

Gender violence On the Margins of War Politics

Manu Tripurari Roy*

Abstract

“The greatest pleasure in life is to defeat your enemies, to chase them before you, to rob them of their wealth, to see those dear to them bathed in tears, to ride their horses, and to ravage their wives and daughters”

- *Genghis Khan*

Gender violence as a weapon is one of the most violent and humiliating offences inflicted on the enemy. The brutalization of rape permanently scars victim's mind, soul and body. Rape acts as reminder to both the victim as well as the community during and posts their lives. Such violence is although not the prime objective of the conflict but always finds a presence. Rape has been fore longed used as a weapon of war because of its far reaching implications on the victims by the combating groups; that is persistent even in peace or aftermath of the war, irrespective that other violence withers away. Resultant aspect is the objectification of women depriving her of dignity & other rights.

The paper attempts to understand certain key issues as why there is a tendency in certain states to use rape as a weapon of war and to find out as to *what are the on-going effects of stigmatizing, victims including the effects on: marriages, children, families and communities entailing the inequality and gender discrimination women faced in the times of war, including social exclusion, and how this symbolic form of violence affects that marginalization for the future of women and in times of peace.* The researcher also wishes to suggest amicable solutions possible.

*VIIIth Semester, B.A.LL.B.(H), Institute of Law, Nirma University, Ahmedabad

Introduction

“Rape, as with all terror-warfare, is not exclusively an attack on the body- it is an attack on the ‘body-politic’. Its goal is not to maim or kill one person but to control an entire socio-political process by crippling it. It is an attack directed equally against personal identity and cultural integrity” (Nordstrom 1991)

The use of Gender violence as a weapon is one of the most violent and humiliating offences inflicted on the enemy. The brutalization of rape permanently scars victim’s mind as well as body. Rape is often seen as a predecessor to murder, where the survivor is forced to the painful reminders of the trauma given to live with. Such violence is not the prime objective of the conflict but is always seen during wars.

Rape leaves a permanent reminder of war and of the enemy through the birth of a child, which places both the mother and child in continual victimization and isolation. Rape as a weapon of war affects not only the rape victim, but their entire family, village and community. While rape as a weapon of war continues today, many of the psychological effects have yet to be felt in many communities around the globe.¹

The conflicts not only comprise of weapons like bombs & guns but something more severe. The troops use the most important; their manhood as a weapon to cause an ever lasting impact on the enemy, including even the generations yet to come. The curse of rape as a weapon, affects not only the individual lives of the victims, but the entire family and community in which they live. Leaving their marks on the entire country’s civil society, this in turn affects our globalized world.

High levels of sexual violence during times of war and conflict is a common phenomenon all over the world. In Africa, the Great Lakes region, Sierra Leone, Somalia and Darfur all bear *the scars of episodes of rampant politically motivated sexual violence*, which have numerous effects on societies that ripple outwards from its female victims to their families and communities.²

¹ CASSANDRA CLIFFORD, *RAPE AS A WEAPON OF WAR AND IT’S LONG-TERM EFFECTS ON VICTIMS AND SOCIETY*, 7TH GLOBAL CONFERENCE, VIOLENCE & CONTEXT OF HOSTILITY (2008)

² GOLDSTEIN, J. S. 2003. *WAR AND GENDER: HOW GENDER SHAPES THE WAR SYSTEM AND VICE VERSA*. UK: CAMBRIDGE UNIVERSITY PRESS, PP. 363-365

The use of gender violence and rape as a tool used to debase communities was accepted by the United Nations (UN) as a 'security challenge' when UN Resolution 1820 was adopted in 2008. *Political rape continues to be used to intimidate political opponents and reach certain political goals.* In several countries, especially the African countries like Zimbabwe and Democratic Republic of Congo, the rape of female opposition party supporters and their families has proven to be terrifyingly effective in spreading terror and fear.³

The situation in Zimbabwe, DRC, Bosnia, Rwanda, etc. may not be primarily characterised by ethnic tensions, yet the use of rape to achieve political goals is equally utilised in other African states characterised by ethnic conflict. Rape has become another highly effective means through which a dictator can get rid not only of individuals, but of communities who support political change and development.

