

Women as a weapon of war in armed conflict

Women's bodies are objectified, and that's a reality. However, the dimensions of this practice exceed the limit in the context of an armed conflict. Even though there are tools in place in order to hold the perpetrators accountable, there are few successful cases. Given the rise of interstate conflicts and the number of ongoing peace processes, this article urges all actors involved to halt violence against women.

In this paper we will analyze how women are exposed to sexual abuse in times of conflict. In such a setting, women are seen as a weapon of war for the armed groups. In this paper we will research about the role of national and international legal frameworks in holding the perpetrators accountable. Specifically, we will focus our analysis on the armed conflict in the Democratic Republic of Congo.

In November 2013, the CEDAW Committee adopted a general recommendation on women in conflict prevention, conflict, and post-conflict situations. The Committee recommended the state parties to take a set of measures to ensure the protection of women's rights before, during and after a conflict. Also, the relevance of this topic lies within the evidence that has been shown in terms of an increased prevalence of gender-based violence and discrimination and the outbreak of conflict. The rapid increase in the prevalence of

sexual violence can serve as an early warning of conflict.¹

Therefore, when facing this context, it is pivotal to investigate and punish members of the police, security, and armed forces who perpetrate acts of violence against women, violations of international humanitarian law, and violations of the human rights of women in situations of armed conflict.² In addition to this, some suggestions have been made, such as the increase in the number of women in militaries, as well as including and increasing the number of female soldiers.³

DEMOCRATIC REPUBLIC OF CONGO: CASE STUDY

Even though there has been a long history of women as sexual slaves in times of conflict, we will focus mainly on the situation in the Democratic Republic of Congo. We must keep the historical context in mind when understanding what is happening in the country. Congo's history has been marked by violence, both during colonization, and

¹ Acheson, R. (2021, 14 October). *Women, Weapons, and War*. Women's International League for Peace & Freedom.

² Ibidem note 1

³ Ibidem note 1

back then, this laid the foundation for ongoing human rights violations. Therefore, the country has experienced a bloody historical past, under the Belgian colonial rule, as well as in the post-colonial context, led by dictators.

Unfortunately, the impact of these actions over women has been very profound. According to the Officer of the High Commissioner of United Nations Human Rights, *“rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide”*. The resolution points at the culture of impunity that surrounds sexual violence in conflict zones and allows rapists to walk without fear of punishment. Sex slavery and rape have been used as a tactic of war by armed groups in the country during 5 years of conflict (2013-2017) in a brutal and calculated way. Even though the UN Resolution 1820 (2008) was passed, which aimed at reducing sexual violence and holding the perpetrators accountable its efficiency remains doubtful in countries such as the Democratic Republic of Congo (DRC), which is considered as the center of sexual violence, in Liberia and the Darfur region of Sudan. In fact, Major-General Patrick Cammaert, former commander of UN peacekeeping forces in the eastern Congo alludes to the urgency of this matter by stating the following *“It has probably become more dangerous to be a woman than a soldier in armed conflict”*⁴

The most straightforward response to a case of sexual assault would be reaching out for legal help and reporting the case to the security forces or some state body. However, contacting any professional in such a context, after having gone

⁴ Redaction (2021, 14 October). *Rape: Weapon of war*. United Nations Human Rights Office of the High Commissioner.

⁵ Koepp, M. (2021, 14 October). *Rape as a weapon of war: An analysis of the impunity of perpetrators of*

through a psychologically harmful experience, is very challenging.

An added obstacle is the impediment related to the cultural context. In many cultures around the world, women’s honor is defined around sexuality. One of the consequences of this is that, after being sexually harassed, women are considered as inapt for marriage, because they are seen as dishonored. In such a situation, victims tend to be rejected by their own families because they represent a source of shame. In fact, children who are born out of rapes are usually abandoned because of their mixed ethnicity.⁵

What’s more, article 448 of the Congolese Family Code states that women should obtain the authorization of the husband to bring their cases to court. In practice, however, many husbands washed their hands of the violence his wife has suffered in the first place, and refuse to support them when they were raped, which constituted a serious obstacle to justice.⁶

Lawyers claim that it should be inconceivable for the perpetrators to walk free and suffer no consequences whatsoever. *“If they are not arrested right now and [taken into custody], no victims will have the will to seek justice and that makes justice inaccessible”*, asserts Paul Amédée Moyenzo, commander and member from the Unit for Rapid Intervention and Suppression of Sexual Violence against Women and Children at the Democratic Republic of Congo.⁷

An additional factor that could obstruct victims in approaching the judicial system is the geographical

sexual violence in the DCR. Global Campus of Human Rights.

