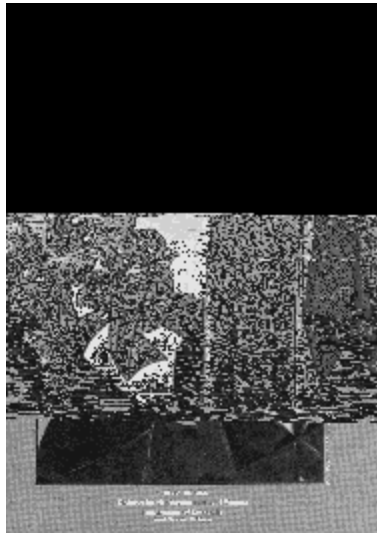


Women2000

**Sexual Violence and Armed Conflict: United Nations
Response**

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Platform for Action
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UNITED NATIONS
Division for the Advancement of Women
Department of Economic and Social Affairs

Introduction

Sexual violence during armed conflict is not a new phenomenon. It has existed for as long as there has been conflict. In her 1975 book *Against Our Will: Men, Women and Rape*, Susan Brownmiller presented stark accounts of rape and other sexual atrocities that have been committed during armed conflict throughout history. While historically very few measures have been taken to address sexual violence against women committed during armed conflict, it is not true to say that there has always been complete silence about the issue. Belligerents have often capitalized upon the abuse of their women to garner sympathy and support for their side, and to strengthen their resolve against the enemy. Usually, the apparent concern for these women vanishes when the propaganda value of their suffering diminishes, and they are left without any prospect of redress. It is true to say that the international community has, for a long time, failed to demonstrate a clear desire to do something about the problem of sexual violence during armed conflict. The turning point came in the early 1990s as a result of sexual atrocities committed during the conflict in the former Yugoslavia, and it seems that finally, the issue has emerged as a serious agenda item of the international community.

Towards the end of 1992, the world was stunned by reports of

during the armed conflict in the former Yugoslavia. Newspaper headlines decried: "Serbian'rape camps': Evil Upon Evil" and "Serben vergewaltigen auf obersten Befehl" (Serbs rape on highest orders)¹. The media

women,

it is important to recognize their different experiences when responding to the problem. Secondly, it must be emphasized that sexual violence is only one of the issues that arise when considering women's experience of armed conflict. For example, more women than men become refugees or displaced persons during conflict, and women's primary

Sexual Violence and World War II

Historical records are largely silent about the occurrence of sexual violence during World War II. This is not because sexual violence did not occur, but for a variety of other reasons. Part of the problem is that sexual violence was perpetrated by all sides to the conflict. Consequently, it was difficult for one party to make allegations against the other at the conclusion of hostilities. Moreover, sexual violence had long been accepted as an inevitable, albeit unfortunate, reality of armed conflict. This was compounded by the fact that in the late 1940s sexual matters were not discussed easily or openly, and there was no strong, mobilized women's movement to exert pressure for redress.

Only in recent years have writers and others begun to reconsider the issue of sexual violence during World War II. At the centre of this has been the belated recognition of crimes committed against con4rs begun manTj 0ous3.5smmitAsi75 ent t13.5 girls0 Tj 279Q

sexual atrocities was received by the Nuremberg Tribunal, sexual crimes committed against women were not expressly charged nor referred to in the Tribunal's Judgement. Indictments before the Tokyo Tribunal did expressly charge rape, evidence was received, and the Tokyo Judgement referred to rape. For example, evidence of rape during the Japanese occupation of Nanking was presented during the trial of General Matsui who had the command of Japanese forces there. Matsui was convicted of war-crimes and crimes against humanity based in part on evidence of

create a hierarchy, with some violations of the law of armed conflict considered more egregious than others. Sexual violence is not expressly designated as a grave breach, although the view that sexual violence fits within other categories of grave breaches, such as "wilfully causing great suffering or serious injury to body or health", and "torture or inhuman treatment", has gained acceptance. Nonetheless, the absence of express reference to sexual violence as a grave breach is a reflection of the international community's historical failure to appreciate the seriousness of sexual violence during armed conflict.

