

Sexual violence in conflict: A problematic international discourse

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Between 30th July and 2nd August 2010, reports from the United Nations (UN) and International non-government organisations (INGOs) exposed a mass rape campaign carried out in Walikale, North Kivu Province of the Democratic Republic of Congo (DRC) in which more than 157 women and men were victimised. Three rebel groups, and possibly with support from the Government's 212th Brigade stationed in the area, are believed to be behind the orchestrated orgy of violence in Walikale, where they moved through a dozen villages in a rape and pillage campaign.¹ The UN immediately issued a statement strongly condemning the violence and urged the Congolese government to pursue the perpetrators and bring them to book (UN News Centre, August 2010). In a televised press conference (UNTV 2010) Margot Wallström, the UN Special Representative of the Secretary General on Sexual Violence in Conflict said,

"The recent atrocities in Walikale, North Kivu in the DRC affirm that sexual violence should never again be dismissed as random, cultural or inevitable. ...We must hold the perpetrators to account. The illegal armed groups that continue to rape as a weapon of war must be brought to justice... and secondly we must improve the United Nations' response..."

The incident takes place in the wake of an International Criminal Court (ICC) that is actively pursuing suspected perpetrators of war crimes and crimes against humanity, and bringing them before the court to face international justice. In fact, just three years earlier, Germain Katanga and Mathieu Ngudjolo, Congolese rebel leaders, had been indicted and by the time of this mass rape incident, they were facing criminal prosecution crimes, including rape and sexual slavery. At the same time, there has been sustained international focus on the situation of conflict in DRC, particularly on the pervasive problem of sexual violence.

The supranarrative rehashes the rhetoric on the failure of legal accountability for sexual violence in DRC that allows such “widespread and systematic” violence to continue unabated during conflict. Even so, the UN account of the incident (UN News Centre 2010) does not speculate on the reason or the purpose of this ‘systematic’ operation of violence. The subterranean account hints at an intention by the rebel groups to deter a swop by the government of the 212 Brigade that has been in the region for a while, with the 211 Brigade. This is because the 212 Brigade had worked out a lucrative collusion with the rebel groups that saw all sides benefit from export of tin and the mineral taxes generated in the region. The change with the 211 Brigade threatened this profitable alliance (Stearns, 2010). The mass rape was an easy tool to create chaos, assert dominance and territorial control, while also generating international attention.

This incident illustrates a tension between the theoretical conceptualisation of sexual violence in conflict situations, and the reality of sexual violence. Despite a strong global dialogue on sexual violence in conflict situations, the international community seems helpless to stop sexual violence in conflict. Is the problem in how sexual violence in conflict is conceptualised and therefore addressed, or is sexual violence so entrenched that it requires a immense and sustained legal, policy and diplomatic effort to end it? My argument in this paper is that sexual violence remains intractable primarily because of how the problem is conceptualised and thus the approaches to a solution programmed around it.

Awakening to the scale of sexual violence armed conflicts

Sexual violence in conflict – a footnote

Sexual violence in conflict is as old as the history of humanity. Women and girls have been the predominant victims of sexual violence, and there has been a measure of acceptance that rape goes hand in hand with the violence of warfare. In addition to looting and pillaging, rape of women and girls of the opposing sides was among the spoils of war. Although recognized as a social vice, it was treated as a reward for war weary warriors who were otherwise intensely engaged in securing the interests of the side for which they took up arms. As such, to reprimand a soldier for sexual assault during combat was the proverbial “storm in a teacup.” Skjelsbæk (2010) reiterates that looting and rape were “two sides of the same coin”.

The four conventions that constitute the Geneva Convention of 1949 are considered an early breakthrough in codifying as well as setting standards on the conduct of war. However, it did not include sexual violence as a prohibited crime against civilians during war. Article 3, which is common to all four conventions, declares “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” and “outrages upon personal dignity, in particular humiliating and degrading treatment” as war crimes. Article 27 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War named rape of women as a reprehensible act but stopped short of making it a war crime for which combatants could be held to account:

“Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”

The wording in the Geneva Convention codified the prevalent social attitudes towards sexual violation of females: it was an act of dishonour against the victim but also against the dominant male in her life – her husband or her father. Her legacy of shame and worse yet, if she conceived out of the incident, made her less marriageable. Rape was a dishonourable act but it was not considered of sufficient import to merit political consideration or mention in the negotiations for peace, reparations and post conflict reconstruction. The de facto acquiescence over centuries to sexual violence as part and parcel of warfare has been dubbed “one of the greatest conspiracies of silence.”²

From footnote to first page

A fortuitous convergence of rights activists’ spirited campaigns on sexual violence and the global outrage on the extensive and calculated use of rape for ethnic cleansing in the Bosnia armed conflict of 1992 brought sexual violence out of the obscurity of postscripts, and onto the first page agenda of international discussions. When it broke in the media that in Srebrenica, the Serbian forces had set up camps where they held and raped non-Serbian women and girls, impregnated them and sent them out to bear the children conceived, there was global outrage particularly in the Global North.³ At the same time, the genocide unfolding in Rwanda a few years later and the extent of sexual violence and murder that characterised the conflict fuelled a global demand to end the inaction on sexual violence in armed conflicts.