Although numerous documents exist (for example, UN Resolution 1835 and UN Resolution 1820) that declare systematic rape a crime against humanity, little action has been directed against the perpetrators of such violence. It is unlikely that the attacks against women will decrease, until the country's political and economic situation stabilises.⁴ Gender violence during war/conflicts has become a great threat to humanity and dignity of an individual. It requires just intervention, for the cries of the victims will go in vain. This problem has been tangential for such a long period and requires international attention along with effective undertake.

Changing Face of War

Since time immemorial, the world has witnessed conflict in one or the other form. With the passage of time the nature of war has also changed in itself. From *old war, where only the military or armed forces used to fight it has transformed into new war, where civil wars, terrorism, insurgency have become the new moods of war.* Old war took place for territory whereas new war is primarily based on identity, its preservation and presence.

³ CLAUDIA FORSTER, CHARLOTTE SUTHERLAND: *SEXUAL VIOLENCE AS A WEAPON OF WAR: POLITICAL RAPE AND THE ZIMBABWEAN CRISIS*, AVAILABLE ONLINE: http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=382:sexual-violence-as-a-weapon-of-war-political-rape-and-the-zimbabwean-crisis&catid=59:gender-issues-discussion-papers&Itemid=267

⁴ *Id.*

The funding of old wars was from Nation states but that of new war is from different ethnic & religious groups and organisations. Globalisation is one of the major factors responsible for this transformation. After 9/11 global terrorism has emerged as a new war.

Today most countries are fighting with terrorism based on religion. This is more of clash of civilizations than clash of countries or any ideologies. The growing body of data from the wars of the last decade is finally bringing to light is one of history's great silences: the sexual violation and torture of civilian women and girls during periods of armed conflict. Until recently, the evidence along with the issue had been generally ignored by historians, politicians and the world at large, yet it is hardly new, dating back to Ancient Greek, Roman, and Hebrew wars. *Women have always been subjected to violence by the forces of the victorious party so as to humiliate and exploit the losing state and its people.* Both old and the new war have witnessed gender violence but it has been given proper recognition in the new war as it lacks legitimacy.⁵

What is especially disturbing, however, about the statistics from the past ten years is how widespread the phenomenon appears to have become. It might be argued that the current data simply reflect greater international attention to the issue provoked in part by the media coverage of the sexual atrocities committed during the conflicts in the former Yugoslavia and Rwanda, and even more importantly by the decades of intensive awareness-raising by women's activists around the world rather than a significant rise in absolute numbers of victims.⁶ A more likely explanation, however, is that *the nature of warfare is changing, in ways that increasingly endanger women and girls.*

Since the latter half of the last century, combat primarily limited to military engagements between national armies has been largely supplanted by civil wars and regional conflicts that pit communities along racial, religious and/or ethnic lines. The result is that civilian populations are victimized on a massive scale.

Between 1989 and 1997, an estimated 103 armed conflicts were launched in 69 countries across the world.⁷ Civilian casualties during these more recent conflicts are estimated to be as

⁵ AVAILABLE ONLINE: <http://news.bbc.co.uk/>

⁶ SEXUAL VIOLENCE IN TIMES OF WAR, AVAILABLE ONLINE: http://www.irinnews.org/pdf/bb/13irin_duo-gbv-war.pdf

⁷ JEANNE WARD, MENDY MARSH: *SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS IN WAR AND ITS AFTERMATH: REALITIES, RESPONSES, AND REQUIRED* (2006), AVAILABLE ONLINE: <https://www.unfpa.org/emergencies/symposium06/docs/finalbrusselsbriefingpaper.pdf>

high as 75 percent, a stunning contrast to the 5 percent estimates from the start of the last century.⁸

The motivation for rape committed during armed conflict varies. The violence can be more or less random a by-product of the collapse in social and moral order that accompanies war. In DRC, rape has become as indiscriminate as to be referred to as murderous madness. Although overall more men than women continue to die as a result of conflict, women and girls suffer myriad debilitating consequences of war.⁹

