

UNIVERSITÀ DEGLI STUDI DI PADOVA

DEPARTMENT OF POLITICAL SCIENCE, LAW,
AND INTERNATIONAL STUDIES

**Master's degree in
Human Rights and Multi-level Governance**



GENDER-BASED VIOLENCE IN CONFLICTS AND
SECURITIZATION:
PROBLEMS, JUSTICE AND A POSSIBLE SOLUTION

Supervisor: Prof. AMEDEO OSTI GUERRAZZI

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Matriculation No. : 2073216

A.Y. 2023/2024

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ACRONYMS

CRSV	Conflict-related sexual violence
DPA	Dayton Peace Agreement
DPKO	Department of Peacekeeping Operations
DRC	Democratic Republic of Congo
ECCC	Extraordinary Chambers in the Courts of Cambodia
FARDC	Armed Forces of the Democratic Republic of Congo
GBV	Gender-based violence
IASC	Inter-agency standing committee
ICC	International Criminal Courts
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
MUNOC	United Nations Mission in the Democratic Republic of Congo
PRIO	Peace Research Institute of Oslo
RPF	Rwandese Patriotic Front
SEA	Sexual exploitation and abuse
SEAP	Sexual exploitation and abuse by peacekeepers
TCC	Troop contributing country
UNAMIR	United Nations Assistance Mission for Rwanda
UNPROFOR	United Nations Protection Force
UNSCR	United Nations Security Council Resolution
UNTSO	United Nations Truce Supervision Organization

ABSTRACT

The widespread perpetration of gender-Based violence (GBV) in societies, and particularly in conflicts, has sparked a particular attention to such problem during the end of the twentieth century. The main international response to the perpetration of conflict-related sexual violence (CRSV) has been that of applying the theory of securitization to policies and peace operations concerned with CRSV. However, securitization has often been criticized as a theory, and the same critics have been posed to its application to such conflicts.

Through the analysis of the reasons behind the perpetration of gender-based violence in the Democratic Republic of Congo, Rwanda, former Yugoslavia and Cambodia under the Khmer Rouge Regime, this thesis argues how a thorough understanding of the various reasons behind the perpetration of gender-based violence, with a particular focus on sexual violence, before, during and after a conflict, can help overcome those problems posed by the securitization approach and those which emerge during peace operations.

Key Worlds:

Sexual violence, Democratic Republic of Congo, International Criminal tribunal for Yugoslavia, International Criminal tribunal for Rwanda, Cambodia, Peacekeeping, Securitization.

INTRODUCTION

Gender-based violence (GBV) is a constant in any society, even if its extent and forms can vary and be declined in various ways. In particular, sexual violence is often considered as an independent matter, but in reality it is part of GBV. The reasons behind both GBV and sexual violence are various, and they are related to each society and context, and can be intertwined with other forms of discrimination and violence.

Even if it is common knowledge that GBV is perpetrated in peaceful societies, scholars have often considered its perpetration in conflicts, and particularly the one of the so-called conflict-related sexual violence (CRSV) as a by-product of war and is therefore normalized.

As a consequence, it was not until the wars in Rwanda and Yugoslavia that the world, and in particular international organizations, started to acknowledge how CRSV is not simply an inevitable part of clashes, as well as the extent it can assume. However, scholars were divided between those that believed that with the 20th century wartime rape had increased in frequency and extent, such as Susan Brownmiller; and those who believed that such phenomenon has a timeless ubiquity, such as Jonathan Gottschall, who recalled how examples of widespread conflict-related sexual violence were presented in the Torah, in Homer and mythological events, like the rape of the Sabine¹.

Even if I agree with the latter opinion, and I believe that it is of crucial importance to recall such timeless perpetration of conflict-related sexual violence, I also argue that it is true that in the 20th century the extent of its perpetration has increased. This has mainly been possible by the change in how the conflicts are carried out in modern and contemporary times.

Surely the emergence of such issues in the last century is also to be attributed to the new technologies developed in the last century, especially related to media communication and journalism, have allowed for a wider reporting of rapes and other

¹ J. GOTTSCHALL, *Explaining wartime rape*, in *The Journal of Sex Research*, Vol. 41, No. 2, pp. 129-136, 2004, available at: <https://www.jstor.org/stable/3813647>, p. 129.

forms of violence carried out by armies, armed groups and non-armed groups during conflicts.

However, the attention sparked by CRSV has not led yet to solutions related to such problem. In fact, the latter is a multi-faceted issues, and when dealing with it, multiple elements have to be taken into consideration. Only by doing so it is possible to rebuild societies after conflicts in a way that does not replicate such discriminations and elements that lead to the perpetration of GBV. Moreover, such acknowledgment is also important in order to change the attitudes adopted in peacetime societies towards GBV and sexual violence more specifically.