Another problem with provisions of the Geneva Conventions and Additional Protocols is that they characterize rape and other forms of sexual violence as attacks against the "honour" of women, or at most as an outrage upon personal dignity. The implication is that "honour" (or dignity) is something lent to women by men, and that a raped woman is thereby dishonoured. Failure of these instruments to categorize sexual violence as a violent crime that violates bodily integrity, presents a serious obstacle to addressing crimes of sexual violence against women. It directly reflects and reinforces the trivialization of such offences. In addition, as one writer has pointed out, the provisions are protective rather than prohibitive.⁴

The only requirement is for particular care to be taken, presumably by men, to protect women against sexual violence. Thus the provisions appear to be more about the role of the "male warrior" during armed conflict than about recognizing sexual violence as a violation of the rights of women and prohibiting it.

What is the "law of armed conflict"?

The body of international legal principles found in treaties and in the practice of States, that regulates hostilities in situations of armed conflict. "Armed conflict" is the preferred legal term rather than the term "war" because the law applies irrespective of whether there has been a formal declaration of war. Other terms with the same meaning include: "international humanitarian law", "the humanitarian laws of war" and "jus in bello". Different rules apply depending upon whether a conflict is internal (i.e. a civil war) or international (i.e. a war between two or more states or state-like entities). Internal conflicts are regulated by fewer laws than international conflicts.

Is the law of armed conflict different

UN Responses to Sexual Violence

One of the first major references within the UN system to women and armed conflict was in 1969, when the Commission on the Status of Women, began to consider whether special protection should be accorded to particularly vulnerable groups, namely women and children, during armed conflict and emergency situations. Following this, the Economic and Social Council (ECOSOC) asked the UN General Assembly (GA) to adopt a declaration on the topic. The GA responded by adopting the Declaration on the Protection of Women and Children in Emergency and Armed Conflict in 1974. The Declaration recognizes the particular suffering of women and children during armed conflict. It emphasizes the important role that women play "in society, in the family and particularly in the upbringing of children", and the corresponding need to accord them special protection. It also urges

from international human rights law?

Yes, the law of armed conflict and international human rights law have historically developed as separate bodies of law, with the former directed at the alleviation of human suffering in times of armed conflict, and the latter directed at the alleviation of human suffering during times of peace.

Since the establishment of the UN, there has been a tendency to regard the law of armed conflict as part of the broader international human rights law framework.

Does the law of armed conflict deal explicitly with sexual violence?

Yes, the relevant provisions are:

Geneva Convention IV Relative to the Protection of Civilian Persons; Article 27: *"Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."*

Additional Protocol I of 1977; Article 76(1): "Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault."

Additional Protocol II of 1977; Article 4(2)(e) prohibits: *"Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault."*

States to comply with their obligations under international instruments, including the 1949 Geneva Conventions, that offer important guarantees of protection for women and children.⁵ There is no explicit reference to women's vulnerability to sexual violence during armed conflict. Yet, as the Special Rapporteur on violence against women has reported, there is evidence that in 1971, rape was committed on a massive scale during the conflict in Bangladesh.⁶ In light of this, the omission of any explicit reference to sexual violence in the Declaration just a few years later is notable. Clearly, at the time the Declaration was adopted, concern over the situation of women during armed conflict was closely connected with their role as mothers and care-givers, and very limited recognition was given to issues affecting women in their own right. However, the Declaration does make a general plea for compliance with the laws of armed conflict. The Fourth Geneva Convention of 1949 was in existence at the time and, as described above, this expressly addresses rape. The Declaration also stipulates that all necessary steps shall be taken to prohibit inter alia degrading treatment and violence, which may be considered to implicitly encompass sexual violence.⁷

Throughout the 1980s, the UN continued to refer to the particular vulnerability of women during armed conflict, but still without any explicit reference to the prevalence of sexual violence. The practice of considering women and children as one category demonstrated a continuing preoccupation with women as mothers and care-givers.

For example, commencing in the 1980s the ECOSOC agreed a series of resolutions on the situation of Palestinian women and children in the occupied Arab territories, as well as the situation of women and children in Namibia, and women and children living under apartheid. These resolutions recognized the poor living conditions of women but did not refer to their vulnerability to sexual violence. It seems unlikely that, in contrast to the

majority of other conflicts throughout history, sexual violence was not a feature of these particular conflicts.