So much so, according to a 2002 report of the Secretary-General of the United Nations, that women and children are disproportionately targets and constitute the majority of all victims of contemporary armed conflicts.¹⁰

Such incidents are not only limited to combatants. Men from the local community may exploit the chaos of conflict to commit sexual violence against women without fear of punishment. Under the volatile and disorganized rule of the Mujahedeen, for instance, rape and sexual assault in Afghanistan's capital city of Kabul were reportedly so commonplace that the oppressive police state established after the Taliban takeover in 1996 was initially perceived by some women as a welcome reprieve.¹¹

Sexual violence may also be systematic, carried out by fighting forces for the explicit purpose of destabilizing populations and destroying bonds within communities and families. In these instances, rape is often a public act, aimed to maximize humiliation and shame. In Timor Leste, Indonesian military reportedly raped women in front of their families, and forced Timorese men to rape Timorese women. Sexual violence also can serve to quell resistance by instilling fear in local communities or in opposing armed groups.¹²

In such cases, women's bodies are used as an envelope for sending messages to the perceived enemy.

In Colombia, paramilitary control of some regions often includes sexual violence and torture of women and girls. Intimidation campaigns are carried out on their bodies, as in one of many cases reported in 2001 to the United Nations Special Reporter on Violence against

⁸ AVAILABLE ONLINE: <http://ts-si.org/files/BMJCliffordPaper.pdf>

⁹ *Supra note 6*

¹⁰ AVAILABLE ONLINE: <http://www.unicef.org/sowc96pk/sexviol.htm>

¹¹ *Supra note 5*

¹² *Ibid*

Women, where a Colombian girl was raped and killed, her eyes and nails then removed, and her breasts cut off.¹³

Particularly in conflicts defined by racial, tribal, religious and other divisions, violence may be used to advance the goal of ethnic cleansing. Public rapes in Bosnia, for example, were used to instigate the flight or expulsion of entire Muslim communities. Forced impregnation, mutilation of genitals and intentional HIV transmission are other techniques of ethnic cleansing. Muslim women impregnated by Serbs reportedly were held captive until late term to prevent them from abortion.¹⁴

Breeding Sexual slaves

Many other instances have been identified where women and girls are abducted for the purposes of supplying combatants with sexual services. According to one soldier from DRC, *“Our combatants don’t get paid, therefore they can’t use prostitutes. If we politely ask women to come with us, they are not going to accept. So, we have to make them obey us so we can get what we want.”* Women are used as sex labours by various war groups so as to entertain their soldiers. Mostly these women and girls are going to be war captives or even the local residents of the state which is waging war against the other state. An elderly victim from Liberia, thought to be around 80 years old at the time she related her story to investigators, acknowledged being held by rebels in the town of Voinjama, *“where at night, the men would come, usually more than one. They would rape me. They said they would help me. If I was lucky, they gave me 10 Liberian dollars (US 20 cents).”*¹⁵

More often *the victims of sexual slavery are younger, and in many cases their victimization comes under the terms of military duty.* An estimated 40 percent of child soldiers around the world are girls, the majority of whom are forcibly or coercively conscripted. Their responsibilities may range from catering to active combat, with the additional expectation that they will provide sexual services to their superiors or fellow combatants. Much of the violence reportedly committed against women and girls by guerrilla groups in Colombia, for example, is in the context of forced recruitment.¹⁶

¹³ AVAILABLE ONLINE: <http://brokendreams.wordpress.com/page/4/>

¹⁴ *Supra* note 5

¹⁵ *INTERVIEW OF RAPE VICTIMS*; AVAILABLE ONLINE: [http://www.consultancyafrica.com/index.php?option=contentview=articleid=382 sexual-violence-as-a-weapon-of-war-political-rape-and-the-zimbabwean-crisis&catid=59:gender-issues-discussion-papers&Itemid=267](http://www.consultancyafrica.com/index.php?option=contentview=articleid=382%20sexual-violence-as-a-weapon-of-war-political-rape-and-the-zimbabwean-crisis&catid=59:gender-issues-discussion-papers&Itemid=267)

¹⁶ *Id*

Even those women and girls who voluntarily join fighting forces are unlikely to anticipate the extent to which they will suffer sexual exploitation. This is common to rapes within the armed groups as well as rapes in the enemy group.