The thesis I propose is that, by analyzing the major factors that lead towards the perpetration of GBV in conflict, with particular attention to conflict-related sexual violence, it is possible to achieve the above mentioned goal. This entails a systematic change in the way in which scholars and international organizations, as well as civil societies and activists, approach gender-based violence.

As a consequence, it is necessary to tackle the issue of the securitization theory and how it has been applied to conflict-related sexual violence. By analyzing the policies which have resulted by such application, it is possible to analyze which have been the main achievements, but also which are the major obstacles that still impede the achievement of a real justice and elimination of every kind of discrimination on the basis of gender.

In order to prove such theory, I will first discuss the reasons that have led to the perpetration of conflict-related sexual violence in four conflicts. Even though each case is different and it is impossible to throughout understand all the reasons behind the preparation of CRSV by just analyzing four cases, the importance of the cases analyzed is such that it allows to highlight those elements that have majorly contributed to the carrying out of gender-based violence in many societies and wars. The four case studies will be those of the Cambodia under the Khmer Rouge regime, the Democratic Republic of Congo (DRC), Rwanda and Yugoslavia.

In the first chapter of such thesis I have briefly discussed the main theories related to the perpetration of conflict-related sexual violence: the “pressure cooker” theory, the

strategic rape theory and the feminist one. A particular attention has been given to the latter and the critics feminist scholars have posed to the one-dimensional narrative of sexual violence which are often adopted in policy mechanisms.

By doing so, I have introduced two elements that I believe are at the basis of the perpetration of gender-based violence in every society: discrimination and traditional gender roles. Even if strictly intertwined, these two have many differences which are crucial in understanding the different ways in which they can lead to the perpetration of CRSV.

Related to the first matter, is the one of discrimination carried out in the Khmer Rouge dominated Cambodia, where the class divisions and discrimination present in peacetime were exacerbated by the party, and used in order to carry out their goals and ideals. On the other side, the divisions that were present in Rwanda and Yugoslavia had their roots in decades before the wars, and were mainly based on national and identity grounds. These two conflicts are the clear example of how traditional gender roles and discrimination are intertwined: the role of women in the traditions of the different groups, in fact, were used against them and were an excuse for the carrying out of sexual violence, as in the case of Muslim Bosnian women in Yugoslavia.

The power of traditional gender roles in rooting the perpetration of CRSV is clearly shown by the case of the Democratic Republic of Congo. The study conducted by researchers Ali Bitenga and Kitoka Moke was particularly important in highlighting how gender-based violence is often associated with masculinity and patriarchy, which are exacerbated in a military context.

All of these elements are also connected with some psychological drivers of GBV, which have been discussed in chapter II. However, a premise is necessary on the difference between the “sexed” and the “gendered” stories, which have been elaborated by Eriksson Baaz and Stern. This theory highlights which are the major psychological elements at the basis of the perpetration of conflict-related sexual violence.

The first element analyzed was that of soldiers’ conditions, which was particularly important in the DRC, where militarization was intertwined with gender discrimination present in the society before the spark of the conflict. Furthermore, the dire conditions

of soldiers were a driver of impunity, in which not punishing sexual violence was seen by many commanders as the way to avoid retaliation from the troops.

In Rwanda and Yugoslavia, as anticipated, identity reasons, mainly connected with the concept of ethnicity, were crucial in determining the carrying out of CRSV. These divisions were the roots of a widespread carrying out of violence which also adopted a particular strategic character that made it into a weapon of war. Such aspect was then particularly studied by the International Criminal Tribunals for Rwanda and Yugoslavia, as analyzed in chapter III.

Lastly, class rage, revenge and ideology were at the basis of the perpetration of conflict-related sexual violence in Cambodia. In fact, the Khmer Rouge took into consideration many aspects of the Cambodian traditions and social roles and used them as tools to perpetrate their goals and exert control over the populations. One of the main outcomes has been that of forced marriage and rape within marriages. However, it did not gather much attention up until the first studies on such matters were carried out and victims and witnesses spoke out, such as the one by the Transcultural Psychosocial Organization Cambodia and the United Nations trust fund to end violence against women.

The third chapter was dedicated to punishment and impunity of gender-based violence in conflict. The International Criminal Tribunals for Rwanda and Yugoslavia were crucial in opening up for the possibility for sexual violence to be considered as a crime against humanity, a war crime and even to constitute a crime of genocide. However, the groundbreaking decisions taken by the Tribunals were spoiled by the reiteration of gender stereotypes, such as in the case *Prosecutor v. Pauline Nyiramasuhuko*.

