

**Wagadu, Journal of Transnational Women's and Gender  
Studies Special Issue 2012**

**Sexual Violence and Armed Conflict: Gender, Society, and the  
State<sup>1</sup>**

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Women and girls are uniquely and disproportionately affected by armed conflict. In modern warfare, an estimated 90 percent of the casualties are civilians, and 75 percent of these are women and children. Women and girls are the primary targets of sexual violence, but men and boys can also be victims.<sup>3</sup> Rape has been reported during or after armed conflicts in every war-zone. Rape and other forms of sexual violence are often widespread and can be used to humiliate, punish, control, injure, inflict fear, and destroy communities. Women as old as grandmothers and as young as toddlers have suffered violent sexual abuse at the hands of military and rebel forces. Today, sexual violence in conflict is frequently employed by armed groups systematically, as a tactic of war, to humiliate opponents and annihilate specific ethnic groups.

One common view portrays conflict related sexual violence as an unfortunate byproduct of wartime social collapse, lack of military discipline, and “naturally” aggressive male sexuality. Women are targeted because they hold the families and communities together so sexual violence against them aims at destroying social and cultural stability. Further, in many cultures the female body represents the nation as a whole and the rape of women can be regarded as a symbolic rape of the body of that community (Seifert, 1996). According to Françoise Duroch,

Rape can be used as a weapon, meaning it is carried out with martial reasoning and used for political ends. It can be

used to reward soldiers, or remunerate them, to motivate the troops. It can also be used as a means of torture, sometimes to humiliate the men of a certain community. Systematic rape can be used to force a population to move. Rape can also be used as a biological weapon to deliberately transmit the AIDS virus. In war, we also find the phenomenon of sexual exploitation, forced prostitution or even sexual slavery. (Médecins Sans Frontières, 2012)

Children born as a result of wartime rape have been overlooked in research, policy, and programming. Refugee and internally displaced women and children are particularly vulnerable to sexual violence and exploitation. Rape and sexual assault are commonly perpetrated by the very people designated to help girls and women in conflict zones. Border guards, police, aid workers, and United Nations peacekeepers have all been named as perpetrators after the cessation of hostilities.

Survivors willing to pursue legal aid must overcome embarrassment, fear, stigmatization, and other obstacles. Many cannot report their assault or seek legal redress. This is especially true when the rapes leave the victims with AIDS or other STDs, infertility, fistulas, and broken families as victims are abandoned and shunned by their husbands or other relatives. Thus, any statistic on sexual violence provides an incomplete picture of the problem and its prevalence. For this reason most reports reflect estimates or approximations, which can be considered imprecise:

- During the conflict in Bosnia in the early 1990s, between 20,000 and 50,000 women were raped. (Degni-Ségué, 1996)
- Between 250,000 and 500,000 women were raped during the 1994 genocide in Rwanda.
- In the Democratic Republic of Congo an average of 36 women and girls were raped every day and over 200,000 women have suffered from sexual violence in that country

since armed conflict began. ( UN High Commissioner for Human Rights, 2010)

There are significant junctures between rape in war and genocidal rape. Genocide is the attempt to destroy a racial, ethnic, religious, or national group as such, in whole or in part, by committing any of a number of acts against the group's members. These acts include not only killing, but also causing serious bodily or mental harm, creating conditions intended to destroy the group physically, and imposing restrictions intended to prevent births within the group (Geneva Convention on the Prevention and Punishment of Genocide, 1948). In such cases, the victim is not only the targeted individual, but the group itself. The International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) have recognized and condemned genocidal rape (Askin, 2003). In both cases, rape was employed systematically against the women of a certain group, as part of an organized campaign to destroy that group.

In February 2001, the ICTY found three Serbian soldiers guilty of rape as a crime against humanity. Crimes against humanity are certain extraordinarily inhumane acts (including murder, torture, enslavement, and deportation) when those acts are systematically committed against civilian populations in the course of armed conflict. The ICTY judgment marked international humanitarian law's first official recognition of rape as a crime against humanity. As a result of these developments in international criminal law, the breadth of research has expanded exponentially since the mid-1990s. Wartime rape, once invisible due to sexist disregard for women's experiences, became a rallying cry for ending violence against women worldwide. Legal scholars joined ranks with social scientists and practitioners to investigate how sexual violence is executed, acknowledged, and addressed during armed conflicts, genocides, massacres, and complex emergencies. Understanding how the consequences of war rape affect not only the victims but also their families, communities, and governments has led to a

myriad of legal, quasi-legal, and customary approaches attempting to prevent perpetrators from enjoying impunity for their crimes and provide necessary resources to survivors for healing and recovery.

