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“War has entered the blood”

Conflict related sexual violence - Why men rape in wartime.

Identifying causal factors and legal responses.

Masters in Law Dissertation

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Abstract

Conflict related sexual violence is a phenomenon which causes devastation to innocent civilian populations and has lasting implications beyond the serious physical violation. This dissertation explores the causation of sexual offending during war through a predominantly offender perspective by examining different case studies, which are intended to demonstrate both similarities and differences in its occurrence. Through theoretical frameworks and analysis of military structures and cultures the commission of sexual violence can be understood to be complex and rooted in the politics, culture, ethnicity, and religion of the individual context. The title of the thesis 'War has entered the blood' is definitive of the distinguishable transition between peace and war time and its influence on the perpetration of sexual violence.

Connections between time periods are undeniable, however, the breakdown in social order and shifts in governing powers allow for changes in behaviour which are influenced by internal groups dynamics and hierarchal structures in the armed forces and in many cases alter the type and severity of sexual violence. The research extended to examine the variation in sexual offending as opportunistic, as a practice, as a weapon of war and as a form of genocide. Each context analysed demonstrated how perpetrators exploit the obvious vulnerabilities of the target population through sexual violence to gain advantage for various purposes. Changes to behavioral norms during war appear to elevate violent tendencies with rape becoming exceptionally brutal.

Assessments of legal responses to conflict related sexual offending demonstrated the challenges associated with prosecuting offenders and how individual cases have reoriented international

criminal law and its focus on this serious crime. This process has not been linear, and the cases chosen for analysis suggest that the law works in tandem with external sociological and political elements and remains a work in progress.

The research predominantly indicated that the perpetration of sexual violence as an individual isolated offence is less frequent than it being employed as a practice or systematically. In some of the regions examined the practice of sexual violence was due to permissive and tolerant attitudes of commanders and in other instances formed part of a military and governmental strategy which was planned in advance. The range of territories chosen, the former Yugoslavia, Palestine, Rwanda, and the Democratic Republic of Congo formed an important part of the research as it demonstrated past and present contexts which have experienced sexual offending during war. Analysis of each region provided a wealth of information which highlighted the patterns and distinct differences in how sexual violence is commissioned.

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Abbreviations

AIDS: Acquired immunodeficiency syndrome

CRSV: Conflict Related Sexual Violence

DRC: Democratic Republic of Congo

FARDC : Forces d'Armees de la Republique Democratique du Congo

HIV: Human Immunodeficiency Virus

ICTY: International Criminal Tribunal for the Former Yugoslavia

ICTR: International Criminal Tribunal for Rwanda

IDF: Israel Defense Force

IRMCT: International Residual Mechanism for Criminal Tribunal

SS: Schutzstaffel

UN: United Nations

Chapter One: Introduction

Sexual violence in peacetime is a common occurrence and defined as ‘deviant’ behaviour and outside of normal sexual practices (Baaz & Stern, 2018). It is therefore in theory accepted that sexual offending is wrong and punishable under criminal law. Despite this, sexual violence remains endemic in society with the vast majority of offenders able to avoid prosecution which defines women's status in peacetime as lesser and creates links to the perpetration of war time sexual offending (Jefferson, 2004). This is significant as conflicting perspectives exist as to whether conflict related sexual violence is an independent phenomenon or a continuation of existing peace-time gender-based violence. Wood (2006) contends that conflict related sexual violence occurs as a result of established social norms and group dynamics in the military during active war which mirror peace time attitudes. While Cohen (2018) acknowledges there is some continuity in sexual violence in peace and war time settings, however, they position conflict related sexual violence as a distinct phenomenon which is created by unique dynamics which cannot be equated to peace time. While these hypotheses may be in tension with one another, differing perspectives assist in building a comprehensive examination of conflict related sexual violence across multiple contexts both historically and in modern times. Clark (2014) seeks to integrate micro, meso and macro level factors to demonstrate the multi-casual nature of conflict related sexual violence and thus provides insight into the nuances of its occurrence. This stance provides a basis to understand the interconnectedness of varying elements and attempts to balance the influence of societal, group and individual actions. The culmination of these

perspectives informed the direction of the research as it sought to examine the converging factors which assist in the manifestation of this phenomenon. “Wartime rape is as old as war itself” and was historically accepted to be an unavoidable part of conflict (Carter, 2021: 4). The dominant perspective now gives recognition to conflict related sexual offending being a serious human rights violation (Nagel & Doctor 2020). The transition in understandings was driven by different factors including the extreme sexual violence perpetrated in the conflict in Rwanda and the former Yugoslavia during the 1990s which garnered significant international interest and thus reshaped the issue (Crawford, 2013). To this end, qualitative methods employed in this dissertation are intended to narrate the progression through time across different case studies to assess commonalities and contrasts in the perpetration of sexual violence during war. Research objectives which emerged from this are “What is the causation of conflict related sexual offending and why does it differ across contexts?” which informs the next question “Can conflict related sexual violence be understood as isolated offences or as part of a wider agenda?” and “What are the current legal responses to conflict related sexual violence and how are they implemented and enforced? The main objective of this is to provide insight into the components which underpin the commission of sexual violence during war and how this has been responded to legally. Chapter 2 comprises of a literature review which introduces the topic of conflict related sexual violence and presents a historical account of the phenomenon from the first and second world war and moves on to include the case studies of the former Yugoslavia, Rwanda, Palestine, and the Democratic Republic of Congo which demonstrates the nuances of the issue. Chapter 3 relates to the methodology and explains the methods chosen to conduct the research and offers justifications for the direction of the study. Chapter 4 outlines some of the theories

which aim to explain the causation of conflict related sexual violence. Chapter 5 critically analyses the armed forces, from military structures and cultures to specific militaries from the chosen case studies and how they commission sexual violence during war. Further to this, sexual violence as a form of genocide is assessed through the contexts of the former Yugoslavia and Rwanda. Chapter 6 assesses international criminal law and its application to conflict related sexual violence through a socio-legal lens pertaining to specific mechanisms and prominent cases. Chapter 7 contains a general discussion relating to the perpetration of sexual violence during war and offers an opinion as to the causation based on the research conducted during the dissertation. Through this some strengths and limitations of the study will be addressed, and further research directions will be suggested.

While the findings will not alter the current body of research on the topic current literature which takes account of various contexts is sparse and this method is therefore considered to contribute to the ability to compare contexts and the differences in the prevalence and type of sexual violence perpetrated. Moreover, this type of research has the ability to inform future responses and attempts to predict the occurrence of conflict related sexual offending through presenting the complex interplay between factors which create an environment for sexual violence.

Chapter Two: Literature Review

Introduction

This chapter provides an overview of conflict related sexual violence historically and in the case studies which are represented in this dissertation. The main objective of this review is to collate the existing literature relating to CRSV and identify patterns and variations in its use across multiple contexts. The scope of the review includes World War I and II and spans across the conflicts in Palestine, the former Yugoslavia, Rwanda, and the Democratic republic of Congo. Through diverse sources such as reports, books, and academic articles each context is intended to demonstrate the variation in sexual violence and how culture, religion, ethnicity, and gender affect its commission.

For the purpose of this review all types of sexual violence are considered relevant in gaining a greater understanding of the complexities of CRSV. Therefore, differing forms of sexual violence are included, from sexual harassment, sterilization, forced impregnation, genital mutilation and to rape as a form of genocide. This assists in building a comprehensive overview of the dynamics and variations which affect the perpetration of sexual violence during war. Moreover, the range of evidence will demonstrate the immediate harm associated with sexual violence and the more long-term consequences for individuals, families, and society. Overall, the review seeks to synthesize the available information on the causation and commission of SV against civilian populations during war.

Historical Conflict Related Sexual Offending

Rape has existed for as long as the human race and has been a documented phenomenon in war since ancient times (Smith, 1974). During the first world war sexual violence was utilized against civilians in occupied territories routinely but was viewed as insignificant when pitted against the larger context of war. Zuckerman (2004) provides a historical account of the invasion of Belgium by German forces during 1914 and through testimony describes the gravity of sexual violence against women and children by depicting individual accounts including the public gang rape of female civilians. Similarly, Harris (1993) examines the sexual violence experienced by French women during the 1914 invasion by German troops and depicts the depraved acts inflicted upon them as a method of terror and the subsequent portrayal of these crimes in French culture through art and literature. The analysis of both Belgium and France show similarities in how German combatants employed sexual violence and challenges the conventional research narrative of war and seeks to understand the personal cost to civilian lives who experienced and witnessed these atrocities. Furthermore, Individual accounts of rape and mutilation illustrate the level of violence used against innocent people and highlights the impact of sexual violence at both an immediate level and in the aftermath of war.

World War I and World War II are interconnected conflicts which reflect one another (Reynolds, 2017) with the Treaty of Versailles in part responsible for the shaping of Hitlers ideological movement and campaign of ethnic cleansing (Abel, 1986). During the period of the rise of the Third Reich to power the inherently misogynistic regime created propaganda which sought to clearly define gender roles (Rossy, 2011). This coupled with the dominant nationalist perspectives created an environment for the systematic use of sexual violence during the Holocaust. In principle any relationship with an ethnic minority, explicitly Jews, by German

citizens was prohibited by the introduction of the law for protection of German blood and honor in 1935 (Szobar, 2002). This crime of racial defilement 'Rassenschande' resulted in more than 2000 prosecutions punishable by a custodial sentence and in cases where the female became pregnant could result in the death penalty (Williams, 2021). Due to the severity of the punishment in many cases Jewish women who became pregnant by a German citizen were murdered, this was also used as a 'preventative measure' after rape and carried over into the concentration camps where women were routinely killed following a sexual assault in order to protect the perpetrator from sanctions for violation of the racial law (Williams). This demonstrates the complex manner in which sexual violence and murder became linked through legislation implemented prior to the war and resulted in increased danger for Jewish women during this period. Banwell (2016) and Hedgepeth et al., (2010) further support the contention that Jewish women were killed following sexual assault by German soldiers through historical analysis and testimony and determine that the murders were legitimized through the racial laws and the collective belief that sexual contact with Jewish women compromised the Aryan race. It is evident that this research supports the links to genocidal intent through sexual violence however, it is also considered that the use of this form of violence was exercised against Jewish women as a means of emphasizing the power dynamic and as a dehumanizing technique. There are no official records which document the prevalence of rape during the war, however, correspondence from the German military police described a high number of sexual assaults committed by soldiers (Sander & Johr, 2005). Levenkron (2010) argues that it is far easier to count the number of skeletons than the number of those who were raped'', with human remains serving as tangible evidence of crime and sexual violence hidden by death and silence in those

who survived. Given that two million women were murdered during this time (Levenkron, 2010), the narrative of sexual violence was lost and those who survived became marginalized through stigma and victim blaming.

Sexuality was also used as a commodity in the concentration camps and as a method of catering to the needs of the guards of the Schutzstaffel (SS) (Chalmers, 2015), it also served as an incentive to privileged prisoners who were granted access to the brothels to increase work productivity (Hedgepeth & Saidel, 2010). This structured form of abuse served a dual purpose which was to allow senior prisoners to sexually assault forced sex workers and to create a social divide within the prison structure. Between 1942 –1945 ten brothels were established across various concentration camps for prisoner use only, with women who were coerced to work there offered higher standards of living and a false promise of release after six months of service (Van Der Meer, 2019). Schneider, (2019) details that more than 200 female prisoners were exploited in brothels at this time and based on available records determined that while ‘asocial’ women worked there, Jewish women were excluded from this form of abuse. Further analysis of documents and testimony allowed for 174 of the victims to be identified with 114 of the women of German nationality and only one woman contended to be of Jewish decent (Sommers, 2010). Moreover, Sommers attests that the reasoning for the available data is due to the adherence of concentration camp authorities to the German laws on prostitution.

Historical accounts of brothels in concentration camps have been altered through different museological depictions and thus certain institutions have been selective in how the narrative is told with some memorial sites opting for a simplistic interpretation rather than adopting an approach which details the nuances associated with the operation of these sites (Bogue, 2016).

This is coupled with analysis from Hedgepeth & Saidel (2010) which contends that many women did not report being survivors of forced prostitution in concentration camps due to the stigma associated with the practice. The inclusion of forced prostitution within the topic of conflict related sexual offending is to demonstrate the complex ways in which sexual violence manifests and is utilized for varying purposes. Furthermore, it shows how structured forms of violence were sanctioned by the hierarchy of the SS and that no method of exploitation was excluded.

Rape and sexual assault was widespread across World War II from labour and concentration camps, to families being sheltered from the Nazis and for the children sent to the United Kingdom under the *Kindertransport* to seek refuge (Chalmers, 2015). While German soldiers were predominantly responsible for sexual abuse, Hertzog (2008) outlines through witness testimony how others took advantage of the altered social structure, with Jewish men also raping Jewish women in the ghettos during this period. Sexual violence permeated every context of life during the holocaust with women, children, and any marginalised group unable to attain safety anywhere. Moreover, the sexual assaults which occurred within the Jewish community would have caused immediate harm and left a legacy of divide among families and fellow community members. Through this the effects of sexual violence can be observed and the intricate manner in which it damages survivors and future generations. While this analysis has attempted to depict some of the sexual molestation perpetrated during World War II it should not be considered extensive. This is to say that the extreme and widespread use of sexual violence was so extensive it would be challenging to encapsulate every crime and every context it extended to. However, the actions of those who perpetrated these acts and the subsequent inaction of authorities to

prosecute crimes of a sexual nature during this period demonstrate the complexities of CRSV and the various forms it can manifest in and how it is interpreted at the time and retrospectively.

To conclude the examination of this war further examples of the types of sexual crimes committed against Jewish and other ‘asocial’ people include sexual humiliation through forced shaving and public nudity (Schwarz, 2023)¹, forced sterilization of women and people with disabilities (Kleinplatz & Weindling, 2022, Evans, 2023). Moreover, the common use of sexual violence against men and boys and the distinct victimization of homosexuals was utilized in various settings controlled by German forces (Glowacka, 2021). Widespread sexual abuse of children was also observed both in countries invaded by the Nazis and in the labour and concentration camps (Rose, 2000, Chalmers, 2015). Women were forced to undergo ‘physical examinations’ to check reproductive health and under the gaze of male officers who routinely humiliated them during the process (Linden, 1996). All forms of these abuses, both explicit and covert, appear to have been committed with a sexualized intent which either exploited or suppressed sexuality and reproductive rights.

The liberation of Nazi occupied territories should have marked an end to the use of sexual violence. However, by the end of the second world war it is estimated that approximately 1.4 to 1.9 million women were raped by allied forces, including the Red army and in lesser numbers by French and American troops (Messerschmidt, 2006). German women suffered the most during the period of 1945 – 1949 and were routinely subjected to sexual violence with the consequence

¹ The term ‘asocial’ was applied to people who defied social norms according to the Nazi regime. These people included sex workers, single mothers and people who engaged in races with individual from other races or ethnicities.

of being physically harmed or killed by their German families due to the stigma, with many women dying by suicide to avoid the shame associated with rape (Teo, 1996). Women were once again punished through rape for crimes committed during the war whether they had actively participated or not. Furthermore, the shaming process by German families and society generally for the violence inflicted on them demonstrates the perception of sexual violence and how victim blaming in sexual assault always prevails.

As a result of the war and the following period of liberation it is estimated that 200,000 children were born from rape ((Messerschmidt, 2006). Children born through CRSV typically suffer from intergenerational trauma and may be ostracized and neglected due to the complexities associated with their identity (Denov, 2015). The far-reaching consequences of sexual violence experienced during war create an environment where families and communities cannot repair the harm caused during conflict and the children which exist due to rape face a lifetime of discrimination and marginalization.

Israel and Palestine

In the 1930s and 1940s the British empire prevented Jews from immigrating to the region of Palestine however, following the end of the second world war liberation movements including the rise of Zionism supported the mass movement of people of Jewish decent and the establishment of the state of Israel (Adelman, 2008). Although the Israel- Palestine conflict began with the Balfour Declaration in 1917 (Smith 2017), the 1948 ‘Nakba’ and establishment of the Jewish sovereign state marked a sustained illegal occupation of Palestine and a resistance movement from the Arab community (Farsakh, 2018). This created a landscape for ethnic

discrimination and dehumanization of Palestinian people. Jewish women who escaped the second world war were also shamed for possible survival through sexual exchanges and relationships with the enemy during this period (Levenkron, 2010) and were often questioned as to whether they were engaged in prostitution during the war (Shik, 2009). This demonstrates how the citizens of the newly established Israeli state mistreated fellow survivors of the war and blamed them for the sexual violence inflicted upon them, it is therefore understandable that discrimination of Arabs happened with ease. Furthermore, the interconnections between conflicts become evident once more and it would appear little is learned from the experience of war.

Despite the continuous violence, Wood (2006) contends that sexual offending on both sides of the conflict is limited and is not commissioned strategically. Morris (2004) documents individual cases of rape perpetrated by the IDF during 1948 when Palestinians were forcibly moved, supported by evidence from military archives and testimony but did not find evidence of a coordinated policy to sexually violate the indigenous population. While this analysis was comprehensive, methodological limitations exist in attempting to quantify how many sexual assaults occurred during this period and acknowledgement of underreporting by survivors and lack of official documentation by the IDF must be considered. While Nitsán (2007) acknowledges the sexual violence committed during 1948, through examination of multiple sources such as media, reports and existing literature concludes that rape of Palestinian women is a rarity. MacKinnon (2014) contends that there is limited testimony of rape perpetrated by the IDF and further supports the assertion that sexual violence only occurs in isolated incidents. Given the prevalence of sexual violence across other conflicts by military actors claims that the IDF does not engage in this form of abuse portrays them as a morally superior force which

values human rights. However, lack of evidence is not defining, and the silence of Palestinians must be valued as much as their testimony in the context of sexual violence and inquiry must be extended to examine other sites where state sexual violence may be perpetrated and sanctioned (Al Issa & Beck, 2021). It is therefore understandable how academics have reached the conclusion that sexual violence is not systematic within the IDF, as it has not been observed to the same extent as in other conflicts, however, it is possible that the shame associated with sexuality within Muslim culture coupled with less obvious forms of sexual violence have perpetuated a narrative that this form of abuse is infrequent. Rather, it should be viewed as strategic and covert and occurring in contexts out of reach of independent inquiry, thus defining it as less significant than other conflicts. A United Nations (UN) (2017), report on CRSV presented detailed accounts of the phenomenon through multiple case studies across provided recommendations to mitigate risk and support victims. However, the Israel- Palestine conflict was decidedly absent from the report and may represent a larger issue of the plight of Palestine oppression being marginalised in both academic literature and by organizations which should be intervening on their behalf.