Moreover, DRC was marked by a failure of the justice system, plagued by many problems connected with the possibility to access courts, to know national and international law as well as to have the economic possibilities to embrace a cause. Moreover, stigma and exclusion of victims of sexual violence from their communities were a deterrent from confessing the crimes they had been subjected to. Even if the Country adopted some laws and provisions trying to punish cases of sexual violence,

they were not effective. Moreover, as shown by the case of the 14th brigade, many problems of impunity were connected with the army itself.

Lastly, in Cambodia the attempts to bring to justice were taken years later the rise to power of the Khmer Regime, which caused many perpetrators to be already dead or very old. Moreover, as sexual violence was formally prohibited by the Regime's laws, many victims were killed immediately after the rape in order to hide the proof. The other fate of victims was that of forced marriage, and rape within such unions has not been considered as a violence for a long time both legally and at the social level.

The Extraordinary chambers in the Courts of Cambodia was given the powers to prosecute the perpetrators of such crimes, however many obstacles arise. Among them there were organizational ones, as well as others related to the lack of resources. However, those related to stigma and fear, as well as threats, were also avoiding people to speak out.

Some attempts to reach justice have been made by international organizations and the civil society, for example through the project "Women and Transitional Justice in Cambodia", which aimed at giving women a voice and a platform to speak about their suffering.

As previously mentioned, it is also crucial to understand how the international organizations have responded to such violences. In particular, chapter IV focuses on the theory of securitization, its development and the main critics it has received. This first discussion is followed by an historical analysis of the application of the securitization theory to the issue of conflict-related sexual violence. One of the main outcomes was the adoption of a series of Resolutions of the Security Council of the United Nations. However, such Resolutions have been highly criticized because of the perpetration of those elements that are at the basics of gender discrimination. In particular, the last part of the chapter focused on the theory of fetishization developed by Sara Meger.

Lastly, Chapter V focuses on peacekeeping and peacebuilding. After a brief introduction on the different kinds of space operations and how they are grounded in the Charter of the United Nations, I carried out an analysis of the impact that peacekeeping

has on women's safety through the study carried out by Ragnhild Nordås and Siri Rustad on thirty-five peacekeeping missions carried out between 1999 and 2010.

This was followed by an analysis of the reasons behind the perpetration of sexual violence and abuse by peacekeepers, which are in many ways similar to those of soldiers in conflict, but not exactly the same. Moreover, this is, again, connected with the lack of punishment of such behaviors, even if there has been multiple reports on various cases.

One of the possible solutions proposed was that of giving a bigger role to women in peace operations in general. In fact, the presence of more women can be a deterrent to the perpetration of sexual violence and abuse, and it can also higher the chances of reporting of such behaviors. However, the way in which such solution has been phrased highlights again those gender divisions and stereotypes which are at the basis of GBV per se. Moreover, there has not been a consistent and real practice of what has been theorized.

Finally, in the conclusion I will gather all the main outcomes of this analysis and explain how I believe they are in support of my thesis for which a real understanding of the elements behind the perpetration of gender-based violence and conflict-related sexual violence is the key to eliminate such factors and violences.

CHAPTER I

THE ROLE OF SOCIAL NORMS AND BEHAVIORS IN GENDER-BASED VIOLENCE

Gender-based violence, also referred to as GBV, is perpetrated due to the gender of the victim. It has been defined in the Explanatory report to the Istanbul Convention as:

[referring] to any type of harm that is perpetrated against a person or group of people because of their factual or perceived sex, gender, sexual orientation and/or gender identity¹.

There are numerous misunderstandings connected to this concept. Firstly, it is usually referred to acts committed by men against women and girls, however, the roles may be inverted: men can be victims and women can be perpetrators, moreover, homosexual rape is a reality that needs to be acknowledged as well. This common reference, nonetheless, finds its reason in the former relationship as majoritarian in any society and in any time, due to many reasons, from the physical ones (men are usually physically stronger than women), to the sociological ones that will be analyzed throughout this chapter.

Secondly, the reference to *gender* needs a clarification: for centuries this term has been based on the biological sex of a person, but it is also linked to specific roles ascribed by societies to (biological) men and women. In later years, there has been a shift towards considering culture and identity as being part of the factors determining gender. Regardless, when it comes to studies related to GBV and sexual violence in conflict, the reference is mainly to biological sex.