Law plays a crucial role in giving women's human rights global reach. In many war-torn countries, survivor justice is developed and enforced using an assortment of mechanisms including: (1) domestic criminal courts, (2) national truth and reconciliation commissions, (3) International Criminal Court prosecutions, (4) hybrid tribunals that mix domestic and international law and procedure, and (5) local customs and rituals like gacaca courts. These processes are collectively called transitional justice, which refers to activities, judicial and otherwise, that address human rights abuses and mass atrocities perpetrated on societies in transition from conflict to peace (United Nations Security Council, 2004). However, transitional justice mechanisms have not been efficacious in achieving justice for survivors of wartime sexual violence even though mass rape is precisely the type of atrocity that transitional justice seeks to address.

Making justice possible for survivors of sexual violence in conflict and post-conflict zones captures one of the prickly issues churning around international policy makers at the United Nations, prosecutors at the International Criminal Court, among NGO aid workers, and journalists. How should leaders and employees address gender in an informed and sensitive way, conduct their work consistent with universal human/women's rights standards, and adjust to state constitutional peculiarities? Further, how do they intervene in the bedlam of active conflict or post-conflict turmoil while showing respect for ethnic, cultural, and religious diversity? This special issue grew out of this human/women's rights discourse.

Feminist scholars who are interested in ending war-time violence also confront challenges posed by the institutions and practices that

apply humanitarian justice principles. The crises in the former Yugoslavia and Rwanda brought sexual violence in conflict to the forefront of international awareness. For feminists, the problem is both intellectual and political in a movement that seeks justice for all women. Since there are many different theories, feminists agree about the need to end violence against women but disagree about what exactly ought to be done. They are at odds over what justice means at the local and global levels and about the social, political, and legal implications gender has or should have.

This issue is motivated by the quest for social justice, and seeks to present feminist inquiry from a wide range of perspectives on social, cultural, economic, political, and legal phenomena important to the study of wartime sexual violence. As editor, I recognize that these authors share a common commitment to justice when it comes to ending conflict-related sexual violence. Each writer, in her own way, examines how women in more developed countries must learn from the experiences of women in countries located primarily in the developing and less-developed world.<sup>4</sup> The writers explore not only the institution of patriarchy that dictates “justice” for women world-wide; they provide feminist critique of complicity in the destructive system of patriarchy. The authors do more than call attention to the fact that women in more developed nations typically have more power and privilege, they also underscore how some women’s justice cannot be easily (or ethically) exported to others, especially women in the developing and less developed countries torn by conflict and the violence of war.

These are the central themes that bind these articles into what aspires to be a cohesive issue. I selected work that acknowledged how universality and specificity are not mutually exclusive. To guide my decisions, I drew primarily upon my recent experience co-editing (with Susan Dewey) a volume of essays entitled, *Conflict-related sexual violence: International law, local responses* (St. Germain & Dewey, 2012). The process of pulling

both writing projects together produced significant discussions around the tensions between local and global understanding of justice for survivors of sexual violence during or post conflict. I sought articles for this issue that were culturally meaningful and reliant on international and transnational discourses.<sup>5</sup>

There are countless lenses we can use to observe the impact of wartime sexual violence. I sought to capture some of the variety and to demonstrate how the new configurations of gender have profoundly reshaped the political terrain around human rights, women's rights, and responsibility in law. I have grouped these articles into two sections: those that critique institutional responses and applications, and those that more directly address the experiences of refugees and survivors of sexual violence. As it turned out, and not by design, part one focuses on the former Yugoslavia and Afghanistan and part two on African countries.

