



GENDER IN GEOPOLITICS INSTITUTE

Sexual violence in war: weapon, method, strategy or practice?

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[TW : Sexual violence.]

Warning: Some passages may offend the reader by their descriptive nature. Nevertheless, it seemed important to the author not to water down a reality so harsh that it is often passed over in silence, an additional affront to the victims. Furthermore, certain explanations using causal links can also shock and seem to legitimize sexual violence. These passages in no way reflect the vision of the author and only seek to explain the mental patterns at work in the passage to the violent act. **Rape is never legitimate, and the victim is never guilty.**

Table of Contents

Introduction	5
Part 1 : Definitions and Historical Perspective	7
I. Definition(s)	7
II. Historical Perspective	9
1. From Antiquity to the 18th century, « collateral » sexual violence	9
2. Paradigm shift during the French Revolution: rape as an instrument of terror	10
3. Sexual Violence in Current Conflicts	12
III. Contextual Perspective	13
Part 2 : The different forms of sexual violence in wartime.....	16
I. General perspectives.....	16
II. The different forms of sexual violence	17
1. Rape as a weapon and method of warfare.....	17
2. Rape as a celebration of virility	18
3. "Comfort" Rape.....	19
4. Rape as a guarantee of recruitment and/or indoctrination of combatants.....	20
5. Punitive sexual violence	20
6. Opportunistic sexual violence.....	21
7. Human trafficking and sexual slavery	21
8. Forced sexual relations with a third party, sexual devaluations.....	23
9. Public rape/rape performances	24
10. Genital mutilation and/or destruction of reproductive functions	24
11. Forced pregnancy.....	24
Part 3 : State of the jurisdiction	26
I. First jurisdictions (19th Century)	26
II. The Nuremberg Trial (1945-46)	26
III. Geneva Conventions (1949)	26

IV. International Criminal Tribunals for Yugoslavia and Rwanda	27
V. Today's jurisdictions	30
Part 4 : Care of victims	31
I. Heavy consequences	31
II. Denunciations of the violence suffered, still too weak on the part of the victims.	33
III. Care of victims	34
Conclusion	37
Bibliography	39
Institutional Resources	39
Newspaper Articles	39
Academic Articles.....	40
Online Resources	42
Litterature	42

Introduction

In 2014, Céline BARDET, president and founder of the NGO We Are NOT Weapons of War (WWoW), which fights against sexual violence as a weapon of war, recalled: "At war, people have been raped since the dawn of time. But what is new is the exponential nature of the number of rapes, which have become systematic weapons in today's conflicts¹".

In 2018, Congolese doctor Denis MUKWEGE and Yezidi political activist Nadia MURAD receive the Nobel Peace Prize for their efforts «to end the use of sexual violence as a weapon of war." For Dr. MUKWEGE, this award honors years of service to women victims of rape and sexual violence in the Democratic Republic of Congo. It also salutes the courage of Nadia MURAD, a victim of Islamic State's sexual slavery, for speaking out and committing herself to her co-victims.

*

Why the specific focus on sexual violence committed in the context of conflict, rather than including it in the overall fight against sexual violence? The major conflicts of the 1990s and the beginning of the 21st century highlighted the use that could be made of sexual violence in a martial context. **Vector of physical suffering, psychological trauma and social humiliation, rape has been used for centuries on purpose, in the same way as guns or mines, to destroy populations or drive them out of their territory.** It is only recently that international tribunals and public opinion have begun to address the issue. Needless to say, this is a welcome development. Nevertheless, sexual violence continues to be committed (and therefore suffered) on a massive scale in places of conflict. Difficult as the subject may be, it is crucial to understand the mechanisms at work in order to be able to take effective action to reduce these crimes, effectively and reparationally deal with their victims and punish their perpetrators.

In this brief report, we first examine the concept of sexual violence in wartime and place it in a historical perspective. We then analyse the different forms of sexual violence that can be committed during a war and how the conflict's context allows for their prevalence. In a third part,

¹ BARDET Céline, « Je ne suis pas une arme de guerre. Et vous ? | Céline Bardet | TEDxParis », 23/10/2014, Available at: <https://www.youtube.com/watch?v=N6d6yM-jt94>.

we focus on the existing state of jurisdiction against sexual violence in wartime: how was it built? What are the rules in force today? Finally, we focus on the care of victims before concluding.

*

Preliminary clarification: the term "war" will be used here indistinctly from the term "conflict". Not every conflict is a war, but every war is a conflict. The distinction is not necessary in order to understand the problem of sexual violence, which can occur on a massive scale in a war as well as in a conflict.

Part 1: Definitions and Historical Perspective

I. Definition(s)

The United Nations (UN) defines sexual violence broadly as:

« An act of violence of a sexual nature committed against one or more persons, or having the effect of causing one or more persons to engage in such an act by force or threat of force, including violence, coercion, detention, psychological pressure and abuse of power, or by means of a repressive environment or the inability of the victims to give their free consent. Sexual violence can take many forms, including rape, attempted rape, forced prostitution, sexual exploitation and abuse, trafficking for the purpose of sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced public nudity, and forced virginity testing. »

A special distinction is drawn for sexual violence in times of war. Indeed, theaters of conflict can lead, for various reasons detailed below, to a preponderance of sexual violence in the population. Moreover, their consequences must be specifically considered. Céline BARDET reminds us: *«rape as a weapon of war cannot and must not be compared to conventional rape, a crime in itself already monstrously devastating. It is indeed a weapon, at a lower cost, silent and very effective² ».*

L Sexual violence in wartime can affect women, children and men indiscriminately. For instance, it is estimated that 30% of rape victims in Syria or Libya are men.³ However, the UN draws attention to the fact that women and children are the main victims of this type of violence; Resolution 1820 stressed in 2008 that *« the overwhelming majority of those adversely affected by armed conflict are civilians, and that women and girls are particularly vulnerable to sexual violence used as a weapon of war and other forms of violence.⁴ ».* It is nevertheless important to examine this phenomenon through a gender lens, as the motivations may not be the same

² *Ibid.*

³ *Ibid.*

⁴ United Nations (UN), Security Council Resolution 1820 (S/RES/1820), 2008.

depending on the gender and age of the victim⁵. Similarly, this violence can affect the civilian population as well as the combatant population in various contexts. The perpetrators can also belong to both categories (civilians and combatants).

A conceptual distinction must also be made between sexual violence used as a weapon of war, as a method of warfare or as a practice in wartime. The International Committee of the Red Cross makes this distinction by defining as a weapon of war that which is used with the intent to injure or kill, while a method of warfare may serve broader purposes. In the context of conflict, sexual violence - primarily rape - can have much more pernicious purposes. Evelyne JOSSE, a consultant in humanitarian psychology, reminds us that « *we speak of rape as a weapon of war or as a method of warfare when it is planned by a politico-military authority and used strategically by one of the parties to a conflict to humiliate, weaken, subjugate, drive out or destroy the other⁵* ». However, sexual violence can take place without a specific strategy in place, but rather because the context allows for its deployment without fear of reprisals: it is a practice of war. This includes, for example, "comfort rape" or rape as a staging of virility, which we will discuss in more detail below.