At the end-of-decade Conference held in Nairobi in 1985, the Forward-looking Strategies for the Advancement of Women, adopted to provide a blueprint for the advancement of women to the Year 2000, referred to the especially vulnerable situation of women affected by inter alia armed conflict, including the threat of physical abuse. The general vulnerability of women to sexual abuse and rape in everyday life was recognized, but sexual violence was not specifically linked to armed conflict.⁸

Even in the mid-1980s, sexual violence during armed conflict largely remained unrecognized.

The 1990s: International Concern Over Sexual Violence During Armed Conflict

The Gulf War and the Creation of the United Nations Compensation Commission

Some of the first steps towards progress on the issue of wartime sexual violence taken by the UN have gone almost unnoticed. As in the case of other conflicts, when Iraq invaded Kuwait in 1990, sexual violence was a frequent occurrence during the ensuing hostilities. A UN report documented the prevalence of rape perpetrated against Kuwaiti women by Iraqi soldiers during the invasion.⁹

Although the UN Security Council did not expressly refer to sexual violence against women in its resolutions relating to the Gulf conflict, it did create the United Nations Compensation Commission (UNCC) to compensate victims who suffered damage as a result of Iraq's unlawful invasion of Kuwait. The UNCC is primarily funded by a 30 per cent levy on Iraq's annual oil exports. Initially, Iraq refused to resume oil exports under the conditions imposed by the UN, thereby crippling the capacity of the fund to operate as intended. However, in 1995, an agreement was reached known as the "oil for food" arrangement, and money has subsequently become available for the payment of claims. The UNCC determined that it would compensate "serious personal injury" which expressly includes physical or mental injury arising from sexual assault. Some claims asserting rape by members of the Iraqi military forces were filed with the UNCC, and guidelines were adopted to facilitate proof of these claims making it much easier for women to receive compensation. In one case, a woman claimed she had been subjected to sexual assault by Iraqi soldiers and suffered a miscarriage as a result. The woman requested that her name be withheld from her claim. The government filing the claim on her behalf could provide confirmation of her identity and, recognizing the difficulties faced by sexual assault victims, the Panel of Commissioners recommended compensation for her claim despite the absence of her name.¹⁰

The conflict in the Former Yugoslavia

It was not until sexual atrocities were committed during the conflict in the former Yugoslavia that consistent references began to appear throughout the UN to the problem

These allegations do not seem to relate solely to isolated instances."

"The Trial Chamber feels that the prosecutor may be well-advised to review these statements carefully with a view to ascertaining whether to charge Dragan Nikolic with rape and other forms of sexual assault, either as a crime against humanity or as grave breaches or war crimes."

Judge Jorda, Judge Odio Benito and Judge Riad, *In re Dragan Nikolic: Decision of Trial Chamber I, Review of Indictment*

victims and witnesses, especially in cases of rape or sexual assault."

Secretary-General's Report on Aspects of Establishing an International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia (Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993)), S/25704, 1993, para. 108.

reference to the victim's identity; the giving of testimony in camera and by one-way closed-circuit television; scrambling of victims' and witnesses' voices and images; and prohibitions on photographs, sketches or videotapes of victims and witnesses.¹⁸ The most controversial aspect of the protective measures granted by the Yugoslav Tribunal has been the decision to allow, provided that certain conditions are met, the identity of some victims and witnesses to be kept from the accused even at the trial stage.¹⁹ The Yugoslav Rules also provide for the establishment of a Victims and Witnesses Unit to recommend protective measures for victims and witnesses, and to provide counselling and support.²⁰ This Unit became operational in April 1995. At the time of its creation, it was envisaged that the Unit would primarily deal with female victims of sexual violence, and a commitment was made to hiring qualified women wherever possible.²¹ The Yugoslav Rules also regulate evidence in cases of sexual violence.

Rule 96 deals with issues of corroboration, the defence of consent, and evidence of the prior sexual conduct of the victim.

The OTP of the Yugoslav Tribunal has issued a number of indictments charging sexual violence committed against both women and men during the conflict in the former Yugoslavia. In June 1996, the first indictment which deals exclusively with sexual violence was issued in relation to events that took place in the municipality of Foca, to the south east of Sarajevo. This indictment alleges that when the area was taken over by Serb forces in April 1992, many Muslim women were detained in houses, apartments, schools and other buildings, and were subjected to repeated rape by soldiers. The indictment also alleges that women and girls were enslaved in houses run like brothels, where they were also forced to perform domestic work such as washing the soldiers' uniforms.²²

Two months into the first prosecution brought before the Yugoslav Tribunal, the Tadic case, the Trial Chamber heard the first ever testimony in history, at the international level, from women regarding wartime rape. Although Tadic had been initially charged with raping a female prisoner at the Omarska camp, the charge was withdrawn prior to the commencement of the trial. However, evidence of rape was still used as general

evidence against Tadic. The Celebici case, which is presently proceeding before the Yugoslav Tribunal and is expected to conclude in 1998, involves charges of rape.