Part one opens with Dewey's account of her field research on sex trafficking in Bosnia-Herzegovina. For the article, she draws on the Radovan Stanković case, a legal milestone that marked the first time that sexual assaults were diligently investigated for the purpose of prosecution by the ICTY under the rubric of torture and enslavement as a crime against humanity. According to the indictment, in 1992 Stanković was in charge of Karaman's house in Foca where Bosnian Muslim women and girls, some as young as 12 and 14 years of age, were detained so that Serb soldiers and other Serb men could sexually assault them. The house was run in the manner of a brothel and the women treated as sexual slaves who were also forced to work for the soldiers, including washing uniforms, cooking and cleaning the house. During the entire period of their detention the girls and women were subjected to repeated rapes and sexual assaults. Stanković repeatedly raped two victims and threatened to sexually assault others. He was the first ICTY indictee whose case was transferred to a national court as part of the Tribunal's completion strategy. In 2006, the Court of Bosnia and Herzegovina sentenced Radovan Stanković to 16 years for

crimes against humanity. He escaped from prison just weeks into his sentence. Dewey's article describes how weaknesses in infrastructure and political will seriously inhibited efforts to obtain justice for women who survive wartime sex trafficking through localized implementation of international criminal law.

The second article continues to explore the ICTY's work, this time from the perspective of the women prosecutors and judges who made history by paying specific attention to gender-related crimes, redefining and consolidating the place of these offences in humanitarian law. Harrington examines embodiment and the intersectionality of race and gender. Her analysis of interviews with African American women about their work prosecuting sexual and gender based violence at international tribunals is a response to the often asked question; does it make a difference if the judge is a woman or a man, if the prosecutor is White or Black? Her work challenges neo-liberal ideas that present the law as gender and race neutral, leading readers to conclude that more diversity among the elite jurist's presiding over these cases and among the elite prosecutors charging them would lead to greater equity in the application of humanitarian law in international criminal courts.

The third piece in this section moves the work of international humanitarian and criminal law forward by asking about the rights of the war babies of Bosnia. Strupinskiene's work focuses on the children that resulted from the genocidal rape of Muslim and Croatian women in Bosnia-Herzegovina. During the conflict, women were raped and denied abortions with the intent to create a Serbian state by producing what the perpetrators imagined as Serb babies (MacKinnon, 2006). The resulting children are in fact seen as "children of the enemy ... a sort of nascent fifth column within an already victimized community" and are thus often stigmatized, mistreated, or abandoned (Goodhart, 2007, p. 310). In this fieldwork account of ethnic rape carried out in "rape camps" where the systematic forced impregnation of Muslim and Croatian women and girls occurred, Strupinskiene highlights for the reader

how little is known about the lives of the children born into these circumstances and how difficult doing research can be on these vulnerable populations.

In the fourth article Fluri challenges us to examine the responsibility of international aid workers in terms of sexual misconduct in conflict and post conflict situations drawing on her field work in Afghanistan. Sexual abuse in humanitarian response first came to public attention with the release of a report in February 2002 of a joint assessment mission examining the issue (United Nations, 2010). It found that not only was sexual exploitation widespread, it was also perpetrated by aid workers, peacekeepers, and community leaders. Examples included workers trading food and relief items for sexual favors, teachers in camp schools sexually exploited children in exchange for passing grades, and medical care given in return for sex. Fluri captures this controversy in her examination of sexual conduct, misconduct, and abuse by international workers. Her paper highlights civilian vulnerability endemic to sites of conflict, gender differences in employee sexual abuse, and challenges enforcing national and international law.

Part two of this issue opens with Rider's provocative theory piece about gender-based violence (GBV)<sup>6</sup> and agency among the refugee community during and post conflict. Armed conflict is accompanied by social disruption, particularly the disintegration of families, which leaves women and girls especially vulnerable to violence. When fathers, husbands, brothers, and sons are drawn away to fight, they leave women, the very young, and the elderly to fend for themselves. For refugees and displaced persons this raises a wide range of issues in terms of conflict-related sexual violence. Rider's work reassesses theories of sexual agency against the backdrop of war. She argues that feminist theory offers a universal account of agency, which underplays individuality present among discrete refugees. Unpacking the "universal" is central to an inclusive theory of sexual agency, and also to an



explanation of how refugees negotiate changes within gender relations during time of forced migration and armed conflict. Her piece provides a segue into the next three articles that examine survivor agency, or lack thereof, from a case study perspective in a sample of African countries.