Most sexual violence in times of conflict can therefore in itself be considered a weapon, method or practice in warfare, depending on the purpose it serves: rape can be considered a method of warfare if it was carried out as part of a strategy to humiliate the victims, or as a practice if it took place to satisfy the sexual impulses of the aggressor. Certain forms of violence, such as forced pregnancy, or the massive and systematic nature of their perpetration, are nevertheless more likely to fall within the scope of weapons/methods of war, as they are part of a global strategy. **This distinction is important because it makes it possible to adapt the jurisdictional, preventive and care treatment of victims and their executioners.**

«Some [armed groups] do [rape] as an explicit strategy of war. But not all groups do so as part of a strategy of war; some engage in repeated rape that the chain of command tolerates but does not order. In these cases, rape becomes a practice rather than a strategy. [...] The distinction

⁵ JOSSE Evelyne, « Torture et violences sexuelles dans les conflits armés, des liens étroits », 2/02/2013, *Grotius International*, available at : <https://grotius.fr/torture-et-violences-sexuelles-dans-les-conflits-armes-des-liens-etroits/#.XwsUj20za01>.

between rape as a practice or strategy is important because it may mean that different policy measures are needed to combat it effectively⁶. »

II. Historical Perspective

It would seem that sexual violence is unfortunately always concomitant with conflicts, for reasons that will need to be detailed. Nevertheless, it may be interesting to place them in a historical context to see if their form or prevalence has changed. Fabrice VIRGILI, director of research at the CNRS and a specialist in sexual violence in wartime, summarizes as follows: « *In the first half of the 20th century, the growing involvement of civilians in conflicts increased the use of sexual violence as well as their denunciation, including as an instrument of genocide. After 1945, they disappeared with the wars on the continent, but by no means with the conflicts beyond the seas, before reappearing in a planned form during the wars in the former Yugoslavia⁷ ».*

1. From Antiquity to the 18th century, « collateral » sexual violence

Long considered as « collateral damage⁸ », sexual violence remained unpunished for many years, or was so only in the name of the morality of the executioners, without any particular consideration for the victims. Yet there is no shortage of historical examples.

In the introduction to her research paper⁹, Cassandra THERMILDOR reminds us that sexual violence in times of conflict is one of our founding myths. She takes the example of the

⁶ WOOD Elisabeth, « Is rape inevitable in war? », 25/02/2014, *Al-Jazeera*, available at : <https://www.aljazeera.com/indepth/opinion/2014/02/rape-inevitable-war-2014214161229710290.html>

⁷ VIRGILI Fabrice, « Les violences sexuelles en temps de guerre », 2016 [published online on 20/11/2019], *Encyclopédie pour une histoire nouvelle de l'Europe* [online], ISSN 2677-6588, available at : <https://ehne.fr/node/2528>.

⁸ PERON Claire-Elise, « COMPRENDRE LE VIOL DE GUERRE (1/6) – L'histoire des violences sexuelles liées aux conflits : du dommage collatéral à l'arme de guerre », 15/02/2019, *WWoW*, available at : <https://www.notaweaponofwar.org/comprendre-le-viol-de-guerre-1-6-lhistoire-des-violences-sexuelles-liees-aux-conflits-du-dommage-collateral-a-un-outil-strategique/>.

⁹ THERMILDOR Cassandra, « Les violences sexuelles contre les hommes en temps de conflits », Master Research project, under the direction of Mrs. Nathalie ERNOULT, *Iris Sup'*, 2019, 50 pages.

kidnapping of the Sabines, reported by Tite-Live and Plutarch and celebrated by many artists. The founders of Rome needed to ensure their descendants, and having been denied the right to marry the women of the neighboring people (the Sabines), they kidnapped them. This episode, glorified by legend, is nothing less than the barbaric practice of a method of warfare aimed, through forced pregnancies, to establish itself in a region. A method that was still used in the 20th century, for example by the Hutu soldiers in Eastern Congo¹⁰.

The violence has continued over the centuries, known to the people and the authorities. Thus, we find traces of engravings reporting the misdeeds of soldiers in the seventeenth century: « *And all, with one accord, wickedly commit theft, kidnapping, murder and rape*¹¹ ». In the Russia of the Tsars, between 1721 and 1800, « *44% of the cases handled by the military courts ... are cases of rape and 30% are cases of sins of flesh or adultery*¹² » (the said courts were nevertheless more interested in the morality of the troops than in the fate of the rape victims).

2. Paradigm shift during the French Revolution: rape as an instrument of terror

Fabrice VIRGILI reports: « *With the French Revolution, the nature of conflicts changed and the boundary between civil and military became blurred. During the Vendée Wars (1793-1794), massacres, destruction and sexual violence were a means of terrorizing counter-revolutionary populations*¹³ ». There is mention of massive rapes from this period: the Revolution and Napoleonic campaigns used sexual violence « *as a means of terrorizing hostile populations*¹⁴ ». The paradigm also changed in the way of conceiving the military world: with the introduction of conscription in 1798, compulsory for men, the army became masculinized.

The territories to be dominated are seen through the prism of women, virgin lands where rape is a tool of conquest used to destroy indigenous populations, break up local community structures and encourage the settlement of settlers. There are many examples, during the conquest of

¹⁰ JOSSE Evelyne, *op. cit.*

¹¹ CALLOT Jacques, *Les Grandes misères de la guerre (gravures)*, 1633 reported by VIRGILI Fabrice, *op. cit.*

¹² VIRGILI Fabrice, *op. cit.*

¹³ *Ibid.*

¹⁴ *Ibid.*

Algeria for instance (1830-1847). In colonized territories, sexual violence and the terror it provokes are also used as a pretext to repress the colonized. The violent repression of the Cipaye revolt (1857), the first Indian rebellion against the British occupier, thus invokes the motive of the rape of white women by Indians to justify its bloody nature¹⁵. With the striking case of Algeria, we can also think of the rapes and torture used by the French army during the war of independence, crimes brought to light by the media coverage of the Djamilia BOUPACHA affair in 1960¹⁶. We can thus observe a permanent recourse to sexual violence on the part of the colonizing European powers throughout the colonial period.

The First and Second World Wars are also concerned: many acts of violence, particularly rape, were committed there. They were committed out of "opportunism" (absence of reprisals for rapists, as was the case in 1944 in Italy), out of a desire to humiliate the adversary or to take revenge (many rapes were perpetrated on German women when the Allied troops entered the country¹⁷) or with ethnic and genocidal motives (during the Armenian genocide¹⁸ or in Nazi birthing centers designed to allow the birth of Aryan children¹⁹). The theme of rape is, moreover, abundantly documented by the propaganda of various countries in order to exacerbate hatred of the enemy, sometimes from a voyeuristic point of view. There are also numerous propaganda cartoons that depict Germany or France (depending on the author of the propaganda) as a woman to be raped²⁰. Finally, systems of sexual exploitation have been set up, such as that of "comfort women" in Japan. It should be noted that rape is subject to sanctions (including summary execution) in the military codes in force, but that these sanctions are not always applied. They are more easily enforced when the opportunistic perpetrators are colonial (in the case of France) or black (in the United States) soldiers.²¹.

¹⁵ BÖETSCH Gilles *et al.*, *Sexualités, identités & corps colonisés. XV^e siècle - XXI^e siècle*, 2019, CNRS Editions, p.22.

¹⁶ BEAUVOIR (de) Simone, « Pour Djamilia Boupacha », 02/06/1960, *Le Monde*, available at : https://www.lemonde.fr/archives/article/1960/06/02/pour-djamila-boupacha_2092987_1819218.html.

¹⁷ PERON Claire-Elise, *op. cit.*

¹⁸ BECKER Annette, « Histoire des violences extrêmes, 1914-45 », 2017-18, lecture on contemporary history given at the University of Paris Nanterre.

¹⁹ PERON Claire-Elise, *op. cit.*

²⁰ BECKER Annette, cited lecture.

²¹ VIRGILI Fabrice, *op. cit.*

More generally, the 20th century has been very much marked by the sexual violence that took place during its many conflicts in a wide variety of countries: Bangladesh, former Burma, China, Central African Republic, Colombia, two Koreas, former Indochina and former Yugoslavia, Kenya, Kosovo, Liberia, Libya, Mexico, Nigeria, Central African Republic, Democratic Republic of Congo, Rwanda, Sierra Leone, South Africa, Sudan, Sri Lanka, Tanzania, Zimbabwe and many others have been and/or are still concerned during the century. The list is far from being exhaustive.