Assessing the Progress

There is no doubt that the UN's response to sexual violence in the former Yugoslavia constitutes a long overdue acknowledgment that sexual violence during armed conflict is a crime that must be addressed. The problem has been formally recognized, but concerns remain about the extent to which women affected by sexual violence have actually been assisted as a result. More than four years has elapsed since the creation of the Yugoslav Tribunal, but no defendant has yet been convicted for rape. Part of the problem has been the initial inability to take defendants into custody, which frustrated the Yugoslav Tribunal's work for a number of years. This situation began to change in the second part of 1997 when several covert arrests by NATO resulted in suspects being transferred to The Hague. In addition, 10 Bosnian Croats surrendered themselves to the Yugoslav Tribunal in August 1997, approximately doubling the number of defendants in custody. In February 1998, two Bosnian Serbs surrendered themselves to the Yugoslav Tribunal, being the first Serb indictees to do so. As at 16 February 1998 there were 22 defendants in the Scheveningen detention facility in The Hague. As a result, the Tribunal's workload has increased dramatically, triggering renewed hope regarding the utility of the endeavour as a whole. It also improves the prospect of bringing to justice those persons accused of committing sexual violence during the conflict in the former Yugoslavia. Some of the defendants recently taken into custody face charges of sexual violence. For example, Anto Furundzija, who was arrested in December 1997, faces charges of sexual violence. It is alleged that he was a commander who was present while a prisoner was sexually assaulted, and that he did nothing to curtail the assault.²³

However, it is still the case that most of the indictees charged with sexual violence are not in custody.

Less encouraging is the likelihood that women who have been subjected to sexual violence will ever receive compensation for their suffering. The Yugoslav Tribunal can order the restitution of property acquired by criminal conduct.²⁴

This is an important power, because the misappropriation of dwellings, livestock and other valuables is a frequent and devastating component of conflict. However, the Yugoslav Tribunal does not have power to order compensation as part of the penalties imposed upon convicted persons, nor has a parallel claims commission, like the UNCC for example, been created. Judgements of the Tribunal do constitute conclusive proof of criminal responsibility for the injury, but the victim is required to pursue compensation claims through domestic channels. This approach assumes that domestic systems have in place the appropriate structure to provide victims with compensation. This is frequently not the case, especially in countries recovering from armed conflict.

Despite these limitations, there is now substantial evidence that the mind set of the international community has changed regarding sexual violence during armed conflict.

Over the course of half a century, the issue of women and armed conflict has developed within the UN framework from a limited concern with the situation of women as mothers and care-givers to a recognition that sexual violence against women and girls is a violation of international human rights and humanitarian law that must be addressed. As described below, the issue has also been taken up in a number of other fora within the UN system.

The Vienna Conference on Human Rights, 1993

The 1993 UN World Conference on Human Rights held in Vienna was a watershed for women's human rights. Of particular significance was the recognition that violence against women, such as domestic abuse, mutilation, burning and rape, is a human rights issue. Previously, these acts had been regarded as private matters, and therefore not appropriate for government or international action. Even the Convention on the Elimination of all Forms of Discrimination Against Women (Women's Convention), adopted in 1979, has no specific provision on violence against women. In 1985, the Nairobi Forward-looking Strategies had acknowledged the problem of violence against women, and urged governments to respond, but there was no explicit recognition that violence against women is a human rights issue. In the years following Nairobi, the issue of violence against women received consideration within the ECOSOC, particularly by the Commission on the Status of Women. In addition, in 1992 the Committee on the Elimination of Discrimination Against Women (CEDAW), the body created to monitor the Women's Convention, adopted a general recommendation on "Violence against Women."²⁵

These developments were due in part to intensified efforts by women's NGOs to draw attention to the problem. The International Women's Rights Action Watch, established to monitor the Women's Convention and the activities of CEDAW, was particularly active on the issue, as was the International League for Human Rights.²⁶

The Vienna Declaration and Programme of Action, 1993

Article 38: "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."