Shalhūb-Kīfūrkiyān (2009) describes how Palestinians refer to the sexual abuse of women by the IDF as 'Isqat', which means downfall. This encompasses the violation of the established codes of morality and privacy associated with Arabic and Muslim culture through sexual violence. Further analysis by Shalhūb-Kīfūrkiyān provides insight into the covert ways in which the Israeli military exploit the politics of sexuality by recording women in changing rooms, blackmailing women who engage in socially unacceptable relationships and by initiating invasive body searches with sexual undertones at check points. While these appear lesser crimes

within the international community, they mark a distinct intention to underpin the occupation through sexuality. This may also reflect how sexual violence is viewed in a peacetime context with only the most heinous acts of sexual violence warranting attention. Moreton-Robinson, (2015) and Stoler (2020) contend that the majority of colonial occupations are by their nature commissioned through a racial, gendered, and sexualized lens. This further supports the theory that the IDF have deliberately utilized the ethnic and sexual dynamics of the Palestinian people to enforce rule and to create distrust in the Arab community.

The consequences of sexual harassment and abuse of Palestinian women has extended past the event itself and over time has resulted in Islamic extremists enforcing harsher 'moral codes' to ensure modesty is adhered to and minimize the risk of sexual violence against them (Shalhūb-Kīfūrkiyān, 2009). These internal sanctions may be an attempt of Muslim men to reestablish their masculinity which they feel is stripped by Israeli forces and to retain the honor of their religious culture. However, once again women are punished for crimes of sexual violence committed against them and tasked with responsibility of ensuring they are not victimized by their occupier. The Israeli regime has created a system of arresting and detaining Palestinian civilians for indefinite periods and subjecting them to inhumane treatment, with women being victim of both gender based and sexual violence as a means of generating coerced confessions and fracturing the resistance movement (Francis, 2017). During the last 45 years over 10,000 women have been incarcerated on military orders and the vast majority have experienced threats of rape to both themselves and their family, forced nudity, internal examinations, and constant sexual harassment (Ijaz, 2022). The perpetration of these acts by authorities serves to damage the identity of Palestinian women and has a stigmatizing effect which will outlive the period of

detainment. Moreover, it is used as a broader weapon of fear against the wider community as women understand that any interaction with the prison system will result in sexual violence being perpetrated against them and thus reduces their ability to resist the occupation. Similarly, Palestinian men are detained frequently, often with little provocation and subjected to sexual harassment and abuse by both prison authorities and the secret service (Mossad). Research based on testimony of Palestinian men between 2004-2012 who had been mistreated and tortured by Israeli authorities concluded that while the extent is limited, sexual abuse is systematically used against detainees ranging from threats of rape, torture and contact offences (Weishut, 2015). These findings were at odds with a previous study in 2003 which reported that three human rights organizations engaged in the conflict recorded a minimal amount of sexual violence perpetrated against Palestinians (Wood, 2006). These contradictory conclusions may not indicate changes in the use of sexual violence by authorities over time but may suggest that it is possible for them to conceal these abuses particularly in a detention setting. It must be acknowledged that the second Intifada relating to the intensification of the occupation from 1993-2000 (Pressman, 2003) altered Israel's treatment of Palestinian detainees as legislation was amended to allow for "moderate physical pressure" to be used during the interrogation process which also provided an exemption of criminal responsibility for the interrogator (Dershowitz, 2004:20). The changes to the law may have contributed to an increase in violence, including sexual, as it allowed soldiers and security agents to interpret the amendments to fit their objective with the knowledge they would not be prosecuted. Moreover, the imprisonment of the high-profile Lebanese Amal leader Dirani by Israeli forces who took legal action against them for torture and rape garnered media and human rights interest from inside Israel for the first time (Menicucci, 2005). This internal

scrutiny altered how practices inside the prison system were perceived, although from a legal perspective nothing changed as the Israeli courts rejected the case on the grounds that an enemy of the state could not sue and ignored the allegations of sexual violence thus sending a message of tolerance to those carrying out these offences against prisoners.

Sexual violence in the Israel – Palestine occupation may be less obvious however; it is evident that it is incorporated into every aspect of the regime to serve the overall objective of the occupation. As Israel has sustained this system for a prolonged period of time with minimal international interference the covert use of sexual violence has received little attention and has even been hailed as a conflict where its perpetration is minimal. Instead, it should be perceived as a complex strategy of terror defined by incorporating sexual violence subtly into its regime and hiding more serious offences in sites which are beyond the reach of external scrutiny.

The Former Yugoslavia

The war in the former Yugoslavia was initiated after years of political unrest between the countries within its federation, whereby individual regions strived for either autonomy or dominance over the territories, resulting in a conflict involving multiple groups (Kalyvas, & Sambanis, 2005). This created a complex war based on ethnicity and power and was driven by strategical political methods of exploiting minority populations. This conflict involved three ethnic groups and thus demonstrated the variation in the use of sexual violence during conflict. Conservative estimations of the amount of sexual violence perpetrated during this period stand at between 20,000 and 50,000 (Boose, 2002). Although Sexual violence was perpetrated by all three groups engaged in the war, the Serbian military was sanctioned to commit acts of sexual

violence particularly against Bosnian Muslim and catholic Croat women and were provided with 'rape camps' to exploit and abuse women (Bassiouni, & McCormick, 1996, Salzman, 1998). This political system of sexual violence was a deliberate attempt to terrorise one population of people and as earlier observed in the discussion on Palestine was devised to exploit the Muslim culture. Within these facilities women were routinely raped and sexually assaulted with the intent of forcibly impregnating them to eradicate their indigenous blood line and told that they would mother Chetnik boys who would murder Muslims when they grew up (UN, 1994, Hughes, 1995). This was a unique method of torture which was aimed at prolonging the suffering of these women past the end of the war by forcing them to carry the children of their enemy. Moreover, Rafstedt (2015) contends that forced impregnation was a strategy to assist in populating the Serbian nation and thus securing them as the dominant ethnicity in the region through diluting the bloodline of other ethnic groups. Gynecologists were present in the rape camps and examined women to check for pregnancy, if they were pregnant, they were given a higher quality of living and held in the camp until it was too late to have an abortion (Stiglmayer, 1994). The collusion between perpetrators is evident in this practice and shows a calculated approach to incorporating sexual violence into Serbian war tactics.

Men and boys were also targeted by the Serbs during the war, with research utilizing medical records outlining the sexual violence perpetrated against Croatian and Bosnian Muslim males including rape, castration, and electric shocks to genital areas (Wood, 2006, Zawati, 2007). 5000 men were detained in the concentration camp in Sarajevo alone and 80% of these prisoners reported being raped by Serbian authorities (Mudrovčić, 2001), across all detention facilities men were subjected to beatings which targeted genital areas with the intent of causing infertility,

with many perpetrators stating this during the attacks (Lewis, 2009). It is considered that male sexual violence is drastically under reported and therefore, any estimates would be drastically higher than those reported. Moreover, perpetrating acts of sexual violence against male civilians is a deliberate attempt to obliterate the social construction of masculinity and thus create long term psychosocial issues for the survivor.

Rape also occurred outside these settings and was committed in towns which were overthrown and in brothels which were established by military forces (Salzman, 1998). As reported in other wars, rape was often perpetrated in the presence of others, with women being raped in front of their children and children being assaulted in view of their parents (Meznaric, 2019). Children who were violently raped multiple times often died as a result of the assaults or suffered long-term reproductive issues (Snyder et al., 2006). These severe forms of sexual violence represent an egregious violation of civilian rights and define a willingness of the perpetrators to harm the most vulnerable. Testimony based research described one instance where the Serbian army overthrew a town and began ordering all women to undress and selected multiple mother and daughter combinations to be raped together (Ene, 2020). More depraved accounts include family members being forced to rape one another in public settings by Serbian forces or be threatened with death (Abu-Hamad, 1995). It is evident that these acts were commissioned with the understanding that they would cause irrevocable damage to individual family's and the broader community structure. Moreover, it would increase the likelihood that people would leave the area following an assault and thus support the campaign to ethnically cleanse the region. A combination of factors relating to sexual violence in isolation which have been discussed demonstrate the genocidal intent of the actions of the Serbian army and through forced

impregnation, damage caused to some victims' reproductive systems and stigma related to the assaults they attempted to drive the Bosniaks and Catholic Croats from the region.

Rwanda

The frenzied genocide which took place over a three-month period in Rwanda in 1994 resulted in an estimated death toll of up to a million people (Lema, 2000) was because of a strategically planned genocidal project by the Hutus to eliminate the Tutsis based in a racist regime implemented by the legacy of colonization (Schimmel, 2020). The causation of the conflict is crucial to understanding the extreme actions of the Hutus during this short period of violence as tensions between these ethnic groups had been building over a prolonged period despite the cultural similarities and the interlinking of the tribes in communities and through marriage. The conflict was accompanied by mass sexual violence with estimates of 250,000 to 500,000 rapes being perpetrated during the genocide (Straus, 2006). These figures are based on statistics on pregnancy from rape and may be inaccurate (Nowrojee, 1996), however, as discussed previously in relation to the second world war due to the amount of individuals who were killed it is impossible to determine how many people were sexually assaulted. A prominent characteristic of rape in Rwanda during this period was body mutilation, including removal of breasts and penises (Rafstedt, 2015, Mullins, 2009). Mullins further describes the depravity of events through testimony which documents women being raped by foreign objects and being forced to undress in front of military groups to humiliate them prior to being sexually assaulted and murdered. Similar to events in the former Yugoslavia, the use of rape in Rwanda is deemed to have been a state sanctioned project aimed to assist in the genocide of the Tutsi people (Mullins & Rothe, 2018, Wood, 2004). The variation in tactics differ from those in the former Yugoslavia as rape

was more frequently accompanied by murder and forced impregnation was used minimally. Aside from the strategic use of sexual violence, the anarchy of the conflict provided opportunistic individuals with the perfect environment to rape civilians which is documented in the prevalence of both forced marriage and sexual slavery (Bijleveld, Morssinkhof & Smeulers, 2009). This was also driven through propaganda surrounding Tutsi women who were stated to be physically different to Hutu women. Many rapes were fueled in part to provide evidence of sexual myths propagated in the lead up to the war (Gallimore, 2008) with perpetrators often stating the reason for the attack was to inspect the bodies of Tutsi women (Nowrojee, 1996). This was a form of fetishizing the women of this tribe and violating the previous idealized portrayal of them within Rwandan society. Furthermore, this was a unique factor underpinning sexual violence in this region and highlights how false narratives are eagerly believed by those in the pursuit of violence.

Another prominent feature of rape in Rwanda was the deliberate transmission of the Human Immunodeficiency Virus (HIV) by the perpetrator (Sharlach, 2000). High rates of HIV among survivors was due to the intentional use of this form of violence to prolong suffering and in the aftermath of the conflict it is believed that the majority of people who had been raped were infected with the virus (Donovan, 2002, Mukamana & Brysiewicz, 2008, Sharlach, 2000). This formed part of the genocide as it was intended to be a method of inflicting a slow death upon the Tutsi people.

Rape victims were left with residual stigma for surviving the genocide and were punished for this by their communities and families as they were considered to have sold their bodies through sex to survive (Layika, 1995). This type of treatment has been observed in other contexts and is

also a typical response to victims in peacetime, whereby they are blamed for their assault while little scrutiny is placed on the perpetrator. Although the objective of the Rwandan genocide was to eradicate the Tutsi people through death, due to the amount of sexual violence perpetrated some women became pregnant as a result of rape. Estimates of the children born through rape are considered to be approximately 5000 (Nowrojee, 1996). These children were referred to as ‘‘les enfants mauvais souvenir’’ meaning children of bad memories (Mukangendo, 2007: 40, Goodwin, 1997) and ‘‘devil's children’’ (Nowrojee, 1996 :39). As a result of stigma and psychological distress many women died by suicide, committed acts of infanticide, or abandoned their baby (Mukangendo, 1994, 2007). Through this the legacy of sexual violence observed as it creates conflict in societies attempting to reconcile and among families who cannot accept children born from rape. Sexual violence therefore impacts communities for generations and prevents victims from regaining equal status in post conflict settings.

In the aftermath of the genocide, it was estimated that between 200,000 (Straus, 2004) and 800,000 (Haverman, 2008) perpetrators survived. This further complicates the reconciliation process and demonstrates the practical challenges which emerge in territories attempting to restore peace following mass sexual violence. Moreover, it can be viewed as an ongoing form of punishment for survivors as they are forced to coexist with those who violate them or their families. The Rwandan genocide demonstrates an ethnic war waged through sexual violence and murder against one ethnic group who were more similar to the aggressor than they were different. The mass violence committed during this short period depicts a frenzied but strategic endeavor to eliminate one population through any means possible.

The Democratic Republic of Congo

The genocide in Rwanda crossed the borders into the Democratic Republic of Congo (DRC) where the killing of Tutsi people continued, leading to the Rwandan forces invading the region in the aftermath of the conflict in search of Hutu rebels (Fjeldstad, 2010). While peace agreements were finally reached it coincided with civil conflicts within the territory which have never been resolved. In this ongoing war sexual violence has been employed systematically and as a weapon of war by multiple actors (Meger, 2010) in a manner which is incomparable to any historical or current conflict (Pratt & Werchick 2004). This has meant that the eastern region has become known as ‘the rape capital of the world’ (Kristof & WuDunn, 2009). While these atrocities were unfolding, they were largely ignored by the western world, meaning that international intervention was minimal. Impunity allowed perpetrators to commit acts of sexual violence without the fear of being prosecuted. In 2010 the media reported globally on ‘The Raped Women of Luvungi’ which documented mass rape in town overtaken by rebels and the failure of UN peacekeepers who were stationed near by to intervene to protect the civilians from sexual violence during the siege (Heaton, 2014). This served to alter the public's understanding of the humanitarian crisis and depicted rates of sexual violence which were unparalleled and showing no signs of decline.

According to the United Nations (UN) (2009), the vast majority of perpetrators of sexual violence in the region are members of the armed forces, with 81% of the cases involving the army or militias. A later study conducted by Peterman, Palermo, and Bredenkamp (2011) concluded that approximately 1.8 million women have been raped as a result of the prolonged

conflict. However, they also contend that rape within marriage is more prevalent with estimates of 3.37 million women being subject to sexual violence within the marital relationship. Although there are tensions in the research over who may perpetrate the majority of sexual violence, what may be more important is that it is an acceptable form of behaviour in every context in the region. Moreover, although legislation exists marital rape is not a prosecutable offence in the DRC (Horva'th et al., 2007) and therefore reinforces the notion that rape should be endured by victims as a normal part of their existence. This may be representative of peace time perceptions of sexual violence whereby rape was culturally normalised and used as a method of ensuring the victim would marry their perpetrator after an assault (Bosmans, 2007). Rates of sexual violence in peace time may assist in understanding its prevalence during war, particularly in civil conflicts as although it may be an independent phenomenon, it can be in part considered a transition to a more severe form of violence which is tolerated generally.

Analysis of cases of sexual violence from South Kivu found that a high percentage of victims had been gang raped and tortured during their assault (Omanyondo, Berckmans, & Mulyumba (2005). This appears to be common with genital mutilation inflicted on the victim by guns, broken glass, and hot plastic (Mer & Flicourt, 2015). As observed in other contexts the act of rape alone is not sufficient for perpetrators and they appear consumed with inflicting maximum pain on their victims.

Men have also experienced sexual violence in the Congo and are frequently subject to assaults by armed forces. Research conducted by Christian et al., (2011) analysed self-reports from male survivors which documented gang rape and rape of men in front of their family's to humiliate them and destroy family bonds. Genital violence is also often used as a method of torture against

men and boys to sterilize the enemy and in some cases, civilians are forced to sexually torture one another or be killed (Lewis, 2009). Consequences for men in the aftermath of being sexually assaulted are physical, psychological and social and can be detrimental to the ability to lead a normal life. Typically, men who have been raped are rejected in their community and routinely mocked for being emasculated by their attack (Yagi et al., 2022, Christian et al., (2011).

Perpetrators are aware of how male victims of sexual violence are treated in their community and exploit this to ensure they are ostracized, leading to lasting damage for the individual.

Deliberate transmission of HIV is a common characteristic of rape perpetrated in the Congo and has meant that the disease is widespread. In the DRC rates of HIV in the military are three times higher than those in the general population (Rimoin et al., 2015) and it is considered that HIV-positive soldiers have been chosen to carry out 'rape missions' on civilians and thus infect them (Bosmans, 2007). Individuals living in regions experiencing ongoing conflict have also been identified to have higher rates of the virus (Davis, 2019). This would indicate that the deliberate intent to infect the civilian population is successful and marks the actions as both strategic and genocidal. This is a cruel legacy of rape which leads to prolonged suffering for the victim ultimately leading to death without treatment.

According to a report commissioned by the UN (2024), there are 14 foreign and 250 local armed groups active in the region. This creates constant danger for the civilian population as there are so many actors involved in the conflict. This has meant that sexual violence remains prevalent, with rape and abduction of children on an upward trajectory (Unicef, 2023). Moreover, given the amount of armed groups engaged in the conflict and the size of the country it is increasingly challenging to address the factors which underpin the perpetration of sexual violence (Eriksson,

2024). As this war continues to unfold and sexual violence shows no sign of decline and intervention is minimal, perpetrators have free reign in the region and continue to exercise it to terrorize innocent civilians. The DRC represents the most devastating conflict primarily built on sexual violence and debasement of civilians. As peace has never been fully restored to the region sexual violence continues to be committed on a large scale with indifference from international communities, therefore the full effect of this ongoing abuse cannot be understood fully at present and will have repercussions for generations to come.