3. Sexual Violence in Current Conflicts

These abuses continue today: in 2014, the NGO WWoW cites 15 countries, including Colombia, Yemen, Bangladesh, Syria and the Democratic Republic of Congo, where massive sexual violence is observed²². The examples are as numerous as they are varied. For instance, the Chilean crisis of autumn 2019 (which, although not a war, is characterized by the violent and conflictive nature of the population and the forces of law and order) was - among other things - sadly marked by the sexual violence exercised by the military against civilians²³. In a completely different context, the fate of Yezidi women in Iraq under the rule of ISIS, denounced by Nadia Murad, is still relevant today. On the other side of the world, it is estimated that there are more than 50,000 victims of rape among the Rohingya²⁴. Whatever the type of conflict, sexual violence can play its role as a weapon and destroy, physically, psychologically and/or socially, the populations it affects. As a « *perfect crime*²⁵ », sexual violence requires no material or financial resources and leaves immense damage, which may explain the opportunistic nature of its use. How else can we justify rapes committed on populations with whom having sex is considered a crime according to the ideology of the executioners? (For example, the radical Burmese do not wish to mix their blood with the Rohingyas; this was also the line taken by the Aryan Nazis, which did not prevent multiple acts of sexual violence in the death camps).

²² BARDET Céline, *op. cit.*

²³ MASSO Myriam-Gaëlle, « Chili : état des lieux des violences sexuelles liées à la révolte sociale », 25/11/2019, WWoW, available at : <https://www.notaweaponofwar.org/chili-etat-des-lieux-des-violences-sexuelles-liees-a-la-revolte-sociale/>.

²⁴ WWoW, Rubrique : « Le viol de guerre – Le viol de guerre dans le monde », available at : <https://www.notaweaponofwar.org/viol-de-guerre/viol-de-guerre-monde/>?

²⁵ BARDET Céline, *op. cit.*

WWoW rightly considers that sexual violence has always taken place during conflicts, but that over the last twenty years it has become « institutionalised ». It denounces the establishment by Boko Haram and ISIS of a « *theologis[ation of] the use of rape*²⁶ », using tools such as manuals on sexual slavery and tariff grids defining the cost of a female slave according to her age, virginity and community of origin. These groups have turned rape into a full-fledged terrorist weapon, along with kidnapping and suicide bombings.

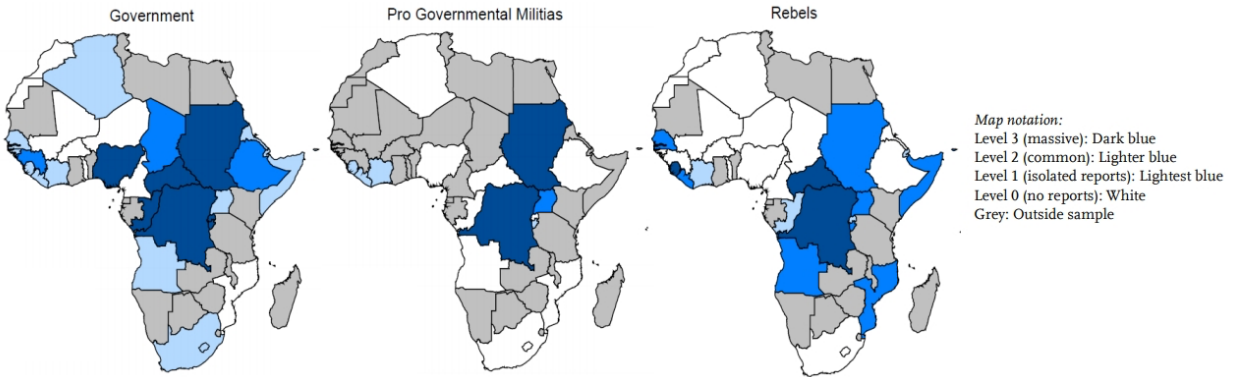
III. Contextual Perspective

Elisabeth WOOD, professor of political science at Yale, defends the idea that sexual violence, primarily rape, is not inevitable in times of war²⁷. She draws on work carried out by the Centre for the Study of Civil War (CSCW) in Oslo²⁸ which shows that between 1989 and 2009, of the 236 armed groups that were active on the African continent, only 36% were considered to have perpetrated one or more forms of sexual violence. Although many forms of sexual violence have been overlooked, this figure runs counter to the commonly held belief that sexual violence is inevitable in the context of conflict. Elisabeth WOOD recalls that some armed groups explicitly prohibit their members from committing sexual violence and identifies the structuring of the armed group (hierarchy, existence or not of control of combatants, etc.) as the determining factor in the perpetration of sexual violence, as opposed to religion or culture. It also notes that rebel groups more often prohibit (and punish) the perpetration of sexual violence than state armies. She sees this contextualized knowledge of sexual violence in wartime as a hope for better prevention, and stresses that the distinction between practice and strategy is important because it allows for a better definition of the international policies to be put in place to fight these crimes.

²⁶ WWoW, Rubrique : « Le viol de guerre – Objectifs », available at : <https://www.notaweaponofwar.org/viol-de-guerre/objectifs/>

²⁷ WOOD Elisabeth, *op. cit.*.

²⁸ NORDAS Ragnhild et COHEN Dara Kay, *Sexual Violence in African Conflicts, 1989–2009 – What the data show*, 02/2012, Centre for the Study of Civil War (CSCW) – Peace Research Institute of Oslo, available at : http://file.prio.no/publication_files/cscw/Nordas-Cohen-Sexual-Violence-in-African-Conflicts-1989-2009-CSCW-Policy-Brief-02-2012.pdf.



CSCW map showing the prevalence of sexual violence in Africa, 1989-2009, by country and frequency of violence.

Raphaëlle BRANCHE, Fabrice VIRGILI and their co-authors, in *Viols en temps de guerre*²⁹, support the same idea. They recall that some conflicts (rape prone) are more affected than others (rape free) by the use of rape as a weapon of war. In particular, the authors insist on the need to recontextualize conflicts in which systematic sexual violence is observed. Such violence prevails during invasions: the aim is to occupy, literally and metaphorically (through the rape of its population), enemy territory. For the reasons mentioned elsewhere in this report (ethnic settlement, destruction of the local population, terror), rape is a particularly effective weapon in invasive contexts. The terror inspired by sexual violence, even beyond the actual reality of the violence committed, destabilizes and disorganizes local populations, pushing them to flee or even commit suicide.

« Sexual violence is particularly numerous, as we know, in periods of invasion. They aim to inspire a form of submission to the enemy, to establish a balance of power, to humiliate men in their ability to defend their wives and daughters - and beyond that, to defile women's bodies, families and the social body as a whole. By attacking the bonds of filiation, rape propagates throughout society, and even to the heart of the intimacy of families, a deep and long-lasting disorder³⁰. »

What forms can sexual violence take? It is important to grasp its diversity and objectives in order

²⁹ BRANCHE Raphaëlle et VIRGILI Fabrice (dir.), *Viols en temps de guerre*, Payot, 2011, 270 p. ideas reported by CABANES Bruno, *Histoire@Politique. Politique, culture, société* – Rubrique « Comptes rendus – ouvrages », 28/09/2012, available at : <https://www.histoire-politique.fr/index.php?numero=38&rub=comptes-rendus&item=373>.

³⁰ CABANES Bruno, *op. cité*.

to be able to reflect, at a later stage, on the mechanisms that would make it possible to avoid them.

Part 2: The different forms of sexual violence in wartime³¹

[TW: Description of sexual violence]

I. General perspectives

Rape as a weapon or method of warfare is often the first thing that comes to mind when talking about sexual violence in conflict. Evelyne JOSSE writes about it: « It characterizes the conquest and degradation of women embodying the cultural identity of the enemy, the humiliation of men in charge of their protection but powerless to defend them, and the dishonor of captured combatants. Perpetrated with the deliberate will to sow terror, infamy and the seeds of social rejection, it is a weapon of psychological and communal destruction* ». Yet it is far from being the only form of sexual violence perpetrated in the context of conflicts. Indeed, the diversity of forms of sexual violence committed in wartime should be emphasized, which makes the care of victims all the more complicated.

