

The Groningen Model United Nations 2018

United Nations General Assembly



Source: Transconflict

Improving the Protection and Security for Women in
War Zones



Welcome Letter

Honorable Delegates,

Welcome to GrunnMUN 2018! We are excited that you have signed up for the GrunnMUN conference, and are looking forward to working with you this year. This background paper is meant to familiarize you with the topic that we have chosen for you. Our goal was to choose a topic that was both interesting and trending.

The General Assembly is one of the main organs of the UN and has the ability to make ground-breaking changes to international law. This council is the only one where all member states have equal representation; creating a platform for passionate discussion and involvement from all relevant actors. We encourage you to read this paper carefully so that you will acquire useful background information concerning the topic.

As for ourselves, we are both third-year International and European Law students at the University of Groningen. As former TEIMUN board members, we are really excited to be able to experience what leading the conference as a chair is like. Having worked together before, we are confident that this council is going to be particularly special. We look forward to a productive and a substantive debate, as we unite to find solutions to one of today's greatest challenges.

Yours Sincerely,

Your General Assembly Chairs,

Jacobijn Renken

Ravelle Melissen

GrunnMUN 2018

Introduction

“Women and girls in particular experience conflict and displacement in different ways from men because of the gender division of roles and responsibilities.”¹ In conflict, men tend to fight on the front, while women are expected to stay home and take care of the home and family.² In 1971, 250,000 East-Pakistani women were raped by West-Pakistani soldiers³. During the Yugoslavian war from 1992-1995, approximately 60,000 women were raped by Bosnian soldiers⁴. This was done for humiliation, forced pregnancies or ‘ethnic cleansing’, which is the idea that their ethnicity will be cleansed because ethnicity is passed down through fatherhood leading to a possible child to have a different ethnicity⁵. The consequences of these acts of sexual violence are severe and can be felt both physically and physiologically, also because in many cultures the women that are raped are shunned from their society, even more so if the result of rape is a child.⁶

As mentioned earlier, men and women have extremely different roles they fulfil, and are also affected in a completely different way. International humanitarian law protects both parties, but more recently there has been more discussion regarding the specific protection of women in conflict under international humanitarian law. There are multiple documents regarding this such as the 3 Protocols of the Geneva Conventions and the UN Resolution 1325. However, the discussion about whether international humanitarian law provides enough protection for women in conflict remains.

International Humanitarian Law (IHL) is a form of international law aimed at protecting civilians that do not take part in an armed conflict. This includes the men, women and children that are being affected by the armed conflict, but not actively taking part in the fighting⁷. Starting in the 19th century, rules that aimed to protect civilians began being codified in the form of the 1864 Geneva Convention⁸. After World War 2, in 1949, the Geneva Conventions became more detailed. The Geneva Conventions are the codified rules of IHL that are used by the entire international community nowadays⁹. Because the Geneva Conventions have 194 state parties, they are considered universally applicable law, meaning that all states should act

¹ ‘War hits home when it hits women and girls’ (Unicef) <<https://www.unicef.org/graca/women.htm> accessed> 7 February 2018

² Susan McKay, ‘The Effects of Armed Conflict on Girls and Women’ (1998) 4 *Peace and Conflict: Journal of Peace Psychology* 381

³ *Ibid.*

⁴ Natalia Buchowska, ‘Violated or Protected. Women’s rights in conflict after the Second World War’ (2016) 2 *International Comparative Jurisprudence* 72

⁵ *Ibid.*

⁶ *ibid.*

⁷ ‘What is International Humanitarian Law?’

⁸ ‘From our archives: Rules to limit suffering’ (International Committee of the Red Cross) <<https://www.icrc.org/en/document/150-years-humanitarian-action-rules-limit-suffering>> accessed 5 february 2018

⁹ ‘The Geneva Conventions of 1949 and their Additional Protocols’ (International Committee of the Red Cross) <<https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>> accessed 5 february 2018

in line with what is laid down in the Geneva Conventions¹⁰. When a state, or its organs, does not comply with IHL they are considered responsible for a breach of international law.¹¹

This background paper will inform you of the role of women in conflict, and the effects that conflict has on them, applicability of IHL, missing pieces of international law regarding the protection of women, and past international action.

The role of women in conflict and effects of conflict on women

Although there is a minor number of female combatants, who do actively take part in fighting, the majority of women are found in the civilian population, together with children.¹² The main role of the women within a civilian population is to ensure that their life is disrupted as little as possible by the ongoing conflict, and to protect themselves, their children and their homes.



