



10 August 1999

Original: English

**Preparatory Commission for the
International Criminal Court**
Working Group on Elements of Crimes
New York
16–26 February 1999
26 July–13 August 1999
29 November–17 December 1999

Discussion paper proposed by the Coordinator

Article 8, paragraph 2 (b) (xxii)

Article 8 (2) (b) (xxii)-1: War crime of rape

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused invaded¹ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
3. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.²

Article 8 (2) (b) (xxii)-2: War crime of sexual slavery

1. The conduct took place in the context of and was associated with an international armed conflict.

¹ The concept of “invasion” is intended to be broad enough to be gender-neutral.

² It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

2. The accused exercised a power attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
3. The accused caused such person or persons to engage in one or more acts of a sexual nature.

Article 8 (2) (b) (xxii)-3: War crime of enforced prostitution

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.³
3. The accused or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.

Article 8 (2) (b) (xxii)-4: War crime of forced pregnancy

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused confined one or more women.
3. Such woman or women had been forcibly made pregnant.
4. The accused intended to keep the woman or women pregnant in order to affect the ethnic composition of a population or to carry out another grave violation of international law.

Article 8 (2) (b) (xxii)-5: War crime of enforced sterilization

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused deprived one or more persons of biological reproductive capacity.⁴
3. The conduct neither was justified by the medical or hospital treatment of the person or persons concerned nor was carried out with their genuine consent.⁵

Article 8 (2) (b) (xxii)-6: War crime of sexual violence

1. The conduct took place in the context of and was associated with an international armed conflict.

³ Ibid.

⁴ The deprivation is not intended to include birth-control measures.

⁵ It is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

2. The accused committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.⁶
 3. The conduct was of a gravity comparable to that of a grave breach of the Geneva Conventions.
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⁶ Ibid.