain and moral values.[43] Judge Ibáñez Carranza claimed that these circumstances merited "significant weight in mitigation."[44] Looking forward, the development and certainty of the law around sentencing would certainly be aided by Chambers providing greater precision as to the basis for any finding of mitigation.[45]

Defenses to Individual Criminal Responsibility

While Ongwen's victimization was treated as a mitigating factor for sentencing purposes, it was not accepted as a defense to the charges against him. The *Ongwen* case was the first time that Article 31(1)(a) of the Rome Statute, the defense of mental disease or defect as a ground for the exclusion of criminal liability, was examined. This defense raises unique challenges in international criminal law because the absence of any direct precedent makes it a largely unexplored legal issue.[46] Mental disease or defect may serve as a substantive defense where, at the

[36] Sentencing Judgment, *supra* note 3, paras. 386, 388.
[37] *Id.*, paras. 388, 392.
[38] *Id.*, para. 83.
[39] *Id.*, paras. 85–86.
[40] John Cubbon, *Mitigation of Dominic Ongwen's Sentence: Gaps in the Justification*, EJIL: *Talk!* (Jan. 5, 2023), *at* https://www.ejiltalk.org/mitigation-of-dominic-ongwens-sentence-gaps-in-the-justification.
[41] *Id.*
[42] *Id.*
[43] Sentencing Appeal Judgment, *supra* note 1, Partly Dissenting Opinion of Judge Luz del Carmen Ibáñez Carranza, para. 196.
[44] *Id.*
[45] Cubbon, *supra* note 40.
[46] Pascale Chifflet & Ian Freckelton, *The Mental Incapacity Defence in International Criminal Law: Ramifications from the* Ongwen *Trial Judgment*, 22 Int'l Crim. L. Rev. 751, 760 (2022).

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time of the accused's conduct, the mental disease or defect effectively destroyed their capacity to appreciate the unlawfulness or nature of their conduct, or the capacity to control their conduct to conform to the requirements of the law. The issue of Ongwen's mental capacity was a central feature throughout the proceedings. Given the time between the conduct charged and the trial, as well as the lack of contemporaneous records, the assessment of Ongwen's mental capacity was necessarily retrospective, a difficult analytical exercise with conflicting evidence from mental health experts before the Court.[47] The Trial Chamber did not appoint its own expert for the purpose of determining Ongwen's mental incapacity claim, but found that the Defense experts had not meaningfully engaged with the complexities of determining Ongwen's mental health at the time of the relevant offenses.[48] This requirement is likely to be difficult to meet in any claim of mental incapacity before the ICC, where alleged crimes typically involve numerous offenses committed over a long period of time by individuals in positions of leadership.[49]

Although the *Ongwen* case offered an important opportunity to delineate the legal parameters of the mental incapacity defense, it mostly failed to do so. In particular, the Trial Chamber did not explain the criteria for finding destruction, as opposed to impairment, of an accused's capacities. This is significant, as the kernel issue for any defense is the relevant threshold to satisfy its invocation. Consequently, questions such as whether it is possible to relate alleged disorders forensically to particular crimes committed by a person, or whether and how incapacity may coexist with functionality over time remain unaddressed.[50] The Trial Chamber did, however, emphasize the role of the court as the ultimate fact-finder with respect to mental incapacity, expressly drawing inferences as to Ongwen's mental capacity at the relevant time from the evidence of witnesses including Ongwen's "wives" and fellow LRA soldiers.[51] The Appeals Chamber provided no further clarity on the issue, acknowledging that while Ongwen could not control the negative environment of the LRA in which he lived as an adolescent, such evidence was "not exculpatory of his criminal responsibility for the crimes he was found to have committed as an adult."[52] While some support the view that Ongwen's tragic victimhood could only ever have amounted to mitigation, rather than a full defense against culpability,[53] others have contrasted the judges' depiction of Ongwen as an adult perpetrator with an unaffected exercise of agency and free will to make choices to how the *Lubanga* case at the ICC discussed, with regard to witnesses, the significant and lasting mental impact on children who were forced to become soldiers.[54]

The other defense raised by Ongwen, which the ICC was also addressing for the first time, was that of duress under Article 31(1)(d) of the Rome Statute. Here, the Ongwen Defense

[47] *Id.* at 758, 762.