Women have the responsibility to keep families and communities together, and to preserve the social order within a community. When a conflict has ended, women are responsible for resuming normal life, to help their children recover from traumas of war.¹³¹⁴

Source: Made Equal

The role of women is keeping their lives and those of their family going as normal as possible, but with a conflict going on that is close to impossible. The effects of the conflict are felt much more powerfully, leaving women unable to take care of their families. The effects of a conflict are described by Susan McKay, a Professor at the University of Wyoming specializing in women studies, as, “displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and family separation and disintegration, victimization through acts of murder, terrorism, torture, involuntary disappearance, sexual slavery, rape, and sexual abuse”.¹⁵

A result of the conflict taking place in cities and inhabited areas is that the soldiers have direct access to the women. Women and girls are often raped by soldiers, sexually mutilated, sold as sex slaves and trafficked. This is often done with the idea of ‘ethnic cleansing’, forced

¹⁰ Ibid.

¹¹ ‘Rule 149. Responsibility for Violations of International Humanitarian Law’ (International Committee of the Red Cross) <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule149> accessed 5 february 2018

¹² Buchowska

¹³ Unicef

¹⁴ McKay

¹⁵ McKay

pregnancies, preventing pregnancies, or to earn money from selling them. Rape can lead to medical issues only stemming from sexual intercourse. For example, sexually transmitted diseases, throat irritation from performing orally, rectal bleeding if having had to perform anally.¹⁶ These are all issues that need proper medical attention, specifically in times of conflict. Sexual mutilation, sex slavery and trafficking also require specific medical attention to these issues. As well as that, other types of abuses to the civilians may have a different impact on women. For example, being a prisoner of war in a camp with conditions designed for a man.

When there is a deprivation of economic, social and cultural rights in conflict situations, those might also have a more profound effect on women than on men. For example, lack of sanitary conditions is especially problematic during menstruation, and lack of medical assistance can be extremely dangerous with pregnancies. Homes being destroyed means they have to relocate their families. Women have the task of getting, food and sometimes firewood. When there is a conflict in an area, this becomes increasingly difficult and very dangerous. After a conflict, there is often a severe minority of men, leading to women having to take on the role of the male and the female in a society. They then have to work to provide for the family while also taking care of the household.

The effects of a conflict are severe for everyone involved, but it is important to realize that the effects differ per gender, and that this should also be taken into account when implementing international law. By being aware of the effects that conflict has on women specifically, it becomes clear what is missing in international law regarding their protection.

Applicability of Humanitarian law

The majority of humanitarian law can be found in the 1949 Geneva Convention and the three protocols created in 1977 and 2005. As mentioned before, the Geneva Conventions have 194 state parties, making it universally applicable law. The first three Geneva Conventions protect combatants, and the fourth Geneva convention protects civilians.¹⁷ However, Geneva Convention I emphasizes that women are to be treated with “*all consideration due to their sex*’.¹⁸

The Fourth Geneva Convention was created in order to protect civilians, ‘persons taking no active part in hostilities’. In this convention art.3(1) clearly states that, “persons...shall be treated humanely, making no adverse distinction founded on...sex.” In art.27, the convention states, “Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”¹⁹ From these two provisions it is clear that attention has been paid to the difference between men and women.

¹⁶ McKay

¹⁷ The Geneva Conventions of 1949 and their Additional Protocols

¹⁸ *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, 75 UNTS 31, Article 12

¹⁹ Fourth Geneva Convention 1949

The remaining provisions relating to the protection of women can be found in protocol I. Protocol I is an amendment protocol, adopted in 1977. The goals of the amendment protocols it to fill in the gaps that the original Geneva Conventions leave. For example, the protection of women specifically is found in art.76. This provision extends special protection for women with regard to rape or indecent assault. It also protects pregnant women or women with children that are dependent on them against the death penalty, and it provides priority to pregnant women²⁰.

