

Engendering the Responsibility to Protect Doctrine: Time to include rape and sexual violence as the basis?

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Introduction

War in some form or the other has existed in the history of the world. The world is vulnerable to conflict: that no country can remain in peace forever is not impossible to accept.¹ Since the aftermath of the Second World War and the establishment of the United Nations, there has been a change in the nature, scale and geographical scope of conflicts. We no longer have World War-like inter-state conflicts, but definitely many civil wars that draw international actors into its fold. With the end of the Cold War, there was no polarised world living in hostile contempt for each other while running up an arms race – and this shifted the focus and attention of the world order on intervention where the United Nations could stymie conflict.² The absence of the polarity that prevailed during the Cold War hostility allowed the UN to offer undeterred focus in civil wars and humanitarian crises with more detail, and thus was born a new creature of international relations: Intervention.³

Under the ambit of the UN Charter, the use of force is prohibited.⁴ There are only two exceptions to the norm: (1) the right to self-defence as under Article 51 of the UN Charter,

¹ Joshua Goldstein, *War and Gender*, (Cambridge University Press, 2001) See generally Chapter 1

² Ismat Kittani, 'Preventive Diplomacy and Peacekeeping: The UN Experience, in Peacemaking and Peacekeeping for the New Century', in Olara A Otunnu and Michael W. Doyle, *Introduction: Discovering the Limits and Potential of Peacekeeping*, in *Peacemaking and Peacekeeping for the New Century* (Rowman & Littlefield, 1998) at 89, 93

³ Mohammed Ayoob, 'State Making, State Breaking, and State Failure', in Chester A Crocker et. Al., (eds.) *Turbulent Peace: The Challenges of Managing International Conflict* (United States Institute of Peace Press, 2001) 127, 136

⁴ Article 2(4), Charter of the United Nations

whereby states have the right to use force in response to an armed attack⁵ and (2) the Security Council is allowed to enjoy the power (and responsibility) to address challenges to international peace and security.⁶ The principle of non-intervention has now become a peremptory norm from which no derogation is permissible or *jus cogens* as it is known.⁷ Furthermore, in the *Nicaragua Case*,⁸ the International Court of Justice has explained that there is a prohibition on the use of force, even in the context of efforts to monitor and ensure respect for human rights, and that there is no general right of intervention in international law. While these are the only exceptions in writing, state practice has a different story to tell. Although “humanitarian intervention does exist in state practice, and although state practice is deemed a source of law as under Article 38 (1) (a) of the Statute of the ICJ,⁹ considering the hegemony of the sources of law in the same provision, there is a generally accepted notion that state practice cannot over rule treaty and customary law, both of which denounce the use of force except in self-defence.^{10,11}

Despite the explicit prohibition intervention of one state in the affairs of another state without regard for the territorial sovereignty or political independence of the other state has continued unhindered. Sometimes covert through coercive policy, sometimes overt through military intervention, there have always been instances where one state imposes itself on another state in the name of “humanitarian” cause. In some cases, these instances of humanitarian intervention came to be authorised by the Security Council. Adding this to the mix is the Responsibility to Protect, where in 2005, for the first time ever, the world community

⁵ Article 51, Charter of the United Nations

⁶ Chapter VII, Charter of the United Nations

⁷ Yearbook of the ILC, 1966, vol. II, p. 248.

⁸ ICJ Reports, 1986, pp. 14, 94; 76 ILR, pp. 349, 428;

⁹ Owing to a lack of any other legal instrument suggesting a list of sources, this article has been cited.