Thirdly, sexual violence and rape are often considered as synonyms of GBV, however, they are not the same thing. The formers are two of the many shapes that the latter assumes. When it comes to wars, in particular, it is possible to talk about conflict-related sexual violence, or CRSV, which, again, is comprehended in the broader category of GBV.

¹ COUNCIL OF EUROPE PORTAL, *What is gender-based violence?*, in *www.coe.int*, available at <https://www.coe.int/en/web/gender-matters/what-is-gender-based-violence>, last accessed March 27th 2024.

The above mentioned division between sexual violence and GBV is essential in order to understand that the latter can take many forms, of which some may not be physically violent. By doing so, it is possible to identify the root causes of such violence and fight it at its origin: even when strongly focusing on CRSV, it is essential to consider it is part of a broader category.

In fact, it is often perceived as being limited to times of conflict and crisis, but in reality this phenomenon is rooted in peaceful societies², and from there it stems in times of war. This is highly connected with the feminist theories, which sustain how gender-based violence is not a rupture from pre-conflict time to the conflict period, but there is a continuum in the violence.

Gender-based violence, and in particular conflict-related sexual violence, in fact, has been considered often as a side-effect of warfare, as something inevitable that stems from the widespread war violence. However, CRSV is not present in all conflicts, and when it is, it does not always assume the same shapes and is not perpetrated on the same scale³.

Sexual violence in peacetime and in conflict has similar elements, but is not exactly the same. Particularly, in times of war, it may be exacerbated by elements other than gender, such as ethnic, religious or ideological identities. Moreover, it often assumes levels of brutality which are much higher than in peacetime, with acts perpetrated in public, in front of the victims' families, including through mutilation, use of objects and torture⁴. It is also true that wartime sexual violence is not present in all conflicts, and, when it is, it does not assume the same purpose and forms, as well as extent.

Political Scientists Dara Key Cohen and Elisabeth Wood, as reported by Carlo Koos, have highlighted how, during wartime, gang rape has an increased likelihood compared

² E. REHN, E. J. SIRLEAF, *Women, war and peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, in www.unwomen.org, 2002, available at: <https://www.unwomen.org/en/digital-library/publications/2002/1/women-war-peace-the-independent-experts-assessment-on-the-impact-of-armed-conflict-on-women-and-women-s-role-in-peace-building-progress-of-the-world-s-women-2002-vol-1>, p. 10.

³ C. KOOS, *Sexual violence in armed conflicts: research progress and remaining gaps*, in *Third World Quarterly*, May 2017, available at: DOI: 10.1080/01436597.2017.1322461, p. 1.

⁴ *Ivi*, p. 2.

to peacetime, with comparable values of more than seventy per cent in wartime and a range from two to twenty-seven per cent in peacetime⁵. CRSV may be used with specific purposes against certain groups, and it has often been used in war «to the extent of constituting a war crime, a crime against humanity or a constitute act with respect to genocide when the other elements of the crimes are present»⁶.

Sexual violence in conflict can be perpetrated by different actors, usually by state forces such as the military, but also by non-state ones, such as rebels and militias. Wood defined CRSV as «rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity»⁷. However, there are many scholarly debates on what constituted this concept.

According to Jonathan Gottschall, wartime rape is not to be considered in terms of isolated cases, but it indicates the sexual violence perpetrated by soldiers at rates much higher than the one perpetrated in peacetime, and can be used as a synonym of mass wartime rape⁸.

On the other side, feminist scholars such as Eriksson Baaz, Stern, Kirby and Meger, sustain that this concept is too related to times of conflict, to the extent that «the international community capitalises on CRSV in a way that oversimplifies, even exploits, CRSV and neglects the larger sociocultural context in which sexual violence takes place»⁹.

After the wars in Rwanda and in former Yugoslavia, the world has started to acknowledge the role of sexual violence in conflicts, and this has led to the adoption of international instruments with the aim of eliminating this plague. However, this framework of securitization also carries with itself a series of problems, starting with the simplification of a very complex issue.

⁵ *Ibid.*

⁶ OHCHR, *Rape as a grave and systematic human rights violation and gender-based violence against women*, in www.ohchr.org, last accessed April 30th 2024.

⁷ C. KOOS, *Sexual violence in armed conflicts: research progress and remaining gaps*, cit., p. 2.

⁸ J. GOTTSCHALL, *Explaining wartime rape*, in *The Journal of Sex Research*, Vol. 41, No. 2, pp. 129-136, 2004, available at: <https://www.jstor.org/stable/3813647>, p. 129.

⁹ C. KOOS, *Sexual violence in armed conflicts: research progress and remaining gaps*, cit., p. 2.