Reconstruction or Exploitation?

Evidence suggests that sexual violence does not necessarily end with the cessation of armed conflict. *Even the local men try to abuse the situation.* Incidents of rape may decrease, but risk of exposure to force or coerced prostitution, as well as trafficking¹⁷ may increase. The added presence of peacekeeping forces, who have been implicated as users of commercial sex workers in places such as Bosnia-Herzegovina, Sierra Leone, Kosovo, Timor Leste and the DRC, may supply a notable portion of local demand.¹⁸

In many instances, the risk to women and girls of falling prey to sexual exploiters is exacerbated by reconstruction programs that fail to specifically target their needs, or to address long-standing patriarchal traditions that discriminate against women. After the genocide in Rwanda, for example, *inheritance laws barred surviving women and girls from accessing the property of their dead male family members unless they had been explicitly named as beneficiaries.* As a result, thousands were left with no legal claim to their homes and land. Such impoverished women, returning to their communities without family or resources, are more likely to be caught up in the sex trade.¹⁹

Ironically, and sadly, women and girls who experienced sexual violence during conflict are probably the most vulnerable of all to further exploitation in post conflict settings. Some rape victims may be rejected by their families and communities for having lost their value.²⁰

Raped women may be abandoned by husbands who fear contracting HIV, or who simply cannot tolerate the shadow of dishonour they believe their raped wives have cast across them. *Without prospects for the future, prostitution may seem the only viable option to these women.* For other women and girls, their histories of victimization may dull them to the dangers of entering the sex trade. One young girl in Sierra Leone who previously had been

¹⁷ Events in the Balkans - where prostitution and trafficking burgeoned in the aftermath of wars in the former Yugoslavia - illustrate how criminal elements may replace fighting factions in the on-going sexual victimization of women and girls.

¹⁸ *Supra note 7*

¹⁹ *Supra note 5*

²⁰ *Supra note 1*

abducted by rebels voluntarily became a prostitute after she was released by her captors. She reportedly considered herself fortunate that she was now being paid.

International forum and its reaction

Atrocities committed during conflicts over recent decades underscore the need to move beyond traditional state-centric conceptualisations of security. As witnessed in the former Yugoslavia and Rwanda, the nature of contemporary warfare tactics, targeting specific individuals for the purposes of ethnic cleansing and genocide, make apparent the inadequacies of conventional notions of security.²¹ These two cases exemplify how threats to the peace and security of states, or rather the individuals within the territories of states, emanate from “internal” sources of tension.

While both cases exhibited elements of cross border spill over, it is important to note that the *use of the terms “genocide” and “ethnic cleansing” were specifically interpreted to be state sponsored violence.*

Levels of hostility against identity-based groups reached unspeakable magnitude, calling for greater attention towards understanding the internal dimensions of conflict. In particular, the use of sexual and gender based violence as a means of ethnic cleansing and genocide presents a compelling case for rethinking measures of administering peace and security in high-risk areas.²² Making them nothing more than an object and degrading their dignity as an individual.

The United Nations, Amnesty International, ICRC and many such Human Rights Organisations have continuously criticising the gender violence during war. They regard it to be a violation of the war norms and the humanitarian behaviour which is expected from the conflicting parties during the war. It is considered to be a total violation of the Geneva conference²³ and proliferate that people doing such heinous crimes should be severely punished and sanctions be imposed on them.

²¹ ASKIN, KELLY D. “SEXUAL VIOLENCE IN DECISIONS AND INDICTMENTS OF THE YUGOSLAV AND RWANDAN TRIBUNALS: CURRENT STATUS.” THE AMERICAN JOURNAL OF INTERNATIONAL LAW VOL. 93, NO. 1 (1999)

²² *Supra note 2*

²³ Guidelines provided under Geneva Convention of 1929 with respect to conduct with civilians and Prisoners of war

Feminists also support these arguments as they also say that, being a human, women have the same rights as men. The basic rights are the same for everyone. Then why such discrimination and atrocities carried out specifically against women.