Sexual violence is a particularly effective form of violence in times of war, as it inflicts particularly violent psychological and social traumas linked to the symbolic nature of sexuality and physical integrity. Céline BARDET considers that it acts like a « *slow and multiple deflagration bomb* »³² ». By raping (literally and figuratively) the bodies of the men and women who make up a community, the aggressor attacks not only his victims, but the whole social body, women, men and children, its unity and identity. Evelyne JOSSE notes as follows: « Sexual and reproductive capacity gives women a predominant role in the construction and preservation of the clan, ethnic and cultural identity of a population* ». To rape them is therefore to directly attack this identity. She also reports: « Sexual assaults committed against men are a means of gaining power as well as an instrument of control and humiliation. They are used by the belligerents to assert their strength and dominance; they aim to dishonor the defeated, to show that they are incapable of defending their honor and to prove that they are real men. »

³¹ This section "The different forms of sexual violence in wartime" is strongly inspired by the already quoted article by Evelyne JOSSE. The reading of this short article, very complete, is highly recommended to anyone interested in the subject. The asterisks ("*") in this section indicate this source.

³² BARDET Céline, *op. cit.*

II. The different forms of sexual violence

This section is intended to be a non-exhaustive summary of the main types of sexual violence in wartime, sorted by modality and/or objective. One violence is not exclusive of another: for example, sexual slavery or forced pregnancy involves one (several) rape(s); violence is often combined.

1. Rape as a weapon and method of warfare

Rape as a weapon or method of warfare is planned by an authority and is part of a strategy to « humiliate, weaken, subjugate, drive out or destroy* ». the opponent. It is generally perpetrated on a massive scale (large number of victims) and/or collectively (several perpetrators) and/or repeatedly (repeated rapes of the same victim) and/or publicly (in front of the victim's relatives, for example) and/or brutally. It may have explicitly genocidal aims, for example by seeking to spread diseases (such as HIV/AIDS) or by destroying the reproductive capacity of the victim population. It can also be used as a tool for political repression of opponents to power. The motives for using rape as a weapon or method of warfare are as multiple as those for entering into conflict; planned and implemented sexual violence can also serve several purposes.

EXAMPLE: THE APPROPRIATION OF WEALTH IN THE DEMOCRATIC REPUBLIC OF THE CONGO

In her 2014 TEDx conference, Céline BARDET explains: « *Destroying fertility, destroying the genital apparatus, is destroying the national treasure of the Congo, the pride, the sense of existence of women. It means destroying the social fabric. And indirectly, we reach husbands, fathers, brothers. As a result, the military and armed gangs are illegally exploiting the zones of minerals, which are extremely rich and numerous in this region.*³³ ».

³³ *Ibid.*

2. Rape as a celebration of virility

Rape is considered a reward, given by the leader, peers or himself, to a victorious fighter. The victim is most often female (because she is the victim of an act that values the virile, and therefore heterosexual³⁴, essence of the male combatant), and is perceived as an object at the disposal of the executioner. Rape can be committed in a collective and repeated manner, and applauded by peers.

EXAMPLE: EPISODE OF RAPE DURING THE BIAFRA WAR IN NIGERIA

"The waitress was lying on the floor on her back, the lappa was pulled up to her waist, her shoulders were pressed to the floor by a soldier, and her legs were wide open. She was sobbing: "Please, please, biko." She still had her blouse on. Between her legs, High-Tech came and went. Her kidney strokes were jerky, her little buttocks darker than her legs. The soldiers were clapping.

"High-Tech, that's enough! Throw the mashed potatoes and fall back!"

High-Tech gave a growl before falling down on her. A soldier pulled him off and was already attacking his own pants when someone said:

"No! It's Target Destroyer's turn!"

Ugwu [Target Destroyer] walked away from the door.

"Ujo abiala o! Target Destroyer is scared!"

Ugwu shrugged and stepped forward.

"Who is afraid?" he said dismissively. I just like to eat before others, that's all.

- The food is still fresh!

- Target Destroyer, aren't you a man? I bukwa nwoke ?"

The girl, on the floor, was motionless. Ugwu pulled down her pants, surprised by the promptness of his erection. She was dry and tense when he penetrated her. He didn't look at her face, or at the man holding her down, or at anything else when he agitated and felt his orgasm, the influx of liquids at the extremities of himself: a discharge of self-loathing. He zipped up his zipper to the applause of a few soldiers. Then at last he looked at the girl. She gave him back his gaze with a calm hatred."

- Target Destroyer, t'es pas un homme ? I bukwa nwoke ?³⁵. »

³⁴ This cause-and-effect relationship ("virile → heterosexual") in no way reflects the opinion of the author, but is intended to make explicit the mental patterns at work in this type of rape.

³⁵ ADICHIE Chimamanda Ngozi, *L'autre moitié du soleil*, 2008, Gallimard, p.410.

3. "Comfort" Rape

Some rapes in wartime are not motivated by a military strategy, but by the aggressor's desire to satisfy his sexual impulses. Numerous contextual factors allow for this upsurge: combatants' emotional and sexual deprivation (often young, isolated from their entourage), low level of education and knowledge of the law, lack of control mechanisms (normally assumed by the community), feelings of impunity, and frequent use of psychoactive substances.

EXAMPLE: "COMFORT WOMEN" IN JAPAN

The use of this highly watered-down term refers to Asian women who were sex-slaved by the Japanese imperial army during World War II. This forced prostitution involved between 200,000 and 410,000 girls and women, mainly from Korea and China, but also from Taiwan, the Philippines and Indonesia. Sequestered in "comfort houses", they were kept at the disposal of Japanese soldiers. Even today, these women and their loved ones suffer from the lack of official recognition of these crimes by Japan. Every Wednesday since 1992, a demonstration has been held in front of the Japanese Embassy in Seoul to denounce this impunity. Iris CHANG, historian, considers that this state system of sexual slavery was put in place following the taking of Nanking (China, 1937), during which thousands of women were raped, mutilated and destroyed. She wrote: "Rather than stifle or punish the soldiers responsible, the Japanese high command made plans to create a giant underground system of military prostitution—one that would draw into its web hundreds of thousands of women across Asia³⁶ ». It would be too simple, however, to consider that this institutionalization of rape took place only to 'satisfy' the impulses of emotionally deprived soldiers: the systematization of sexual violence also made it possible to sow terror among the populations and was based on a tenacious hatred of the Japanese towards their neighbors, Chinese and Koreans in particular.

³⁶ CHANG Iris, *The Rape of Nanking*, 1997, p.65.

4. Rape as a guarantee of recruitment and/or indoctrination of combatants

This form of instrumentalization of sexual violence has been observed among terrorist groups that, seeking to recruit, promise their future combatant women at their disposal. WWoW believes that « for most of the most extreme jihadist organizations, the guarantee to have sexual relations is an important recruitment tool. More recently in Sudan, recruitment was done with the guarantee of having "women" often as young as 10 years old³⁷ ». In fact, this is somewhat the underlying idea behind the Japanese "comfort houses", whose deployment occurred not only to satisfy the soldiers' sexual impulses, but also the Japanese superstition that having sex - was it criminal! - on the eve of combat was protective³⁸.

EXAMPLE: "FREE WIVES" FOR BOKO HARAM FIGHTERS

Material incentives, in which women are considered "free wives," are part of Boko Haram's recruitment techniques. J. Tochukwu OMENMA et al. note: "Both Boko Haram and al-Shabaab use the incentive of "wives" to attract male recruits because of the financial obligations, which are normally associated with marriage in these contexts³⁹ ». Part of this practice is the highly publicized kidnapping of 200 Chibok schoolgirls in 2014, forcibly married to Boko Haram fighters, is part of this context.