The discourse of CRSV, in fact, has been governed by «grids of intelligibility»¹⁰, which refer to what can be said about sexual violence in war, but often reduce the role of context and only reproduce instances of violence. Related to this is the importance of distinguishing between the ‘sexed’ story and the ‘gendered’ story of rape, which will be further analyzed in Chapter II, but that mainly refer to the roots at the basis of CRSV.

The feminist theory challenges the dominant and fixed discourses by seeking to take onto consideration the diversity of experiences lived by victims, therefore not accepting one-dimensional narratives and universal ones. One first critic is related to the gender binaries, which sees women exclusively as victims and men as perpetrators. This not only ignores the possibility for men and women to cover different roles, but also the existence of other subjects, such as the children born from this violence and the consequences on their lives.

Feminist scholars also criticize how the focus is often exclusively on sexual violence, but not on the broader forms that GBV assumes, such as those connected to socioeconomic and reproductive rights. This leads to some violences being considered of less importance, and creating a «victim hierarchy»¹¹ and to the non-recognition of forms of violence other than sexual ones.

A third feminist critique concerns the perception of women as passive victims, which, again, does not entail women as perpetrators, but also as combatants and resisting violence. Consequently, this discourse goes towards an homogeneous interpretation of sex during war, denying autonomy of women and universalizing their experiences. Those that do not conform to the generally understood paradigm of victim, will therefore be excluded from representation and from possibility of obtaining justice¹².

¹⁰ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war? Perceptions, prescriptions, problems in the Congo and beyond*, 2013, p. 3.

¹¹ N. HENRY. *Theorizing wartime rape: Deconstructing Gender, Sexuality, and Violence*, in *Gender and Society*, vol. 30, no. 1, 2016, pp. 44–56, Available at: <http://www.jstor.org/stable/24756163>. Accessed 15 Jan. 2024, p. 46.

¹² *Ivi*, p. 47.

Some feminist scholars, such as Susan Brownmiller, identify that of power and willing of exerting dominance on women, as a key element of sexual violence, both during peacetime and wartime. This theory opposes that of the “pressure cooker”, elaborated by Siefert, that sees wartime rape as the result of «irresistible biological imperatives»¹³.

The feminist theory, on the other side, sees the pressure that leads towards wartime rape as being based on misogyny rather than libido, and, connected to what has been previously said, to the societal discrimination and gender roles of patriarchal societies. By saying so, wartime sexual violence is no more a mere effect of war, but has its root causes in peacetime societies.

There are many other theories that have been developed related to this matter. One of these is the strategic rape theory, which is one of the most influential and supported ones. In this perspective, sexual violence, and especially mass rape, becomes a tool that the military and militias use to accomplish strategic objectives, the effect is that of spreading terror, undermining resistance and humiliating the victims with long term effects on women and on the society as a whole, especially when it comes to children born from this kind of violence¹⁴, who, as their mothers, are often victims of stigma and exclusion from their communities.

Going back to the feminist critic of the general understanding of CRSV, this is also related to the securitization¹⁵ of this matter, which has led to the creation of an international system of resolutions and other instruments which try to eliminate this plague, but without being effective. It is therefore important to understand what are the weaknesses of this kind of securitization and how they can be dealt with. In order to do so, it is crucial to understand all the elements at the basis of sexual violence, both in peacetime and wartime, in order to be able to tackle it from its roots.

With this aim, the following chapter will deal with the societal reasons at the basis of sexual violence, namely discrimination and traditional gender roles, which lead to the

¹³ J. GOTTSCHALL, *Explaining wartime rape*, cit., p. 130.

¹⁴ *Ivi*, pp. 131-132.

¹⁵ The matter of securitization will be further analyzed and discussed *infra* chapter 4.

perpetration of GBV and to its escalation during conflicts. According to Sara Meger, in fact, the effectiveness of the use of sexual violence in war is higher when it is grounded in preexisting sociocultural dynamics¹⁶. The social attitudes towards women and towards the different roles of groups in societies can have a fundamental role in determining whether and how GBV is present in conflict situations.

1.1 DISCRIMINATION

Discrimination between groups, whatever ground it is based on, often leads to violence, especially in conflicts. However, I believe that, as for GBV, the discrimination manifested during times of war is grounded on the one present in peacetime societies.

The case of the Khmer Rouge regime in Cambodia is essential in order to understand the role of discrimination in peacetime in generating violence, and in particular sexual one, during conflicts.