Conclusion

Through this review, literature from the first and Second World War has demonstrated the first historical conflicts which documented the prevalence of sexual violence perpetrated. The sheer volume of assaults and depravity of the acts marked the worst of humanity and was committed by both military and civilian actors at will. Unfortunately, the events which occurred in these wars are not exceptional and as each case study was examined it became evident that sexual violence inevitably becomes part of conflict manifesting in different forms.

Similarities and differences in how sexual violence is commissioned in conflict settings appears to be dependent on whether governing bodies sanction its use as part of its mission and as a strategic method of exploiting the vulnerabilities of the opposing side. Gender, religion, ethnicity, and culture become the method which wars are fought through with rape being able to strip victims of every aspect of their identity. Moreover, the perpetration of sexual violence damages communities leading to an inability for reconciliation as it marginalizes and stigmatizes survivors. Through each context analysed it is apparent that sexual violence perpetrated during

war is on a continuum with some appearing to be on a lesser scale but frequently veering towards severe and sometimes genocidal. However, malice is behind each act as its purpose is to destroy the individual, their families and affect the wider population. Therefore, no form of sexual violence should be tolerated and repetition of mass rape during war represents an inability to challenge its use and leads to continued impunity for perpetrators.

Methodology

Introduction

The objective of this research is to explore sexual offending in a war time context in terms of its causal factors and its variation, and secondary to this, examine the legal responses to it. To assess this phenomenon, I intend to evaluate differing conflicts to show the variance in sexual offending and the reasoning for this. Theorization of this phenomenon will be conducted as a method of explanation and to determine a causation for CRSV as an isolated act, as a practice and as part of a larger political objective. I will analyse multiple wars as a method of showing distinct differences in the commission of sexual violence in armed conflict. Through this I will further examine sexual violence as an act of genocide. Inclusion of this is intended to demonstrate that CRSV can be used as a systematic method of eradicating indigenous populations in some wars. I intend to evaluate how international law has progressed and whether it has contributed to addressing sexual violence both in individual cases and to advance the legal understanding of the issue. Individual criminal cases will be assessed through a socio-legal lens to gain insight into the legal frameworks for contending with individuals accused of committing or commissioning the use of sexual violence during war. Ultimately, the research design is built upon three domains, qualitative assessments of existing research, case studies and socio-legal analysis. This chapter is intended to present how the study is to be organised and justify the methodology employed in a bid to reach conclusions.

Research Questions

The core research question that this dissertation seeks to address is [A] the causation of CRSV and why differs according to the context?' related to this are additional questions which will provide context and dimension to the overarching objective. Therefore, connected to this is the question [B] Can CRSV be understood as isolated offences or as part of a wider agenda? To achieve this analysis of militaries and case studies will provide insight into the commission of sexual violence. I intend to gain a greater understanding of the law related to the phenomenon by assessing [C] what are the legal responses to CRSV and how they are implemented and enforced? These questions will inform the direction of the research and be related to each of the case studies included in the project.

Research Design

For the purpose of this study secondary research will be undertaken as this is the most appropriate way of assessing the subject matter. In research, the main methods of gathering material are through primary and secondary sources, the former refers to original information collection and the latter is a method of analysis and interpretation of existing literature (Ajayi, 2017). As this study aims to assess the different domains of sexual offending across various conflicts, desk-based methods are deemed to be the most comprehensive means of assessing the material in relation to the research questions. Secondary research is contended to be a legitimate

means of investigation in the presence of a systematic methodological process (Johnston, 2014). To this end, I consider that this method of analysis will provide access to an expanse of high-quality literature which will contribute to the knowledge in this area through a unique perspective.

Theoretical Framework

The use of a theoretical framework is intended to serve as a foundation for the research design and as a refined perspective to analysis the data collected. To assist in the interpretation of the material collated, contrasting theories will be applied to present alternative explanations for sexual offending in war time. There is no singular theoretical framework which can adequately explain an observable phenomenon, rather it will extenuate certain aspects of the issue while reinforcing the need for alternative interpretations (Anfara & Mertz, 2014). It is therefore imperative to consider diverging theories as multiple contexts and cultures will be represented in this study and thus the approach must be comprehensive.

Gottschall's (2004) contention that biosocial theory presents the most comprehensive explanation for CRSV will be analyzed to determine the veracity of the claim when positioned against different wars. In the context of sexual offending in war this theory emphasizes both biological and sociocultural factors which explain the phenomena (Vance et al., 2024).

Alternative theories will also be examined as Wood (2009) asserts that this phenomenon is explained through the theory of 'sexual violence as a practice'. The core elements of this theory emphasise the chain of command and group dynamics in the commission of sexual violence which will be considered in relation to the prevalence of gang rape in war. Further to this an

early theory put forward by Brownmiller (1975) contends that sexual violence is a weapon of war which encompasses a broader strategy. This foundational contribution to the research surrounding CRSV will be scrutinised to evaluate its relevance in relation to contemporary understandings of the subject matter.

The application of these theoretical frameworks will be used to provide analysis surrounding underlying factors relating to sexual offending and the behaviour itself. Both constraints and limitations of each competing theory will be examined to draw conclusions about which is most applicable to sexual offending during war.

Analysis of Militaries and War

Through a review of existing literature sexual offending in different wars will be evaluated. I will use comparative analysis to demonstrate the variation and similarities in the perpetration of sexual violence during armed conflict. The scope of the analysis will include multiple case studies and consider factors impacting sexual offending such as geographical location, context of the war and the actors involved. Through this individual and collective behaviors of personnel in both militaries and paramilitaries will be interpreted to understand the prevalence of sexual offending during war. Moreover, this approach to analyzing specific conflicts will allow for sexual offending to be evaluated as an individual act and as a weapon of war. Wood (2009) contends that sexual offending is not ubiquitous with war and not all actors engage in this behaviour. It is therefore essential that different wars are compared to evaluate how mass sexual offending occurs and why it is either absent or more obscure. It is considered that some forms of

sexual offending may be less studied rather than not existent in certain contexts, therefore Wood's contention will be evaluated in respect to that.

To provide context, Evaluations of the war in in the Former Yugoslavia involving multiple groups will demonstrate how sexual offending was utilized by the Serbian army as a weapon of war in a manner which was not employed by other actors involved in the conflict (Bassiouni, & McCormick, 1996). Through this assessment structures in the military and cultural differences will provide insight into how the hierarchical systems can dictate how combatants behave in conflict with some actors adhering to the rules of war while others function outside of the law.

The continued occupation of Palestine by Israels Defense Force (IDF) will be examined in a bid to understand the prevalence of sexual offending committed against the occupied citizens.

Although it is not considered that the IDF have used sexual violence systematically (Wood 2006), through analysis of existing literature and survivor testimonies the complex way in which the military have incorporated sexual offending and harassment into their surveillance and control strategies will be understood. Dynamics in this occupation will be assessed, as (Shalhūb-Kīfūrkiyān, 2009) contends that the IDF appear to exploit the dominant religious culture of Palestinians and use sexual offending as a means of continuous shaming and humiliation.

The ongoing civil conflict in the Democratic Republic of Congo (DRC) will be examined to assess how orders and rewards from military commanders facilitate mass sexual offending.

Schneider, Banholzer and Albarracin (2015) propose that the systematic use of sexual violence as a weapon of war in the DRC does not result from anarchy but rather it is driven by incentives and incitement by the hierarchy within the military. The purpose of including this conflict is to

explicitly demonstrate that direct orders and command chains dictate how sexual violence is utilized and can contribute to a sustained method of terror against civilians.

Genocide will be examined in the context of sexual violence as genocidal intent can be defined through rape alone. Sitkin, Lee & Lee, (2019) contends that the utilization of systematic sexual violence during war meets the five conditions of genocide outlined in the Geneva convention. To assess this, militaries which created systems to eradicate indigenous people through sexual violence will be examined. The 'genocidal rapes' committed by the Serbian army against Bosnian women were a deliberate attempt to reproductively violate the female population through forced impregnation (Russell-Brown, 2003). Similarly, in Rwanda armed forces have utilized sexual offending to transmit HIV and inflict sterilization through rape and mutilation (Donovan, 2002, Mukamana & Brysiewicz, 2008, Sharlach, 2000). Examining sexual offending in this context with consideration to it being a system rather than based on singular arbitrary decisions will allow for the broader political agenda of genocide to be considered.

Assessment of Legal Responses

Legal responses to sexual offending during war are defined by international law, however, implementation of legislation has proved challenging due to the complex nature of armed conflict. Since the 1990s the development of international law, has offered protection from sexual violence to citizens during armed conflict through the mechanisms of the genocide convention, humanitarian law, customary international law, crimes against humanity and the Rome Statute (Wachala, 2012). I will use a socio- legal assessment of these systems to demonstrate the effectiveness of their use and to examine if they are enforced differently

dependent on the conflict. Socio-legal analysis allows for an interdisciplinary examination of the law which incorporates contextual and dynamic aspects of society and their effects on legal systems (Feenan, 2013). As armed conflict is complex and demands action from both domestic and international law understanding the interactions between sociology and legal instruments are considered to be a crucial element in determining how responses to CRSV are contended with by the entities charged with enforcing the rules of war.

The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) will be examined to assess how prosecutions contributed to accountability for perpetrators and assisted in solidifying CRSV as a breach of humanitarian law. Evaluations of the ICTY and the International Criminal Courts (ICC) ability to determine cases of sexual violence as a common criminal purpose as opposed to isolated cases attributed to individual liability determines how standards of proof are applied and a willingness to consider this type of offending as a broader political agenda (Guilford, 2018). Therefore, assessments of cases and how they were prosecuted is a method of demonstrating how legal definitions of CRSV vary and has at times failed to establish links which encompass the true nature of the systematic use of sexual violence. To demonstrate the effectiveness of the ICTY the case of Prosecutor v. Kunarac, Kovać and Vuković will be examined as it was the first prosecution which targeted sexual offending primarily and set a precedent for international criminal jurisprudence (Kwik, 2016). The inclusion of this case is considered to be essential as it marked a paradigm shift in how CRSV was perceived by international law and suggested it was no longer an accepted part of war.

Conversely the case of Prosecutor v Kajelijeli tried in the (ICTR) failed to convict the military commander for both in engagement in sexual offending and explicit ordering of subordinates to

commit acts of sexual violence (Sinclair, 2019). This case has been chosen for analysis to demonstrate the complexities associated with meeting the legal thresholds for accountability for those in senior ranks and to assess the permeation of societal views into legal systems and how they may impede sexual violence being considered as a serious war crime.

I will analyse progression in the International Criminal Court (ICC) to demonstrate how prosecutions for sexual violence have changed in recent times. The case of Ntaganda from the DRC redefined how sexual crimes were perceived by the court as prosecutorial investigations and procedures focused on indicting the accused for all charges under the Rome Statute which evidence would permit (Deutch, 2015). Given the level of sexual violence perpetrated against the civilian population in the DRC this case was pivotal in reorientating international justice to consider sexual violence as a serious war crime. The conviction of Ntaganda in the chamber and sentence of thirty years for sexual and gender-based crimes reestablished the integrity of the ICC as prior cases failed to uphold similar charges (Amaral, 2023). This case was chosen in part for representation of the limited prosecutions in the DRC and due to the significance of the conviction, which appeared to have been due to the recognition of failures in prior cases with similar facts.

Although there are yet to be any ICC prosecutions in relation to the occupation and war in Palestine, developments in the region since the 7th of October attacks have altered the conflict drastically leading to increased international scrutiny. This has resulted in the chief prosecutor seeking arrest warrants for the Israeli prime minister and fellow cabinet members for the perpetration of multiple war crimes, warrants have also been sought for those in senior ranks in Hamas with accusations of rape and sexual violence among the charges (Kampmark, 2024, ICC,

2024). The exclusion of sexual crimes on the charge sheet against Israeli officials is at odds with the recent UN commission of inquiry report on the military operations in the occupied Palestinian territory (2024) which details the perpetration of sexual abuse, humiliation, and harassment by the IDF against Palestinian civilians and concludes that these actions amount to war crimes. I therefore intend to use this report as a reference to support a legal analysis of how future prosecutions could be mounted with these in-depth findings as a factual presentation of the use of sexual violence during the current conflict.

Ethical Issues

As this study is desk based and utilizing existing data ethical approval is not necessary. Given the sensitive nature of the subject matter and the perspective being examined, it is crucial to remain cognizant of the victims of sexual violence. Acts of sexual offending have lasting implications for survivors and leave a legacy of war in countries which have been invaded. This will remain a central thought throughout the study, which will hopefully be reflected in the content which is produced.

Limitations

It is imperative to acknowledge the limitations of this type of research. The use of secondary data is not considered ideal as this information was derived for another purpose originally (Boslaugh, 2007). Moreover, secondary data may not provide the expanse of information required (Kumara,

2022). It is considered that this can be compensated for in part through the variety of case studies presented which add considerable dimension to the project.

Furthermore, triangulation of information will be used to counter the limitations of secondary data by accessing multiple data sources to build a comprehensive analysis in each research area.

Conclusions

To conclude, the methodology I will use for this study is intended to provide a comprehensive analysis of CRSV and the legal responses to the crime. Secondary research will be utilized as the subject matter determined that it is not possible to conduct primary research due to ethical constraints associated with the topic. However, accessing existing literature which is reliable and relevant will broaden the scope of the study and assist in identifying trends and patterns across multiple data sources.

I consider the application of competing theories to mass sexual offending to be the most thorough method of assessing the broader phenomenon which will assist in drawing conclusions in relation to causal factors, which may support identifying patterns and predictions in the future. Analysis of different conflicts will provide context to sexual offending in terms of cultural and social factors which underpin sexual violence. Moreover, this form of assessment will demonstrate the divergence in strategies employed by militaries during the course of war. Assessments of legal frameworks are designed to determine how responses differ according to the conflict and to evaluate how offenders are contended with in the justice system. Overall, the methodology I am using will attempt to answer the core research questions and present a detailed analysis of conflict related sexual offending.

Theoretical Framework

Introduction

This chapter will discuss the theories which seek to explain the causation of conflict related sexual offending. Attempting to assess why mass rape occurs during war is crucial to understanding human behaviour and creating frameworks which reduces risk to civilian populations. It is imperative that theories are comprehensive to consider the dynamics of individual contexts as through the analysis of different conflicts contained in this dissertation it has become evident that while many crimes are similar there are also distinct differences in the commission and use of sexual violence which would suggest that its use has many motives and causes. Some of the main theories, both historical and more contemporary, are considered as assessing diverging perspectives is crucial to positioning theory against the complex realities of war where sexual violence may manifest in different ways. The acceptance of this allows theories to be adapted and layered and sometimes broadened to consider the need for tailored approaches and solutions to specific regions.

Sexual violence in peace and war time are undoubtedly linked however, conflict related sexual offending can be understood as an independent phenomenon (Koos, 2015). Therefore, while acknowledging the parallels between these periods it can also be suggested that there is a distinct

transition in human behaviour which creates an environment for mass rape. Moreover, CRSV is influenced by the sociocultural factors relating to war where propaganda relating to ethnicity, religion and culture become a conductor for increased violence against civilians (Hagen & Yohani, 2010). To this end, it is important that theories provide an in-depth analysis and seek to understand the motives for the commission of sexual violence. This can contribute to raising the standards of international criminal law by advancing the definitions and understanding of CRSV and linking these acts to breaches of human rights and ethnic cleansing.

Biosocial Theory

Gottschall's (2004) suggests that the biosocial theory is the most comprehensive explanation for sexual violence during war and contends that differences across contexts and time periods are accounted for by the fact that biologically men have a natural propensity towards perpetrating rape. He further argues that differences in the prevalence of sexual violence across conflicts is determined by sociocultural factors which act in conjunction with biological predispositions and thus impact how rape is employed during war (Gottschall). This framework combines evolutionary and environmental psychological perspectives and considers sexual desire to be a necessary factor in the perpetration of rape in armed conflict (Vance et al., 2024). Accountability is limited through this theory as much of it suggests that men cannot control their sexual desires particularly during the stress of war. While sexual urges cannot be discounted this perspective is overly simplistic and contributes to the normalisation of these harmful behaviours. Nevertheless, perpetrators still contend uncontrollable impulses are the reason they rape (Mankayi 2010) with a soldier narrating his own perception of this in the interviews conducted in the DRC by Baaz and

Stern, (2009:509) stating “ *He will take a woman by force. Physically, men have needs. He cannot go a long time without being with a woman. It is very difficult to stop him...* ” These views are typically supported within military structures and show perpetrators to be misogynistic and unable to appropriately define their actions as wrong. Therefore, the position that CRSV is caused by a biological propensity to rape must be contested and instead is suggested to be a form of cognitive dissonance used by predators to justify rape.

Gottschalls theory attempts to explain the existence of CRSV but is limited to this as it does not adequately identify or encompass the complexities of every aspect of the phenomena and cannot be applied to all contexts. While this theory was once considered to be one of the primary explanations for the causes of war time rape, the Bosnian and Rwandan conflicts clearly showed that sexual aggression was a considerably lesser motive as it was proved that rape was a strategy (Son, 2023). From this, other theories were conceptualised to take account of these motives which progressed the knowledge and articulated the phenomenon more accurately.

Sexual Violence as a Practice

Wood (2009) proposes an alternative theory which is contemporary and delves into the variation between conflicts more effectively and suggests that sexual violence is a practice which manifests from the chain of command and therefore impacts the prevalence of the crime. This framework relates strongly to research contained in chapter four which discusses military hierarchal structures and acknowledges the importance of internal dynamics which emphasise culture and conformity to the norms established in the armed forces. Wood also suggests that superiors decide the veracity of violence which combatants use during conflict and therefore

have strong control over whether sexual violence is employed in their strategy or tactics.

Moreover, group cohesion is also stated to be an important factor in the manifestation of CRSV and can be a form of socialisation which configures acceptable behaviours for other members of the unit as they engage in active duty. This perspective acknowledges the methods of integration among soldiers which occur in the majority of armed forces.