After the Bosnia crisis, the UN was “actively seized” by the problem of sexual violence in armed conflict. What followed was a strong rhetoric and the steady outpouring of international standard-setting documents, including resolutions, declarations, statements, policies, treaties, communiqués and several other instruments all speaking to sexual violence, making it a global problem, defining solution and demanding actions to end the pandemic. Experts, commentators and UN agencies have theorised extensively on sexual violence in conflict, and the global discourse on sexual violence has developed a language of its own. The robust international discourse has overshadowed and shaped the national responses of NGOs as well as governments.

The 1993 Statute of the International Criminal Tribunal in Yugoslavia (ICTY) and the 1994 Statute of the International Criminal Tribunal in Rwanda (ICTR) were the first documents to name mass rape unequivocally as a crime against humanity. The Statute of the ICTR not only acknowledged rape, but also named forced prostitution and indecent assaults as crimes against humanity.⁴ The commitment of the ICTR was backed by the first-ever conviction of a war crime suspect, Jean-Paul Akayesu, in 1998, for rape as a crime against humanity and an act of genocide. Thereafter, the Statute establishing the International Criminal Court (Statute of the ICC) in 1998 picked the cue and included rape as a war crime, prosecutable alongside other crimes against humanity and genocide in the permanent court for international criminal justice.

Activists and UN agencies have generated numerous training manuals to sensitise soldiers to the problem of sexual violence in conflict situations and impress upon them the appropriate conduct that offers protection for the victims. Internal policy guidelines have also emerged from a theorising that women and girls are more at risk for sexual violence and sexual exploitation in conflict and humanitarian situations, and the guidelines seek to protect the vulnerable groups from such conduct. The responses of rights groups have also been patterned along the UN response, with intense advocacy and lobbying for legal reform, for national military personnel to be trained on responding to sexual violence in conflict, as well as seeking reparations for victims who have suffered sexual violence during conflict. Predominantly, the discourse which has informed the research, policy work and advocacy, has focused on exposing the vice, demanding justice for victims, offering protection and recovery support for the victims, and wielding international political will to condemn sexual violence in conflict situations. The research and theorising

have also generated a phraseology that seeks to employ shock tactics to elicit the impetus to act and address sexual violence. Phrases such as “rape as a weapon of war;” “the war is fought on women’s bodies;” “the rape capital of the world;” among others have become a common part of the global language on sexual violence in conflict situations intended to communicate the premeditation and deliberateness of sexual violence and the importance of ending it. Without a doubt, the development of the international discourse on sexual violence has been nothing short of exponential since sexual violence in armed conflicts became a global problem (see Skjelsbæk 2010). Perhaps this is also attributable to an attempt to undo some of the injustice occasioned by decades of silence sexual violence in conflicts.

To the cursory observer, the documentary barrage, the sharp increase in awareness and willingness to talk about sexual violence in conflicts should have, in nearly 20 years of activity, put a stop to sexual violence in conflict or mitigated the high incidence of the crime. The reality, however, is bleaker. Sexual violence has become more complex, more prevalent and more egregious in conflict situations and the current responses have not been effective in deterring or putting a stop to it. The theorizing and international initiatives to combat sexual violence reveal a growing frustration and desperate groping for solutions to a problem that becomes more intractable the more it is “understood”. There are dozens of agency and inter-agency actions specifically designed to combat violence in conflict. In addition, there are high profile initiatives including the present UN Secretary General, Ban Ki-moon’s initiative, *UNiTE to End Violence against Women*. The *Stop Rape Now! UN Action against Sexual Violence in Conflict* initiative has at its helm prominent performing artists and international personalities; the offices of the Special Rapporteurs and Special Representatives also are focused on violence, among other initiatives. There is no shortage of a demonstrable international will to tackle sexual violence in conflict. However, the theorising on sexual violence seems to have become stuck on breaking the silence. The resounding success of generating international focus on sexual violence by breaking the silence on the atrocity has left the UN and many rights groups in a reverie that constantly seeks to re-enact this success, while erroneously identifying the problem as a failure to acknowledge the incidence of sexual violence. Hence, responses are heavily nuanced with a continuing intention to “create awareness”, to “disclose” to “break the silence” on sexual violence. However, like an unsightly wart that will not respond to an onslaught of