At the Vienna Conference in 1993, a number of women's NGOs, including WILDAF (Women in Law and Development in Africa), the Asian Women's Human Rights Council, and CLADEM (Latin American Committee for Women's Rights), coordinated their action under the umbrella of the Center for Women's Global Leadership, and were responsible for highlighting the issue of violence against women.²⁷ At that time, reports of sexual violence committed against women in the former Yugoslavia had flooded the media.

fundamental human rights violation, of concern to the international community at large. This convergence of factors is reflected in the text of the Vienna Declaration and Programme of Action adopted at the 1993

conference. The vulnerability of women to sexual violence during armed conflict is explicitly recognized and condemned as a human rights violation requiring a "particularly effective response."²⁸

At the Vienna Conference, a Tribunal organized by NGOs heard testimonies regarding violations of women's human rights around the world, including sexual violence during armed conflict. These testimonies included statements from former "comfort women", Palestinian, Somali, and Peruvian women, as well as women from the former Yugoslavia, who had been invited by the organizers to "testify".²⁹

The Declaration on the Elimination of Violence against Women

Developments regarding the problem of violence against women coalesced in December 1993 when the UNGA adopted the Declaration on the Elimination of Violence against Women. The Declaration identifies three main categories of violence against women, namely physical, sexual and psychological violence occurring in the family, within the general community, and that perpetrated or condoned by the State. It explicitly recognizes that women in conflict situations are especially vulnerable to violence.³⁰

The Special Rapporteur on Violence against Women

In 1994 the Commission on Human Rights appointed a Special Rapporteur on violence against women, its causes and consequences, and Radhika Coomaraswamy of Sri Lanka was named to fill the position. The Special Rapporteur has divided her reports to reflect the three main categories of violence identified in the Declaration on the Elimination of Violence against Women. In her preliminary report, the Special Rapporteur identified sexual violence against women during armed conflict as one of the areas to be given consideration in her future report under the third category, namely violence perpetrated or condoned by the State. The Special Rapporteur is due to submit this report in 1998. It will include information collected by Ms Coomaraswamy during visits to Rwanda, Afghanistan and Haiti.³²

The Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during armed conflict

Consideration has been given to the issue of sexual violence by the UN Sub-commission on the Prevention of Discrimination and the Protection of Minorities. In September 1993, Ms. Linda Chavez, a member of the Sub-Commission, submitted a preparatory document

on the Question of Systematic Rape and Sexual Slavery and Slavery-like Practices During Wartime.³³

She subsequently submitted a working paper on the topic,³⁴

and following this the Sub-commission decided that the topic warranted further consideration. Accordingly, Ms. Chavez was appointed as the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict. In July 1996 Ms Chavez submitted her preliminary report.³⁵

The final report on the topic will be completed by Ms Gaye McDougal in 1998.

The Fourth World Conference on Women At the Fourth World Conference on Women

At the Fourth World Conference on Women, held in Beijing in November 1995, sexual violence against women during armed conflict was a major theme. This is reflected in the Beijing Declaration and Platform for Action, which identifies women and armed conflict as one of the 12 critical areas of concern to be addressed by Member States, the

compounded by the life-long social, economic and psychologically traumatic consequences of armed conflict and foreign occupation and alien domination."

Platform for Action Critical Area E: Women and Armed Conflict

women were raped, mutilated, forced into sexual slavery, and taken as "wives" by their captors. There are also reports of women being bought and sold amongst the Interahamwe (the term used for collective militia groups in Rwanda).³⁸

However, for a long time, the international community remained silent. Neither the Security Council nor the Preliminary Report of the Commission of Experts established by the Security Council to investigate violations of international humanitarian law during the conflict in Rwanda (Rwanda Commission) referred to sexual violence.³⁹ The NGO community

were also the victims of rape in hospitals. Their situation was all the more alarming in that they were raped by members of the militias some of whom were AIDS virus carriers (as was the case of the national chief of the militias, as several witnesses report). Women who had just given birth developed fulminating infections and died. Women who were "untouchable" according to custom (e.g. nuns) were also involved and even corpses, in the case of women who were raped just after being killed."