Collins (2008:250) contends that war offers a 'moral holiday' from typically acceptable behaviour during peacetime which allows individuals to participate in acts which would be usually condemned. This erosion of social norms provides anonymity and impunity to soldiers as they collectively engage in sexual violence and diffuse the responsibility among the group. This may explain how there are higher rates of public and gang rape during war with estimates of gang rape accounting for 90% of sexual violence during war (Vlachova & BIASON, 2005).

Changes to the type of sexual violence perpetrated during war indicates that individual sexual urges are less important, and group dynamics take precedent. As early as the Vietnam war, gang rape was documented and reported with one soldier stating that group sexual violence was more likely due to the military system of training which emphasised that the squad remained together during combat (Brownmiller, 1975). Similarly in the DRC soldiers contend that group dynamics are an important factor in perpetrating gang rape where members encourage one another which often leads to a competition of violence (Elbert et al., 2013). Opportunistic sexual offending has not been abandoned by Wood and has been contended to be mostly accounted for as a practice under a permissive structure and is only considered to be driven by individual sexual desire when it is sanctioned by a superior.

Sexual Violence as a Weapon of War

The theory of sexual violence as a weapon of war was developed during the foundational research into CRSV. Brownmiller (1975) discussed this process as a deliberate instrument of fear and intimidation which emphasises group behaviour rather than individual impulses. Positioning the perpetration of rape as more than opportunistic was groundbreaking in directing academic inquiry to scrutinize sexual violence as a strategy and a plan commissioned by military and government authorities.

When set against the backdrop of the atrocities in Rwanda and Bosnia this theory not only aided in the narration of how sexual violence was used but informed responses in the aftermath. Both the ICTY and the ICTR were able to recognise the use of sexual violence as a weapon of war and attribute its use to a systematic campaign of crimes against humanity and genocide (Buss, 2009). This was a crucial advancement in legalistic terms as it redefined the connection between sexual violence and war and contributed to ending perpetrator impunity.

Uchida (2018) argues that the weapon of war theory constrains some aspects of rape during conflict and does not consider internal group bonds and the use of exceptional types of violence suggesting the need for integrated research approaches which expands the scope of inquiry to take account of the nuances of CRSV. Baaz and Stern (2013) further scrutinize this theory by contending it to be a reductionist perspective on an issue which limits the understanding to one causation rather than accepting that war is dynamic and factors relating to the perpetration of sexual offending are multiple.

Despite this legitimate criticism, the main contention of the theory is still valid and while not all war related rape forms part of a broader agenda recognising the contexts which reflect this

practice has progressed the understanding of the systemic use of rape during war. Given the complexities associated with assessing each war this early theory provides a foundation for explaining rape during conflict but requires complimentary perspectives to remain relevant in the field of research.

Conclusion

The theories considered form an essential part of understanding the causation of CRSV. It is evident that each hypothesis lends itself to specific aspects of war time rape while marginalising other possible causal factors. This may be related to developing a theory through a narrow focus on specific regions or types of sexual offending. It is not possible for any singular theory to encompass every dimension of a given phenomenon, instead it applies strongly to some elements while amplifying the need for diverging considerations (Anfara & Mertz, 2014). Therefore, with each of the theories presented it is important to take account of their strengths and limitations. Moreover, wars are unique and the methods in which they are fought are ever changing and theories must be adapted to consider these advancements. It is suggested that each of these theories are incomplete explanations for CRSV and need to be integrated or developed further to be applicable in contemporary research on the subject.

Analysis of Militaries and War

Introduction

This chapter is designed to analyse the constructs of war through the military structure and how this contributes to the perpetration of sexual violence in different ways. Through a general discussion surrounding the armed forces dominant cultures and organisational structures will demonstrate the pervasive nature of rape culture in these institutions which is unable to be managed internally and therefore contributes to misconduct among officers as they enter war. Through two of the chosen case studies examples of opportunistic and strategic rape will be examined through the military organisation with the intention of highlighting how and why different armed forces employ sexual violence. The contention that sexual violence is not a salient feature of all wars as contended by Wood (2009) will be assessed to ascertain whether lack of investigation and scrutiny create the illusion that rape is absent in some conflicts or whether some militaries conduct their operations through the lens of morality.

Military Structures and Cultures

The connections between military, rape and war are long established and cannot be denied (Henry, 2011). These links are established from ancient times and have been documented over the majority of armed conflicts. Rape culture has always been engrained in the military (Lohman 2015) and both normalises and accepts the use of violence in active duty (Johnson et al., 2024).

This is born out of the hypermasculine structure of the armed forces which values aggressive and

dominant behaviours'. The use of rape as a form of genocide will be assessed to be a unique form of violence commissioned deliberately by those in a position of authority and perpetrated by those subservient to the cause. Through the contexts of the former Yugoslavia and Rwanda genocidal rape will be assessed through its planning at a higher level and its implementation in the battlefield. This is intended to demonstrate that sexual violence is commissioned for broader agendas which aim to destroy entire populations and communities.

The organisational culture in militaries ensures all soldiers conform to the established norms which provides them with the necessary skills to engage in combat (McGarry & Walklate, 2016), as they are primarily built on hypermasculinity they are often used as a justification for perpetrating acts of sexual violence (Kuhl et al., 2018). This has created a highly sexualized environment within the internal structures of the armed forces. During service in peacetime female soldiers are frequently the victim of sexual harassment and assault by their male counterparts (Bell & Reardon, 2011) at similar rates to the civilian population (Rough & Armor, 2017). Despite efforts to reduce these behaviours through both formal and informal methods, culture remains dominant and allows these crimes to remain prevalent (Wood & Toppelberg, 2017). This creates serious challenges for conduct as soldiers enter war as sexual violence has been trivialized and endorsed within the institution and creates tolerance within the force. Moreover, if soldiers rape fellow officers with impunity, it is highly likely that sexually assaulting civilians on enemy territory will occur easily as they are already desensitized to sexual violence.

Although organisational culture is important it also interacts with other subcultures which exist within the people who form part of the institution. The majority of individuals belong to multiple

cultures which are linked to politics, religion, ethnicity, and gender, among others (Kuhl et al., 2018). Therefore, when people join the military, they carry these cultural traits and values with them into the organisation (Denison & Mishra, 1995). It is possible that the influence of the dominant national culture affects how militaries strategize and perform during conflict (Desch, 2014). Moreover, variation in regimes between democratic societies and authoritarian rule can shape the behaviour and structures of militaries in different regions (Talmadge, 2013). The combination of national cultural identity coupled with the leadership of the country can be pivotal in how the armed forces are organised and may contribute to misconduct. In relation to the perpetration of sexual violence it may be a crucial indicator in how these acts will be either condoned or sanctioned and thus the politics surrounding the military play a significant role in offering impunity to perpetrators in the armed forces.

Available data on soldiers in the US military indicates that both male and female officers have experienced higher rates of childhood sexual and physical abuse than those in the general population which is associated with psychological distress (Martin, et al., 2000) and increased risk of post-traumatic stress disorder after war (Baca et al., 2021). This creates a further vulnerability for this cohort in the military and coupled with cultural norms may be associated with maladaptive behaviours during active duty.

Despite rape being prohibited by all military codes of conduct for centuries it remains an informal right given to soldiers as a reward or as part of a system of warfare (Meron, 1993). This may be legitimized through direct orders or a failure to sanction sexual violence perpetrated by officers. Whether rape is committed opportunistically or systematically could be a result of how it is communicated through superiors and may dictate how it is used. Commanders in the military

work at various levels and have responsibility and control over subordinate soldiers which can be influential in the perpetration of sexual violence based upon their tolerance of the behaviour (Ju, 2022) Differentiation in equating military sexual violence as a policy comes from whether or not the acts are ordered, however, the absence of authorization may still render its use common practice (Ju). While identifying if sexual violence is directed by the commander is pertinent, tolerance of rape may still lead to it being systematic in the course of war resulting in large numbers of perpetrators and no sanctions.

Although the causation of rape during war is multifaceted it can also be linked directly back to the chain of command (Johansson & Sarwari, 2019, Leiby, 2009). This can manifest itself in different ways, from soldiers engaging in opportunistic attacks to a more coordinated practice. Even when soldiers do not want to participate in sexual assaults it is not always possible for them to refuse to engage. In the Bosnian war officers of a superior rank sometimes coerced subordinates to commit acts of rape as a method of boosting morale within the ranks (Olujic, 1998). This suggests that the command chain in the armed forces is so strong that soldiers would rather commit acts of sexual violence and contravene international law than disobey their superiors.

Sexual violence is a shrewd military strategy as unlike murder it is challenging to prove and is less likely to be prosecuted by either domestic courts or war crimes tribunal (Sharlach, 2000). Soldiers are aware of their collective anonymity and use this to their advantage. During active conflict rape whether strategic or opportunistic, it can destabilize a community effectively and allow dominance to be asserted over the invaded community. The body itself becomes a weapon which is knowingly used as a method of warfare. The chant 'This is my rifle, this is my gun, this is

for fighting, this is for fun,' (Mann, 2014: 118) originated in the American military during training and was used to describe the intention to use the penis as another weapon (Kovic, 2016). Moreover, Kirby (2020) contends that while this rhyme indicates that sexual violence is weaponised during war it also provides a distinction between murder and pleasure. This suggests that rape is in part sexually motivated and that it is not only a form of terror. The willingness to trivialize sexual violence collectively in this manner also denotes the permissive and tolerant attitude towards rape among soldiers and superiors. Moreover, chants of this kind can be viewed as a subtle form of psychological conditioning in peace time which supports the anticipation of perpetrating acts of sexual violence once combatants enter active war.

War time rape is often perpetrated as a form of combatant socialization within armed groups during war, with gang rape being a prevalent cohesive mechanism which bonds soldiers in both military and paramilitaries (Cohen, 2013). This maladaptive system may be a method of defining masculinity and emphasizing the types of behaviour which are accepted in the group. Gang rape is a salient feature of sexual violence in armed conflict across different contexts and is often perpetrated in public to disseminate a message of terror to the wider community (Pinaud, 2020). While rape itself may reflect peace time inequalities and tolerance for sexual violence the mass perpetration of gang rape marks a distinct transition to wartime and a break from conforming to typical societal norms. Moreover, the military culture grounded in hypermasculinity may supersede all other usual moral obligations born out of the need for acceptance. Failure to engage in gang rape and torture results in soldiers being ostracized from the rest of the unit and labelled as less of a man or homosexual (Brownmiller, 1975). As militaries rely on comradery for internal

support and security, being marginalised is often not an option for soldiers as it may risk their position in the force and their safety during combat.

Israel Defense Force

The IDF operate under a religious doctrine which aims to foster a 'togetherness' among the ranks (Røislien, 2013). Right wing Zionists have increasingly dominated the roles within the force which has led to this being a prominent culture and often dictates the behaviour of soldiers (Harel, 2016). Persistent Zionist doctrine and ideologies has had a strong influence in shaping the IDF and can be considered to be a factor in the mistreatment of civilians in the occupied Palestine. The mandatory conscription in Israel operates to blur the lines between soldier and citizen and thus embeds the military within the national identity which reinforces ethnic divides and patriotism (Levy & Sasson-Levy, 2008). This has created strong connections between public perception and how individuals behave during military service. In the context of the Palestinian occupation the 2014 assault on the region was accompanied by Israeli citizens distributing imagery of Gaza depicted as a partially clothed woman wearing a niqab which was captioned with a request for the Prime Minister Netanyahu to rape her (Abdulhadi, 2019). Given the strength in connections between military and society it can be argued that these views permeate through the IDF and was a clear indication of the sexualized nature of the operation.

Soldiers often wear custom misogynistic and sexualized t-shirts which portray violence against Palestinians accompanied by slogans, some of which have been sanctioned by their superiors in the force (Abdulhadi, 2019). The open glorification of rape among soldiers through the ranks is

instrumental in the perpetration of sexual violence against Palestinian citizens as it actively desensitises them and creates a collective willingness to cause harm in this way. Evidence of this exists as soldiers routinely engage in taking and sharing photos and videos of themselves with Palestinian detainees in poses which are either sexualized or designed to be humiliating. Photos and selfies depicting Palestinian suffering serve to normalise abusive behaviour through mass dissemination to the population of Israel (Dishy, 2017). A commander in the IDF has defended photographs taken with Palestinian prisoners stating that all soldiers in the organisation have taken at least one photo of detainees with blindfolds and cuffs (Kuntsman & Stein, 2020). It appears that demeaning Palestinian people through imagery is a rite of passage for IDF members which is actively endorsed by superiors. In 2010 a ban was placed on soldiers using social media while on duty which was reinforced again in 2013 with the hierarchy in the IDF obviously concerned over the distribution of sexualized imagery of Palestinian people (Abdulhadi, 2019). However, the grounds for the ban were stated to be related to security concerns rather than the gender based and sexualized violence being perpetrated by soldiers, regardless of the policy members of the force have continued to widely circulate pictures and videos (Abdulhadi). This would suggest that the policy is in place to protect soldiers who engage in this behaviour, however, the continuation of the practice also implies that no officer is sanctioned and so it is repeated.

In the course of duty, the sexualized narrative inevitably intensifies as soldiers are able to perpetrate the acts that have been normalised within the military community. Challenges have emerged in attempting to uncover how sexual violence is used by soldiers in the IDF as literature is considerably sparser in comparison to other contexts. This may be representative of the

contention of Wood (2006) and Nitsán (2007) that the perpetration of sexual violence against Palestinians living under the occupation is a rarity. However, as previously discussed this perspective may not scrutinize Israel's employment of sexual violence adequately and may take too narrow a view of what constitutes an offence of this kind. It is also at odds with reports which demonstrate the prevalence of sexual violence perpetrated during interrogation, in detention centers (Al Issa & Beck 2021), and while passing through checkpoints (Hammami, 2019). Instead, it may be suggested that Israel's military have successfully controlled the narrative over their organisational practices. They are self-proclaimed to be 'the Most Moral Army in the World' but their ethical codes were found to have staunchly favoured the lives of their own soldiers over Palestinian civilians during the Operation Cast Lead of 2008 (Khalidi, 2010: 1). Under the guise of inclusivity and humanitarianism the IDF have successfully concealed the perpetration of sexual violence which they wage against the people of Palestine (Medien, 2021). It would appear that the illusion of propriety has impeded the full extent of sexual violence being uncovered leading to a feeling of impunity among soldiers, which is becoming more apparent as the current genocide unfolds.

As there is an active assault on Palestine which is widely accepted to be genocide (Giroux, 2024) there is not sufficient academic literature on the use of sexual violence. However, IDF soldiers are routinely sharing photos and videos of themselves which depict them simulating sex or holding lingerie belonging to Palestinian women who have fled their homes (Reuters, 2024, The Guardian, 2024). It can be suggested that sharing this type of imagery without the fear of sanction may indicate that more serious acts have been perpetrated out of sight of a camera. A preliminary report conducted by the UN (2024) has acquired evidence which supports a

considerable increase in the type and severity of sexual violence being perpetrated since the 7th of October attack, including forced nudity, sexual assault, and torture. It is unclear whether these acts have been ordered by superiors in the IDF however, given how sexual misconduct and violence towards Palestinian civilians has been tolerated to date it is justifiable to consider it is at the very least condoned. The gravity of the sexual violence inflicted is yet to be fully realised but in time to come the true nature of the events currently unfolding will be heard.

The Democratic Republic of Congo

The Congolese army was created in 2003 by the transitional government and was a blend of members of the former army along with fighters from rebel groups (Kippenberg, 2009) Since the establishment of Forces d'Armees de la Republique Democratique du Congo (FARDC) they have become the main perpetrators of sexual violence in the region (Kippenberg, 2009). The military code for the FARDC (2002) has not fully acknowledged sexual violence and does not provide a comprehensive definition of what constitutes rape which allows military courts freedom to make individual determinations of how each act is to be defined (Deutch, 2015).

While amendments to the penal codes have strengthened the definitions of rape this has not been fully implemented into military law and coupled with institutional corruption has led to an inability to address systematic rape (Zongwe, 2012). This is considered to support the impunity of soldiers as they are aware of the tolerance of rape which is reflected tangibly in the low prosecution numbers (Kippenberg, 2009). This suggests that sexual violence is not considered a significant issue among those with the authority to intervene, contributing to collective impunity.

Rape is perpetrated for a variety of reasons in the DRC, however available literature indicates that the permissive attitudes of commanders in the FARDC allow for its occurrence in the majority of instances. The military itself has organisational issues which often presents challenges establishing a clear chain of command (Haer et al., 2015) and has faced issues paying salaries and supplying equipment and food on a regular basis (Eriksson Baaz & Stern, 2010). This has damaged the internal politics of the FARDC which manifests in soldiers using violence as a method of survival (Eriksson Baaz & Stern). The lack of regimen typically associated with militaries coupled with scarce resources allows rape culture to dominate within the ranks of the FARDC and is largely condoned by those in power. Opportunistic rape occurs in the territory with soldiers stating that they are given free reign by superiors to perpetrate acts of sexual violence while engaging in combat (Bitenga Alexandre et al., 2021) This has no specific military objective but is a method of remuneration for soldiers during duty. The lack of social order generates a sense of collective impunity and under support of the higher ranks leads to soldiers justifying the perpetration of rape as a form of payment and reward (Arieff, 2009). Internal dynamics which condone sexual violence allow soldiers to commit arbitrary crimes on the understanding that no sanctions will be imposed. This feeds into the traditional view of rape as the 'spoils of war' which occurs as a byproduct of conflict and not as the main objective.