antiviral remedies, the problem of sexual violence in conflict situations has remained unyielding to the multiple interventions. By excising sexual violence in conflict situations from its complicating contexts, the international discourse deals with the challenge as if it were an independent phenomenon that emerges because of armed conflict and can therefore be fixed by applying appropriate legal and policy measures to the perpetrators when caught. The international discourse attempts to simplify a complex problem and propose simple solutions, without problematising fundamental assumptions and ideologies that underpin the approach to sexual violence.

Problematic conceptions, problematic responses

A normalisation of violence against women

In her analysis of gender, violence and discourse, Shepherd (2010) surmises that the feminisation of sexual violence emanates from conceptual processes hinged on structuralism that asserts sharp binaries in social relations: male versus female, heterosexual versus homosexual, white versus black, and so on. The social roles and attributes that define men and women are diametrically opposed, while what constitutes male and female is essentialised. Masculinity is expressed in aggression, militarisation, assertiveness and power-wielding. Femininity is the direct antithesis and is expressed in weakness, passivity, and yielding to power. This categorisation normalises the notion of women as lacking in agency, and in need of protection from an excessive exercise of male attributes.

This problematic construction of gender and sex is the platform from which the international discussions and responses to sexual violence in conflict launch. The resulting conceptual framework affirms a patriarchal social order which normalises the aggressive, heterosexual, dominant behaviour associated with masculinity and the subjugation of females. Shepherd describes the gender relations in this context as a zero-sum game where only one can win at the expense of the other. Violence against women becomes an integral part of exerting power over women and maintaining a system of male hegemony. Sexual violence is feminised – it happens to women because they are female. The current discourse on sexual violence has been astute in analysing the patterns of sexual violence in conflict, but has failed to interrogate the normalisation of patriarchy as the basis for human interaction.

Patriarchy as a social-political order is based on male hegemony through

dominance and denigration of other experiences. It concentrates power at public and private spheres within the male. “Normal” is defined from the perspective of the heterosexual male and other perspectives are peripheral. The fundamental ideology asserts two genders, women and men, based on two sexes, male and female. Within a patriarchal construct, other sexual identities such as transgender and intersex are discounted. Access to power is based on a hierarchy where male is preferred over female, and extends to other systems of domination including racism, religious hegemony, ethnicity.

Violence is an acceptable and integral part of maintaining this order, insofar as it does not fundamentally threaten the structures. Hence, armed conflict is abhorrent in that it makes societies ungovernable, and threatens entire socio-political orders. Violence against women, on the other hand, is a prominent expression of pattern of domination. It is normalised through assertions of cultural acceptability and desensitisation of communities to all but extreme manifestations of violence. Sexual violence though publicly subject to public censure is an often tolerated expression of masculinity and domination of femininity. Rape in conflict, Skjelsbæk (2010) suggests, is an “[accentuation] of pre-existing gender relations,” as opposed to a new phenomenon emerging with the eruption of hostilities.

Although the international responses to conflict do not reveal a keen internalization of these facts, the UN correctly theorises on sexual violence in conflict:

“Since perpetrators of sexual and gender-based violence are often motivated by a desire for power and domination, rape is common in situations of armed conflict and internal strife. An act of forced sexual behaviour can threaten the victim's life. Like other forms of torture, it is often meant to hurt, control and humiliate, while violating a person's physical and mental integrity.” (UNHCR et al. 1999)

The current discourse which embodies the UN and NGO responses to sexual violence in conflict has not problematised the social construction of gender which continues to fuel the evolution of the problem of sexual violence in armed conflicts.

Instead, the approaches continually validate the unequal power structures that were normalised prior to the outbreak of conflict. Not only is feminised violence considered normal, but the international emphasis on the magnitude and extent of sexual violence also suggests that sexual violence against women is noteworthy only when it involves large numbers and egregious acts.

The phraseology emerging around sexual violence in conflict seems to glorify the situation the more extreme it becomes. A bizarre and unspoken competition over which situation is dubbed “the worst humanitarian crisis in the world”, or “the most forgotten crisis,” seems to be key in generating international attention which is translated to mean support for resolving the situation. This has the inadvertent effect of glorifying the violence. Lewis’s (2008b) robust criticism of the UN response to the sexual violence in DRC reveals a frustration with what he describes as all the right rhetoric and public relations pronouncements, but too little action that can trigger change.