Report on the Situation of Human Rights in Rwanda Submitted by René Degni- Ségui, Special Rapporteur of the Commission on Human Rights, E/CN.4/1996/68, 29 January 1996, para. 17

Statute of the Rwanda Tribunal provides as much scope for addressing sexual violence as the Statute of the Yugoslav Tribunal. In fact, in addition to listing rape as a crime against humanity as the Yugoslav Statute does, the Rwanda Statute also expressly refers to "rape, enforced prostitution and indecent assault" as violations of Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II.⁴² However, little attempt was made to seriously investigate sexual violence. Consequently, no indictments were issued charging rape or other crimes of sexual violence until 1997.⁴³

On 23 October 1997, a 35 year old Tutsi woman known as Witness JJ took the stand and gave evidence in the trial of Jean Paul Akayesu, one of the first defendants to be tried before the Rwanda Tribunal. Akayesu was bourgmestre (mayor) of the Taba commune in Rwanda during the genocide. Witness JJ described events that had occurred while she was taking shelter in the Taba commune.

She told how the Interahamwe would come in and take away young girls and women into a nearby forest and rape them. Witness JJ described a series of occasions on which she was raped multiple times. She also explains how, by pure chance, she narrowly escaped being massacred along with the other women in the commune, because she was out buying food for her baby when the killings began.

Despite the horrifying nature of the abuses that Witness JJ described, and the need for the international community to acknowledge and redress such suffering, her story very nearly remained untold. The original indictment against Akayesu did not allege sexual violence. The trial commenced, and when other witnesses began to make consistent references in their testimony to widespread sexual violence in the Taba Commune it became clear the issue could no longer be disregarded. At this time, there was also an Amicus Curiae (friend of the court) Brief filed by the Coalition for Women's Human Rights in Conflict Situations,⁴⁴

which urged the Rwanda Tribunal to request an amendment of the indictment to include sexual violence.⁴⁵

There was a break in the trial, and when it resumed in October 1997, Akayesu was facing an amended indictment which included charges of sexual violence against displaced women who sought refuge at the Taba commune. It is not alleged that Akayesu personally committed any acts of sexual violence but rather that he is responsible for acts of sexual violence committed by others because he was present, was in a position of authority, but failed to take any action to prevent it.⁴⁶

Factors Affecting the Response to Sexual Violence During Armed Conflict

There are many factors that affect the extent to which sexual violence against women and girls during armed conflict is recognized and addressed. Between Nuremberg and Tokyo on the one hand, and the former Yugoslavia on the other, a strong and mobilized feminist movement has emerged that is exerting pressure and demanding redress for atrocities specifically directed at women and girls. Women's NGOs have been instrumental in insisting that steps be taken to address crimes of sexual violence.

NGOs Assisting Women in the Former Yugoslavia Include :

B.a.B.e. (Zagreb)
Center for Women War Victims (Zagreb)
Humanitarian Law Fund (Belgrade)
Kareta (Zagreb)
SOS (Belgrade)
Tresnjevka (Zagreb)

NGOs Assisting Women in Rwanda Include :

Association de solidarité des femmes rwandaises (Asoferwa)
Association des veuves du génocide d'Avril (AVEGA)
Association des volontaires de la paix (AVP)
Benishyaka
Group Kamaliza
Isangano
Pro-Femmes/Twese

However, as the case of Rwanda demonstrates, continued vigilance is required to ensure that sexual violence in all conflicts is addressed. One of the major reasons cited for the failure to address sexual violence in Rwanda is that cultural attitudes inhibited women from talking about what had happened to them. Clearly, cultural factors do influence the way that women react to sexual violence and other traumatic experiences. In many cultures, particularly those in which sexual purity is highly valued, women frequently find it difficult to talk about sexual violence. However, many women in all cultural contexts want to tell their stories, provided that certain measures are taken to minimize the associated trauma. Women must be given a viable choice, and it is up to the international community to demonstrate that the situation of women really can be improved by coming forward. Necessary measures include the use of female investigators and interpreters, and guarantees of appropriate protection for women who testify in court.

The absence of adequate witness protection has been a significant impediment to women testifying before the Rwanda Tribunal. The Rules of Procedure and Evidence of the Rwanda Tribunal provide the same protections to victims and witnesses as the Yugoslav Rules, but witness protection is an extremely difficult issue, requiring cooperation between the local authorities and the Tribunal's witness protection programme. NGO reports suggest that many survivors of sexual violence in Rwanda are inhibited from coming forward due to fear of death, harassment and intimidation.