The armed forces also use rape as a tactical weapon in the DRC underpinned by politics, history, and social factors (Cannon, 2012). Implementing sexual violence as a strategy allows perpetrators to instill fear in a community through shame and humiliation that transmits through victims and observers of the crime (Kaste, 2015). It is suggested that rape is the most commonly used weapon in the DRC which has reached unprecedented numbers and is persistent even in the

present day (Niggeler, 2021). It can be challenging to decipher whether rape is opportunistic or is part of a larger military objective. A study involving former combatants from the DRC concluded that ordered rape was more likely to occur when commanders had strict control over their subordinates and could control the use of rape through incentives or sanctions (Schneider, Banholzer & Albarracin, 2015). Moreover, it would appear that superiors use drugs to drive sexual violence by rewarding soldiers for engaging in rape with many victims stating they believed their attacker was under the influence of a substance during the assault (Schneider et al.). While the use of drugs is not a causal factor for sexual violence it reduces inhibitions and impairs judgement which contributes to the prevalence of rape in the region (Eriksson Baaz & Stern, 2010). Therefore, it can be suggested that commanders use of drugs as a reward is a strategic method of ensuring compliance in their weaponization of sexual violence. Moreover, it also implies that militaries could stop their soldiers from perpetrating rape if they so wished however, it would appear that its use is effective in their overall agenda. A contrasting perspective suggests that due to the FARDC being an integration of former militia members, commanders can lose control of their units which leads to soldiers perpetrating rape which is not condoned by superiors (Aldworth, 2011). This denotes the complex nature of the military structure in the DRC and the fragility of the hierarchal powers.

The DRC appears to be a unique context whereby sexual violence appears systematic but is also deemed indiscriminate and perpetrated against all ethnic groups (Sure, 2014). Prominent characteristics of sexual violence in the region which have been previously discussed are gang rape, genital mutilation and sexual enslavement which are known to illicit shame among victims and communities (Aldworth, 2011). This indicates that the use of sexual violence does not

advance any specific objective but acts as a practice which ensures the civilian population remains docile during the prolonged conflict.

Genocide

Prior to genocide being perpetrated campaigns of propaganda are used to dehumanise the target population which decreases empathy and normalises the use of violence (Luft, 2022). Moreover, dehumanising and sexism are intrinsically linked with women who are viewed as sexual objects being defined as animals by both men and women (Vaes et al., 2011). This allows for military and militia to formulate sexualized perceptions of the target population grounded in hatred which manifests in acts of sexual violence when conflict is initiated. While war does not inevitably lead to acts of genocide, conflicts allow for the creation of political and ideological conditions required for genocide to be perpetrated (McGarry & Walklate, 2016). This suggests that in countries experiencing political unrest, the markers for a possible campaign of ethnic cleansing are evident prior to its enactment which makes it possible for external bodies to intervene.

Rosenberg (2012) outlines how 'genocide is a process, not an event' which moves beyond direct methods of destruction and murder and relies upon indirect acts which prolong suffering and lead to the gradual erasure of a population which occurs at different stages. This has meant that less obvious forms of violence and abuse have been neglected in both research and responses to genocide allowing it to be repeated in different contexts. The perpetration of sexual violence is now recognized as a form of genocide due to the fact it has immediate effects and attritional ramifications for the wider population effected (Wakeham, 2022). Despite many fields of

research contributing to the collective knowledge on genocide it has continued to be replicated in different regions causing untold devastation.

The systematic use of rape during armed conflict meets all the criteria of genocide in the Geneva convention (Sitkin, Lee, & Lee, 2019). It is also accounted for in other statutes and international law and therefore it is well established that its use is prohibited in all instances and is not a legitimate method of warfare. Implementing sexual violence as a strategy of ethnic cleansing is an informed choice made by those who wish to attain population control over the given region. The differentiation between rape as a singular crime and genocidal intent is the deliberate use of sexual violence to impregnate victims or to cause reproductive damage to the targeted group (Lowe, 2018). Moreover, genocidal rape has lasting psychological and social implications for both the individual and the community affected leading to the gradual destruction of the targeted group, making sexual violence an important instrument for the perpetrators (Shortis, 2019). This intent has been demonstrated through varying types of sexual violence and in some wars has been explicitly stated as the aim, with soldiers receiving direct orders from commanders to rape.

The Former Yugoslavia

The conflict in the former Yugoslavia represents one of the most explicit methods of employing sexual violence as a form of genocide. It is considered that Serbian forces were the first group to use forced impregnation and maternity as a tool of destruction and ethnic cleansing in the course of war (Zawati, 2012). This was a structured form of sexual violence sanctioned by the Serbian

government and military and was widely implemented by both militias and the state army. Documentation has been uncovered known as the 'Ram Plan' which clearly demonstrates the military policy to ethnically cleanse the region of Bosnia – Herzegovina through mass rape (Allen, 2005). The Yugoslav National Army commissioned their psychological operations department to develop a strategy to target Muslim women and children through sexual violence as it was deemed to be the most effective method of damaging their culture and driving them from the region (Bassiouni & McCormick, 1996, Salzman, 1998). Further written proof clearly outlines how the collusion between state officials and army commanders progressed genocidal rape as they concluded that evidence of its effectiveness was strong and achieving the goal of ethnic cleansing (Allen, 2005).

The use of detention centers served a specific purpose in this war as they were used by the Serbian army as designated sites to rape women with the intention of forced impregnation (Marino, 2009). Moreover, the soldiers explicitly stated to victims that their goal was to alter their bloodline through pregnancy and that this was a direct order from the president (UN, 1994). This had multilevel effects as women suffered residual trauma from the sexual violence, were rejected by family and their community for having Serbian babies and left the region due to continued fear of the Serbian forces. From the perspective of the perpetrators this formed a successful part of their assigned mission and thus continued for an extended period under the direction of superiors.

Rwanda

The Rwandan genocide was in part perpetrated through sexual violence which was part of a project of ethnic cleansing. Mass rape was perpetrated during this time under skewed ideologies and hatred for Tutsi women which aimed to demonstrate the dominance of the Hutus (Wahyuni, 2020). It is more complex to ascertain if there were explicit directives to rape the target group in this instance, however, some evidence of exists which supports its use as a form of genocide. It is considered that the minister for women's development was instrumental in ethnic cleansing by ordering the rape and torture of Tutsi women during the three months of extreme savagery (Burnet, 2015). It is therefore possible to be somewhat removed from the act of violence but still have substantial influence over both the military and associated militias. Moreover, a woman directing the systematic rape of her own gender understands the impacts of sexual violence and has actively chosen this form of terror to maximise the pain and devastation to both the individual and community.

A direct method of using rape as a form of genocide came in the deliberate infection of HIV and AIDS (acquired immunodeficiency syndrome) to the Tutsi people. It is evident that this represented a clear intent to exploit the prevalence of the disease and lack of treatments to assist in ethnic cleansing. The ruling Hutu government officials released AIDS patients from hospitals to establish troops of rapists with the intention of raping Tutsi women and children and infecting them with the disease (Russell- Brown, 2003). In its implementation perpetrators often used genital mutilation in the course of the sexual assault and told victims that bullets would be wasted murdering them as AIDS would kill them anyway (de Brouwer et al., 2009). This has also been replicated in the DRC where armed forces have knowingly attempted to transmit HIV and mutilated their victim during the attack with the intention of inflicting a slow death (van

Wieringen, 2020). The patterns which emerge from these contexts show the relationship between the conflicts and a deliberate attempt to use rape as a method of ethnic cleansing through extraordinary violence.

Conclusion

To conclude it is evident that military structures and culture are influential in the perpetration of sexual violence during war. Highly sexualised environments have led to rape culture being a prominent feature in the armed forces which has created internal challenges among the ranks. These issues and behaviours grounded in peace time appear to escalate as soldiers enter armed conflict which manifest in dehumanising civilians through sexual violence. Analysis of specific armies demonstrates the differences in how sexual violence is condoned and ordered. The IDF appear to conform to traditional military structures with permissive attitudes to sexual violence allowing for different forms of abuse to be overlooked. Moreover, this regime has a sexualised undertone which permeates through Israeli society creating a normalised attitude to mistreating Palestinian people. The DRC is a unique context experiencing ongoing violence where the national army (FARDC) commit mass sexual violence against the civilians. Given the complexities of the conflict the causation of rape in this territory is related to many factors, however, military structures and commanders undoubtedly play a role in the commission of sexual violence. The objective of rape in this region is less clear, with opportunistic and strategic rape occurring under a permissive system which incentivise soldiers to engage in acts of violence. Genocidal rape has been demonstrated through the conflicts in the former Yugoslavia and Rwanda. These two unique contexts show deliberate pre planning by government officials

and militaries to commission rape as part of their campaign of ethnic cleansing. However, this was implemented differently as the strategy was tailored to the dynamics of the war which aimed to target the vulnerabilities of the opposing group and thus contributed to the eradication of the population. Lastly, political and military structures appear to lay the foundations for the perpetration of sexual violence which is enacted by those who have been indoctrinated with the ideologies of the institution and propaganda surrounding the opposing group.

Chapter Six: Legal Responses

Introduction

The legal responses to CRSV play an integral role in holding perpetrators accountable and offering justice to victims. Developments in international law have been pivotal in reshaping how war crimes are adjudicated and has been influential in prioritising prosecutions for sexual violence. As observed in the literature this far, the ranges of sexual violence perpetrated in war are very often severe and widespread which requires a dynamic legal response to each context. Challenges emerge in prosecuting mass sexual violence committed during war as it is a logistical impossibility to locate all perpetrators and gather evidence on each individual offence. Therefore, responses are often symbolic and attempt to reach those who have planned and commissioned mass violence against innocent civilian populations. The intention with this chapter is to demonstrate through different contexts how international criminal legal mechanisms have attempted to contend with perpetrators of rape. As it is not possible to include all cases, prominent cases which reflect both successful and unsuccessful prosecutions have been chosen to highlight the progression and obstacles to adequately challenging sexual violence from a legal perspective. Through assessing the advancements of legal mechanisms through a socio-legal lens, competing, and diverging needs and understandings have influenced the law's application.

International Law

The development of international law in the 1990s sought to protect citizens from sexual violence during war through various mechanisms including humanitarian law, the genocide convention, customary international law, crimes against humanity and the Rome Statute (Wachala, 2012). For the first time, meaningful legal focus was directed towards sexual violence with the objective of addressing impunity and reducing this type of crime in future conflicts. Humanitarian laws were applied to hold individuals of superior authority criminally responsible for the commission of crimes against civilian populations (Askin, 2003). This targeted high level offenders who orchestrated mass sexual offending and directed subordinates to engage in acts they knew to be criminal. This was an effective method providing accountability, but low-level offenders were overlooked in the attempt to ‘catch the big fish.’ Domestic courts could not adequately contend with mass sexual offenders with Wells (2004) demonstrating the challenges with achieving justice in the aftermath of the events in Rwanda where it was estimated that it would take more than 200 years for conventional courts to hear cases against the accused with the Hutu group. Therefore, while international criminal law is significant in achieving justice for those in authority it has had a limited effect for those viewed as less significant. When

international bodies acquire jurisdiction over a territory it is imperative that their investigations and prosecutions are culturally sensitive and context specific.

Challenges emerged with meeting the needs of Rwanda where the government withdrew its support for the ICTR based on the path that investigations and prosecutions took which appeared to be misaligned to national priorities (Nsereko, 2001). Through this duality of needs are observed where international mechanisms are attempting to apply the laws independently to achieve justice while domestic sovereignty and jurisdiction is marginalized leading to a tension between competing objectives. Therefore, it is imperative that integrated approaches are developed which hold perpetrators accountable but also seek to restore peace to the effected region.

International Criminal Tribunals

Historically war related rape has gone largely unpunished with both the Nuremberg and Tokyo trials failing to convict perpetrators despite evidence of widespread and systematic sexual violence being presented (Obote-Odora, 2005). This may have reflected general permissive attitudes to sexual violence in peace time and therefore was viewed as a significantly lesser crime to those which were prosecuted. Moreover, it demonstrates the connections between sociology and law where legal inquiry is influenced by the dominant societal perspective on a specific issue which often marginalises serious crimes.

Modernity altered perceptions to an extent and later wars reshaped legal responses from the international community with sexual violence moving from the periphery of inquiry to the

mainstream. The establishment of the International Criminal Tribunal for Rwanda and Yugoslavia were the first mechanisms to fully acknowledge and address conflict related sexual violence, with the ICTY including it as a crime against humanity and the ICTR prosecuting the offence as a crime against humanity and a war crime (UN, 1994, 1999). Further to this, the prosecution was able to link some cases of rape to genocide and other breaches of the Geneva Conventions (Schomburg & Peterson, 2007). This legal mapping of sexual violence through each context was able to present an accurate summation of how rape was used as a weapon of war and a form of ethnic cleansing.

Challenges emerged in defining sexual violence under customary law and international treaty which would provide balance to both the rights of the accused and victims during the course of the tribunals, to which prosecutors endeavored to provide clear understandings which would punish offenders (De Londras, 2010). Given the variety of sexual offences committed and the different motives associated with the crimes building a comprehensive definition of what constitutes rape was integral to building criminal cases which would be robust enough to be applied to future prosecutions.

During the period of its existence, the ICTY prosecuted 161 cases and the ICTR tried 96 cases, not all of which were for offences relating to sexual violence (United Nations, 2024). This has been a credible legal intervention to address the crimes committed during these wars however, when positioned against the estimated numbers of sexual crimes perpetrated across both Rwanda and the former Yugoslavia discussed previously it demonstrates the limits of this form of justice. Although national judicial systems have sought to prosecute lower-level perpetrators (Seelinger, 2020) it can be suggested that the small number of prosecutions in these international

mechanisms offer a form of impunity to offenders and thus may contribute to the perpetuation of sexual violence.

International Criminal Tribunal for the Former Yugoslavia

The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1993 to contend with the atrocities committed during the war and had primary objectives of punishing high level offenders, providing justice to victims, restoring peace to the region, and preventing further violations of humanitarian law (Ivkovic, 2001). In terms of addressing the mass sexual violence which occurred during the conflict the tribunals were instrumental in redefining how rape during war was perceived in legal realms.

The system of investigation and prosecuting sexual violence was comprehensive and was therefore in some cases able to establish rape as a joint criminal enterprise amounting to a common criminal purpose which enabled sexual violence to be used as a larger political objective (Guilford, 2018). Due to the complexities of reaching the burden of proof some cases were successful under this strategy while others failed. The case of Prosecutor v. Kunarac, Kovać and Vuković (Kunarac et al.) was noteworthy as this was the first case to charge the defendants primarily with sexual offences and to prosecute rape as a crime against humanity and to recognize sexual enslavement under international law (Kwik, 2016). This served to acknowledge the systematic use of sexual violence inflicted on civilians as more than

opportunistic and provided a more truthful legal narrative of how rape was utilized by Serbian forces. Kunaraac et al. were a militant group commissioned by the Serbian government to operate in the area of Foča in which they ordered and participated in the imprisonment of Muslim Bosnian women and children for the purpose of rape and abuse for prolonged periods (Iverson, 2014). Their actions contributed to the broader strategy of sexual violence which had lasting implications for their victims and the wider community.

Ultimately the trial chamber concluded that rape contravened both customary international law and the Geneva convention, thus finding the three defendants guilty marking a historical verdict which challenged traditional legal perspectives of rape during war (Banu, 2002). This was a monumental victory for international justice systems and was influential in communicating to perpetrators that sexual violence was a priority for the established mechanisms.

Although the case redefined international jurisprudence and stands as precedent in addressing sexual violence as a war crime it was not without its criticism. The defense counsel for the three defendants introduced rape myths to discredit the testimony of victims in an attempt to appeal to common misconceptions relating to the perpetration of sexual violence (Shook, 2010). While these tactics were not successful, Skjelsbaek (2018) notes that the judgement contained problematic language which suggested that the perpetrators had little self-control which was a contributing factor to seeking out victims to sexually assault. This indicates that regardless of the progression of the system rape myths persist and offer mitigation to perpetrators which supports their impunity even when they are found guilty.

The International Criminal Tribunal for Rwanda

Although the International Criminal Tribunal for Rwanda (ICTR) was derived from the mechanism for the former Yugoslavia it had an independent directive aimed to contend with the specific aspects of the conflict (Shraga & Zacklin, 1996). However, unlike the ICTY resolution which specifically discusses sexual violence against Muslim women the ICTR did not make any reference to the mass perpetration in its directive (Gardam & Jarvis, 2001). This omission may relate to both the powers which established the mechanism and cultural differences which made referencing sexual violence in the African context more shameful for survivors. However, the prosecution was quick to remedy this and achieved victory in a landmark case which convicted Akayesu a leader of a commune in Rwanda of multiple crimes including rape as a form of genocide (Van Schaack, 2008). The explicit recognition of sexual violence in the context of genocide demonstrated an appreciation for how rape was commissioned during the violence inflicted on the Tutsi victims. Rendering a guilty verdict in this case should have set precedent for how sexual violence was to be considered moving forward, however, it proved difficult for this case to be built upon in the investigation and prosecution of other offenders as the tribunal progressed.

The case of *Prosecutor v Kajelijeli* was significant as the trial chamber failed to convict Kajelijeli a military commander for ordering and perpetrating rape against civilians (Sinclair, 2019). Kajelijeli had control over the paramilitary group Interahamwe and played an integral role in organisation and participation of the violence during the genocide (Rouleau et al., 2005). His authority is considered to have contributed significantly to the commission of sexual violence and campaign of genocide. While the trial chamber delivered a guilty verdict on the charge of

genocide through the evidence presented by the prosecution it concluded that the case relating to sexual violence could not be proved as there was not sufficient evidence to demonstrate that he had either ordered or participated in the rape of Tutsi civilians (Haffajee, 2006).

The prosecution failed to present a cohesive understanding of the context in which the sexual offences took place and how the accused was central to the perpetration of rape through joint criminal enterprise (Haffajee, 2006). Challenges with meeting the burden of proof emerged in this case which may also reflect an inability to appropriately grapple with the distinct features of the genocide and how key actors influenced the perpetration of criminal acts. A reversal of the not guilty finding was possible in this case as one of the judges had a dissenting opinion on the charges of rape, however, the prosecutors failed to file their appeal within the deadline period which allowed the acquittal to stand (Nowrojee, 2003). Failures to adequately address sexual violence in international criminal tribunals can be suggested to be a manifestation of legal challenges combined with external factors which lead to an inability to meet the thresholds required to demonstrate criminal responsibility.