⁶ ibidem note 5

⁷ Ibidem note 4

accessibility of the courts, in addition to the economic expenses. Most of the Congolese women are not familiar with the rule of law in force, and the possibilities they have to access justice. Furthermore, they remark the slowness and malfunctioning of the justice system, as well as a lack of human, material, and financial resources.

LEGAL FRAMEWORK FOR THE PROTECTION OF VICTIMS

Formerly, rape in wartime was prohibited in war legislations such as in Article 44 of the 1863 Lieber Code and in the Hague Regulations of 1899 and 1907. However, the issue was not seriously addressed before the drafting of the Four Geneva Conventions (GC) and their additional protocols, following the Second World War. Article 3, common to the four Geneva Conventions, condemns sexual violence by claiming the following: *“rape and sexual violence can be considered as torture as well as an outrage upon personal dignity”*.

Nevertheless, some of the articles of the Geneva Conventions were criticized on the grounds of being too broad and not being implemented effectively, since women continue to remain without protection in armed conflicts. The main problem stems from the lack of concepts such as rape or sexual violence in some constitutions in Africa and Asia. Therefore, the need for a definition of sexual violence by international criminal courts is crucial in order to put an end to the impunity for rapists and provide reparation for the victims.

The International Criminal Court of ex-Yugoslavia (TPIY) and the International Criminal Court of Rwanda laid the foundation for a more efficient prosecution of these crimes. Posteriorly, the Security Council passed three more resolutions, one of them about sexual violence in conflict,

which helped widen the mechanisms used by the UN to prevent the usage of sexual violence, to improve the investigations and fight against impunity.

During the Rwanda genocide of 1994, a remarkable landmark was the *Akayesu case* under the International Criminal Tribunal Rwanda. In this case, the accused was a Hutu communal leader who had witnessed sexual violence including sexual mutilation of women. Despite his political role, he did not take any measures to prevent or punish rapists. In fact, he was accomplice of the sexual violence perpetrated.

Another case in point took place during the Balkans War in Europe. In The War of Bosnia there was a systematic use of sexual violence as a tool to carry out this ethnic violence. The legal proceeding that derived from this conflict led to the condemnation of sexual violence being used in a war context and the judicialization of sexual violence as a weapon of war.⁸ The Tribunal considered that the systematic nature of sexual violence was part of a widespread attack on the Bosnian Muslim women.

One of the mechanisms used to combat sexual violence in the conflict in the Democratic Republic of Congo was the National Strategy to Combat Gender-Based Violence (SNVGB). The goal of this procedure, set in 2011, was to strengthen the prevention, protection, and response capacities. The action plan focused on sexual violence in the east of the country, by collecting data and information. Its 5 pillars implied the strengthening of law enforcement mechanisms, combating impunity; preventing and protecting the victims; the reform of the security and justice system; care for victims (socio-economic reintegration and community recovery) and data and information management. The United Nations has supported

⁸ Lara, P. (2021, 19 october). *Las mujeres, armas de guerra en los conflictos*. Fundación Mujeres por África.

this project, especially through financial support from the United Nations Population Fund (UNFPA), as well as UNDP, UNHCR, UN Gender Office, UNICEF and UNFPA. We should note, however, that in recent years there have been some improvements, such as some group commanders being convicted and sentenced to life imprisonment for crimes against humanity, which include rape and sexual slavery. Also, state actors (103 members of the national armed forces and some members from the national police), as well as non-state actors, have been convicted.⁹

Armed conflicts are one of the scenarios in which women are more vulnerable, since they are exposed to sexual violence in a continued manner, further deepening the wounds (both psychological and physical) that war causes, and it creates incurable scars. Even though advances in the national, as well as the international legal framework have been notified, alongside notable achievements by the United Nations and its agencies, the prevalence of impunity leads to undesirable results. By educating women about what their rights are and ensuring that they have access to a legal counsel, a lawyer or a court, that is already an important step forward. For this, of course, women should feel accompanied throughout this process and should receive their families' support. Furthermore, the presence of a court that they can reach out to in war crimes, as well as a special criminal court, will help survivors get the justice they deserve and hold the perpetrators accountable.

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⁹ United Nations. (2021, 3 November). *Democratic Republic of the Congo*. Office of the Special Representative of the Secretary-General on Sexual

Violence in Conflict
<https://www.un.org/sexualviolenceinconflict/countries/democratic-republic-of-the-congo/>

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Published by:



**Asociación para las
Naciones Unidas
en España**
United Nations Association of Spain

High Commissioner.
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