5. Punitive sexual violence

Sexual violence is used to repress and punish opponents of the regime, particularly women. The grounds for punishment invoked are twofold in their case: to punish opposition to the forces of law and order (whether established or not) as well as their departure from traditional patriarchal rules. In addition to humiliating, injuring, traumatizing and dismantling solidarity within opposition groups, this form of violence is intended to dissuade potential new recruits from joining them.

³⁷ WWoW, Rubrique : « Le viol de guerre – Objectifs », available at : <https://www.notaweaponofwar.org/viol-de-guerre/objectifs/>

³⁸ BRILLAUD Rafaële, *op. cit.*

³⁹ OMENMA, J. Tochukwu; HENDRICKS, Cheryl; and AJAEBILI, Nnamdi C., « al-Shabaab and Boko Haram: Recruitment Strategies », 2020, *Peace and Conflict Studies*, available at : <https://nsuworks.nova.edu/pcs/vol27/iss1/2>.

EXAMPLE: COLOMBIAN FEMALE FIGHTERS

Bruno CABANES reports: « Sexual violence is not always aimed at social chaos. Rape can also be a way of regaining control of the moral order, particularly in conflicts between paramilitary groups and insurgent populations, as in Colombia [...] Rape is then conceived as a punishment for women close to the guerrillas, whose transgression of social roles (their participation or support in the armed struggle) is assimilated to a transgression of sexual behavior.⁴⁰ ».

6. Opportunistic sexual violence

Impunity is sometimes so high in times of war that « sex is considered an easy service to obtain, under pressure*». Executioners may take advantage of their victims, sexually exploit them (slavery or prostitution) or use their power relations to demand sex in exchange for services necessary for their survival (food, border crossing, etc.).

EXAMPLE: SEXUAL VIOLENCE IN REFUGEE CAMPS

According to a 2004 Amnesty International report, « Displaced women and girls are sometimes abused by those who are officially responsible for assisting them, including those in peacekeeping forces and humanitarian organizations. Cases of sexual violence and exploitation involving members of peacekeeping forces or humanitarian aid personnel (from about 40 different organizations) have been reported in camps in Guinea, Liberia, and Sierra Leone. Interviews conducted by UNIFEM representatives in refugee camps in these countries revealed that young girls, mostly between the ages of thirteen and eighteen, were forced into prostitution in exchange for goods or services (e.g., cooking oil, wheat, medicine, transportation, loans, courses and training). In these camps, the teenage pregnancy rate was estimated at about 50%.⁴¹ ».

7. Human trafficking and sexual slavery

⁴⁰ CABANES Bruno, *op. cit.*

⁴¹ Amnesty International, *Les crimes commis contre les femmes lors des conflits armés*, 2004, available at : <https://www.amnesty.org/download/Documents/88000/act770752004fr.pdf>

Taking advantage of the absence of rules described above, executioners may seek to resell their victims as sex slaves in order to earn a substantial income.

EXAMPLE: IS WOMEN'S MARKET

Based on pre-existing trafficking networks (oil, gas, cigarettes, etc.), starting in 2014, IS deployed a network of human trafficking, particularly of Yazidi women, where each woman was evaluated and sold according to her age, virginity, beauty, etc., based on a pre-established price scale. The Islamic state published a document entitled "Selling price of booty" which set these rates. The most "expensive" slaves were sent to Raqqa, the capital of the Islamic State, to be reserved for commanders. Many women were sold several times. It is this system of trafficking and atrocities that Nadia Murad denounces⁴².

The slavery of women, men, and children can also directly serve the executioners, who do not sell the slaves for profit, but sequester them for personal exploitation. This act is sometimes called "organized comfort sex*," which consists of the abduction of women and girls (the vast majority), who are brought into combatant camps to become the wives of a combatant, or sex slaves at the disposal of all combatants. They also performed domestic chores.

EXAMPLE: RAPE CAMPS IN BOSNIA

During the war in Yugoslavia, "rape camps" were set up in Foča and Višegrad by the Serbian army. For instance, at Foča, the judicial tribunal in The Hague reports that: « a system of permanent physical and psychological torture (including sexual attacks and rape) was set up by Serbian forces. Soldiers had free access to detention centers, which became known as "rape camps," and were allowed to select and take girls and women whom they raped, tortured and then humiliated in the most cruel manner⁴³ ».

⁴² NATO, *Sexual violence in conflict. Factsheet 2019*, 2019 ; SOUDY Laëtitia, DESCONCLOIS Régis et K.L., « En Irak, les femmes yazidies, esclaves sexuelles de Daech », 26/12/2014, *BFM TV*, available at : <https://www.bfmtv.com/international/moyen-orient/irak/en-irak-les-femmes-yazidies-esclaves-sexuelles-de-daech-AN-201412260015.html>.

⁴³ FIORI Matteo, « Les camps de viol de Foca : La jurisprudence du TPIY sur une page sombre de la guerre », 2007, *Journal judiciaire de la Haye*, Vol. 2 n°3 2007. Citation based on *Kunarac et al., Jugement*, paras. 29-39 and *Zelenović, Jugement*, paras. 25-26.

8. Forced sexual relations with a third party, sexual devaluations

Sexual violence is sometimes organized for the entertainment of the perpetrators, whose imagination can be boundless. For example, in the case of forced sexual acts with a third person, the perpetrator(s) force their victim(s) to have sexual intercourse with a fellow prisoner, a friend, a relative (forced incest), etc. The perpetrator(s) may also use their imagination to force the victim(s) to have sexual intercourse with a third person. It can also be an animal.

EXAMPLE: FORCED SEXUAL ACTS BETWEEN FELLOW PRISONERS IN YUGOSLAV JAILS

During the Yugoslav war, many prisoners were forced to have sex with their fellow prisoners to amuse the guards. Amnesty International reports as follows: « In the former Yugoslavia, men were forced to sexually abuse some of their male fellow prisoners under the taunts of their jailers.⁴⁴ ».

Not all sexual violence involves rape. Another widespread form is sexual devaluation. This type of violence is particularly expressed in prison, where men and women may be mocked, humiliated and/or forced naked. These humiliations have strong psychological and physical consequences.

AN EXAMPLE OF SEXUAL HUMILIATION IN IVORY COAST

The International Commission of Inquiry into Allegations of Human Rights Violations in the Ivory Coast reported a case where « a pregnant woman was stripped naked in public and forced to simulate the sexual act for several hours. She gave birth to a stillborn baby the next day⁴⁵ ».

⁴⁴ Amnesty International, *op. cit.*, p.19.

⁴⁵ International Commission of Inquiry into Allegations of Human Rights Violations in the Ivory Coast, « Rapport sur la situation des droits de l'homme en République de Côte d'Ivoire depuis le 19 septembre 2002 jusqu'au 15 octobre 2004 ». Geneva, 2005, p.38-62, reported by SEKA APO Raïssa, *La femme dans les conflits armés*, 2018, available at : https://www.unilim.fr/iirco/2018/01/17/seka-apo-raissa-femme-conflits-armes-partie-i/#_ftn100.

9. Public rape/rape performances

Rape is not only perpetrated on the victim(s), but is also committed in front of their loved ones, who are sometimes also asked to dance/sing/clap and/or facilitate the assault.

EEXAMPLE: SEXUAL VIOLENCE COMMITTED DURING THE GENOCIDE IN RWANDA

Among other atrocities, which will not be detailed in this report, we can simply report this one: « Women were raped in front of their husbands and then returned to their husbands who could not but reject them (culturally devalued, rape assimilated to adultery)⁴⁶ ».

