Contents

	ble of Cases	xix
	ble of Legislation	xxxiii
	et of Abbreviations et of Contributors	xxxvii xli
	to the Reader	xliii
140	te to the Retuel	XIIII
90	Policies and Strategies on Sexual Violences University security	
1.		H 209
	Sexual Violence Crimes Michelle Jarvis	1
	A. Introduction: The Importance of Reflection	1
	B. Seeing the Prosecution of Conflict-related Sexual Violence as Core Prosecution Work	
	C. Having Courage to Pursue 'Risky' Cases Involving Gender Issues	5 9
	D. Situating Sexual Violence in the Gender Framework	10
	E. A Note about Terminology	17
	F. The Structure of this Book	17
	Victim Evidence sive Source sive Source size of the	,g 301
2.	International Concern Regarding Conflict-related Sexual Violence in	
	the Lead-up to the ICTY's Establishment	19
	Grace Harbour	
	A. Introduction	19
	B. International Concern Develops over Sexual Violence	
	in the Former Yugoslavia	20
	C. The Commission of Experts' Work in Documenting Sexual Violence	
	Prior to the ICTY's Establishment	24
	D. The Influence of Concern over Sexual Violence in the Creation	
	of the ICTY	26
	E. Conclusions	31
3.	. Challenges to Successful Outcomes in Sexual Violence Cases	33
	Michelle Jarvis and Kate Vigneswaran	
	A. Introduction	33
	B. Misconceptions about Sexual Violence that Can	
	Impede Accountability	34
	C. Other Barriers to Successful Sexual Violence Prosecutions	42
	D. The Impact of Prosecutorial Discretion throughout the Process	45
	E. Conclusions and Fundamental Insights for the Future	68
4	Policies and Institutional Strategies for Successful Sexual	
10	Violence Prosecutions	
	Michelle Jarvis and Najwa Nabti	
	A. Introduction	
	the state of the s	, ,

xvi Contents

	В.	Using Gender Focal Points and other Dedicated Mechanisms	
		for Focusing Attention on Sexual Violence Crimes	74
	C.	Developing a Comprehensive Written Policy for Sexual	
		Violence Crimes	79
	D.	Addressing Gender Bias within the OTP	80
		Developing an Effective Investigation Strategy for Sexual	
		Violence Crimes	82
	F.	Developing Effective Legal Strategies for Prosecuting Sexual	
	lely	Violence Crimes	90
	G	Ensuring Effective Dissemination and Implementation of OTP	of stoly
	1	Policies and Strategies on Sexual Violence Crimes	96
	Н	Identifying Gaps in the OTP's Policies and Strategies on Sexual	um fer-
	11.	Violence Crimes	98
	I.	Maintaining Focus on Sexual Violence Crimes over Time	103
	J.	The Impact of External Scrutiny of the OTP's Work on Sexual	103
).	Violence Crimes	104
	V		
	Λ.	Conclusions and Fundamental Insights for the Future	105
5	Pr	oving Crimes of Sexual Violence	111
٥.		iya Gopalan, Daniela Kravetz, and Aditya Menon	is wise
		Activities and the second of t	111
		The Structure of this Book	111
		Victim Evidence	112
		Other Forms of Evidence	150
		Protective Measures Manufallds and a VTDI add of quebasks	158
	E.	Conclusions and Fundamental Insights for the Future	167
6	Co	ontextualizing Sexual Violence: Selection of Crimes	172
0.		urel Baig, Michelle Jarvis, Elena Martin Salgado, and Giulia Pinzauti	1/2
		THE COUNTY I THE SHARE IN	
		Introduction was guilles and an individual state of Experis World in Documenting Says not an individual state of the Commission of Experis World in Documenting Says and an individual state of the Commission of	172
	В.	Connecting Sexual Violence to the Context through the	
		Selection of Crimes Charged	174
	C.	Big Picture Contextualizing: The Contextual Elements of	
		War Crimes and Crimes against Humanity	177
	D.	Contextualizing Sexual Violence to Fully and Accurately Reflect	
		its Characteristics: Torture and Enslavement	
	E.	Contextualizing Sexual Violence to Connect It to	
		a Broader Campaign of Crimes with a Strategic Purpose:	
		Persecution and Genocide	198
	F.	Conclusions and Fundamental Insights for the Future	216
		Other Barriers to Successful Sexual Violence Prosecutions	
7.		ontextualizing Sexual Violence and Linking it to Senior	
		ficials: Modes of Liability	220
	Ва	rbara Goy, Michelle Jarvis, and Giulia Pinzauti	
	A.	Introduction learned to Successful Security Interference and Introduction	220
	B.	Prosecuting Sexual Violence through JCE	221
		Prosecuting Sexual Violence through Planning, Ordering,	
		and Instigating	231
	D.	Prosecuting Sexual Violence through Aiding and Abetting	236
		Omission Liability for Sexual Violence	240