¹⁰ W.D. Verwey, Humanitarian Intervention Under International Law, 32 Netherlands International Law Review 357 (1985); Franck & Nigel S. Rodley, After Bangladesh: The Law of Humanitarian Intervention by Military Force, 67 American Journal of International Law 275, 305 (1973)

¹¹ Kirthi Jayakumar, Humanitarian Intervention: A Legal Analysis, (February 6, 2012)

<http://www.e-ir.info/2012/02/06/humanitarian-intervention-a-legal-analysis/>

endorsed the notion that the world at large has an obligation to protect, a responsibility to protect a community that is facing mass atrocity. The doctrine of Responsibility to Protect makes the approach to the same issue from a different angle – one which endorses that sovereignty is a responsibility – and that a state has a duty to take care of its people. When it fails to do just that, the responsibility to take over devolves on the international community.

With these principles in place, the arguments in favour of humanitarian intervention have found legitimisation. To stand and watch as mass atrocities unfold is to be complicit in its commission – as silence is as much a support for the commission of a crime as actively abetting it is. But there is still something absent in the rhetoric surrounding intervention: gender.

Intervention in cases of mass atrocities has taken place where there have been instances of genocide, ethnic cleansing, crimes against humanity and war crimes that specifically relate to casualties. While the lure of intervention has always been a decision made in the light of political interests, it has been coated with the overarching cause that is sought to be fought for: that of stopping genocide or ethnic cleansing. One seldom hears of the need for intervention on the basis of gender-based violence on a mass scale. Rape continues unabated in the Democratic Republic of Congo after the Rwandan Genocide.¹² Rape unfolded in a systematic fashion in the thirty-year long civil war in Guatemala.¹³ There were mass rapes in Bosnia, Sri Lanka, Bangladesh, Darfur, Iraq and even in contemporary peacekeeping missions. But none of them had the world's attention enough to beg intervention.

The purpose of my paper is to make the case for the engendering of rhetoric surrounding intervention and the responsibility to protect. As Noam Chomsky said, the first thing about

¹² See generally Women Under Siege Project, "Profile: Democratic Republic of Congo"

<http://www.womenundersiegeproject.org/conflicts/profile/democratic-republic-of-congo>

¹³ See generally Michele L. Leiby, "Wartime Sexual Violence in Guatemala and Peru", 2009 *International Studies Quarterly* 53, 445-468 http://www.micheleleiby.com/downloads/isq_wartime_sexual_violence.pdf

intervention is that it exists. The purpose of my paper is not, therefore, to judge the legality or lawfulness of humanitarian intervention, but rather, to assert that the gender quotient needs to find space in the instrument of global policy and international relations as a basis for intervention. Accordingly, the first part of my article will explain the flaws in the present system as it exists – evaluating the basis of intervention as it has been, and pointing towards the marked absence of gender in the rhetoric, although gender-crimes are a reality, and are weapons of war and not by-products of war. The second part will make the case for the development of a system that would read gender into the rubric of intervention on humanitarian grounds by making the case for gender violence as being a basis for such intervention. The third part will evaluate the modus operandi that could be followed in determining if a case is ripe for intervention to bring gender-crimes to an end.

The basis of intervention so far

Right from Yugoslavia and Rwanda, to Libya and Syria, conflict of an internal, civil war nature has the major kind of conflict in the post-Cold War era. Each conflict has had its own share of atrocities and offences – many narratives of which remained unheard until the information boom through developments in communication and technology came to fore. The omnipotence of conflict has certainly augmented the need for the continuous engagement of the international community – although the nature of each of these engagements has been wide ranging and different. In some instances, civilian engagement through post-conflict reconstruction initiatives and non-governmental organisations has been the only attention focussed on countries in conflict.¹⁴ In some other instances, governments and coalitions of governments have taken the initiative to intervene militarily into the conflicts unfolding in

¹⁴ See generally Simona Florea, *The Role of NGOs in Post-Conflict Reconstruction: A Partnership with the United Nations*, Master's Thesis Presented to the Graduate School of Webster University at Geneva, July 2005, http://www.academia.edu/936859/The_role_of_NGOs_in_post-conflict_reconstruction_A_partnership_with_the_United_Nations

another country to bring it to an end and prevent escalation. This paper will confine itself to the latter form of intervention.