Duroch walks us through one NGO's efforts to better understand conflict related violence and how to better meet the needs of the survivors in the Democratic Republic of Congo (DRC). USA Today reported that 420,000 women were raped in the DRC every year (USA Today, 2011); according to the Boston Globe, 1,152 women are raped every day (Boston Globe, 2011); the Guardian reported that 48 women are raped every hour (The Guardian, 2011); and the New York Times wrote that Congolese women are 58 times more likely to be raped than women in the United States (New York Times, 2011). All were quoting a June 2011 issue of the *American Journal of Public Health* study. Duroch's examination of the DRC's crisis explores how her organization, Médecins Sans Frontières (Doctors without Borders), changed its institutional culture and adapted itself around the enormity of the catastrophe of sexual violence. Her study exposes the learning process of a humanitarian organization that offers women's healthcare, including specialized assistance to over 6,000 victims annually. It presents a qualitative study of one MSF's intervention in Eastern DRC analyzing the experiences of 2695 patient/survivors of sexual violence as well as semi-directive interviews conducted with volunteers and managers involved in providing services in this operation. The study originated through the organization's need to understand the enormous number of rapes in this region as a means to improve interventions and financial allocations. This level of institutional responsiveness did not come automatically according to Duroch and her article describes the progression. She depicts the organizational learning curve and the catalysts that moved the agenda forward. Further, she illustrates the barriers and resistances developed around social representations of rape victims and how they were overcome.

In the Rwandan civil war of 1994, the interahamwe raped hundreds of thousands of women and girls belonging to the Tutsi ethnic group as part of an effort to exterminate the Tutsi people entirely. Nagarajan, director of Gender Action for Peace and Security, provides some insights into Rwanda's response to survivors who experienced sexual violence that could well prove instructive to policy makers concerned with the ongoing conflict in DRC and other African countries. She argues that despite commitments to the rights of women and recognition of the prevalence of rape during the genocide, the Rwandan government has been slow to offer legal redress and medical treatment to survivors. She explores the resistance and barriers preventing services for those who suffered and survived sexual violence in the genocide. How the government sets priorities post conflict can make it complicit in a "protracted gendercide" by ignoring the needs of sexual assault survivors as a matter of policy. Nagarajan demonstrates how post conflict governments have prioritized the construction of a sense of nationhood and continuation of power over the needs of sexual assault survivors. The result is that many women are dying without reparation, healthcare, counseling, or seeing perpetrators brought to justice.

We conclude the issue with an article by Yacob-Haliso. Her work investigates the implementation of Liberia's policy to addressing GBV among refugee women returning to a post-conflict environment. She examines specialized government initiatives and considers the importance of having Nobel Peace prize winner President Ellen Johnson Sirleaf, the first and currently only elected female head of state in Africa, lead Liberia's efforts with respect to aiding rape survivors, preventing sexual violence, and ending impunity for perpetrators. Yacob-Haliso explores the efficacy of the Liberian government's National GBV Plan of Action and its implementation through the GBV National Taskforce. She argues that while the plan prioritized training for health and psycho-social service providers, establishment of outreach services for survivors,

and reform of the legal system, the implementation of rape legislation was flawed. Strategies to strengthen the criminal justice system's response called for a review of GBV-related laws. The establishment of Criminal Court E focused on sexual violence prosecution and training for the judiciary, police, media, and community leaders on survivors' legal rights. Yacob-Haliso prompts the conclusion that despite these efforts, the law and its implementation have proven insufficient for the immediate socio-psychological reintegration of GBV survivors to proceed in Liberia.

### **Conclusion**

Wartime sexual violence varies in magnitude and takes discrete forms. In some conflicts it is systematic and widespread, yet in other conflicts—like those involving ethnic conflict—it can be targeted and limited. In some conflicts GBV takes the shape of sexual slavery; in others, as torture and murder through the spread of HIV. These variations and the legal, humanitarian, and international criminal responses are highlighted in this special issue. The articles have revealed tensions between the global and the local, and discrepancies between how the law is written and how it is implemented.

Insights, analyses, and conclusions are framed using a variety of feminist theories and approaches to law and legal issues. Each article evaluates and critiques the law by examining in some way, the relationship between gender, violence, power, individual rights, human rights, and the judicial system as a whole. The authors employ feminist thought from varied disciplines and analyze applications from diverse activist perspectives. They theorize about causes of, and solutions to, wartime rape. Collectively, their writings in this special issue exemplify a rich tradition of feminist work and apply knowledge enlarged through decades of international feminist anti-violence activism. Their work continues to develop and challenge patriarchal legal, political, and social

assumptions about gender and violence reinforcing international feminist movements against war-time sexual violence.