Sexual violence as a weapon of war targets individuals not only on the basis of group membership (i.e. ethnicity, tribe, race, etc.), but also uniquely on the basis of gender. Despite substantial increases in occurrence during warfare, international and national mechanisms have largely neglected the impact of sexual violence in hindering peace and obscuring perceptions of security among population groups. The failure to clearly recognise sexual violence as a weapon of war has resulted in impunity, affecting the likelihood of future outbreaks of conflict.

To prevent further negligence, the establishments of the *International Criminal Tribunal for the former Yugoslavia (ICTY)* and the *International Criminal Tribunal for Rwanda (ICTR)* have made notable progress towards re-conceptualising sexual and gender-based violence as a weapon of war. This paper aims to highlight and evaluate the innovations made by the ICTY and the ICTR towards establishing the use of sexual violence as a threat to international peace and security in international law.²⁴

Gender Based Violence & Politics

The rape of women in conflict is not a new thing; “*war rape is as old as war itself.*” Rape has been used many times as a tactic or weapon within war to demonise, terrorise and defeat women both physically and emotionally.

Gender-based violence (GBV) is, however, more than simply rape; Carpenter²⁵ argues for a greater acknowledgement of a wider conception of GBV to encompass those occasions where men suffer according to their sex and gender as well. The way gender manifests itself in the essence of war, not simply in its logical end of violence. Violence can be exposed as an expression of gender; as an expression of masculinity or as an attack on femininity. Having first explored the way the First World War found meaning in gender, and inspired by

²⁴ JENNIFER PARK, *GENDER VIOLENCE AS WEAPON OF WAR IN INTERNATIONAL HUMANITARIAN LAW*, INTERNATIONAL PUBLIC POLICY REVIEW, AVAILABLE ONLINE: <http://www.ucl.ac.uk/ippr/journal/downloads/vol3-1/Park.pdf>

²⁵ CHARLI CARPENTER is an Assistant Professor in the Department of Political Science at University of Massachusetts-Amherst. Her teaching and research interests involve War and Laws of war.

Spivak's²⁶ often recited phrase, "*white men are saving brown women from brown men*" this essay explores the ways in which the violence of the War on Terror and the invasions of Afghanistan and Iraq are based on gendered narratives. Two elements emerge from this analysis – that the Bush Administration used a gendered narrative of feminism to legitimise the war, but that this war was actually based on a deeper masculinity within US national identity. Gender-based violence is at the essence of war, war is indeed a form of gender-based violence. Rape and other less obvious forms of GBV are simply this gender-based war in its most crude and obvious form.²⁷

Such violence has incorporated five main categories of sexual, physical, emotional/psychological, and socio-economic violence along with harmful traditional practices under a broad banner of "violence that is directed at individuals on the basis of their gender." *Whilst rape can be used as a weapon of war, and must be regarded as such to combat the ambivalence the concept is prone to receive, GBV, according to Carpenter should encompass a greater spectrum of violence than simply rape.*

Britain's involvement in the First World War was one of patriarchal protectionism; a clear expression of masculinity. Protecting Belgium (and ultimately Britain itself) was an expression of masculinity, power, dominance and military force against Germany that ultimately led to the deaths of millions.²⁸

Almost a century later, the invasions of Afghanistan and Iraq are similar expressions. The act of war itself is being an expression of masculinity on the world stage by the Bush administration, and the legitimisation of the war (rather than the rallying patriotic fervour of the First World War) being drenched in feminist rhetoric.

Various motives for the utilisation of sexual violence during war have been cited, including the following:

Circumstantial factors

According to the UNFPA, change characterises the way conflict is waged and objectives are achieved in tense situations. In other words, rape and sexual violence has become a means through which to reach political goals. One of the main reasons for the proliferation of rape

²⁶ Indian literary critic, theorist and a University Professor at Columbia University who expertise about exploitation of gender during war.