At any rate, though, there is no standard regulation or provision of law that speaks of the basis for one state's intervention in the affairs of another. Given that there is a prohibition under treaty and customary law, and that state practice has evolved its own way of gauging a situation, there is no real standard practice or yardstick to adhere to. Therefore, my assertions that explain the basis of intervention will be as is culled out from past practice and instances.

Some of these instances are undertaken by states by interpreting resolutions of the Security Council, as being situations in need of intervention on a humanitarian ground. Western troops entered Iraq in the aftermath of the Gulf War in 1991, claiming that it was done with the sanction of the Security Council through Resolution 688 (1991) that condemned the repression of the Kurdish and Shia populace in Iraq, by the Iraqi government. However, a no-fly zone was proclaimed by the United States, the United Kingdom and France, although none of it was permitted by the UN. However, the three states sought to justify their action as being a necessary course of action in response to a situation of overwhelming humanitarian necessity.¹⁵ Again, the same was done in the context of Kosovo in 1999, when the NATO embarked upon a bombing campaign, acting well outside the scope and ambit of the UN authorization, while asserting that it sought to support the Albanian population in that segment of Yugoslavia, which was facing a humanitarian crisis. In justifying its action, the UK noted that in international law, in exceptional circumstances, and in a bid to avoid a humanitarian catastrophe, military action may be instigated.¹⁶ However, a subsequent Security Council resolution condemning the NATO's actions was rejected by a 12:3 vote, which in all probability was consequent to the fact that the NATO states involved in the

¹⁵ See generally UKMIL, 70 British Yearbook of International Law, 1999, p. 590

¹⁶ See generally UKMIL, 70 British Yearbook of International Law, 1999, p. 586

events constituted a majority amongst the permanent members of the UN Security Council. After the withdrawal of Yugoslav forces from the territory, forces were stationed under the UN, and the NATO and Yugoslavia arrived at an agreement. However, there was neither international denouncement nor endorsement of the NATO action. More recently, the NATO has once again intervened in Libya on the pretext of Security Council resolution 1973, citing humanitarian intervention as its basis. However, criticism is rife particularly seeing as how there has been no “humanitarian” angle, and instead, is a quest for regime change. The doctrine of humanitarian intervention has not been overtly or expressly condemned in international law, and has only achieved meagre support thus far.

The United Kingdom, however, prepared a set of Policy Guidelines on Humanitarian Crises in 2001, mentioning a host of principles. Among other things, it mentioned that the UN Security Council should take the initiative to authorize action to cease or avert massive violations of humanitarian law, and that in response to crises of such sorts, force may be resorted to in the event of overwhelming and immediate humanitarian catastrophes being likely, when the government of the state concerned either cannot or will not avert the same, and when all other means of non-violent policy have been exhausted. In addition, it also noted that the scale of actual or potential damage and suffering justifies the risks emanating from military action. If there is evidence that the activity is being undertaken to avert the catastrophe, there is no doubt that the action would be acceptable. In addition, the guidelines also mentioned that the use of force should be collective, limited in scope and proportionate to achieving the ultimate humanitarian objective, and be in keeping with international humanitarian law.¹⁷ Some instances show that humanitarian intervention is undertaken in a bid to restore democracy, and states generally contend that it is acceptable on account of

¹⁷ See generally UKMIL, 72 British Yearbook of International Law, 2001 p.696

supporting one of the key values of statehood in modern international relations.¹⁸ This was invoked as the basis for the American intervention in Panama, in December 1989, and for the NATO intervention in Libya in 2011.

While the ultimate goal of the intervention varies, each instance in its own way reveals that intervention has been undertaken in situations where the entry into another state certainly backs and supports the vested interests of the intervening state. No country, logically and understandably, will waste its monetary resources unless it has something to gain out of such an investment. This is a vital factor that helps explain why states choose to intervene in one state while ignoring another. Overall, drawing from practice, intervention on humanitarian grounds has the following characteristics:¹⁹

- It involves the use of or threat of use of military force.
- The intervention involves interference into the internal affairs through military force of another state which has not committed an act of aggression or indulged in an armed attack against another state.
- The act of intervention is taken as a response strategy to situations characterised by humanitarian crises where a population are either vulnerable, or are already subject to attack through mass atrocities.