Humanitarian law plays an important role in the protection of civilians and combatants in time of conflict, but does little to specifically protect women in times of conflict. In the Geneva Conventions and in the Protocols there are certain provisions mentioning specific protections of women, but not to a large extent. Although the Conventions were a very important step in the protection of women in conflict, the applicability significantly limits their effectiveness. The Conventions neither provide women with explicit judicial remedies for violations, nor does it elaborate on specific prosecution procedures. However, they do state that contracting parties provide effective judicial remedy.²¹

Past International Action

As outlined above, IHL works in conjunction with other bodies of law to afford protection to both men and women, where specific provisions provide additional protection to women. NGOs, GOs, and the United Nations are heavily involved in creating this protective framework. The current laws and efforts made by NGOs to push for further protection of women during times of conflict are rooted in a dark past of violence. This violence, often found to be sexual violence, continues to be shrouded in silence due to its sensitive nature.²²This silence likely persists due to a combination of sexual violence being such a difficult topic to talk about influencing a lack of media coverage as well as ineffective past international action. However, over the last two decades the horrific post-conflict situations have led to better understanding of the gruesome acts that had taken place. Specifically the Rwandan genocide and the situation in former Yugoslavia have put forward the suffering the women endure in such times.²³ Not only did it bring to light the amount of sexual violence, but also zoomed in on the terrible effects violence aimed at women had on the communities as a whole, for example leading to the breaking up of families, and the amount of bodily harm women had experienced.

²⁰ Protocol I Geneva Convention 1977

²¹ For example; , *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, 12 August 1949, 75 UNTS 135, Article 129

²²Vincent Bernard and Helen Durham, 'Sexual Violence in Armed Conflict' [2014] *International Review of the Red Cross*

²³ United nations, 'Outreach Programme on the Rwanda Genocide and the United Nations' (*United Nations*) <<http://www.un.org/en/preventgenocide/rwanda/about/bgsexualviolence.shtml>>

The increasing public awareness and denunciation of the horrors of sexual violence in armed conflict have been accompanied by significant progress in a number of areas. This led to the development of a distinction between the needs of men and women, moving the legal position of women away from the prism it was previously defined through- namely, the general acts of IHL. The conventions continue to remain relevant through their inclusion of ‘[special] protection against any attack on their honor, in particular against rape...’ and outlined protection for motherhood in particular.²⁴

The establishment of the International Criminal Tribunals for Yugoslavia and Rwanda brought the first major change in the prosecution of crimes committed against women during armed conflict.²⁵ The statutes of both tribunals included provisions that made it possible to prosecute for charges of rape. In a recently published review by the department of Peacekeeping Operations of the United Nations focusing on the prosecution of sexual violence in the ICTY, ICTR and SCSL, it was concluded that ‘sexual violence against civilians committed during and in relation to the relevant armed conflicts is a noticeable feature of the judgments of completed cases’ where the notion of sexual violence included; ‘rape, sexual slavery, and forced marriage to torture, outrages upon personal dignity, persecution and serious bodily or mental harm’.²⁶

Continuing further down the line, the United Nations enacted the ‘constitution of women’s rights’ in 1979²⁷, that does not specifically focus on the position and protection of women during conflicts. However, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) committee has said that because there is no provision saying otherwise, the provision included in the CEDAW must be respected at all times- even during times of conflict.²⁸ Additionally, in General Recommendation 19 the committee has defined that any ‘gender-based’ violence should be categorized as a form of discrimination and therefore a direct breach of women’s rights.²⁹

The United Nations continued to make further efforts in protecting women caught up in armed conflicts. In 1974, the UN adopted the General Assembly Declaration on the Protection of Women and Children in Emergency and Armed Conflict. During the Fourth

²⁴ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Article 27(2)

²⁵ Natalia Buchowska, 'Violated or protected Women's rights in armed conflicts after the Second World War' [2016] 2 International Comparative Jurisprudence

²⁶ Department of Peacekeeping Operations: United Nations, 'Review of the Sexual Violence Elements of the Judgments of The International Criminal Tribunal for the Former Yugoslavia, The International Criminal Tribunal for Rwanda, And the Special Court for Sierra Leone in the light of Security Council Resolution 1820' [2009] United Nations Page 64

²⁷ Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13

²⁸ General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December 2010, CEDAW/C/GC/28

²⁹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 19: Violence against women, 1992

World Conference on Women in 1995, the Beijing Declaration and Platform for action were adopted. The conference, and subsequently the documents, focused on specific strategies to eliminate discrimination against women on both political and legal front. It focused specifically on 12 different areas where discrimination is imminent, including the issue of women in armed conflicts. However, the most prominent of United Nations' framework supporting women in conflict is to be found in Resolution 1325, adopted in 2000.