A report called Witness Protection, Gender and the ICTR, has been prepared by the Centre for Constitutional Rights, International Centre for Human Rights and Democratic Development, International Women's Law Clinic and MADRE. It asks for the provision of trauma counsellors for women, support persons to accompany witnesses travelling to the seat of the Rwanda Tribunal in Arusha, together with consistent follow-up.⁴⁷

Conclusions : Future Perspectives

There have been several signs that sexual violence against women during armed conflict will continue to be accorded attention within the UN framework. In addition to the upcoming reports of the Special Rapporteur on violence against women, and the report of the Special Rapporteur on systematic rape, sexual slavery, and slavery-like practices during periods of armed conflict, there has been specific consideration given to the impact of armed conflict upon girl children. In 1993, the GA requested that a study be carried out on the impact of armed conflict upon children, and Ms. Graça Machel was appointed to head the study. Ms. Machel's Final Report recognizes that children, and especially girls, are vulnerable to sexual exploitation in many settings during armed conflict. For example, girls who become child soldiers are frequently subjected to rape and other forms of abuse, as are girls who are refugees or displaced persons. The report states that "[c]hildren may also become victims of prostitution following the arrival of peacekeeping forces." ⁴⁸

In September 1997 the UN Secretary-General appointed Mr Olara Otunnu as his Special Representative for Children in Armed Conflict. Sexual violence perpetrated against children falls within the terms of his mandate.

UN Expert Group Meeting on Gender Persecution Toronto, Canada, November 1997 (Excerpts)

Legal Definitions and Standards Sex-based crimes be referred not be explicitly defined, so that the legal

Adequate professional support and

financial resources for witness protection and related services should be established; Special attention should be directed to long-term health needs such as psychological consequences arising from trauma and the effects of violations of reproductive rights such as being forced into bearing children or being denied the freedom to bear children.

preparations for the forty-second session of the Commission on the Status of Women, held in March 1998. Women and armed conflict was one of four critical areas from the Beijing Platform for Action which was reviewed by the Commission. The 45 Member Commission adopted Agreed Conclusions on the issue of Women and Armed Conflict. The meeting was also part of the Division's contribution to the 50th Anniversary of the Universal Declaration of Human Rights.

The conflict in the former Yugoslavia was the catalyst that brought the issue of sexual violence during armed conflict squarely onto the international agenda, but much more remains to be done.

Formal recognition of the problem is an important first step, but this must now be translated into a positive outcome for women and girls affected by sexual violence in all armed conflicts.

This issue of women2000 was compiled by the Women's Rights Unit, United Nations Division for the Advancement of Women, with Michelle Jarvis, Consultant.

Notes

1 The Miami Herald, 18 December 1992, and Die Welt, October 1, 1992, cited in C. MacKinnon, "Crimes of War, Crimes of Peace", in S. Shute & S. Hurley (eds), *On Human Rights: The Oxford Amnesty Lectures 1993*, New York, Basic Books, 1993, p. 83.

2 Related issues were explored during an Expert Group Meeting on "Male Roles and Masculinities in the Perspective of a Culture of Peace", held by UNESCO in Oslo, Norway from 24-28 November 1997. For further information contact UNESCO, .

3 United Nations, Preliminary Report Submitted by the Special Rapporteur on violence against women, its causes and consequences, (E/CN.4/1995/42), 1994, paras. 288 and 290.

4 J. Gardam, "Women and the Law of Armed Conflict: Why the Silence"?, *International and Comparative Law Quarterly*, vol. 46, 1997, p. 55.

28 United Nations, Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights held in Vienna from 14 to 25 June 1993, (A/CONF.157/24), 13 October 1993.

29 N. Reilly (ed), Testimonies of the Global Tribunal on Violations of Women's Human Rights at the United Nations World Conference on Human Rights, Vienna, June 1993. A video of the Tribunal produced by Augusta Productions in collaboration with the Center for Women's Global Leadership. For further information contact the Center for Women's S/93.4/1125, 13Tj 0 -13.5 TD -0.04130 Tc 0.43430 Tc ()4ctober 1993.4

40 United Nations, Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 935 (1994), (S/1994/1405), 9 December 1994, paras. 136-137.