A majority of the past instances of intervention have been made in situations where mass atrocities in the form of genocide and crimes against humanity have occurred. However, there has always been some kind of a “double standard” in place – as even as the same crimes

¹⁸ J. Crawford, ‘Democracy and International Law’, 44 *British Yearbook of International Law*, 1993, p. 113; B. R. Roth, *Governmental Illegitimacy in International Law*, Oxford, 1999; O. Schachter, ‘The Legality of Pro-Democratic Invasion’, 78 *American Journal of International Law*, 1984, p. 645.

¹⁹ Alton Frye. 'Humanitarian Intervention: Crafting a Workable Doctrine.' New York: Council on Foreign Relations, 2000.

unfold in another country, the international community offers a one-sided focus and picks out one country to intervene in, while letting the other struggle.

Why engender the intervention rhetoric?

The Responsibility to Protect doctrine aimed at protecting global populations in different communities from mass atrocities. The basis for the international community's responsibility was explained to be a situation where a state is either unwilling or unable to protect its citizens from actual or apprehended large scale loss of life – with or without genocidal intent, or, a large scale 'ethnic cleansing', the principle of non-intervention in the internal affairs of other states yields to the international responsibility to protect.²⁰ The doctrine therefore adopts a view of sovereignty which emphasizes as its defining characteristic the capacity to provide protection, rather than territorial control.²¹ In all the occasions of intervention in international relations and history, the basis has been genocide or mass atrocity of any kind – but without a specific angle on the gender tone. International efforts have, on balance, paid “only the most limited attention to the vulnerability of the group most typically targeted” in genocide -- younger, "battle-age" males.²² In the field of genocide studies “the gender variable has been "invisible or barely visible, an "obfuscation" that "may reflect the fact that it is non-combatant males who tend overwhelmingly to be the victims of gender-selective mass killing, and this remains a powerful taboo in the feminist-dominated discussion of gender.”²³

Defined under the Genocide Convention, Genocide refers to acts that are carried out with an

²⁰International Commission on Intervention and State Sovereignty (ICISS), The Responsibility to Protect, International Development Research Centre, Ottawa, 2001, pp. XI and XII, available at <http://www.iciss.ca/pdf/Commission-Report.pdf>

²¹ Anne Orford, 'Jurisdiction Without Territory: From the Holy Roman Empire to the Responsibility to Protect', Michigan Journal of International Law, Vol. 30, No. 3, 2009, pp. 984–1015, at p. 990

²² Adam Jones, "Genocide and Humanitarian Intervention: Incorporating the Gender Variable" Paper presented to the Fourth International Bi-Annual Conference of the Association of Genocide Scholars Minneapolis, MN, June 10-12, 2001 <http://adamjones.freeservers.com/ags.htm>

²³ Adam Jones, ed. "Gendercide and Genocide" Nashville: Vanderbilt University Press, 2004, p. 197

intent to destroy in whole or in part, a national or an ethnic group, through a) Killing members of the group; b) Causing serious bodily or mental harm to members of the group; c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d) Imposing measures intended to prevent births within the group; and e) Forcibly transferring children of the group to another group.²⁴

Acts of rape and sexual violence can amount to genocide.²⁵ In the Akayesu case the Trial Chamber of the ICC ruled that acts of rape can form an integral part of the process of destruction of a group. “These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole.”²⁶ Rape in war is not a by-product, nor an effect of war. It is, instead, a war weapon, a strategy that is deployed in war in order to defeat the enemy. Besides having tremendous impacts on the social fabric – whereby war turns a woman’s body into a battleground, breaking the institution of the family, and ultimately eroding the fabric of society, communities find themselves broken. (Jayakumar, 2012) As a war weapon, for the warring factions, rape is a cheap tool and extremely effective in targeting the enemy’s society. Armed groups, combatants and non-combatants use rape as a means to terrorize and control women and communities. Subjecting women to sexual violence stigmatizes the woman and her family, besides harming her physically and psychologically. To avoid bearing the stigma, families have been known to spurn these women out of their homes, men have been known to refuse to marry women who have been subjected to sexual violence, and those that are married have been known to send