Resolution 1325, on '*Women, Peace and Security*', really looked to tackle the problem of gender-based violence as present during armed conflict. The United Nations continued to stay on top of battling the matter, by further agreeing on Resolution 1820, 1888 and 1889 in 2008 and 2009 respectively. Under the last two resolutions, a special representative of the secretary-general on sexual violence has been appointed. Ms. Patten has taken up this function at the position of under-secretary general under Antonio Guterres. Furthermore, the latest UN development was the unanimous adoption of resolution 2242 in 2015. This resolution looks to better women's positions within the problems that we face today. This can be placed in the context of violent extremism, climate change and the rise in the numbers of displaced people (*refugees*). Under article 2, Resolution 2242 still aims to push more member states to implement Resolution 1325. This goes to show that there are, till this day, insufficient national policy plans tackling the issues that women are facing in war zones.

As a last look at persecution and its developments, the creation of the statute of the International Criminal Court cannot be forgotten. The Court was seen by many as a big step in further bringing those to trial for their war crimes, including sexual violence. Although the ad hoc criminal tribunals that were mentioned before had started with this jurisprudence, the ICC was to go further.³⁰ The Rome Statute, the legal framework of the ICC, is the first international instrument that actually includes gender-based crimes as underlying acts to both war crimes and crimes against humanity.³¹ A policy paper on Sexual and Gender-based crimes issued by the Prosecutor of the ICC in 2014 emphasized and recognized that sexual and gender-based crimes are '*amongst the gravest crimes under the Rome Statute*'. Furthermore, it is noteworthy that in 2016 the ICC issued its first conviction for crimes of sexual violence against Jean-Pierre Bemba.³²

Having examined the efforts made by the UN, there are some other relevant international actors that have taken action to help the situation. In 2011, the Council of Europe came with a '*Convention on preventing and combating violence against women and domestic violence*.' The second article of the convention shows the concrete emphasis given to the conventions' application during times of both peace and conflict- which is something that the CEDAW was not clear on. The convention could provide some ideas that can be incorporated

³⁰ Ibid 5.

³¹ Parliamentarians for global action, (*The role of the International Criminal Court in fighting impunity for gender based crimes*) <<http://www.pgaction.org/pdf/role-of-icc-gender-justice.pdf>>

³² *The Prosecutor v. Jean-Pierre Bemba Gombo* (Judgment) ICC-01/05-01/08 (21 March 2016)

into a new more progressive resolution. It would also prove interesting to look into the actions and statistical data that have been made and collected by both UNIFEM and the ICRC as further inspiration.

Missing pieces in International Law

Having looked at what legislative initiatives have been taken, there has certainly been significant progress in bringing the issue to light. Through the efforts that have been made, and the statistical data, there has been a very significant change in attitude toward the problems and condemnation of the violence women face during armed conflicts. This attitude shift also encompasses a movement away from the stereotype of women as caregivers, strengthening as a whole the general position women hold in society. Despite the increased interest in the protection of women, effective prosecution remains a big problem. This, regrettably, means that violence against women continues without repercussions in many areas of the world.

Most importantly, a big disparity persists in the lack of transposition of international efforts into national law, making many of the proposed solutions ineffective in practice. It must be further urged for national legal orders to ensure that all forms of violence against women are criminalised as recognized. As understood under war crimes, this must look to cover all forms of sexual violence such as sexual slavery, rape, forced pregnancy but also, trafficking. A recent *Amnesty International Report*³³ unveiled the horrors that occurred during the conflict in Bosnia and Herzegovina, where an estimated '20,000 wartime sexual violence survivors are still denied justice'. The report also claims that since the start of the war crime trials, less than 1% of the total estimated number of victims of war crimes of sexual violence have come to court. Just as other international organisations, amnesty emphasizes the need to take more action to create a legislative framework to make sure that the perpetrators are brought to justice- and to ensure that this is implemented in national law. Another important aspect that is drastically highlighted by *Amnesty International*, is the need to improve services and support for the survivors of violence. The vulnerability of female victims requires better facilities to provide for medical, psychological, and financial support.

Within the vulnerability that victims experience, many organisations tend to ignore the privacy and extreme fear these women live in. UNIFEM saw big progress concerning women explaining their experiences and general comfortability when they organized group sessions for women to listen to each other's experiences. Drawing from this, it might be interesting to look at integrating larger female-only facilities where group therapy sessions could be held. Alongside this, it does not come as a surprise that having to be treated or telling your story to a man after these experiences, must be terrifying. Implementation of national laws that provides for more trained female medical personnel in these centers, or more female security officers in possible displacements camps could make women more likely to share their story- and

³³ Gauri van Gulik Amnesty international, 'Bosnia and Herzegovina: Last chance for justice for over 20,000 wartime sexual violence survivors' (*Amnesty International*, 12 September 2017)

therefore push more action to be taken.³⁴ An example of its success, can be seen as part of a study held by John Hopkins School in the Democratic Republic of the Congo. The therapy groups showed that after six months, 42 percent of these individuals no longer showed signs of depression or other issues.³⁵