Sexual violence in conflict as part of a continuum

Bringing to light the extent, nature and scope of sexual violence that was occurring in armed conflict situations has been one of the most significant breakthroughs in the fight against sexual violence. The decision of the ICC to hold perpetrators accountable for mass rape and egregious forms of sexualised violence has added vim to the fervent efforts of documenting sexual violence in conflict, particularly in Africa where many of the world’s armed conflicts continue. Margot Wallström’s impassioned remarks on bringing the perpetrators in Walikale, DRC to book, following a four-day spate of sexual violence, emphasises the UN belief in sexual violence in conflict as a separate and unique problem that requires a targeted response (see Ertürk 2008).

Sexual violence in conflict situations is often perceived as a stand alone social problem that arises wholly because of the conflict situation and will naturally die down when peace is restored. The interventions thus focus on mitigating or stopping the problem while the conflict persists until an armistice can be brokered. It is as if sexual violence in conflict has little if any connection with the pre-existing gender relations, social orientation and other forms of gendered violence preceding the descent into conflict. The calls for governments to “pursue the perpetrators and bring them to account,”⁵ reveal stark assumptions that the default position is a system that is unwilling to censure such conduct. Further, it assumes that the prosecution of sexual violence in the International Criminal Court is a sufficient deterrent for the violence. The fact that the mass rape happened while top rebel commanders from towns in the same Kivu Province were facing prosecution for rape in the ICC is telling. Perhaps because of the size and nature of matters that come before the ICC, many rebel leaders are aware that they are unlikely to

end up in The Hague facing war crimes charges. However, it is perhaps more likely that the ICC's criminal prosecutions have some deterrent effect but not enough to create a terror of engaging in widespread sexual violence in conflict situations.

Research in conflict situations has revealed that sexual violence during conflicts does indeed escalate both in victim numbers and in scope. Numerous conflict situations have also revealed that sexual violence is wielded to further the ends of the conflict (see Arieff, 2009; Heise et al., 1999). However, the rhetoric takes it further and creates the impression that sexual violence in conflict situations is an isolated phenomenon that arises only with the outbreak of conflict. It separates sexual violence in conflict from the continuum within which a culture of violence breeds, congeals and becomes an intricate part of the social fabric. UN approaches have treated sexual violence in "peacetime" and sexual violence in conflict situations as separate intervention issues. Sexual violence in conflict merits international attention, pronouncements and allocation of international resources towards redressing the problem. Sexual violence during peacetime is easily perceived as the lesser evil.

A silo approach

Not only does the discourse excise sexual violence in conflict from the continuum of sexual violence in peace time, it also excises it from the broader political discussions that take place in resolving conflict. Sexual violence is rarely mentioned during the negotiations to resolve wars. The United Nations Fund for Women (UNIFEM) estimates that of 300 peace agreements from 45 conflicts since the end of the Cold War, only 10 peace processes even mentioned sexual violence, let alone address it as a critical conflict resolution item.⁶ This, despite the prompting from four UN Security Council Resolutions,⁷ numerous policy guidelines, discussion papers, senior level officials statements, an office of the UN Special Rapporteur on Violence against Women and an office of the Special Representative of the Secretary General on Sexual Violence in Conflict. This lends credence to Lewis's (2008a) assertions that the rhetoric from the UN does not translate into political will to deal with sexual violence.

More importantly, sexual violence in conflict though prominent in international discussions on conflict, is in fact still seen as a side problem to the main problem of the political fallout, the breakdown in law and order,

insecurity and the conduct of war. Rape is a female problem that occasionally happens to unfortunate men, and is addressed as a reproductive health concern. The discourse does not consider rape in the context of national security, rape as a continuation of conflict and rape as an extension of other forms of oppression, including race, religious, ethnic and political (Skjelsbæk 2010). The feminisation of rape and sexual violence in conflict is a political strategy as well as a socio-cultural dynamic with far reaching developmental, social organisational, political structuring and economic implications even after the guns have gone silent.

The UN as a global organisation pursues happy fusion of the multiplicity of cultures, religions and ideologies of states that play out on the international stage. Its policy parlance inevitably reflects this strongly compromising approach in its ideological positions, rhetoric and pronouncements. The organisation is subtly resistant to radical feminist ideologies that threaten the current social order. This is unsurprising because the set up of the UN is as part of an intricate system of maintaining relationships of dominance and subjugation between states. The UN dialogue on sexual violence has highlighted the importance of inclusion of women in peace talks, in decision-making processes. However, this approach does not problematise the fact that the system into which women are to be included is already dysfunctional as a tool for equality in social relations.