The Khmer Rouge leader, Pol Pot, held a discourse on September 1977 in which he acknowledged for the first time the existence of the Communist Party of Kampuchea, or CPK. In this speech, as in following documents of the party and the regime, there was the clear reference to an history of exploitation and class struggle within the country. With the same speech, Pol Pot acknowledged the birth and development of the CPK, by referring to the establishment of a committee in 1957 which aimed at creating a political line for the party based on Marxism-Leninism.

This was strictly connected with the willing of the population to separate from France and obtain independence, and therefore with a strong negative feeling towards colonialism and Western countries. According to anthropologist Alexander Laban Hinton, «the key to revolutionary success seems to have been total commitment to the DK party line, a high-modernist, abstract set of principles that had been determined through “scientific analysis”»¹⁷.

¹⁶ A. ALI BITENGA, M. KITOKA MOKE, *Behind the weapon of war: sexual violence in wartime as a reflection of social attitudes towards women in peacetime*, in *Journal of sexual aggression*, Vol. 28 No. 2, 149-163, 2022, available at: <https://doi.org/10.1080/13552600.2021.1949500>, p. 149.

¹⁷ A. L. HINTON, *Why did they kill? Cambodia in the shadow of genocide*, 2005, p. 50.

This analysis led the Party to highlight two main contradictions present in the society, one is that, even if independence had been formally obtained, the country was still exploited and dependent from Western countries. The second is that the population was «plagued by internal class contradictions»¹⁸.

Returning to the 1977 speech, Pol Pot affirmed that the key to winning the war was to have peasant arising, seeing these contradictions and «[burn] with class hatred and [take] up the struggle»¹⁹. He asserted that this class hatred had been opposed in the past and that the peasants had incorporated the idea of having that status because of karma. Therefore, the party was providing the masses with the possibility to see the problems and contradictions in society and to raise against them.

The populations started to adhere more and more to the communist ideals, firstly because of the continuity of the Vietnam war and the difficulties of the Cambodian economy, but especially because of the hatred that was rising against the Lon Nol regime.

This idea of oppression was surely based on prior divisions between the poor and the rich, but also on the power of language. In Cambodian, in fact, oppression literally means “to be stepped upon” and “dominated”. This could be one of the reasons why the peasants, strained by the war and by poor conditions, started embracing the Khmer Rouge ideology²⁰.

This upsurging rage was in contrast with the ideal Buddhist states of equanimity and balance, and in fact, as in any other Communist regime, religion was eliminated as a social factor as a whole. However, in the Cambodian tradition people may respond to anger in a violent way, putting in place a disproportionate revenge. In fact, to merely repay a bad action would mean to balance things, but the willingness is that of completely annihilating the enemy, *phchanh phchal*: deterring any retaliation because the enemy is destroyed or in fear²¹. In order to avoid a future revenge, often the enemies

¹⁸ *Ivi*, p. 51.

¹⁹ *Ivi*, p. 52.

²⁰ *Ivi*, pp. 59-60.

²¹ *Ivi*, p. 69.

were killed, but this also led to the killing of their families, in order to «cut off their seed»²².

The communist ideology has been applied and modeled on the Cambodian society, where another important element was that of *face*, considered as social standing and which had to do with *honor*. This led towards the notion of value of people, hence evaluating others and their position in the social context. Face is always at stake through social interactions and therefore people have to maintain it as it is strategically negotiated²³.

During the communist regime, the social status was even more important, in which it determined one's position and fidelity to the party. Even if, in contradiction to what really was going on, rank and status were considered to be a manifestation of private property, they were still very important in assessing people's roles in society. This often led to privileges, for example rank could allow better food, larger homes, new clothes.

Face and honor started to be considered in terms of «revolutionary consciousness»²⁴. One of the factors that mainly characterized the latter was that of behavior, which determined the actions that a person was willing to do in order to assert its faith to the regime and to have a high honor. This resulted in the honorable consideration of the killing and brutalization of those who were not loyal to the regime²⁵.

These concepts led towards an even more prominent discrimination among people. The social role and social position that a person was holding determined its face and honor, and consequently its social status. The Cambodian Communist Party started working on class rage and class discrimination to gather loyalty among the masses, and then used this inequality between people in order to exercise authority.

Discrimination among individuals was a weapon used to exert power and violence. Cadres²⁶ had to prove they were revolutionaries and had to be «ready to commit acts of

²² *Ivi*, p. 70.

²³ *Ivi*, p. 247.

²⁴ *Ivi*, p. 259.

²⁵ *Ibid*.

²⁶ The term Cadres was used by Khmer Rouge members to refer one another.

genocide in order to “defend” the purity of the new social order»²⁷. Higher status cadres were granted more privileges even compared to the civil population, in which they were considered to be more honorable and revolutionary.