10. Genital mutilation and/or destruction of reproductive functions

Mutilation is intended to both injure and prevent the opposing camp from reproducing itself. As such, it can be considered (among other things) as a crime of genocide. It affects women as well as men.

EEXAMPLE: SEXUAL VIOLENCE COMMITTED DURING THE GENOCIDE IN RWANDA

The massacre of the Tutsis by the Hutus once again provides sordid examples, including atrocious acts committed on pregnant women to kill their foetus, an ablation of the genitals of men and women or torture devices aimed at "destroying fertility", in the words of Céline BARDET ⁴⁷.

11. Forced pregnancy

According to the International Criminal Court, it is "the unlawful detention of a woman forcibly impregnated with childbearing, with intent to change the ethnic composition of a population or to commit other serious violations of international law. This definition can in no way be

⁴⁶ JOSSE Evelyne, 2006, *op. cit.*

⁴⁷ BARDET Céline, *op. cit.*

interpreted as affecting national laws relating to pregnancy⁴⁸ ». Girls were repeatedly raped until they became pregnant and held captive to prevent abortion. This form of sexual violence breaks the local community fabric and/or allows the perpetrators to establish themselves in the dominated region.

EXAMPLE : FORCED PREGNANCIES IN BOSNIA

Genocidal practices aimed at eliminating a population may be accompanied by a desire on the part of the executioner to "replace" that population with his or her own blood. For example, the International Criminal Tribunal for the former Yugoslavia (ICTY) recognised forced pregnancy among the crimes for which the accused were tried in 1993..

*

Conflicts can also be the occasion for the revival of harmful traditions such as female genital mutilation (FGM), envisaged as an ethnic marker, or early marriages⁴⁹, sometimes celebrated to protect their child victims and/or the family from further violence or poverty.

⁴⁸ Reported by BIDERI Diogène, *Les crimes sexuels face au droit international pénal : recherche sur l'établissement d'une infraction autonome en droit international pénal*, 2017, available at : <https://tel.archives-ouvertes.fr/tel-01818056/document>.

⁴⁹ For more information on early marriages, please refer to the work of Laura DELCAMP, available on the IGG website: <https://igg-geo.org/?p=1061>.

Part 3: State of the jurisdiction

I. First jurisdictions (19th Century)

L Long considered as "collateral damage⁵⁰", sexual violence remained unpunished for many years, or was so only in the name of the morality of the executioners, without any particular consideration for the victims. According to the NGO WWoW, the first text to address sexual violence in times of conflict was the Lieber Code of 1863⁵¹. This American text then seeks to protect civilians, especially women, and prisoners of war, from various abuses. Unfortunately, the notion of sexual violence is not explicitly addressed, and the framework remains strictly national.

« The United States acknowledge and protect, in hostile countries occupied by them, religion and morality; strictly private property; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished⁵². »

Rape is part of the military codes and theoretically punished as such, but the sanctions are more or less applied (see above, "Historical Perspective").

II. The Nuremberg Trial (1945-46)

Despite accusations of mass rape on both sides during World War II, sexual violence was not included as a charge in the Nuremberg trials. Fabrice VIRGILI believes that this is « probably because they were also practiced by the allied armies⁵³ ».

III. Geneva Conventions (1949)

⁵⁰ PERON Claire-Elise, *op. cit.*

⁵¹ *Ibid.*

⁵² LIEBER Francis, *Instructions for the Government of Armies of the United States in the Field ou Lieber Code, 24/04/1863*, available at : <https://civilwarhome.com/liebercode.htm>.

⁵³ VIRGILI Fabrice, *op. cit.*

In 1949, the Geneva Conventions were adopted to regulate violence committed in times of war and to protect civilians and prisoners of war. The Fourth Convention, relating to the protection of civilians in time of war, provides for the protection of civilians and non-combatants against the risk of torture, mutilation, etc., including sexual violence. Article 27, paragraph 2, specifically mentions them. Nevertheless, without an established modality of punishment, the application of the Convention does not prevent sexual violence from being committed.

« To this end, the following are and shall remain prohibited at any time and in any place whatsoever with respect to the persons mentioned above [persons not taking a direct part in hostilities] : (a) Violence to life and limb, in particular murder in all its forms, mutilation, cruel treatment, torture and torment; [...] (c) outrages upon personal dignity, in particular humiliating and degrading treatment; [...]" and "Women shall be especially protected against any attack upon their honor, in particular against rape, enforced prostitution and any form of indecent assault⁵⁴. »

IV. International Criminal Tribunals for Yugoslavia and Rwanda

A turning point took place in the years 1990-2000 with the trial of crimes committed during the Yugoslav wars in the Balkans and the genocide of Tutsis in Rwanda, which were the two major armed conflicts of the 1990s. Both were marked by the systematic use of rape as a weapon and method of warfare **Their judgments by the International Criminal Court mark a significant turning point in the way sexual violence in wartime is considered. From "collateral damage", they became characterized as "crimes against humanity" and "crimes of genocide".** For the first time, an international tribunal recognised and judged sexual violence in the same way as other forms of violence that can occur during a conflict.

Fabrice VIRGILI summarises as follows:

⁵⁴ Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, art. 3 and 27, available at : https://www.icrc.org/fr/doc/assets/files/other/icrc_001_0173.pdf.

« Since the 1970s, rapes have seemed foreign to Europe (Biafra, Vietnam, Guatemala, Bangladesh) until the wars that tore apart the former Yugoslavia (1992-1995). The European Union's commission of inquiry counted 20,000 rapes, mostly committed by Serbian armies and militias against Bosnian women. These mass rapes were organized for the purposes of ethnic cleansing, to drive out the population and for Serbian sperm to destroy the Bosnian-Muslim nation through forced pregnancies to term. This revelation of massive sexual violence in Europe, simultaneous to the one then taking place in Rwanda, changed its perception. Previously considered as a more or less inevitable "side" of the war, it became "war rape", legally qualified at the turn of the 2000s successively as "constituting genocide" (ICTR, Akayesu Case, 1998) and then as a "crime against humanity" (ICTY, Kunarac Case, 2001)⁵⁵. »

The conviction of Dragoljub KUNARAC, commander at Foča, to 28 years in prison for (among many other charges) "torture, rape and sexual enslavement as crimes against humanity and torture and rape as violations of the laws or customs of war," was indeed decisive in this recognition.

« Through all of these acts, you have shown the most blatant disregard for the dignity of women and their fundamental human right to sexual self-determination, to a degree that far exceeds what, in the absence of a better formula, could be described as the "usual degree of seriousness of rape in wartime". You raped and abused Muslim women because of their ethnicity and chose those you liked at the time. In the field, you were a courageous soldier and it was stated without question that your men held you in high esteem. This natural authority could easily have enabled you to put an end to the suffering of these women. Your active participation in this nightmarish system of sexual exploitation is all the more heinous. Not only did you yourself mistreat women and girls, but you organized their transfer to other locations where, as you knew, they would be raped and abused by other soldiers. This behavior calls for a severe punishment, commensurate with the seriousness of your crimes. Therefore, the Trial Chamber sentences you, Dragoljub Kunarac, to a single sentence of 28 years in prison⁵⁶. »

⁵⁵ VIRGILI Fabrice, *op. cit.*

⁵⁶ TPIY, Jugement de la chambre de première instance dans l'affaire Kunarac, Kovac et Vukovic, 22/02/2001, https://www.icty.org/x/cases/kunarac/tjug/fr/010222_Kunarac_Kovac_Vukovic_summary_fr.pdf, available at :

In 2008, United Nations Security Council Resolution S/RES/1820 recognized these distinctions at the international level:

« *The Security Council [...]*

Notes that rape and other forms of sexual violence may constitute a war crime, a crime against humanity or a constituent element of the crime of genocide.»