²⁷ KIERAN FORD, *SHOULD WE REGARD GENDER-BASED VIOLENCE AS A WEAPON OF WAR?*, AVAILABLE ONLINE: <http://www.e-ir.info/2011/09/08/should-we-regard-gender-based-violence-as-a-weapon-of-war/>

²⁸ *Id*

in a country such as Zimbabwe is the perception (and experience) that social anomie. As citizens increasingly become victims of violence, society becomes characterised by a loss of order and norms. *These feelings of anomie are compounded by an increase in poverty, malnutrition and the proliferation of small arms.* The instability and lack of structure and social regulation rapidly creates an environment conducive to sexual violence.²⁹

Maintaining a masculine social nexus

Women have historically been perceived and treated as the possession of men and this perception continues in many areas today, particularly rural areas. *When a woman is raped in one of these areas, especially if the act is committed in public, it is viewed as a direct attack against the man whom the woman 'belongs' to.* The effect of the rape on the female victim is not considered important. In such settings, women are considered empty shells, mere representatives of their husbands' interests. One view on this situation posits that men are meant to protect 'their' women and when unable to live up to this expectation, their inability challenges the core existing understanding of what it means to be a man.

It follows then, that political rape is a tool for men to attack other men, a tragic illustration of the fact that in these settings, men still grip the socio-political reins and women are just a means to a specific political end, namely the emasculation of political opponents.

Rape as a strategic weapon

Rape and other forms of sexual violence like mutilation and sex slavery are political in nature when they are used as a means to achieve political goals, as they often are. *These strategies are effective ways to send a threatening message to the 'Other' and are often used as a strategy to elicit a response from the opposition in question.* Considering that many, if not most, African societies value the concepts of marriage and virginity, a woman loses a large amount of 'value' when she is raped, which means that she is no longer suitable marriage 'material.' Such a development brings shame to the family and rape victims are often rejected by their families after they are raped. These family break-ups in turn create holes in the very threads of fabric that hold society together. Power dynamics are central to the rape strategy because it instils fear and quells resistance. *Of course communities fear politically perpetrated sexual violence and their anticipation and experiences of it repress resistance to the perpetrators and the political power they represent.*³⁰

²⁹ *Supra note 2*

³⁰ *Id*

The lasting impact of political rape

Women victims of political rape suffer a series of physical, social and psychological consequences which have short and long term effects. As mentioned, one of the primary social consequences is that women are rejected by their families and communities as a whole, for numerous reasons, the first being that they epitomise the homeland's inability to protect them and because they are no longer suitable, 'pure' marriage partners.³¹ Third, husbands who fear that their wives may have contracted HIV often instruct them to leave the household. When women leave their communities, the agricultural workforce is reduced in numbers, which has numerous other knock-on effects on families.

Children have to grow up without mothers, do agricultural work, look after other children and deal with the effects of droughts and food shortages. The repercussions of systematic rape therefore ripple outwards much wider than only the woman who experiences the traumatic event.

Many women victims of political rape are denied access to health facilities. In order for state hospitals to assist a rape victim, she needs to present a police report. Sadly, women struggle to obtain such reports because police are reluctant to hear and acknowledge anything related to political violence. Private hospitals are available, but are too expensive for most women. This limited access to health services means that raped women do not receive post-exposure prophylaxis (PEP) against HIV infection. HIV therefore spreads easily through political rape and contributes to the deterioration of communal health and spirits.³²

Rape as weapon in War politics

One of the greatest historical instances of mass rape warfare dates back to the 13th century as Genghis Khan, whose great rise to power came from his military mastery as he amassed an empire across Asia and Central Europe. Genghis Khan established his overwhelming power through strategic methods of violence and terror at the expense of millions of women and young girls, as he established strategic policies of rape warfare. Genghis Khan telling his

³¹ JENNIFER PARK, *GENDER VIOLENCE AS WEAPON OF WAR IN INTERNATIONAL HUMANITARIAN LAW*, INTERNATIONAL PUBLIC POLICY REVIEW, AVAILABLE ONLINE: <http://www.ucl.ac.uk/ippr/journal/downloads/vol3-1/Park.pdf>

³² DAVID BLOOMFIELD, TERESA BARNES: *RECONCILIATION AFTER VIOLENT CONFLICT*, AVAILABLE ONLINE: <http://www.un.org/en/peacebuilding/pbso/pdf/Reconciliation-After-Violent-Conflict-A-Handbook-Full-English-PDF.pdf>

courtiers³³: “*The greatest pleasure in life is to defeat your enemies, to chase them before you, to rob them of their wealth, to see those dear to them bathed in tears, to ride their horses, and to ravage their wives and daughters*”. This passage illustrates the use of rape as a form of torture for not only those raped but their families.