²⁴ Article 2, Convention on the Prevention and Punishment of the Crime of Genocide, 1948

²⁵ Prosecutor v. Akayesu, (ICTR) Case No. ICTR-96-4 (Trial Chamber), September 2, 1998, para. 504; <http://www.unict.org/Cases/tabid/127/PID/18/default.aspx?id=3&mnid=4>

²⁶ Prosecutor v. Akayesu, (ICTR) Case No. ICTR-96-4 (Trial Chamber), September 2, 1998, para. 504; <http://www.unict.org/Cases/tabid/127/PID/18/default.aspx?id=3&mnid=4>

their wives out of their homes. When women are spurned the backbone of a societal structure is broken.

Sexual violence is calculated, brutal and absolutely bereft of humanity. Using sexual violence as a modus operandi in warfare is intricately woven with the hegemonic desire for power. Sexual violence in conflict is a preferred method to reinforce gendered and political hierarchies. This has been seen time and again in many of the world's conflicts: whether the Holocaust,²⁷ Rwanda,²⁸ Bosnia,²⁹ Libya,³⁰ or more recently, Syria.³¹ When rape and sexual violence are systematically deployed as a war tactic, it has potential to be seen as a factor that can culminate in genocide.³² As defined under Article 2 of the Genocide Convention, 1948, genocide as a term is wide enough to include anything that is done to destroy the ability of a population to procreate.³³

Rape and sexual violence have tremendous potential to wreak damage on any community. There is plenty of literature – jurisprudential and otherwise – that indicate that rape and sexual violence constitute acts of genocide. The Trial Chambers of the International Criminal Tribunal for Rwanda (ICTR) in *Prosecutor v. Akayesu*,³⁴ held that acts of rape can form an integral part of the process of *destruction of a group*, holding thus:

²⁷ See generally Women Under Siege Project, “Profile: Holocaust” <http://www.womenundersiegeproject.org/conflicts/profile/holocaust>

²⁸ See generally Women Under Siege Project, “Profile: Rwanda” <http://www.womenundersiegeproject.org/conflicts/profile/rwanda>

²⁹ See generally Women Under Siege Project, “Profile: Bosnia” <http://www.womenundersiegeproject.org/conflicts/profile/bosnia>

³⁰ See generally Women Under Siege Project, “Profile: Libya” <http://www.womenundersiegeproject.org/conflicts/profile/libya>

³¹ See generally Lauren Wolfe (Women Under Siege Project), “Syria has a massive rape crisis” April 3, 2013 <http://www.womenundersiegeproject.org/blog/entry/syria-has-a-massive-rape-crisis>

³² *Prosecutor v. Akayesu*, (ICTR) Case No. ICTR-96-4 (Trial Chamber), September 2, 1998, para. 504; <http://www.unictr.org/Cases/tabid/127/PID/18/default.aspx?id=3&mnid=4>

³³ Specific clause under Article 2.