Further, the use of phrases such as “taking women’s views into account” indicates an acceptance of women on the periphery mitigated by generous calls for opportunities to participate, not as equals where they can question the system, but to have their views included much as one would take into account the opinions of an external party. The discourse, while seeking to shift the balance of power, in fact reiterates that women are on the outside looking in, and are asking for a seat at the table “if it is alright with the boys”. Lewis (2008b) reflects that if the scale of sexual violence that women face happened to men, the solutions would have come much sooner, and the UN would not be standing and wringing its hands behind an edifice of policy documents and diplomatic pronouncements.

Reformulating the discourse and the interventions

Sexual violence in conflict situations is a discourse given to clichés and problematic assumptions that the source of the violence. Skjelsbæk’s (2010) insightful assessment identifies sexual violence in conflict as an accentuation

of already problematic gender relations before the violence breaks out. The dominant discourse on sexual violence, driven by the international community's extensive theorising on the problem, has made key assumptions that need to be unravelled and if the challenge of sexual violence is to be tackled with any measure of success. I highlight three key problems with the current discourse on sexual violence.

First, the discourse sets off with the presumption that sexual violence in conflict is anomalous to an otherwise functional system, and the fight to stamp out sexual violence in conflict is a fight to intercept this deviation and restore an unproblematic status quo. The discourse is problematic precisely because it fails to problematise the normalisation of violence against femininity, deeming such violence attention-worthy only when it has a high incidence and is widespread. Without addressing the systems – political, social, cultural, legal, economic – through which sexual violence is feminised and disseminated as an inevitable part of social relations, the intense concentration of efforts on dealing with the problem when it is at a peak will not succeed in addressing the root that gives rise to the problem.

Second, sexual violence during armed conflict is not a unique phenomenon, even though it is often widespread. It is a manifestation of problematic gender relations that are defined in terms of binaries. Within these rigidly defined brackets, sexual violence is in fact the result of a power dynamic that normalises heterosexual masculinity as the collective “objective” and others all other experiences – female, homosexual, transgender. Sexual violence in conflict is not *per se* a “female problem.” There are a growing number of sexual violence incidents reported by boys and men, as well as by sexual minority identities. The motivation is key – sexual violence is an assertion of male dominance and a tool of domination, humiliation and of feminisation, where femininity is interpreted as an insult to the male-bodied individuals.

Third, sexual violence is not just a gender problem; it is as much a political, social, economic and legal problem of war. The distinction of “wartime” and “peacetime” as the difference between the continuation and cessation of armed hostilities is myopic at best and is tantamount to accepting violence against a percentage of populations as an acceptable part of peace. There is value in rights groups as well as the UN dialoguing on sexual violence as an active component of war, and for negotiations to consider the continuation of sexual violence as a continuation of war. Peace should have more encompassing definitions, than “the absence of violence” which should give

impetus to addressing sexual violence as part of poor governance, corrupt accountability, and weak social structures.

The theorising and conceptualising on sexual violence in conflict situations sets the tone for the priorities set and the interventions made on sexual violence in conflict. After at least 20 years of active international attention to sexual violence in conflict, the steady increase of the incident should trigger the question “where have we gone wrong?” The answers lie in examining the conceptualisation of sexual violence in conflict.

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Endnotes

1. This is according to Jason Stearns, a Central Africa senior analyst with the International Crisis Group, reported on the “Congo Siasa” blog site. See Stearns 2010.
2. Jan Egeland, the UN Undersecretary General for Humanitarian Affairs from 2003 to 2006 first coined the phrase that has been reiterated by several commentators as an apt depiction of the inaction for centuries that rendered sexual violence in war “invisible” to the international community until the 1990s.
3. See Skjelsbæk, 2010; Arieff, 2009; Heise et al., 1999; UNDAW 1998;
4. See Articles 3 and 4 of the Statute of the International Criminal Tribunal in Rwanda
5. UN Secretary General Ban Ki-moon and Margot Wallström issued strongly worded statements to the DRC government to pursue the perpetrators of the rape spree in Walikale. Reported by UN News Centre 2010.
6. UNIFEM gives a 10 point count on the highlights of women in war in light of the 10th anniversary of UN Security Council Resolution (UNSCR) 1325. Available at <<http://www.unifem.org/campaigns/1325plus10/1325-highlights/>
7. These include UNSCR 1325 of 2000, UNSCR 1820 of 2008 ; UNSCR 1888 of 2009 and UNSCR1889 of 2009. Available on the UNIFEM website noted above.