General issues with how victims were treated during the course of the tribunals emerged which may have inadvertently favoured the accused and demonstrated how rape myths are situated in prosecutions for sexual violence. In the case of Prosecutor v Butare the counsel for the defense subjected a victim to a total of 1194 questions, one of which related to whether the individual had bathed which inferred that the accused would not rape a woman who smelled (Powell, 2017). During the course of this same trial the three judges laughed at victims who were delivering their testimony on being sexually assaulted (Dovi (2017)). It would appear that rape myths permeate the legal system and remain largely unchallenged even in the most progressive

mechanisms suggesting that while there may be a strong leadership desire to prosecute perpetrators of sexual violence not all actors in the system can contend with the crime with respect for facts or victims' rights.

Further problems arose in how the tribunals were structured and issues with protecting witnesses emerged. Of significance is the failure of the mechanism to ensure the anonymity of victims and many individuals had their identities revealed when the trial had concluded resulting in them being threatened and being subject to further victimisation when they returned home (Nowrojee, 2003). This allowed perpetrators to revictimise people they had already been subjected to sexual violence and communicated a message to the wider community that engaging with legal systems may result in negative repercussions.

The International Criminal Court

The ICC acquired jurisdiction and investigative powers to the DRC in 2004 (Mattioli & van Woudenberg, 2008) but to date has only developed seven criminal cases resulting in three convictions during this period (ICC, 2024). The prosecution of Ntaganda from the DRC was pivotal in attempting to end impunity for sexual violence in the region as five of the charges positioned against him were for crimes against humanity including, rape, sexual slavery of child soldiers, rape of child soldiers and rape of civilians (Deutch, 2015). Through this a new commitment to address sexual violence by the ICC was observed as it became clear that legal interest in this type of crime was a priority. However, this case once again illustrates that the law does not act in isolation and is intertwined with politics and power. Despite the DRC making a

self-referral to the ICC it reneged on the agreement and stated it would not surrender Ntaganda and instead promoted him to a commander of the FARDC (Goff, 2010). Political allyship protected this perpetrator for a prolonged period and disseminated a message of support to soldiers that sexual violence was not only supported but that it would be rewarded.

Ntaganda known as ‘the terminator’ was a commander in a rebel group in the Congo for more than 10 years and commissioned a brutal regime of rape, murder and recruited children as young as seven to be used as child soldiers, the majority of which were abused (Kuniewicz, 2015 : P1.

The decision to indict Ntaganda for all crimes which evidence permitted under the Rome Statute was an important progression for sexual violence cases (ICC, 2014) and attempted to address previous failings in the Lubanga case where the crimes of rape remained on the periphery to crimes deemed more serious (Smith, & Shaani, 2010). The reshaping of prosecutions may suggest that societal understandings surrounding the implications of sexual violence were changing and thus influencing those with the powers to prosecute.

The case of Ntaganda served as the first conviction for sexual and gender-based crimes to be upheld by the court which re-legitimised the ICC’s efforts to address sexual violence and paved the way for progression in successfully prosecuting rape in international law (Amaral, 2023).

However, the legal direction taken towards the occupied Palestine has shown that investigations are potentially politically motivated, and each context is managed differently by the court suggesting favourable treatment to some parties.

Israel and Palestine

The state of Palestine accepted the jurisdiction of the ICC in January 2015 and asked for a retrospective investigation to be conducted beginning with alleged crimes committed in East Jerusalem in June 2014 (ICC, 2024). This marked the official beginning of an international legal examination of the occupied territory. In terms of sexual violence, it would appear that it is ignored by both the judicial system of the occupier and the ICC. As discussed in the analysis of both the occupation itself and the IDF sexual violence is not absent from the regime and has been a more prominent feature of the current genocide.

The current application for arrest warrants for Hamas leaders and Israeli government officials are not aligned in their assessment of sexual violence, with this offence notably absent on the Israeli charge sheet (ICC, 2024). It is possible that the chief prosecutor is attempting to balance politics and the law and extending charges to those which present the most legitimate path to prosecution. However, this strategy does not take into account the report conducted by the UN (2024) which has clearly articulated that the prevalence, type and severity of sexual violence has increased since the attack on October 7th.

Moreover, a recent Israeli cabinet meeting which was televised captured an exchange between ministers which argued as to whether rape of Palestinian detainees was an acceptable practice, to which one member aggressively agreed that it was (CBS news, 2024). This related specifically to the case in the Sde Teiman detention center where soldiers were detained for the aggravated rape of an inmate which remains under investigation leading to an attack on the facility by civilians who consider their actions justifiable (The Guardian, 2024). This case may indicate authorities are willing to hold soldiers accountable for acts of sexual violence. However, a more cynical perspective may consider it to be superficial which may ultimately amount to minor sanctions, if

any. Therefore, the only hope left is the ICC however, progression to date indicates that prosecuting perpetrators of sexual violence is not on the agenda meaning that offenders can continue to abuse Palestinians.

Conclusion

International criminal law has made considerable progress in addressing sexual violence since the historical failures of Nuremberg and Tokyo tribunals. This path has not been linear, and the analysis of different cases demonstrates both catastrophic failures and monumental successes. It is evident that international legal mechanisms have established a strong direction in classifying sexual violence as a significant war crime and prosecuting it as such, but many other factors have created obstacles to achieving this objective. Although international law is robust it must interact with the internal dynamics of the mechanisms in which it operates as well as the powers, culture, and context of the jurisdiction it is seeking to prosecute. This interplay is observed in the cases examined whereby politics and individual legal actors can impact the judicial system and thus affect outcomes.

Chapter Seven: Discussion and Conclusion

Discussion

Fundamentally I subscribe to the amalgamation of two perspectives namely, Wood's (2006) contention that peace and war time rape are linked through societal acceptance of sexual violence which is embedded in attitudes and behaviours in military structures. However, I also strongly believe that CRSV is unique as Cohen (2018) suggests that although peacetime may be a precursor it breathes life into a distinct phenomenon which is not observed in times of societal stability. It is therefore suggested that one does not exist without the other but progresses the perpetration of sexual violence into something so different that it becomes a standalone event.

The literature review revealed high levels of explicit sexual violence and more discreet abuse across different conflicts. What became evident through the research was that when sexual violence was perpetrated it reached extremes which defy any form of human decency. This may be allowed for by the anarchy and anonymity afforded to combatants during active duty which is rarely tempered and seemed to push the boundaries of violence generally unparalleled in peace time.

The theories I considered offered a supporting framework for real life conflicts which related strongly to certain aspects of CRSV while unable to adeptly explain other components. Given

that research efforts have only been strongly directed to CRSV for a short period of time (Koos, 2015) theories were developed from available information and as advancements are made theories need to be redrafted against new information. However, much of the considerations from these prominent researchers remain relevant in some way and can be considered valid in the formation of newer theories.

Through examining military structures and active war, I gained a greater perspective on institutional cultures and organisational command chains and their influence on CRSV. The armed forces are generally highly sexualised environments (Godier & Fossey, 2018) where rape culture is prevalent (Lohman 2015). Across each context considered this appeared to be normalised and facilitated all forms of sexual abuse and violence. Even in the Israeli army where sexual abuse has been typically less obvious the same cultures are ingrained and dominant. Other armies, such as the FARDC of the DRC, Serbian forces, and Hutu groups were observed to display more explicit features of rape culture which contributed to mass sexual violence in the regions. Types of sexual violence also differed from peace time with public and gang rape (Pinaud, 2020) and forced incestual rape appearing to be significantly more prevalent (Ene, 2020, Abu-Hamad, 1995). I believe this has been shown to be due to both internal command chains and the dynamics between soldiers during war.

Complicity between state and military was an obvious factor in mass sexual offending as a practice and as a weapon of war. As I moved on to assess sexual violence as a form of genocide it became apparent that much planning and malice underpinned the implementation of these strategies. The former Yugoslavia provided insight into the multilevel effort to develop the 'Ram Plan' to ethnically cleanse the territory of Bosnia – Herzegovina (Allen, 2005). Further to this,

the input of psychologists into the genocidal plan (Bassiouni & McCormick, 1996, Salzman, 1998) and the use of gynecologists in rape camps to check for pregnancy among victims (Stiglmeier, 1994) demonstrated a clinical and dehumanising objective which was enacted by professionals who generally adhere to strong professional codes of conduct. This type of behaviour is most likely accounted for through the dissemination of propaganda which creates an environment for engagement in violence. Similar acts were observed in Rwanda as genocide was perpetrated through HIV with government officials utilizing persons known to be living with AIDs to rape the Tutsi people (Russell- Brown, 2003). It became apparent that in each context vulnerabilities of the target group became a conductor for how sexual violence was used which was effective in the genocidal campaign.

Legal responses have been significant in intervening in conflicts where sexual offences have been perpetrated during war. It is apparent that major progress has been made since the historical trials of Nuremburg and Tokyo and tackling sexual violence appears to be a priority for international mechanisms. Through the establishment of conventions, statutes and amendments to international law investigations have been able to prosecute high level offenders and link sexual offences to broader agendas. However, this path has diverged at times where cases were unable to meet the burden of proof and thus allowed perpetrators who commissioned sexual crimes to go unpunished for these acts. I strongly believe this is because the law does not work in isolation and through the research I assessed it became evident that politics, societal beliefs and internal dynamics dictate the trajectory of investigations and prosecutions that differs depending on the territory. Current events in Palestine show a worrying trend of politics dominating the ICC investigation whereby sexual violence is not included in the charge sheet against Israeli officials.

Overall, this dissertation contributed to this very niche field of study and although there was no attempt to ‘reinvent the wheel’ it aimed to provide additional knowledge to the growing body of research through a different perspective. Perpetrators of sexual violence during war are not unique to the average person, rather their behaviours are cultivated by society and the institutions and groups to which they belong. Therefore, preventing rape and sexual abuse may be possible through reshaping societal perceptions during peace time to assist in more moral behaviours as soldiers enter war. This seems to be an impossible task as misogyny and patriarchal beliefs are dominant in society and military culture however both national and international bodies must make concerted efforts to assist in altering the status quo particularly in regions expected to engage in armed conflict.

Limitations and Further Research

Upon completion of the research some limitations became apparent which require more academic inquiry. While I attempted to provide analysis of militaries due to the closed ranks of the institutions, I believe much more is to be learned about the internal workings of the organisations and their contribution to the perpetration of sexual violence during war. Further to this, is absence of scrutiny surrounding females who engage in rape during conflict, while some research exists in this area it is sparse and must be expanded upon. Due to the range of areas I covered I had to eliminate some aspects of the research which interested me, namely the use of technology during the commission of CRSV. I briefly touched on this during my analysis of the

IDF, but I consider this to be an avenue worthy of further exploration as it would appear that perpetrators are willing to document the sexual violence they commit with impunity. Lastly, perpetrators require significantly more research and while some academics have provided groundbreaking insights from a perpetrator perspective it is imperative that this continues to gain greater understanding surrounding the causation of CRSV.

Conclusion

In conclusion, this dissertation has attempted to contribute to the knowledge on the causation of conflict related sexual violence. Through the case studies presented the perpetration of sexual violence has been demonstrated to be complex and underpinned by multiple factors which are linked to internal dynamics in militaries and external components such as politics, religion, culture and ethnicity. Sexual violence has been shown to exploit the obvious vulnerabilities of a territory to gain advantage for a variety of reasons. Structures and command chains in the armed forces, both legitimate and militia, are influential in the commission of sexual violence and in most instances impact how it is commissioned.

There are unfortunately no definitive answers to the causation of CRSV instead my findings reflect current research positions that the phenomenon is related to many factors and differs significantly based on the individual conflict. Generalisations cannot be applied to all contexts and tailoring research approaches to individual conflicts is imperative to capture an accurate summation of events.

Bibliography

Articles

Abdulhadi, R., 2019. Israeli settler colonialism in context: Celebrating (Palestinian) death and normalizing gender and sexual violence. *Feminist Studies*, 45(2-3), pp.541-573.

<https://doi.org/10.15767/feministstudies.45.2-3.0541>

Ajayi, V.O., 2017. Primary sources of data and secondary sources of data. *Benue State University*, 1(1), pp.1-6.

Aldworth, J., 2011. Sexual gender-based violence in the democratic republic of Congo.

Al Issa, F.A.R. and Beck, E., 2021. Sexual violence as a war weapon in conflict zones: Palestinian women's experience visiting loved ones in prisons and jails. *Affilia*, 36(2), pp.167-181. DOI: 10.1177/0886109920978618

Amaral, A.S.S., 2023. Ntaganda Case: Lessons learnt from Katanga, Lubanga, and Bemba cases. *Revista Eletrônica de Direito Penal e Política Criminal*, 11(1/2), pp.7-18. <https://orcid.org/0000-0003-4314-2490>

Askin, K.D., 2003. Prosecuting wartime rape and other gender-related crimes under international law: Extraordinary advances, enduring obstacles. *Berkeley J. Int'l L.*, 21, p.288.

Baaz, M.E. and Stern, M., 2009. Why do soldiers rape? Masculinity, violence, and sexuality in the armed forces in the Congo (DRC). *International studies quarterly*, 53(2), pp.495-518.]

Baaz, M.E and Stern, M., 2010. The Complexity of Violence: A critical analysis of sexual violence in the Democratic Republic of Congo (DRC).

Baaz, M.E. and Stern, M., 2018. Curious erasures: the sexual in wartime sexual violence. *International Feminist Journal of Politics*, 20(3), pp.295-314. [*14616742.2018.1459197](https://doi.org/10.14616/742.2018.1459197) ([tandfonline.com](https://www.tandfonline.com))

Baca, S.A., Crawford, J.N. and Allard, C.B., 2021. PTSD, depression, and suicidality among survivors of childhood sexual trauma (CST), military sexual trauma (MST), and sexual revictimization (CST+ MST). *Psychological trauma: theory, research, practice, and policy*. <https://doi.org/10.1037/tra0001149>

Banu, P., International Criminal Law Prosecutor v. Kunarac and others AC, 12 June 2002.

Banwell, S., 2016. Rassenschande, Genocide and the Reproductive Jewish Body: examining the use of rape and sexualized violence against Jewish women during the Holocaust?. *Journal of Modern Jewish Studies*, 15(2), pp.208-227. <https://doi.org/10.1080/14725886.2015.1049853>

Bassiouni, M.C. and McCormick, M., 1996. *Sexual violence: An invisible weapon of war in the former Yugoslavia* (No. 1). Chicago, IL: International Human Rights Law Institute, DePaul University.

Bell, M.E. and Reardon, A., 2011. Experiences of sexual harassment and sexual assault in the military among OEF/OIF veterans: Implications for health care providers. *Social Work in Health Care*, 50(1), pp.34-50. DOI: 10.1080/00981389.2010.513917

Bijleveld, C., Morssinkhof, A. and Smeulers, A., 2009. Counting the countless: Rape victimization during the Rwandan genocide. *International Criminal Justice Review*, 19(2), pp.208-224. DOI/10.1177/1057567709335391

Bitenga Alexandre, A., Moke Mutondo, K., Bazilashe Balegamire, J., Emile, A. and Mukwege, D., 2021. Motivations for sexual violence in armed conflicts: voices from combatants in eastern Democratic Republic of Congo. *Medicine, conflict, and survival*, 37(1), pp.15-33. <https://doi.org/10.1080/13623699.2021.1882365>

Bogue, N. 2016, "The concentration camp brothels in memory", *Holocaust studies*, vol. 22, no. 2-3, pp. 208-227. <https://doi-org.may.idm.oclc.org/10.1080/17504902.2016.1148871>

Boose, L.E., 2002. Crossing the River Drina: Bosnian rape camps, Turkish impalement, and Serb cultural memory. *Signs: Journal of Women in Culture and Society*, 28(1), pp.71-96.

Boslaugh, S., 2007. *Secondary data sources for public health: A practical guide*. Cambridge University Press.

Bosmans, M., 2007. Challenges in aid to rape victims: the case of the Democratic Republic of Congo. *Essex Human Rights Review*, 4(1), pp.1-12.

Burnet, J.E., 2015. Rape as a Weapon of Genocide: Gender, Patriarchy, and Sexual Violence in the Rwandan Genocide.

Buss, D.E., 2009. Rethinking 'rape as a weapon of war'. *Feminist legal studies*, 17, pp.145-163.

Cannon, P., 2012. A feminist response to rape as a weapon of war in Eastern Congo. *Peace Review*, 24(4), pp.478-483. DOI: 10.1080/10402659.2012.732470

Chalmers, B., 2015. Jewish women's sexual behaviour and sexualized abuse during the Nazi era.

The Canadian Journal of Human Sexuality, 24(2), pp.184-196. doi/pdf/10.3138/cjhs.242-A10

Christian, M., Safari, O., Ramazani, P., Burnham, G. and Glass, N., 2011. Sexual and gender-based violence against men in the Democratic Republic of Congo: effects on survivors, their families, and the community. *Medicine, conflict and survival*, 27(4), pp.227-246.

<https://doi.org/10.1080/13623699.2011.645144>

Clark, J.N., 2014. Making sense of wartime rape: A multi-causal and multi-level analysis.

Ethnopolitics, 13(5), pp.461-482. *17449057.2014.928461 (tandfonline.com)

Cohen, D.K., 2013. Explaining rape during civil war: Cross-national evidence (1980–2009).

American Political Science Review, 107(3), pp.461-477.

DOI:<https://doi.org/10.1017/S0003055413000221>

Crawford, K.F., 2013. From Spoils to Weapons: Framing Sexual Violence as a Weapon of War at the United Nations Security Council. In *APSA 2013 Annual Meeting Paper, American Political Science Association 2013 Annual Meeting*.

Davis, A.D.S.L., 2019. *Factors Associated with HIV Infection and Condom Use in the Armed Forces of the Democratic Republic of Congo*. University of California, San Diego.

Denison, D.R. and Mishra, A.K., 1995. Toward a theory of organizational culture and effectiveness. *Organization science*, 6(2), pp.204-223.

Denov, M., 2015. Children born of wartime rape: The intergenerational realities of sexual violence and abuse. *Ethics, Medicine and Public Health*, 1(1), pp.61-68.

Deutch, S.T., 2015. Putting the spotlight on the terminator: how the ICC prosecution of Bosco Ntaganda could reduce sexual violence during conflict. *Wm. & Mary J. Women & L.*, 22, p.655.