Finally, in 2016, the International Criminal Court convicted former Congolese President Jean-Pierre BEMBA for crimes against humanity on the grounds (among others) of knowledge of crimes committed by his troops (including rape) without having prevented them⁵⁷. The NGO WWoW notes that "this is the first time not only that the ICC has taken up the issue of war rape but also that it condemns Jean-Pierre Bemba in his capacity as a commander and not as a direct perpetrator. This proves that war rape is not only an issue for those who commit the rapes, but first and foremost for those who order the use of this weapon as one would order the shooting of civilians⁵⁸. Although Mr. BEMBA was acquitted in 2018, the 2016 decision underscores a paradigm shift in the way sexual violence in times of conflict and its perpetrators are judged.

FOCUS ON MR. BEMBA'S ACQUITTAL

The decision of the International Criminal Court to acquit Mr. BEMBA after ten years of proceedings has deeply shocked victims and activists fighting against the use of sexual violence as a weapon of war. The ICC's decision uses strong words to absolve him of the responsibility that had been recognized in 2016: « A military leader cannot be blamed for not

⁵⁷ International Criminal Court (ICC), Bemba Case (ICC-01/05-01/08), available at : <https://www.icc-cpi.int/car/bemba?ln=fr>. The alleged crimes: "The trial opened on November 22, 2010. The Pre-Trial Chamber that remanded the case for trial considers that there are substantial grounds to believe that : [...]

- As part of this conflict, MLC forces, led by Jean-Pierre Bemba, committed crimes against the civilian population, including rape, murder, and pillaging. [...]

- Jean-Pierre Bemba was the President and Commander-in-Chief of the MLC. He was effectively acting as the military leader and had effective authority and control over the MLC troops alleged to have committed the aforementioned crimes.

- Mr. Bemba knew that MLC troops were committing crimes and failed to take all necessary and reasonable measures within his power to prevent or repress their execution. »

⁵⁸ WWoW, Rubrique : « Le viol de guerre – Le viol de guerre dans le monde », available at : <https://www.notaweaponofwar.org/viol-de-guerre/viol-de-guerre-monde/>

having done something that he did not have the power to do.⁵⁹. » However, crimes were committed under the orders of Mr. BEMBA⁶⁰. It is essential that the responsibility of the leaders be recognized because the responsibility of the persecutors is too often ignored: the violence is too rarely denounced and the proceedings even more rarely carried out. The conviction of Mr. BEMBA in 2016 had a major symbolic significance and it is important not to convey the idea that crimes can be committed with impunity.

V. Today's jurisdictions

The Geneva Conventions of 1949 are still in force and have been supplemented by additional protocols. Twenty-eight years after the signing of the initial Convention, the 1977 Protocol provides in particular specific protection for women (art. 76) and children (art. 77). A parallel can be drawn with the societal changes that were shaking Europe, and France in particular at that time, with the scale of feminist movements for the reappropriation of women's reproductive rights (the Bobigny trial in 1972, the Veil law of January 17, 1975 on the voluntary interruption of pregnancy). It is nevertheless significant that it took so long for special provisions to be made to protect women and children: even in times of peace, legislative progress is difficult.

« Women must be the object of special respect and will be protected, in particular against rape, forced prostitution and any other form of indecent assault ». "Children shall be the object of particular respect and shall be protected against any form of indecent assault."⁶¹. »

⁵⁹ *Ibid.*

⁶⁰ Fatou BENSOUA, Procureure de la ICC, a ainsi déploré dans une déclaration publique, " Il est clair que des crimes graves ont été commis en République centrafricaine par les forces de M. Bemba qui ont entraîné de grandes souffrances en République centrafricaine. Mon bureau a été en contact avec les représentants légaux des victimes dans cette affaire et nous nous sommes joints à eux dans leur déception concernant cette décision et son impact sur les victimes", available at : https://www.youtube.com/watch?v=hIS_Ds0lcik.

⁶¹ International Committee of the Red Cross, Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. (Protocole I), 8/06/1977, art. 76 and 77, available at : <https://ihl-databases.icrc.org/>

Customary International Humanitarian Law (IHL) also provides for the protection of all persons against various forms of sexual violence. Specific protections are also provided for prisoners. Finally, the decisions taken by the various tribunals of the International Criminal Court serve as jurisprudence and allow sexual violence to be recognised in the same way as other forms of violence. Therefore, the aim is to ensure that sexual crimes committed in wartime are brought to the attention of the courts and effectively judged.

Part 4: Care of victims

I. Heavy consequences

Traditional patriarchal structures make sexual violence in general and rape in particular a taboo, an act for which the victim is often responsible; this is what makes it such a pernicious and formidable weapon in the context of conflicts. Victims of sexual violence, in addition to severe psychological trauma and physical after-effects, are most often banished from their communities of origin: as carriers of a child from the enemy in the case of women who became pregnant as a result of rape, as suspects of homosexuality in the case of men who have been raped, and in all cases dishonored⁶² by what happened to them. Sexual violence affects the ability to desire and project oneself into the future, as well as interpersonal relationships, and thus disrupts traditional social structures and community identity. Finally, it is society itself that is vitiated by what Dr. MUKWEGE calls the « *war rape metastasis*⁶³ » : a rape culture, a desire for revenge, mistrust, structure interpersonal relationships.

⁶² Once again, this term in no way reflects the opinions of the author.

⁶³ Reported by WWoW, Rubrique « Le viol de guerre – Conséquences », available at : <https://www.notaweaponofwar.org/viol-de-guerre/consequences/>.

« Sexual violence has profound short- and long-term repercussions on the physical health of the victims. They can cause physical injuries ranging from superficial bruises to permanent disability (32% of women raped during the genocide in Rwanda are disabled), cause sexual and reproductive health problems, and be the cause of sexually transmitted diseases (66.7% of women raped during the genocide are HIV-positive; 80% of HIV-positive women were raped) or unwanted pregnancies (according to various estimates, rapes committed in Rwanda in 1994 resulted in 2000 to 5000 pregnancies). The consequences for mental health are equally serious and can produce lasting negative effects, including depression, suicide attempts and Post-Traumatic Stress Disorder. In addition, such acts compromise the social well-being of the victims, as they are ostracized by society. For example, in Rwanda, years after the genocide, women who were raped were still subject to stigma, including from their fellow survivors, the Tutsi male survivors! In addition to the consequences for the victim herself, sexual violence has direct repercussions on the well-being of the family and the community. Rape produces feelings of humiliation and shame not only in the raped woman but also in her entire entourage. Socially stigmatized, these women and their families encounter difficulties in the relationships they establish with members of the group as a whole.⁶⁴. »

The consequences are therefore expressed at least on four levels: physical, psychological, social and societal. The table below is intended to give a non-exhaustive overview:

Physical Consequences	Psychological Consequences	Social Consequences	Societal Consequences
Disabilities, mutilations	Post-Traumatic Stress Disorder	Dishonor → rejection from the family and/or community unit	Destructuring of community cells
Infectious diseases (HIV/AIDS among others)	Stress, anxiety, depression	Taboo subject → isolation	Rape culture

⁶⁴ JOSSE Evelyne, 2006, op. cit.

Sterility, reproductive health problems	Suicidal thoughts	Economic insecurity	Hate/vengeance cycles
Unwanted pregnancies	Eating disorder	Judgment for homosexuality	Structural mistrust, racism

GUIGNARD, 2020

II. Denunciations of the violence suffered, still too weak on the part of the victims.

This set of consequences (far from being exhaustive) therefore leads victims to silence the sexual violence of which they are victims in order not to be publicly dishonored, not to worsen their material situation or simply to survive. Those who dare to speak out are often ignored, and cannot contact competent NGOs: We Are NOT Weapons of War reports that « more than 90% of rape victims are in inaccessible areas⁶⁵ ». And then, as their president Céline BARDET points out: « Who can we report to? The police, the institutions? Who are these people who rape, or who order these rapes? How to tell this horror? And when they manage to do so, when they want to break this taboo, most of the time the trials don't happen, and when they do, 2 out of 3 result in acquittals⁶⁶ ».