Contents	xvii
	25 7 43

		Proving the Foreseeability of Sexual Violence The Importance of Cumulative and Alternative Charging and of Advocating for Findings on Alternative Modes of Lightlity in	245
		of Advocating for Findings on Alternative Modes of Liability in Sexual Violence Cases	256
	H.	Conclusions and Fundamental Insights for the Future	258
8.		ntencing for Sexual Violence Crimes urel Baig	262
	A.	Introduction deliberation delib	262
	B.	Procedure as an Obstacle to Effective Sentencing Advocacy	263
		A Snapshot of Sexual Violence Sentences at ICTY	266
		Crafting a Prosecution Sentencing Recommendation	269
		Restitution and Compensation for Victims	289
		Execution of Sentences and Early Release	291
	G.	Conclusions and Fundamental Insights for the Future	296
9.		e Picture of Sexual Violence in the Former Yugoslavia Conflicts Reflected in ICTY Judgments	299
		eeda Verrall	
	A.	Introduction	299
	B.	Situating Sexual Violence as Part of the Conflicts	
		in the Former Yugoslavia	301
	C.	Characteristics of Sexual Violence as Reflected in ICTY Judgments	302
		Missing Pieces of the Picture?	320
		A Systematic Policy of Sexual Violence?	330
	F.	Conclusions and Fundamental Insights for the Future	333
10.	Us	ing the OTP's Experience with Sexual Violence Prosecutions as	
		pringboard for Building National Capacity	335
	Ser	ge Brammertz, Michelle Jarvis, and Lada Šoljan	
	A.	Introduction	335
	B.	A Snapshot of the Challenges Encountered in National Sexual	
		Violence Prosecutions	336
	C.	The OTP's Involvement in Building National Capacity for Sexual	
		Violence Prosecutions in the Former Yugoslavia	340
	D.	Other ICTY Developments Promoting Improved National	
		Capacity for Sexual Violence Prosecutions	367
	E.	The OTP's Role in Global Capacity Building for Conflict-related	
	P	Sexual Violence Prosecutions	372
	F.	Conclusions and Fundamental Insights for the Future	374
11.		nclusions: Situating the OTP's Experience in a Broader	
		obal Context	379
		ge Brammertz and Michelle Jarvis	
		Introduction	379
	В.	The Intersection between Prosecuting and Preventing Conflict-related	
		Sexual Violence and other Gender-related Harm	379
	C.	The Intersection between Prosecuting and Documenting	
		Conflict-related Sexual Violence and other Gender-related Harm	382

xviii Contents

the	te Intersection between Prosecuting Sexual Violence Crimes at e National and International Levels around the World and Word	384
Annex A:	The Picture of Sexual Violence in the Former Yugoslavia Conflicts as Reflected in ICTY Cases Najwa Nabti and Saeeda Verrall	387
	A. Introduction B. ICTY Findings on Sexual Violence Incidents	388
Annex B:	Charges and Outcomes in ICTY Cases Involving Sexual Violence Kate Vigneswaran	429
Index		483