The Communist regime, therefore, used social class divisions that were not so accentuated and made them an important part of their campaign and of violence. Through violence and fear they exerted control of the population and gathered loyalty with promises of honor, especially among the young.

The social discriminations present in the Country before the war, even if not so accentuated, were a starting point to create a society where these divisions were dominating violence and were used during wartime. In fact, the use of these discrimination tools and class distinctions was crucial for the maintenance of power by the CPK²⁸, but especially was at the base of the violence that was devouring the country. This discrimination and divisions, perpetuated also through traditional concepts such as face and honor, became important in determining how people would be punished and what kind of violence they would suffer.

This obviously does not only concern the perpetration of gender-based violence, but for sure the latter is rooted in these concepts and in the carrying out of this kind of ideas and ideals. Therefore, division and discriminatory elements present in peacetime have been crucial in creating the bases for the perpetration of violence during wartime.

The same is true for other conflicts, such as those in Rwanda and in former Yugoslavia. In both wars, ethnic belonging was crucial in the perpetration of violence, and it was strongly rooted in peacetime divisions and discrimination.

The history of Rwanda was crucial in the development of ethnic tensions. The Country saw three main ethnic groups, in the years before the beginning of the conflict about 85% of the population was Hutu, the rest was Tutsi, but there was also another small minority, that of the Twa, descendants of the original inhabitants of Rwanda²⁹.

²⁷ A. L. HINTON, *Why did they kill? Cambodia in the shadow of genocide*, cit., p. 261.

²⁸ This matter will be further analyzed *infra* paragraph 2.1.

²⁹ A. ONION, *Rwandan Genocide - Facts, Response & Trials*, in www.history.com, last updated May 19th 2023, available at: <https://www.history.com/topics/africa/rwandan-genocide#rwandan-ethnic-tensions>, last accessed June 3rd 2024.

The country was subjected to colonial rule first by Germany and then it became a Belgian trusteeship after the end of the First World War. In particular, this second period saw ethnic divisions as becoming more important within the country. The Belgians, in fact, were favoring Tutsis, which, however, as above mentioned, were a minority within the country's population, even though they were generally richer.

This led towards a spiral of violence that conveyed in the Hutu revolution of 1959, when about 330,000 Tutsis were forced to flee the country. The Tutsi monarchy was then exiled and the country became a republic. The same year, 1962, it also gained independence from Belgium.

The ethnic divisions, nonetheless, were not simply eliminated and tensions continued to lead to violence, and then to the invasion by the Rwandese Patriotic Front (RPF) of the country in 1990. This force was mainly constituted by Tutsi refugees, but the Rwandan Tutsi population was accused of being accomplices, and started being arrested. From 1990 to 1993 Tutsis were violently killed and were the object of severe discrimination and violence³⁰.

This brief history of the country shows how the violence and discrimination inflicted among ethnic groups during the war had a strong basis on the ones carried out in peacetime for many decades.

This kind of division and discrimination was perpetrated in the society before the war also through propaganda, especially through the distinction of "us" versus "them", that had its roots in the divisions created by the colonizers, who used them in order to keep control and obtain advantage. This went to the extent of the Belgians issuing identity cards based on ethnicity, permanently dividing the three ethnic groups³¹. Therefore, the colonialists "created" and used these ethnic divisions.

The Arusha Peace Accords were adopted a year before the beginning of the genocide, but the country was already suffering from an elevated level of violence and discrimination. With these accords a transitional government was established, including

³⁰ *Ibid.*

³¹ A. HEFTY, L. AUSSERLADSCHEIDER JONAS, *From hate speech to incitement to genocide: the role of the media in the Rwandan Genocide*, in *Boston University International Law Journal*, Vol. 38:1, available at: https://www.bu.edu/ilj/files/2020/08/Article_HeftiJonas.pdf, p. 5.

the RPF. These Accords, among the other things, provided for the return of refugees to Rwanda and the integration of the RPF in the armed forces³².

However, the situation remained tense, and hate propaganda started to gain a crucial role in the road towards the genocide. In April 1992 the *Radio Television Libre des Milles Collines (RTL)* was created and started to broadcast anti-Tutsi propaganda just days after the signing of the Accords³³. This Radio was created by two Hutu extremists, Ferdinand Nahimana and Jean-Bosco Barayagwiza. The former, during his process at the International Criminal Tribunal for Rwanda, defined it as a response to the “Tutsi Media Monopoly”.