³⁴ *Prosecutor v. Akayesu*, (ICTR) Case No. ICTR-96-4 (Trial Chamber), September 2, 1998, para. 506; <http://www.unictr.org/Cases/tabid/127/PID/18/default.aspx?id=3&mnid=4>

*“..... rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole.”*³⁵

In the same decision, it was also held:

*“[I]mposing measures intended to prevent births within the group” include: “sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages. In patriarchal societies, where membership of a group is determined by the identity of the father, an example . . . is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group.” The Chamber noted that the measures may be mental as well as physical. “For instance, rape can be a measure intended to prevent births when the person raped refuses subsequently to procreate, in the same way that members of a group can be led, through threats or trauma, not to procreate.”*³⁶

Rape and sexual violence are oftentimes strategic tools in conflict. In the 2011 Libya conflict, Muammar Gaddafi reportedly had Viagra distributed among his armed forces to get them to take it in order to carry out rapes.³⁷ During the Guatemala Civil War, Efraim Rios Montt's trial revealed that he was complicit in the rape, torture and murder of indigenous civilians carried out by his troops during a counter-insurgency campaign in the heartlands of the leftist

³⁵ [Akayesu, \(n. 3\), para. 731](#)

³⁶ Prosecutor v. Akayesu, (ICTR) Case No. ICTR-96-4 (Trial Chamber), September 2, 1998, para. 507-8; <http://www.unictr.org/Cases/tabid/127/PID/18/default.aspx?id=3&mnid=4>

³⁷ Libya: Gaddafi investigated over use of rape as weapon, July 8, 2011 <http://www.bbc.co.uk/news/world-africa-13705854>

guerrilla movement.³⁸ In the DR Congo, sexual violence and rape have been carried out by soldiers from armed groups and the national army, especially in the Eastern part of the country.³⁹ In Darfur, Sudan, armed militias continue to rape women and girls with impunity.⁴⁰

At this point, it is also important to understand that women are not the only ones who suffer rape and sexual violence. The impunity that war provided in Afghanistan allowed the festering of the age-old practice of bacha-baazi, where young boys are forced to dress as women and dance for men, and are later used sexually.⁴¹ During the Bosnian War, vilest forms of castration took place.⁴² In the DR Congo, men suffered sexual violence at the hands of the rebels.⁴³ Currently, in Syria, men are being subjected to sexual violence in detention centres.⁴⁴ At the outset, it is important to understand that sexual violence against men in a conflict setting is not something confined to being perpetrated by homosexual men exclusively, but by heterosexual men as well, and in some instances by women too.⁴⁵ As it happens with women who suffer sexual violence in conflict, sexual violence towards men is not about lust. It is directed towards men with the same intention as it is directed towards women with: that of asserting dominance. The stakes are “higher” to the perpetrator if a man is subjected to sexual violence, for not only have they imposed dominance, but they have also

³⁸ Guatemala: Efraim Rios Montt and Genocide Charges, The Guardian, May 10, 2013

<http://www.theguardian.com/world/2013/may/10/guatemala-efrain-rios-montt-genocide-charges>

³⁹ "Africa Tales of Rape in DR Congo". BBC News. Retrieved 6 April 2010.

http://news.bbc.co.uk/2/shared/spl/hi/picture_gallery/05/africa_tales_of_rape_in_dr_congo/html/1.stm

⁴⁰ "UNICEF adviser says rape in Darfur, Sudan continues with impunity". 19 October 2004. UN News Centre.

<http://www.un.org/apps/news/story.asp?NewsID=12280&Cr=darfur&Cr1=>

⁴¹ "Bacha Bazi in Afghanistan" Washington Post, April 4, 2012,

http://articles.washingtonpost.com/2012-04-04/world/35451705_1_bacha-bazi-afghans-pashtun

⁴² IWPR, "Bosnia struggle to overcome male rape taboo"

<http://iwpr.net/report-news/bosnia-struggle-overcome-male-rape-taboo>

⁴³ "The Rape of Men" (July 17, 2011) <http://www.guardian.co.uk/society/2011/jul/17/the-rape-of-men>

⁴⁴ Sandesh Sivakumaran, Why the world must stop ignoring male victims of wartime sexual violence (BBC) March 13, 2013 <http://edition.cnn.com/2013/03/13/opinion/male-victims-sexual-violence>

⁴⁵ "Sex used to break Muslim prisoners, book says" (January 27, 2005)

<http://www.msnbc.msn.com/id/6876549/>

emasculated their enemy, or to “feminise” the enemy.”⁴⁶ The purpose of using sexual violence against men is to break the men who are supposed to be guardians of society, the breadwinners of families in a social setting, and to erode the sanctity attached to their masculinity. In this backdrop, it is definitely true therefore, that these are planned and anticipated results.