[48] Trial Judgment, *supra* note 2, paras. 2570–73.

[49] Chifflet & Freckelton, *supra* note 46, at 777.

[50] *Id.* at 770.

[51] Lee Hiromoto & Landy F. Sparr, Ongwen *and Mental Health Defenses at the International Criminal Court*, 51 J. Am. Acad. Psych. & L. 61, 65 (2023).

[52] Appeal Judgment, *supra* note 1, para. 1377.

[53] Paul Bradfield, *The Moral and Legal Correctness of Dominic Ongwen's Conviction*, Justice in Conflict (Feb. 10, 2021), *at* https://justiceinconflict.org/2021/02/10/the-moral-and-legal-correctness-of-dominic-ongwens-conviction.

[54] Mark A. Drumbl, *"Getting" an Unforgettable Gettable: The Trial of Dominic Ongwen*, Justice in Conflict (Feb. 5, 2021), *at* https://justiceinconflict.org/2021/02/05/getting-an-unforgettable-gettable-the-trial-of-dominic-ongwen.

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claimed, *inter alia*, that Joseph Kony had control over Ongwen and disobedience would be punished by death, with Kony's spiritual powers such as mind reading and predicting the future creating an immediacy to the threat.[55] The Defense also asserted that Ongwen's combined mental illness and the duress he faced should exclude him from responsibility.[56] The Trial Chamber denied that Ongwen had faced an immediate threat of death or serious bodily harm, citing, *inter alia*, evidence of LRA commanders, including Ongwen, defying Kony, and noting that Ongwen had once attempted to escape before subsequently being promoted.[57] Significantly, as regards defenses before the ICC, the Trial Chamber declared that claims of mental disease or defect and duress are contradictory—the former requiring a lack of capacity and the latter necessitating capacity to make decisions.[58] The Appeals Chamber upheld the Trial Chamber's findings, including that experienced LRA commanders generally did not believe in Kony's powers and that LRA spirituality did not contribute to any threat relevant to the question of duress,[59] prompting some to argue that the Court had not properly approached the cultural and spiritual aspects relevant to this issue.[60]

In sum, the *Ongwen* case demonstrates how far the ICC has progressed in relation to sexual and gender-based violence and should stand as a strong precedent on forced marriage and forced pregnancy. Nonetheless, there remains a great deal of work to be done in this regard. Additionally, Ongwen's invocation of grounds for excluding responsibility, particularly given his own victimhood, have served to chalk a faint outline on mental disease or defect and duress, as defenses in international criminal law.

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Court of Justice of the European Union—secondary sanctions—jurisdiction under the rule of international law—United States—European Union—freedom to conduct business

Bank Melli Iran v. Telekom Deutschland GmbH. C-124/20. *At* https://curia.europa.eu/juris/liste.jsf?num=C-124/20.
Court of Justice of the European Union (Grand Chamber), December 21, 2020.

On December 21, 2020, the Court of Justice of the European Union (CJEU), delivered its first judgment in *Bank Melli Iran v. Telekom Deutschland* (Ruling).[1] The Ruling focused on the interpretation and application of Council Regulation (EC) No. 2271/96 of November

[55] Prosecutor v. Dominic Ongwen, ICC-02/04-01/15, Public Redacted Version of "Corrected Version of 'Defence Closing Brief,' Filed on 24 February 2020," paras. 681–91(Mar. 13, 2020).
[56] *Id.*, para. 730.
[57] Trial Judgment, *supra* note 2, paras. 2590–665.
[58] *Id.*, para. 2671.
[59] Appeal Judgment, *supra* note 1, paras. 1423–1425, 1555–61.
[60] Sigurd D'hondt, Juan-Pablo Peréz-León-Acevedo, Fabio Ferraz-de-Almeida & Elena Barrett, *Spirituality and Duress: Local Culture Beliefs at the International Criminal Court*, Opinio Juris (Feb. 15, 2022), *at* http://opiniojuris.org/2022/02/15/spirituality-and-duress-local-culture-beliefs-at-the-international-criminal-court.
[1] Bank Melli Iran v. Telekom Deutschland, C-124/20, ECLI:EU:C:2021:1035, Judgment (Ct. Just. EU Dec. 21, 2020).