Dishy, A., 2017. Selfies, sexts, and squadrons: The digital culture of the Israeli defense forces. *The iJournal: Student Journal of the Faculty of Information*, 2(2).

Donovan, P., 2002. Rape and HIV/AIDS in Rwanda. *The Lancet*, 360, pp. s17
s18.:[https://doi.org/10.1016/S0140-6736\(02\)11804-6](https://doi.org/10.1016/S0140-6736(02)11804-6)

Dovi, S., 2017. Representation in Context: Constructing Victims' Claims in the International Criminal Court, *Representation*, 53:3-4, 263-275, DOI: 10.1080/00344893.2018.1434231

Elbert, T., Hinkel, H., Maedl, A., Hermenau, K., Hecker, T., Schauer, M., Riedke, H., Winkler, N. and Lancaster, P., 2013. Sexual and Gender-Based Violence in the Kivu Provinces of the Democratic Republic of Congo: Insights from Former Combatants.

Ene, D.V., 2020. Bosnia and Herzegovina- Sexual violence as a weapon of war. *Strategic changes in security and international relations*, 159.

Eriksson, H., 2024. " The Rape Capital of the World": Rape survivors stories.

Farsakh, L., 2018. Understanding 50 Years of Israeli Occupation of Palestinian Land. *Review of Middle East Studies*, 52(2), pp.369-377. <https://doi.org/10.1017/rms.2018.89>

Fjeldstad, H.K., 2010. Rwanda in the DRC: Keeping the Pot Boiling?.
<http://urn.nb.no/URN:NBN:no-26974>

Francis, S., 2017. Gendered violence in Israeli detention. *Journal of Palestine Studies*, 46(4), pp.46-61. DOI: 10.1525/jps.2017.46.4.46

- Gallimore, R.B., 2008. Militarism, ethnicity, and sexual violence in the Rwandan genocide. *Feminist Africa*, (10), pp.9-30.
- Gardam, J.G. and Jarvis, M.J., 2001. Women, armed conflict and international law. In *Women, Armed Conflict and International Law* (pp. 1-18).
- Giroux, H.A., 2024. Genocide in Gaza and the Politics of False Equivalencies. *Policy and Practice: A Development Education Review*, 38, pp.120-125.
- Glowacka, D., 2021. Sexual Violence against Men and Boys during the Holocaust: A Genealogy of (Not-So-Silent) Silence. *German History*, 39(1), pp.78-99.
- Goff, G.B.L., 2010. Ending sexual violence in the Democratic Republic of the Congo. *Fletcher F. World Aff.*, 34, p.13.
- Goodwin, J., 1997. Rwanda: Justice Denied; Amid the atrocities endured by Rwandan women, the world's silence may be the worst crime of all. *On The Issues*, 6(4), p.26.
- Gottschall, Jonathan. "Explaining wartime rape." *Journal of sex research* 41, no. 2 (2004): 129-136.
- Guilford, K., 2018. Prosecuting Sexual Violence in Conflict and the Future of the Common Criminal Purpose at International Criminal Law. *NZWLJ*, 2, p.168.
- Haer, R., Hecker, T. and Maedl, A., 2015. Former combatants on sexual violence during warfare: A comparative study of the perspectives of perpetrators, victims, and witnesses. *Human Rights Quarterly*, 37(3), pp.609-628.

- Haffajee, R.L., 2006. Prosecuting crimes of rape and sexual violence at the ICTR: The application of joint criminal enterprise theory. *Harv. JL & Gender*, 29, p.201.
- Hagen, K. and Yohani, S., 2010. The nature and psychosocial consequences of war rape for individuals and communities. *International journal of psychological studies*, 2(2), pp.14-25.
- Hammami, R., 2019. Destabilizing mastery and the machine: Palestinian agency and gendered embodiment at Israeli military checkpoints. *Current Anthropology*, 60(S19), pp.S87-S97.
- Harel, A., 2016. Israel's Evolving Military: The IDF Adapts to New Threats. *Foreign Affairs*, 95(4), pp.43-50. <https://www.jstor.org/stable/43946931>
- Harris, R., 1993. The “Child of the Barbarian”: rape, race and nationalism in France during the First World War. *Past & Present*, 141(1), pp.170-206. <https://doi.org/10.1093/past/141.1.170>
- Heaton, L., 2014. The risks of instrumentalizing the narrative on sexual violence in the DRC: Neglected needs and unintended consequences. *International Review of the Red Cross*, 96(894), pp.625-639. Doi:10.1017/S1816383115000132
- Hughes, D.M., Mladjenović, L. and Mršević, Z., 1995. Feminist resistance in Serbia. *European Journal of Women's Studies*, 2(4), pp.509-532. <https://doi.org/10.1177/13505068950020>
- Ijaz, D.S., 2022. Violation of Palestinian Prisoner’s rights by Israel. *Journal of Law, Social and Management Sciences*, 1(1), pp.01-08.
- Iverson, M.W., 2014. Mass Rape in Foča: The International Criminal Tribunal for the Former Yugoslavia vs. Dragoljub Kunarac.

Ivkovic, S.K., 2001. Justice by the International Criminal Tribunal for the former Yugoslavia. *Stan. J. Int'l L.*, 37, p.255.

Jefferson, L.R., 2004. In war as in peace: Sexual violence and women's status. *Human Rights Watch World Report*, [1.402bac094.pdf \(populationmedia.org\)](#)

Johansson, K. and Sarwari, M., 2019. Sexual violence and biased military interventions in civil conflict. *Conflict Management and Peace Science*, 36(5), pp.469-493. DOI:

10.1177/0738894216689814

Johnson, N.L., Gutekunst, M.H., Robinett, S. and Lipp, N.S., 2024. 'We need a culture change': military sexual trauma through the lens of rape culture. *Culture, Health & Sexuality*, 26(3), pp.285-302. DOI: 10.1080/13691058.2023.2202715

Johnston, M.P., 2014. Secondary data analysis: A method of which the time has come. *Qualitative and quantitative methods in libraries*, 3(3), pp.619-626.

Ju, C., 2022. Why Do Military Officers Condone Sexual Violence? A General Theory of Commander Tolerance. *International Studies Review*, 24(3), p.viac033.

<https://doi.org/10.1093/isr/viac033>

Kalyvas, S.N. and Sambanis, N., 2005. Bosnia's civil war. *Understanding civil war*, 191, pp.191-230.

Kampmark, B., 2024. The Rages of Equivalence: The ICC Prosecutor, Israel and Hamas.

Kaste, A.R., 2015. Investigating Sexual Violence as a Weapon of War in the Democratic Republic of Congo (DRC) through Critical Discourse Analysis.

Khalidi, M.A., 2010. " The Most Moral Army in the World": The New" Ethical Code" of the Israeli Military and The War on Gaza. *Journal of Palestine Studies*, 39(3), pp.6-23.

Kirby, P., 2020. The body weaponized: War, sexual violence and the uncanny. *Security Dialogue*, 51(2-3), pp.211-230. <https://doi.org/10.1177/0967010619895663>

Kleinplatz, P.J. and Weindling, P., 2022. Women's experiences of infertility after the Holocaust. *Social Science & Medicine*, 309, p.115250. <https://doi.org/10.1016/j.socscimed.2022.115250>

Koos, C., 2015. What do we know about sexual violence in armed conflicts? Recent empirical progress and remaining gaps in peace and conflict research.

Kuhl, S., Kosloski, A.E., Ryon, S.B. and Monar, A., 2018. Masculinity, organizational culture, media framing and sexual violence in the military. *Social sciences*, 7(5), p.80.; <https://doi.org/10.3390/socsci7050080>

Kumara, A.S., 2022. Researching with Secondary Data: A brief overview of possibilities and limitations from the viewpoint of social research.

Kuniewicz, A., 2015. Case: International Criminal Court Prosecutor v. Bosco Ntaganda. *Chicago-Kent Journal of International and Comparative Law*, 15(1), p.6.

Kwik, J., 2016. Kunarac: Evolution, recognition, catharsis. *Prosecutor*, 697, p.699

Leiby, M.L., 2009. Wartime sexual violence in Guatemala and Peru. *International studies quarterly*, 53(2), pp.445-468. <https://doi.org/10.1111/j.1468-2478.2009.00541.x>

Lema, A., 2000. Causes of civil war in Rwanda: the weight of history and socio-cultural structures. In *Ethnicity Kills? The Politics of War, Peace and Ethnicity in SubSaharan Africa* (pp. 68-86). London: Palgrave Macmillan UK.

Levy, G. and Sasson-Levy, O., 2008. Militarized socialization, military service, and class reproduction: The experiences of Israeli soldiers. *Sociological Perspectives*, 51(2), pp.349-374.
<https://doi.org/10.1525/sop.2008.51.2.349>

Lewis, D.A., 2009. Unrecognized victims: Sexual violence against men in conflict settings under international law. *Wis. Int'l LJ*, 27, p.1.

Linden, R.R., 1996. Troubling categories can't think without: reflections on women in the holocaust. *Contemporary Jewry*, 17, pp.18-33.

Lohman, A., 2015. Silence of the lambs: Giving voice to the problem of rape and sexual assault in the United States armed forces. *Nw. JL & Soc. Pol'y*, 10, p.230.

Lowe Frank, K., 2018. Rape as an Act of Genocide: History and Law.

Luft, A., 2022. Dehumanization as consequence, not cause, of violence: evidence from Rwanda.

MacKinnon, Catherine. 2014. Women, Prostitution and Inequality. Israel Association for Feminist and Gender Studies.

Mankayi, N. (2010) Male Soldiers' Constructions of Masculinity, Sexuality and Sexual Violence, *Journal of Psychology in Africa*, 20:4, 591-599, DOI:
10.1080/14330237.2010.10820417

Marino, A., 2009. Bosnia v. Serbia and the Status of Rape as Genocide under International Law. *BU Int'l LJ*, 27, p.205.

Martin, L., Rosen, L.N., Durand, D.B., Knudson, K.H. and Stretch, R.H., 2000. Psychological and physical health effects of sexual assaults and nonsexual traumas among male and female United States Army soldiers. *Behavioral Medicine*, 26(1), pp.23-33.

Mattioli, G. and van Woudenberg, A., 2008. Global Catalyst for National Prosecutions?: The ICC in the Democratic Republic of Congo. *Courting Conflict*.

Medien, K., 2021. Israeli settler colonialism, "humanitarian warfare," and sexual violence in Palestine. *International feminist journal of politics*, 23(5), pp.698-719.

<https://doi.org/10.1080/14616742.2021.1882323>

Meger, S., (2010) Rape of the Congo: Understanding sexual violence in the conflict in the Democratic Republic of Congo, *Journal of Contemporary African Studies*, 28:2, 119-135, DOI: 10.1080/02589001003736728

Menicucci, G., 2005. Sexual Torture Rendering, Practices, Manuals. *ISIM Review*, 16(1), pp.18-19.

Mer, S.R. and Flicourt, N., 2015. Women victims of sexual violence in armed conflicts in the Democratic Republic of Congo. *Sexologies*, 24(3), pp.e55-e58.

[Doi.org/10.1016/j.sexol.2015.06.003](https://doi.org/10.1016/j.sexol.2015.06.003).

Meron, T., 1993. Rape as a crime under international humanitarian law. *American Journal of International Law*, 87(3), pp.424-428.

Messerschmidt, J.W., 2006. Review symposium: the forgotten victims of World War II: masculinities and rape in Berlin, 1945. *Violence Against Women*, 12(7), pp.706-712.

<https://doi.org/10.1177/1077801206290691>

Mukamana, D. and Brysiewicz, P., 2008. The lived experience of genocide rape survivors in Rwanda. *Journal of nursing scholarship*, 40(4), pp.379-384. [https://doi.org/10.1111/j.1547-](https://doi.org/10.1111/j.1547-5069.2008.00253)

[5069.2008.00253](https://doi.org/10.1111/j.1547-5069.2008.00253)

Mukangendo, M.C., 1994. Rwanda: Coping with children born of rape.

Mukangendo, M.C., 2007. Caring for children born of rape in Rwanda. *Born of wmukaar: Protecting children of sexual violence survivors in conflict zones*, pp.40-52.

Mullins, C.W., 2009. 'We Are Going to Rape You and Taste Tutsi Women' Rape during the 1994 Rwandan Genocide. *The British Journal of Criminology*, 49(6), pp.719-735.

<https://doi.org/10.1093/bjc/azp040>

Nagel, R.U. and Doctor, A.C., 2020. Conflict-related sexual violence and rebel group fragmentation. *Journal of Conflict Resolution*, 64(7-8), pp.1226-1253.

Niggeler, C.G., 2021. The Worst Place in the World for Women. *Contemporary Challenges: The Global Crime, Justice and Security Journal*, 2, pp.80-99.

Nitsán, T., 2007. Controlled Occupation: The Rarity of Military Rape in the Israeli–Palestinian Conflict. *Jerusalem: The Shaine Center for Research in Social Science*.

Nowrojee, B., 2003. "Your Justice is Too Slow": Will the ICTR Fail Rwanda's Rape Victims?. *Boston Consortium on Gender, Security and Human Rights Working Paper No, 105*.

Nsereko, D.D.N., 2001. Genocidal conflict in Rwanda and the ICTR. *Netherlands international law review*, 48(1), pp.31-65.

Obote-Odora, A., 2005. Rape and sexual violence in international law: ICTR contribution. *New Eng. J. Int'l & Comp. L.*, 12, p.135.

Olujic, M.B., 1998. Embodiment of terror: gendered violence in peacetime and wartime in Croatia and Bosnia-Herzegovina. *Medical anthropology quarterly*, 12(1), pp.31-50.

Peterman, A., Palermo, T. and Bredenkamp, C., 2011. Estimates and determinants of sexual violence against women in the Democratic Republic of Congo. *American journal of public health*, 101(6), pp.1060-1067. <https://doi.org/10.2105/AJPH.2010.300070>

Pinaud, C., 2020. Genocidal rape in South Sudan: organization, function, and effects. *Human Rights Quarterly*, 42(3), pp.667-694. Doi/10.1353/hrq.2020.0037

Powell, C., 2017. You Have No God: An Analysis of the Prosecution of Genocidal Rape in International Criminal Law. *Rich. Pub. Int. L. Rev.*, 20, p.25.

Pressman, J., 2003. The second intifada: Background and causes of the Israeli-Palestinian conflict. *Journal of Conflict Studies*, 23(2), pp.114-141.

Rafstedt, M., 2015. Variations in Forms of Sexual Violence: A Comparative Analysis of Bosnia and Rwanda.

Reynolds, D., 2017. Britain, the two world wars, and the problem of narrative. *The Historical Journal*, 60(1), pp.197-231. doi:10.1017/S0018246X16000509

Rimoin, A.W., Hoff, N.A., Djoko, C.F., Kisalu, N.K., Kashamuka, M., Tamoufe, U., LeBreton, M., Kayembe, P.K., Muyembe, J.J., Kitchen, C.R. and Saylor, K., 2015. HIV infection and risk factors among the armed forces personnel stationed in Kinshasa, Democratic Republic of Congo. *International Journal of STD & AIDS*, 26(3).

Røislien, H.E., 2013. Religion and military conscription: The case of the Israel Defense Forces (IDF). *Armed Forces & Society*, 39(2), pp.213-232. <https://doi.org/10.1177/0095327X12449429>

Rossy, K.M., 2011. Politicizing Pronatalism: Exploring the Nazi Ideology of Women through the Lens of Visual Propaganda, 1933-1939. *The Graduate History Review*, 3(1).

Rosenberg, S.P., 2012. Genocide is a process, not an event. *Genocide Studies and Prevention*, 7(1), pp.16-23.

Rough, J.A. and Armor, D.J., 2017. Sexual assault in the US military: Trends and responses. *World Medical & Health Policy*, 9(2), pp.206-224. <https://doi.org/10.1002/wmh3.228>

Rouleau, N.M., Brock, A., Yu, D., Heindel, A., Cava, M. and Jesrani, T., 2005. Updates from the international criminal courts. *Human Rights Brief*, 12(2), p.10.

Russell-Brown, S.L., 2003. Rape as an Act of Genocide. *Berkeley J. Int'l L.*, 21, p.350.

Salzman, T.A., 1998. Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia. *Human Rights Quarterly*, 20(2), pp.348-378.

Sinclair, C., 2019. Trial and Error: Holding Leaders Responsible for Conflict-Related Sexual Violence at International Criminal Law.

Schimmel, N., 2020. What Caused the Rwandan Genocide against the Tutsi?. *Peace Review*, 32(3), pp.350-356. <https://doi.org/10.1080/10402659.2020.1867352>

Schneider, G., Banholzer, L. and Albarracin, L., 2015. Ordered rape: A principal–agent analysis of wartime sexual violence in the DR Congo. *Violence against women*, 21(11), pp.1341-1363.

Schneider, V., 2019. The Negation of Suffering: Forced Sex Labor in Concentration Camp Brothels in Remembrance and Research. In *War and Sexual Violence* (pp. 131-145). Brill Schöningh. https://doi.org/10.30965/9783657702664_008

Schomburg, W. and Peterson, I., 2007. Genuine consent to sexual violence under international criminal law. *American Journal of International Law*, 101(1), pp.121-140.

Schwarz, A., 2023. The Gendered Vulnerability of German Women During the Holocaust: A Case Study of Auschwitz and Ravensbrück Concentration Camps. <http://hdl.handle.net/1828/14824>

Scott, S., (2004) How many perpetrators were there in the Rwandan genocide? An estimate, *Journal of Genocide Research*, 6:1, 85-98, DOI: 10.1080/1462352042000194728

Seelinger, K.T., 2020. Close to home: A short history, and rough typology, of national courts prosecuting wartime sexual violence. *Journal of International Criminal Justice*, 18(2), pp.219-242. <https://doi.org/10.1093/jicj/mqaa029>

Sitkin, R.A., Lee, B.X. and Lee, G., 2019. To destroy a people: Sexual violence as a form of genocide in the conflicts of Bosnia, Rwanda, and Chile. *Aggression and violent behavior*, 46, pp.219-224.