As it stands currently, the Responsibility to Protect doctrine is “entirely gender-blind, despite the existence of multiple international mandates for integrating gender concerns into peace and security initiatives.”⁴⁷

Given that both men and women alike face sexual violence in a conflict, how will engendering the rhetoric help? Engendering the Responsibility to Protect doctrine would be an effective strategy in response to the hitherto unhindered trend of sexual violence and rape in war. Sexual violence occurs irrespective of gender, and it has potential for destroying the future of a community entirely. If crimes of rape and sexual violence are permitted as a basis for the international community to intervene in an issue, sexual crimes in conflict can be stymied and nipped in the bud. Sexual violence and rape in conflict is a violation of the laws of war, or the body of law called international humanitarian law. In conflict, because of the state of disarray, in which the laws remain unenforced, sexual violence and rape thrives without restraint. Heretofore, all commitments made by international organisations and states at international organisations in connection with gender and the Responsibility to Protect doctrine have largely remained goals confined to policy and have remained legally non-binding. But with the massive change in scenario in the nature of armed conflict, alongside

⁴⁶ Don Couturier, "The Rape of Men: Eschewing Myths of Sexual Violence in War" http://web.uvic.ca/~onpol/1_Don.pdf

⁴⁷ Jennifer Bond and Laurel Sherret, *A sight for sore eyes: Bringing Gender Vision to the Responsibility to Protect Framework*, (August 1, 2006). INSTRAW: New Voices, New Perspectives

the lack of implementation of the non-binding resolutions,⁴⁸ there is an urgent need to focus international policy, particularly intervention-based policy and conduct, with a more gender-centric approach.

Conclusion

Wars have destroyed local infrastructure, displaced masses and left people within the iron fist of poverty. In every war, alongside cataclysmic tolls of civilian deaths, a major hurdle is the large-scale perpetration of violence against women, making them arguably the worst victims of conflict. This does not mean that no gender inequality exists in peacetime – but rather, that wars pave the way for its manifestation in horrendous ways. As the men of the household take to armed forefronts, women find themselves being made vulnerable to political and criminal violence, while holding fort as the sole breadwinner of their families. Gender-based violence is among the greatest incidences on any warfront. When women are subjected to violence, the family is broken, and social functioning comes to a grinding halt. The lack of sufficient machinery to enforce the inherent rights of women during conflict proves that a culture of impunity thrives due to the culture of silence, consequent to a lack of legal attention to the issues.

In the current state that it is in, the Responsibility to Protect doctrine allows rape and sexual violence as a ground for intervention only if the crimes occur in pursuit of ethnic cleansing.⁴⁹ As history, politics and reality has dictated, this is a severe handicap in the Responsibility to Protect discourse. Of course it is understandable and true that rape and sexual violence are common methods of ethnic cleansing. However, the two crimes are also as common in war crimes, crimes against humanity, torture and especially in perpetrating genocide. There must

⁴⁸ UN Security Council resolution 1325 (2000); Security Council resolution 1820 (2008); Security Council resolution 1888 (2009); Security Council resolution 1889 (2009); Security Council resolution 1960 (2010)

⁴⁹ UN General Assembly, "Implementing the The Responsibility to Protect" Report of the Secretary General, January 12, 2009, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677

be a clear recognition of the crime for the crime that it is, for even when it has no ethnic connotations, it is still a crime of disastrous proportions with terrible consequences. The current framework as it remains fails the very purpose it sets out to achieve, since it asserts that the sexual and physical autonomy of a human being should be protected only if he or she is part of an identifiable group that is facing a threat to its existence because of its ethnicity.

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