Looking at the issue from a step back, it should also be considered that workers or medical staff that are involved with this rehabilitation task are also in a vulnerable position. The perpetrators most probably have the intention of silencing their victims, to make sure that they will never be found guilty of their acts. It would be interesting to set up a good protection mechanism for these workers, or possibly security officers. All of these measures do not only aim to seriously reduce the cases of violence against women during conflict, but also aim to spur more recognition for the immense scale at which this violence occurs- doing this through making the victims more comfortable to share their stories, and concurrently hope that national legal orders can no longer afford to remain silent about the matter.

Conclusion

As can be seen, the legislative framework aiming to better the position of women during conflict has definitely developed for the better. However, it does not seem that the increase in the protection of these women's rights is leading to a decrease of the violation of these rights. On the contrary, Amnesty International has claimed that the violence used against women has become a 'weapon of war' rather than a by-product of war.³⁶ For example, in the earlier example of the major conflict in Bosnia Herzegovina, women were raped as a form of ethnic cleansing. This sexual violence meant that women were giving birth to Serbian babies, making it a strategy of war. This persisting problem has to be tackled on three major fronts; prevention, protection and prosecution.

Debate should focus on increasing awareness of harm and the long-term consequences. These long-term consequences do not only have to be brought to light, but also treated through the improvement of facilities providing these services. These services have to be medical, psychological, financial and possibly also legal

In conclusion, past actions have not yet done enough to effectively shield women from these horrors. Our modern world is still lacking a detailed and comprehensive solution to all aspects of this issue.

³⁴ United nations, 'Report of the Secretary-General on Conflict-Related Sexual Violence' [2017]

³⁵ Jessica Berman, 'Study: Group Therapy Helps Victims of Sexual Violence Heal' (*Voice of America*, 6 June 2013) <<https://www.voanews.com/a/group-therapy-helps-victims-of-sexual-violence-heal/1676610.html>>

³⁶ Amnesty international, 'Sudan, Darfur: Rape as a weapon of war, Sexual violence and its consequences' (*Amnesty International*, July 2004) <Report AFR 54/076/2004>

Questions a Resolution Must Answer

1. In what ways can the UN help protect and securing women in conflict zones, and in combating the harmful stereotype leading to violence?
2. How can women in conflict zones be encouraged to report the abuse and violence to authorities, even when the conflict is ongoing?
3. How, if at all, can the UN push for more persecution of perpetrators and for more implement of national laws to provide for more effective protection of women during conflict?
4. What can the UN do in order to secure good protection mechanisms for Medical personnel, and/or patrolling security officers?

Additional Suggested Readings

Report by the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict:

Report of the Secretary-General on Conflict-Related Sexual Violence

<http://www.un.org/en/events/elimination-of-sexual-violence-in-conflict/pdf/1494280398.pdf>

‘The Effects of Armed Conflict on Girls and Women’- Susan McKay

http://www.tandfonline.com/doi/pdf/10.1207/s15327949pac0404_6?needAccess=true

Violated or Protected. Women’s rights in armed conflicts after the Second World War- Natalia Buchowska

<https://www.sciencedirect.com/science/article/pii/S2351667416300324>

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Natalia Buchowska, 'Violated or protected Women's rights in armed conflicts after the Second World War' [2016] 2 International Comparative Jurisprudence

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Article 27(2)

United Nations, 'Outreach Programme on the Rwanda Genocide and the United Nations' (*United Nations*) <<http://www.un.org/en/preventgenocide/rwanda/about/bgsexualviolence.shtml>>

Vincent Bernard and Helen Durham, 'Sexual Violence in Armed Conflict' [2014] *International Review of the Red Cross*

The Geneva Conventions of 1949 and their Additional Protocols

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 UNTS 31

'Rule 149. Responsibility for Violations of International Humanitarian Law' (International Committee of the Red Cross) <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule149> accessed 5 february 2018

Rules to limit suffering' (International Committee of the Red Cross) <<https://www.icrc.org/en/document/150-years-humanitarian-action-rules-limit-suffering>> accessed 5 february 2018

Susan McKay, 'The Effects of Armed Conflict on Girls and Women' (1998) 4 *Peace and Conflict: Journal of Peace Psychology*

'War hits home when it hits women and girls' (Unicef) <<https://www.unicef.org/graca/women.html>>