

ANNEX B2

PUBLIC

Women's Caucus for Gender Justice in the International Criminal Court

Briefing Paper on Enforced Pregnancy

Difference between “enforced pregnancy” in the draft statute of the ICC and “forcible impregnation:”

Forcible impregnation does not capture all the elements of enforced pregnancy. Forcible impregnation involves *making* a woman pregnant through rape, insemination or other means, whereas enforced pregnancy involves *keeping* a woman pregnant.

Enforced pregnancy is the exercise of control, such as physical confinement, over a pregnant woman ensuring the continuance of pregnancy or the bearing of children against her will. The pregnancy is often, but not always, a result of rape.

Examples of “enforced pregnancy” include:

- In Bosnia-Herzegovina, Bosnian-Serb soldiers detained and raped Bosnian-Muslim women until the women became pregnant and, thereafter, held the women in detention camps to force them to carry the fetus to term in order to make “Serb” babies.
- In World War II, the Nazis artificially inseminated Jewish women in concentration camps, exercised control over the women to maintain their pregnancies, decided when to terminate the pregnancies, and used the embryos in scientific experiments.
- During the African-American slavery era, enslaved women were kept under surveillance and forced to bear children for sale or to ensure the reproduction of enslaved workers. The pregnancies were not necessarily the result of rape.

“Forced Pregnancy” is the term used by the international community:

“[T]he World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life...Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular, murder, systematic rape, sexual slavery and forced pregnancy, require a particularly effective response.”

The Vienna Declaration and Programme of Action (1993), Part II, para. 38.

“Other acts of violence against women include violation of the human rights of women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy.”

Beijing Platform of Action, para. 114. See also paras. 132 and 135.

The Commission on Human Rights condemns “all violations of the human rights of women in situations of armed conflict, recognizes them to be violations of international human rights and humanitarian law and calls for a particularly effective response to violations of this kind, including in particular murder, systematic rape, sexual slavery and forced pregnancy.”

Commission on Human Rights, Resolution: “The Elimination of Violence Against Women.” E/CN.4/1997/44