In recent history, *rape was used in World War II by the Nazi's, Soviets, and by the Japanese (as was the case with 'Comfort Women' and the infamous Rape of Nanking) and it was used in Vietnam*. The last decade has seen a growing number of civil conflicts around the world increasingly target women and girls, leaving the number of rapes and forms of abuse at alarming levels, triggering an epidemic of sexual violence as a form of warfare.

Countries such as: Afghanistan, Bangladesh, Guatemala, India, Liberia, Pakistan, Sierra Leone, Uganda. Currently the use of rape as a weapon of war continues in many countries such as the Sudan and the Congo, to name only a few, have used rape in recent conflict.³⁴

Effects on the Victim

Victims are often raped multiple times and gang raped which can cause a much higher degree of physical and physiological injuries, and often lead to death. Due to unwanted pregnancies, many women who have abortions through non-sterile procedures, non-medical methods, risk themselves to death, infection, scarring or sterilization.

Children Born of Rape

The longest lasting effect of rape as a weapon of war is the number of children it bears and the ripple effects it has, as children are both the consequences of the victim and society. *The mother of a child born of rape faces a lifetime of turmoil over the conception, regardless of her decision to raise the child, give the child up for adoption or terminate the pregnancy. A mother who keeps a child is often tormented and pulled between feelings of love and hate.* These feeling of hate or shame of the victims own child thus only torment a mother more as she then feels guilt for having such thoughts about her own child.

Many children are never adopted and orphanages in conflict zones are often flooded with “rape babies”, as a conflict or post-conflict country leaves many who would be willing to adopt unable to due to instability, and/or poverty, thus the burden is placed on the state. More

³³ EXAMPLES FROM BIDWELL (1973)

³⁴ *Supra Note 1*

than ten years after rape was used as a weapon of war in the former Yugoslavia, the questions and impact is only beginning to emerge.

Consequences of Rape as Weapon of War on the Victims Community

Rape is especially stigmatizing in cultures with strong customs and taboos regarding virginity, sex and sexuality. Thus a victim may be viewed by society as being: unfaithful, dirty/unclean, traitors, damaged.

Often victims suffer isolation, disownment, are prohibited from marrying; divorced, abandoned, abused, neglected and even killed. Many women are left to support children alone, whilst living in fear of rape and being detested, as well as dealing with the traumatic recovery; a task that is often too much to bear.³⁵ These consequences have a long-term effect on both the individual and the society as it leads to a destabilization of the community and family structure.

Combating Violence against women during War & aftermath

Humanitarian attention to the issue of war-related violence against women and girls is in its relative infancy. In fact, the United Nations High Commissioner for Refugees (UNHCR) has formally recognized the distinct needs of women and children affected by armed conflict only in the last fifteen or so years. The first working group on refugee women was convened to advocate for the needs of women affected by conflict.³⁶ The working groups lobbying activities resulted in the 1989 appointment of a Senior Coordinator for Refugee Women to UNHCR. In 1990, UNHCR adopted a policy on refugee women protection, from which evolved Uncross 1991 Guidelines on the Protection of Refugee Women.

In 1995, UNHCR³⁷ published Sexual Violence against Refugees: Guidelines on Protection and Response, which highlighted some of the major legal, medical and psychosocial components of prevention and response to sexual violence. Also in 1995, UNHCR and the United Nations Population Fund (UNFPA) collaborated to form an Inter-Agency Working Group (IAWG) of expert international reproductive health organizations.