Sharlach, L., 2000. Rape as genocide: Bangladesh, the former Yugoslavia, and Rwanda. *New Political Science*, 22(1), pp.89-102. DOI: 10.1080/713687893

Shraga, D. and Zacklin, R., 1996. The International Criminal Tribunal for Rwanda. *Eur. J. Int'l L.*, 7, p.501.

Shook, L., 2010. *Complicating Consent: A Study of the Rhetorical Strategies Employed to Interrupt Rape Myths in the Prosecutor v. Kunarac* (Doctoral dissertation, University of Kansas).

Shortis, P., 2019. Evaluating Rafter's Contention That Rape Is a Key Means of Achieving Genocide. *Manchester Rev. L. Crime & Ethics*, 8, p.68.

Smith, C.J., 1974. History of rape and rape laws. *Women Law. J.*, 60, p.188. [Law Journal Library - HeinOnline.org](#)

Smith, K. and Shaani, O., 2010. Prosecutor v. Lubanga: How the International Criminal Court Failed the Women and Girls of Congo. *Howard LJ*, 54, p.467.

Snyder, C.S., Gabbard, W.J., May, J.D. and Zulcic, N., 2006. On the battleground of women's bodies: Mass rape in Bosnia-Herzegovina. *Affilia*, 21(2), pp.184-195.

<https://doi.org/10.1177/0886109905286017>

Son, H.W., 2023. Militarising Rape: A Strategic Analysis of Bosnian Rape Camps and the Japanese "Comfort Women" System. *Journal of Military and Strategic Studies*, 22(4).

Straus, S., 2006. Rwanda and Darfur: A comparative analysis. *Genocide Studies and Prevention*, 1(1), pp.41-56. DOI: 10.3138/V503-3258-VW87-324T

Sure, D.N., 2014. *Gendered nature of African conflicts the case of Democratic Republic of Congo* (Doctoral dissertation, University of Nairobi).

Szobar, P., 2002. Telling sexual stories in the Nazi courts of law: race defilement in Germany, 1933 to 1945. *Journal of the History of Sexuality*, 11(1/2), pp.131-163.

<http://www.jstor.org/stable/3704554>.

Talmadge, C., (2013) The Puzzle of Personalist Performance: Iraqi Battlefield Effectiveness in the Iran-Iraq War, *Security Studies*, 22:2, 180-221, DOI: 10.1080/09636412.2013.786911

Teo, H.M., 1996. The continuum of sexual violence in occupied Germany, 1945-49. *women's History Review*, 5(2), pp.191-218.

Uchida, C.M., 2018. Constraints On Rape As a Weapon of War: A Feminist and Post-Colonial Revision. *E-International Relations*.

Vaes, J., Paladino, P. and Puvia, E., 2011. Are sexualized women complete human beings? Why men and women dehumanize sexually objectified women. *European Journal of Social Psychology*, 41(6), pp.774-785.

Van Der Meer, K., 2019. "It Sounds like Total Fiction:" An Investigation into how and why the Nazi Regime used Brothels to Control Inmates within its Concentration Camps.

Van Schaack, B., 2008. Engendering genocide: the Akayesu case before the International Criminal Tribunal for Rwanda. *HUMAN RIGHTS ADVOCACY STORIES*, Foundation Press, pp.08-55.

Vance, G.S., Zeigler-Hill, V., Vonk, J. and Shackelford, T.K., 2024. Inevitable or Preventable? The Biosocial Theory of Wartime Rape. *Evolutionary Psychological Science*, pp.1-20.

van Wieringen, K., 2020. To counter the rationality of sexual violence: existing and potential policies against the genocidal use of rape as a weapon of war in the Democratic Republic of Congo. *Journal of International Humanitarian Action*, 5(1), p.8.

Wachala, K., 2012. The tools to combat the war on women's bodies: Rape and sexual violence against women in armed conflict. *The International Journal of Human Rights*, 16(3), pp.533-553.

Wahyuni, Y.S., 2020. Rape as a weapon in genocide and wars: Enquiring the problems of women's witnessing rape. *Journal of Social Studies (JSS)*, 16(2), pp.121-136., doi: 10.21831/jss.v16i2. 34696.

Wakeham., P (2022) The Slow Violence of Settler Colonialism: Genocide, Attrition, and the Long Emergency of Invasion, *Journal of Genocide Research*, 24:3, 337-356, DOI:10.1080/14623528.2021.1885571

Weishut, D.J., 2015. Sexual torture of Palestinian men by Israeli authorities. *Reproductive Health Matters*, 23(46), pp.71-84. DOI: 10.1016/j.rhm.2015.11.019

Wells, S.L., 2004. Gender, sexual violence and prospects for justice at the gacaca courts in Rwanda. *S. Cal. Rev. L. & Women's Stud.*, 14, p.167.

Williams, J., 2021. Sexual Violence Against Women during the Holocaust: Inside and Outside of Extermination Camps. *History in the Making*, 14(1), p.6.

Wood, S.K., 2004. A woman scorned for the least condemned war crime: Precedent and problems with prosecuting rape as a serious war crime in the international criminal tribunal for Rwanda. *Colum. J. Gender & L.*, 13, p.274.

Wood, E.J., 2006. Variation in sexual violence during war. *Politics & society*, 34(3), pp.307-342. <https://doi.org/10.1177/0032329206290426>

Wood, E.J., 2009. Armed groups and sexual violence: When is wartime rape rare?. *Politics & Society*, 37(1), pp.131-161. <https://doi.org/10.1177/0032329208329755>

Wood, E.J. and Toppelberg, N., 2017. The persistence of sexual assault within the US military. *Journal of Peace Research*, 54(5), pp.620-633. <https://doi.org/10.1177/0022343317720487>

Yagi, I., Malette, J., Mwindo, T. and Maisha, B., 2022. Characteristics and impacts of conflict-related sexual violence against men in the DRC: A phenomenological research design. *Social Sciences*, 11(2), p.34.

Zawati, H.M., 2007. Impunity or immunity: wartime male rape and sexual torture as a crime against humanity. *Torture*, 17(1), pp.27-47.

Zawati, H.M., 2012. R. Charli Carpenter, *Forgetting Children Born of War: Setting the Human Rights Agenda in Bosnia and Beyond* (New York, NY: Columbia University Press, 2010), pp 273, ISBN 978-0.

Zongwe, D.P., 2012. The new sexual violence legislation in the Congo: dressing indelible scars on human dignity. *African Studies Review*, 55(2), pp.37-57.

Books

- Abel, T., 1986. *Why Hitler came into power*. Harvard University Press.
- Adelman, J., 2008. *The rise of Israel: A history of a revolutionary state*. Routledge.
- Allen, B., 2005. *Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia*. U of Minnesota Press.
- Anfara Jr, V.A. and Mertz, N.T. eds., 2014. *Theoretical frameworks in qualitative research*. Sage publications.
- Baaz, M.E. and Stern, M., 2013. *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond*. Bloomsbury Publishing.
- Brownmiller, S. & Gabbert, C. 1975, *Against our will: men, women and rape*, 1st edn, Open Road Integrated Media, New York, New York
- Carter, B.M., 2021. *Rape as a Weapon of War: A Critique of Wartime Rape Practice and Its Neglect by the International Community and the Global Patriarchy*. Webster University.
- Cohen, D.K., 2018. *Rape during civil war*. Cornell University Press.
- Collins, R. (2008). *Violence: A micro-sociological theory*. Princeton: Princeton University Press
- de Brouwer, A.L.M., Chu, S.K.H. and Muscati, S., 2009. *The men who killed me: Rwandan survivors of sexual violence*. Douglas & McIntyre.
- De Londras, F., 2010. Prosecuting sexual violence in the ad hoc international criminal tribunals for Rwanda and the former Yugoslavia. In *Transcending the Boundaries of Law* (pp. 306-320). Routledge-Cavendish.

Desch, M.C., 2014. Culture clash: Assessing the importance of ideas in security studies. In *The Realism Reader* (pp. 353-360). Routledge.

Evans, S.E., 2023. *Forgotten crimes: The Holocaust and people with disabilities*. Rowman & Littlefield.

Feenan, D., 2013. *Exploring the 'socio' of socio-legal studies* (pp. 3-19). Macmillan Education UK.

Haveman, R. H. (2008). Justice for Gacaca. In A. Smeulers & R. Haveman (Eds.), *Supranational criminology: Towards a criminology of international crimes* (pp. 357-398). Antwerp, Belgium: Intersentia.

Hedgepeth, S.M. and Saidel, R.G. eds., 2010. *Sexual violence against Jewish women during the Holocaust*. UPNE.

Henry, N. 2011, *War and Rape; Law, memory and justice*, Routledge, Abingdon

Hertzog, E. (2008). *Life, Death and Sacrifice: Women and Family in the Holocaust*. Jerusalem: Gefen Publishing House.

Kippenberg, J., 2009. *Soldiers who rape, commanders who condone: sexual violence and military reform in the Democratic Republic of Congo*. Human Rights Watch.

Kovic, R., 2016. *Born on the Fourth of July*. Akashic Books.

Kristof, N. D., and WuDunn, S. (2009). *Half the Sky: Turning Oppression into Opportunity for Women Worldwide*. New York: Alfred A. Knopf.

Kuntsman, A. and Stein, R.L., 2020. *Digital militarism: Israel's occupation in the social media age*. Stanford University Press.

Layika, F. 1995. "War Crimes Against Women in Rwanda," in *Without Reservation: The Beijing Tribunal on Accountability for Women's Human Rights*, ed Niamh Reilly (New Brunswick: The Center for Women's Global Leadership, 1995), p.38.

Levenkron, N. 2010. Death and the Maidens: "Prostitution," Rape, and Sexual Slavery during World War II. In R. G. S. Sonja M Hedgepeth (Ed.), *Sexual Violence Against Jewish Women During the Holocaust* (pp. 13–28). Waltham, Massachusetts: Brandeis University Press.

Mann, B., 2014. *Sovereign masculinity: Gender lessons from the war on terror*. Oxford University Press, USA.

McGarry, R. and Walklate, S. eds., 2016. *The Palgrave handbook of criminology and war*. Springer.

Meznaric, S., 2019. Gender as an ethno-marker: rape, war, and identity politics in the former Yugoslavia. In *Identity Politics and Women* (pp. 76-97). Routledge.

Morris, B. 2004, *The birth of the Palestinian refugee problem revisited*, Second edn, Cambridge University Press, Cambridge

Moreton-Robinson, A., 2015. *The white possessive: Property, power, and indigenous sovereignty*. U of Minnesota Press.

Mukangendo, M.C., 2007. Caring for children born of rape in Rwanda. *Born of war: Protecting children of sexual violence survivors in conflict zones*, pp.40-52. Kumarian Press.

Mullins, C.W. and Rothe, D.L., 2018. Toward a supranational criminology. In *Cutting the edge* (pp. 55-67). Routledge.

Nowrojee, B., 1996. *Shattered lives: Sexual violence during the Rwandan genocide and its aftermath* (Vol. 3169, No. 164). Human Rights Watch.

Omanyondo, M. C., Berckmans, J., & Mulyumba, B. (2005). Women's bodies as a battleground: Sexual violence against women and girls during the war in the Democratic Republic of Congo. South Kivu (1996-2003). London, England: International Alert.

Rose, D.A., 2000. *Hiding Places: A Father and His Sons Retrace Their Family's Escape from the Holocaust*. Simon and Schuster.

Sander, H. and Johr, B. (2005). *Befreier und Befreite. Krieg, Vergewaltigung, Kinder*. Frankfurt/Main: Fischer Verlag.

Shalhūb-Kīfūrkiyān, N., 2009. *Militarization and violence against women in conflict zones in the Middle East: A Palestinian case-study*. Cambridge University Press.

Shik, N.A. (Ed.). (2009). *Sexual Abuse of Jewish Women in Auschwitz-Birkenau*. Houndds mills. Basingstoke, Hampshire: Palgrave Macmillan.

Skjelsbaek I. 2018. 'Perpetrators of sexual violence in armed conflict.' In *Perpetrator and Perpetration of Mass Violence. Action, Motivations and Dynamics*, edited by T. Willimans and S. Buckely-Zistel, 151–168. New York: Routledge.

Smith, C.D., 2017. *Palestine and the Arab-Israeli conflict: A history with documents* (p. 608). Boston: Bedford/St. Martin's.

Sommer, R., 2010. Sexual Exploitation of Women in Nazi Concentration Camp Brothels. In S.M. Hedgepeth & R.G. Sidel (Eds.), *Sexual Violence Against Jewish Women During the Holocaust* (pp. 45–60). Waltham, Massachusetts: Brandeis University Press.

Stiglmayer, A., 1994. *The Rapes in Bosnia-Herzegovina, in Mass Rape*. University of Nebraska Press.

Stoler, A.L., 2020. Carnal knowledge and imperial power: Race and the intimate in colonial rule. In *The New Imperial Histories Reader*. Routledge.

Vlachova, M., & BIASON, L. (Eds.). (2005). *Women in an insecure world: Violence against women, facts, figures, and analysis*. Geneva, Switzerland: Geneva Centre for the Democratic Control of Armed Forces.

Zuckerman, L., 2004. *The rape of Belgium: the untold story of World War I*. NYU Press.

Reports

Abu-Hamad, Aziz, "Rape as a Weapon of War". The Human Rights Watch Global Report on Women's Human Rights, Human Rights Watch, 1995. [general958.pdf \(hrw.org\)](#) [Date accessed 10/07/24]

Arieff, A., 2009. *Sexual violence in African conflicts* (Vol. 25). Washington: Congressional Research Service. [*13724_sexual_violence_in_african_conflicts.pdf \(genderlinks.org.za\)](#) [Date accessed 29/07/2024]

Horva'th E, Zukani M, Eppel D, et al. Gender-based violence laws in sub-Saharan Africa.

www.reproductiverights.org

International Criminal Court., 2014 Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda 14 June 2014 | Pre-Trial Chamber II | Decision. [Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int)

International Criminal Court., 2024. Situation in the Democratic Republic of Congo. [Democratic Republic of the Congo | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int) [Date accessed 01/08/24]

International Criminal Court., 2024. *Situation in the State of Palestine*. [State of Palestine | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int) [Date accessed 02/08/24]

International Criminal Court., 2024. Statement of ICC Prosecutor Karim A.A. Khan KC: Applications For Arrest Warrants In The Situation In The State of Palestine. [Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int) [Date accessed 04/07/24]

MONUC., 2009. Twenty-seventh report of the Secretary-General on the United Nations Organisation Mission in the Democratic Republic of the Congo S/2009/160 27 March 2009 14. [Date accessed 15/07/24]

Mudrovčić, Z. (2001). Sexual and gender-based violence in post conflict regions: The Bosnia and Herzegovina Case. In United Nations Population Fund, The impact of armed conflict on women and girls: A consultative meeting on mainstreaming gender in areas of conflict and reconstruction [impact_conflict_women.pdf \(unfpa.org\)](#) [Date accessed 10/07/24]

Pratt, M., and L. Werchick. 2004. Sexual terrorism: rape as a weapon of war in eastern Democratic Republic of Congo. USAID/DCHA Assessment Report. Kinshasa: USAID/ DCHA [Date accessed 15/07/24]

Unicef., 2023. DR Congo: Children killed, injured, abducted, and face sexual violence in conflict at record levels for third consecutive year. [DR Congo: Children killed, injured, abducted, and face sexual violence in conflict at record levels for third consecutive year – UNICEF](#)

United Nations., 1994., Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780. [un_commission_of_experts_report1994_en.pdf \(icty.org\)](#) [Date accessed 08/07/24]

United Nations., 1994., Statute of the International Criminal Tribunal for Rwanda. Arts. 3(g) (crime against humanity), 4(e) (war crime). [Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 | OHCHR](#) [Date accessed 3/08/2024]

United Nations., 2009. Statute of the International Criminal Tribunal for the Former Yugoslavia, Art. 5(g) (crime against humanity). [statute_sept09_en.pdf \(icty.org\)](#) [Date accessed 3/08/24]

United Nations, International Residual Mechanism for Criminal Tribunals, Legacy website for the International Criminal Tribunal for Yugoslavia and Rwanda. [Key Figures of Cases | United Nations International Criminal Tribunal for Rwanda \(irmct.org\)](#) [Key Figures of the Cases | International Criminal Tribunal for the former Yugoslavia \(icty.org\)](#) [Date accessed 03/08/24]

United Nations., 2017. Conflict-Related Sexual Violence. New York: UN. Accessed December 15, 2020. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/reports/sg-reports/SG-REPORT-2017-CRSV-SPREAD.pdf> [Date accessed 20/06/24]

United Nations., 2024. Human Rights Council Fifty-sixth Session Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023* Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel. [a-hrc-56-crp-4.pdf \(ohchr.org\)](#) [Date accessed 04/07/24]

United Nations., 2024. Increased Fighting in Democratic Republic of Congo Exacerbating Security Woes Threatening Regional Conflagration, Special Envoy Warns Security Council, United Nations. [Increased Fighting in Democratic Republic of Congo Exacerbating Security Woes Threatening Regional Conflagration, Special Envoy Warns Security Council | Meetings Coverage and Press Releases](#) [Date accessed 16/07/24]

Newspapers

CBS News, 2024. Israeli lawmaker defends alleged rape of Hamas prisoner as far-right protesters rage over IDF troops' detention. [Israeli lawmaker defends alleged rape of Hamas](#)

prisoner as far-right protesters rage over IDF troops' detention - CBS News [Date accessed 0/08/24]

Reuter, 2024. Israeli soldiers play with Gaza women's underwear in online posts Israeli soldier play with Gaza women's underwear in online posts | Reuters [Date accessed 26/07/24]

The Guardian, 2024. Claims of Israeli sexual assault of Palestinian women are credible, UN panel says Claims of Israeli sexual assault of Palestinian women are credible, UN panel says | Israel-Gaza war | The Guardian [Date accessed 26/07/24]

The Guardian, 2024 IDF charges reservist with aggravated abuse of Palestinian prisoners. IDF charges reservist with aggravated abuse of Palestinian prisoners | Israel | The Guardian [Date accessed 07/08/24]