The victims are here previously referred to as female victims, but an additional factor is added in the case of male victims: the suspicion of homosexuality, which is still penalized in too many countries. Chris DOLAN, director of the Refugee Law Project in Uganda, points out that 61 countries define rape as affecting only women, and that 37 of them criminalize homosexuality. A man cannot file a rape charge, or else he will be criminalized for homosexuality⁶⁷. This is the case

⁶⁵ WWoW, Rubrique : « Le viol de guerre – Une arme pernicieuse », available at : <https://www.notaweaponofwar.org/viol-de-guerre/une-arme-pernicieuse/>

⁶⁶ BARDET Céline, *op. cit.*

⁶⁷ ALCORN Ted, « Responding to sexual violence in armed conflict », 09/06/2014, *The Lancet*, available at : [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)60970-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)60970-3/fulltext).

in Sudan, although it should be noted that the death penalty for the "crime of homosexuality" was repealed on July 9, 2020 (this "crime" is now punishable by imprisonment)⁶⁸.

It is therefore difficult to quantify the number of victims of sexual violence in wartime around the world. As an indication, Parfait OUMBA, a jurist specialized in humanitarian law, notes⁶⁹ :

1994 Rwanda conflict	250 000 à 500 000 women victims of rape
1990 former Yugoslavia conflict	20 000 à 50 000 women victims of rape
Conflict in Darfur until 2009	14 200+ sexual violence
Conflict in Democratic Republic of Congo since 1996	200 000 women and children victims of rape 50 000 children born from these rape

III. Care of victims

Some countries appear to be precursors in the recognition they give to rape victims: for instance, Bruno CABANES cites Bangladesh, which considers women victims of sexual violence as true « war heroes ⁷⁰ » and Céline BARDET speaks of a Libyan Minister of Justice who has launched a program for the « pearls of Libya⁷¹ », women victims of rape. But this is not enough, and in any case one can wonder about the existence of truly effective care, beyond official declarations, in these two countries where rape is massively used as a weapon of war. The responses given to the victims, but also to their executioners and to society as a whole, must be part of a holistic dynamic that aims to accompany the victims while suppressing these criminal practices.

⁶⁸ MARTET Christophe, « Le Soudan supprime la peine de mort contre les personnes homosexuelles », 20/07/2020, *Komitid*, available at : <https://www.komitid.fr/2020/07/20/le-soudan-supprime-la-peine-de-mort-contre-les-personnes-homosexuelles/>.

⁶⁹ OUMBA Parfait, *op. cit.*

⁷⁰ CABANES Bruno, *op. cit.*

⁷¹ BARDET Céline, *op. cit.*

WWoW identifies four levels on which to act: medical, legal, analytical and of rehabilitation⁷². The United Nations also defines the main orientations⁷³, which can be summarized in the once again non exhaustive table below. :

Medical	<ul style="list-style-type: none"> - Enable victims to benefit from general and personalized medical care, both physical and psycho/psychiatric. - Allow victims to benefit from reconstructive surgery if necessary..
Legal	<ul style="list-style-type: none"> - Train professionals to investigate and listen to the victims in order to collect all the necessary documents for an effective legal prosecution of the torturers. - Prosecute and punish perpetrators of sexual violence.
Administrative Rehabilitation	<ul style="list-style-type: none"> - Enable the most efficient and least painful victim reconstruction by facilitating their administrative procedures, and in particular their access to financial resources when they are in isolation: support for children's education, micro-credit, training, etc. - Compensate victims for the suffering they have suffered. - Refuse the detention of people who have suffered sexual violence in a victim status and accompany them as best as possible in their life, personal and professional projects. - Pay particular attention not to put victims and perpetrators in contact with each other. - Take care of children resulting from rape.
Analytical Information	<ul style="list-style-type: none"> - Understand the context in which sexual violence takes place in order to determine the policies that will best prevent its practice. - Include victims in reparation and reconstruction processes.

⁷² WWoW, Rubrique: « Le viol de guerre – Réponses », available at : <https://www.notaweaponofwar.org/viol-de-guerre/reponses/>.

⁷³ Organisation des Nations Unies, *Réparation pour les victimes des violences sexuelles commises en période de conflit* (Note d'orientation du secrétaire général), Juin 2014, available at : https://www.ohchr.org/Documents/Issues/Women/WRGS/PeaceAndSecurity/ReparationsForCRSV_FR.pdf.

	- Inform/educate the population on the subject in order to fight against the establishment of a culture of rape and defuse cycles of revenge; deconstruct preconceived ideas to allow for better integration of victims.
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GUIGNARD, 2020

L The means are known, and the United Nations advocates their effective application. However, the effectiveness of these declarations is questionable. The resolution on sexual crimes in war-torn countries, adopted on April 23, 2019, was thus very disappointing for its lack of ambition⁷⁴. The UN has certainly put in place several programs against sexual violence in war⁷⁵, but a real policy to fight and prevent these crimes remains to be implemented.

⁷⁴ MICHAUD Delphine, « L'ONU piétine sur le sujet des violences sexuelles dans les conflits », 24/04/2019, *La Croix*, available at : <https://www.la-croix.com/Monde/LONU-pietine-sujet-violences-sexuelles-conflits-2019-04-24-1201017603>.

⁷⁵ United Nations, rubrique « Violences sexuelles liées au conflit », available at : <https://peacekeeping.un.org/fr/conflict-related-sexual-violence>.

Conclusion

Sexual violence in wartime is an extremely difficult subject to address. A violent weapon, physically, psychologically and socially destructive, sexual violence offers those who perpetuate it the assurance of great effectiveness, almost zero cost and total impunity. Indeed, victims can very rarely testify to the violence they have suffered, even if they have the will to do so. Traditional structures may reject them following their testimony, the authorities are most often absent - when they are not responsible for the violence! - and the victims are very isolated. These are all reasons that push the executioners to take advantage of their power, or even to use sexual violence as part of martial strategies. Some jihadist groups have thus made it an argument for recruitment.

The fact that the issue of sexual violence in times of conflict has been taken up by international courts and tribunals is certainly welcome. The general public is also made more sensitive to these issues, highlighted by the Nobel Prize of D. MUKWEGE and N. MURAD. Numerous documentaries also take up the issue: *City of Joy*, *Zero Impunity*, *The Uncondemned* ou encore *Syrie, le cri étouffé*⁷⁶, are all works that seek to inform and denounce the taboo issue of sexual violence without filters. However, the situation is far from resolved. The UN is trampling and its programs seem incapable of resolving the situation. The international tribunals, important symbols, lack the means to properly investigate cases and question the perpetrators of sexual violence or their implementation. The acquittal of Mr. BEMBA in 2018 is an alarming signal for the victims who had finally seen the responsibility of a military leader for sexual violence as a weapon and tactic of war recognized.

Therefore, how can we work effectively to reduce sexual violence and care for victims? Easier said than done, even with a precise knowledge of the contexts and forms of sexual violence in wartime. The work of E. WOOD sheds light on the perspective of a non-systematic character of this sexual violence, which would be linked to the organizational character of the military groups that perpetuate it. Identifying "rape-prone" structures and setting up specific mechanisms could be a first solution. Establishing intermediaries and care mechanisms in each region, including the most remote ones, could be another. But it would be illusory to think that

⁷⁶ *City of Joy*, by Madeline GAVIN ; *Zero Impunity*, by BLIES brothers; *The Uncondemned*, by Michelle MITCHELL and Nick LOUVEL ; *Syrie, le cri étouffé*, by Manon LOIZEAU.

the situation will improve without a real political upheaval on the subject: associations and courts need the means, and reliable institutional frameworks, to be able to offer victims real care and to break the vicious circles of sexual violence in times of conflict.

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