The lessons learned through early programming efforts were reviewed at an international conference sponsored in 2001 by UNHCR and attended by international and field-based

³⁵ *Id*

³⁶ THE THIRD WORLD CONFERENCE ON WOMEN IN NAIROBI IN 1985

³⁷ UNITED NATIONS HIGH COMMISSION FOR REFUGEES

UNHCR personnel, as well field staff working in (or on behalf of) anti-violence programs. Conference activities culminated in the publication of *Prevention and Response to Sexual and Gender-Based Violence in Refugee Situations, Inter-Agency Lessons Learned Conference Proceedings*.³⁸

In 1996, the International Rescue Committee (IRC) introduced a project entitled the Sexual and Gender-Based Violence Programme. Title as well as its activities advanced the concept of gender as elemental to the violence experienced by women and girls.

Another path breaking advance was the United Nations Security Council's adoption of Resolution 1325 in 2000, which specifically *calls upon all parties to armed conflict to take special measures to protect women and girls from gender based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict*. Since that time, the United Nations Secretary-General has submitted two reports to the United Nations Security Council on the implementation of Resolution 1325. While these reports concede that much remains to be done, especially in terms of holding states accountable for the actions of fighting forces and in increasing the level of participation of women in all stages of peace-building, they also note that major advances have been made in introducing codes of conduct that establish zero tolerance for all United Nations personnel, including peacekeepers, who might sexually exploit those they are meant to serve. Since these codes of conduct were implemented, action has been taken against offenders in a number of countries, such as the DRC, where an inquiry into allegations of sexual exploitation committed by over a hundred peacekeepers is underway.³⁹ Even the situation of conflict or peace preservation should not be excluded from the surveillance; *otherwise the rape crimes by military in Kashmir and North-East*⁴⁰ *would also escape in the hide of national security & peace preservation*.

Conclusion

Rape as a tool of war leave a country with fewer chances for a solid and stable political future. The tolerance and standardization of rape as a weapon of war has led to its impunity, and thus increased its silence. Impunity regarding the increasingly brutalized use of rape as a weapon of war combined with its effectiveness, only provokes its use, for the perpetrators are

³⁸ *Supra note 6*

³⁹ PRESS RELEASE OF SECURITY COUNCIL, AVAILABLE ONLINE:
<http://www.un.org/News/Press/docs/2008/sc9364.doc.htm>

⁴⁰ ATROCITIES CARRIED UNDER THE GARB OF ARMED FORCES SPECIAL POWERS ACT, 1958

less likely to be tried and punished for the use of this weapon, and if convictions do follow the punishment is disproportionate to the crime.

While there have been historical cases for the *persecution of rape as a weapon of war*, as seen in 1474, military officer Peter van Hagenbach was the first to be sent to an international tribunal for the use of rape warfare committed in Briesbach, Austria, under his command, he was convicted and beheaded for his crimes.⁴¹

Rape as a weapon of war has continued in modern warfare and has little persecution in comparison with the scale for which it continues to be utilized.

Suggestions

- While the damage of rape can never be undone, placing adequate punishment on the crimes will help end its long running impunity. These are steps towards ending the impunity over the use of rape as a weapon of war, however considerable, must be taken on the national level.
- Social sensitization is need of the hour for the community so as to prevent the further mistreatment of the victim.
- Short and long-term support and treatment for victims is substantially lacking, which will only serve to exacerbate the use of rape as weapon of war.
- Proper logistic support should be provided to the victims including medical facilities, even during the course of conflict.
- Gender inequality and bias must be removed in all countries, when such programs are in place at peace time it will significantly reduce the stigma and use of rape and gender-based violence during the times of conflict.
- There must be a unified international response to ban the use of rape as a weapon of war once and for all, and thus strategies of prevention and awareness must be put into place, including in internally displaced persons and refugee camps and in times of post conflict.
- International bodies should impose strict punishment for the violators and set an example of deterrence. There is a need of proper institution for carrying out the orders of International Criminal court and it needs co-operation from all the countries of the world.

The beginning of the end of the use of rape as a weapon of war is to combat gender inequalities and stereotypes in cultures while in peace time, as a method to prevent and curb the use of rape as a weapon of war.

⁴¹ *Supra note 1*