### References

- Adetunji, J. (2011, May). Forty-eight women raped every hour in Congo, study finds. *The Guardian*. Retrieved from <http://www.guardian.co.uk/world/2011/may/12/48-women-raped-hour-congo>
- Askin, K. (2003). Prosecuting wartime rape and other gender-related crimes under international law. *Berkeley Journal of International Law*, 21, 288–349.
- Cook, R.J. (1993). Women's international human rights law: The way forward. *Human Rights Quarterly*, 15(2), 230-261.
- Degni-Ségui, R. (1996). *Report on the situation of human rights in Rwanda*. E/CN.4/1996/68 paragraph 16, Geneva: UN, 29 Jan.
- Geneva Convention on the Prevention and Punishment of Genocide, Articles II and III (1948).
- Gettleman J. (2011, May). Congo study sets estimates for rape much higher. *The New York Times*. Retrieved from [http://www.nytimes.com/2011/05/12/world/africa/12congo.html?\\_r=1&partner=rss&emc=rss](http://www.nytimes.com/2011/05/12/world/africa/12congo.html?_r=1&partner=rss&emc=rss)
- Goodhart, M. (2007). Sins of the fathers: War rape, wrongful procreation, and children's human rights. *Journal of Human Rights*, 6, 307–324.

- MacKinnon, C. (2006). *Are women human? And other international dialogues*. Cambridge MA: Harvard University Press.
- Médecins Sans Frontières. (2010). *International Activity Report*. <http://www.msf.org/>. Retrieved from [http://www.msf.org/msf/content/international-activity-report/international-activity-report-2010/international-activity-report-2010\\_home.cfm](http://www.msf.org/msf/content/international-activity-report/international-activity-report-2010/international-activity-report-2010_home.cfm)
- Médecins Sans Frontières. (2012, January 10). *Sexual violence overview*. Retrieved from [doctorswithoutborders.org](http://www.doctorswithoutborders.org): <http://www.doctorswithoutborders.org/news/issue.cfm?id=3466>
- Seifert, R. (1996). The Second Front: The Logic of Sexual Violence in Wars. *Women's Studies International Forum*, 19(1/2), 35–43.
- St. Germain, T. & Dewey, S. (ED). (2102). *Conflict-related sexual violence: International law, local responses*. Sterling, VA: Stylus/Kumarian Press.
- United Nations. (2010). *Task Force*. Retrieved from Protection from Sexual Exploitation and Abuse by UN and Related Personnel: <http://www.un.org/en/pseataaskforce/>
- UN High Commissioner for Human Rights. (2010). *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*. Retrieved from <http://www.unhcr.org/refworld/docid/4ca99bc22.html>.

United Nations Security Council. (2004). *The rule of law and transitional justice in conflict and post-conflict societies: United Nations Report to the Secretary.*

Winter, M. (2011, May). Study: 420k Congolese women are raped each year - - 48 per hour. *USA Today*. Retrieved from <http://content.usatoday.com/communities/ondeadline/post/2011/05/study-finds-48-congolese-women-are-raped-every-hour/1>

(2011, May). 1,152 Congolese women raped daily, study finds. Retrieved from [http://articles.boston.com/2011-05-12/news/29536867\\_1\\_democratic-republic-congolese-women-gender-based-violence](http://articles.boston.com/2011-05-12/news/29536867_1_democratic-republic-congolese-women-gender-based-violence)

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<sup>1</sup> I acknowledge with gratitude the authors for their commitment to gender justice, Mecke Nagle and the Wagadu editorial staff/reviewers for their support, and Susan Dewey for her insightful advice.

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<sup>3</sup> Male survivors are often unrecognized and receive little care or protection. Sexual violence against men includes rape, sexual torture, sexual humiliation, and sexual slavery. Men and boys are even less likely to report sexual abuse than women for fear of stigmatization, but also for lack of care and protection under the law. Some countries do not include male victims in their legal definitions of sexual violence.

<sup>4</sup> The First, Second, and Third world categories are no longer used among academics but remain in the vernacular. Today countries are defined as more or less developed. Countries that are undergoing change are generally referred to as developing nations.

<sup>5</sup> Very careful distinctions are now being made between international or multinational (relationships between and among nation-states) and transnational (relationships between and among individuals and other entities, regardless of nation-state boundaries).

<sup>6</sup> Some in the humanitarian world continue to use the term sexual and gender-based violence (SGBV); I consider sexual violence a form of gender-based

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violence and as such simply use the more inclusive term gender-based violence (GBV).