This was a private radio station, but was connected with Radio Rwanda, the national radio, which only turned into an extremist one with the beginning of the genocide. Both, as the Radio Muhabara established by the RPF, were essential in the spreading of violence and hate during the genocide, and their actions were all based on discrimination already present in peacetime.

The propaganda was very effective because it simultaneously dehumanized Tutsis and legitimized their extermination, playing also on historically divisive ethnic myths. After Habyarimana’s plane was shot down and the dictator was killed³⁴, the war started in a matter of hours. The Hutu media immediately started playing a central role in creating a sense of urgency in the people which culminated in violence³⁵.

As in Rwanda, also in Yugoslavia the issue of nationality was already present before the start of the wars in the 1990s. In particular, they became of impelling importance

³² Ivi, p. 7.

³³ *Ibid.*

³⁴ Habyarimana seized control of the country through a coup in 1973. After this, he established the National Revolutionary movement for Development, of which he was leader. Rwanda became a single-party state and he ruled the country for more than twenty years, until his death.

³⁵ M. LOWER, T. HAUSCHILDT, *The Media as a Tool of War: Propaganda in the Rwandan Genocide*, in www.hscentre.org, May 9th 2014, available at: <http://www.hscentre.org/wp-content/uploads/2014/05/HRCR-2014-Issue-2-No.-1.-Lower-and-Hauschildt-The-Media-as-a-Tool-of-War.pdf>, last accessed April 30th 2024, pp. 3-4.

after the death of Tito³⁶, which had ruled the country for decades under a Communist regime.

The Country was constituted as a federation made by six republics and two autonomous regions, namely: Croatia, Slovenia, Montenegro, Macedonia, Bosnia and Herzegovina and Serbia, where there were the two autonomous provinces of Novi Sad in the region of Vojvodina and Pristina in the region of Kosovo.

During the communist regime, however, even if the country was united as it had never been before and as it was never to be again, the national divisions were still present and led to discrimination and even to some emerging violence. One example is that of the Croatian Spring of 1971³⁷, which has been considered by many scholars as the beginning of the national question. This issue started raising from the fact that enterprises started having increasing autonomy, especially in Slovenia and Croatia, which were geographically closer to the European Market. These enterprises, which were the strongest in the whole Yugoslavia, did not want to transfer part of their earnings to the center of the state to help underdeveloped parts of the country.

The upsurge, characterized also by a sense of national belonging, was harshly repressed by the police intervention in 1971. This led towards the decision of the country to change the regime into a confederation, giving more autonomy to the Republics. The defeat of the Croatian Spring, however, led to the purge of liberal elites in Slovenia and Serbia.

With the death of Tito, the national question that had started to raise among the Republics' populations started to be stronger and stronger, accompanied by the question of transition, all of this in a context of cold war where Yugoslavia was part of the non-aligned countries and it had started to negotiate a Cooperation Agreement with the European Economic Community.

³⁶ Josip Broz, commonly known as Tito, during World War II led the fight against the nazi and fascist invasion of the territories that would have then constituted Yugoslavia. After the end of the war, he was in charge of leading the newly constituted country and in 1953 became the President of the Republic. He was able to keep Yugoslavia united, but after his death, the national divisions led towards the wars and the end of Yugoslavia.

³⁷ S. RAJAK, K. E. BOTSIOU, E. KARAMOUZI, E. HATZIVASSILIOU, *The Balkans in the Cold War*, 2017.

In the meanwhile, the Serbian and Slovenian leaderships began developing opposite views of the 1974 Constitution. While the latter wanted more independence, the former, Milosevic, feared that by gaining more independence, Yugoslavia would have fallen. The Serbian population was, in fact, divided in many territories, and he feared that, with more autonomy, it would have been split into independent countries.

This led towards the first revolts in Kosovo in 1981, where the Albanian majority started claiming for the constitution of a Kosovo Republic, causing the Serb reaction and claims on Kosovo Serbs being victims of genocide.

The national claims in the country were therefore very different, and based on this there were different political interests. Slovenia and Croatia wanted to obtain independence, and their populations were mainly in the respective countries, even if there were several Croats in Bosnia and Herzegovina. The latter, in fact, was constituted by the most heterogeneous population among the Republics, in which it was divided into: Serbs, Croats and Bosnians. Moreover, the latter were mainly Muslim, and therefore called Bosniaks, and suffered religious discrimination in the Serb propaganda.

Serbs and Croats were the two largest national groups in the country and the borders they wanted were overlapping. The only ones that had clearly defined borders which more or less were comprehending the whole national population were the Slovenes³⁸.

The national groups in Yugoslavia felt threatened by the other ones and the atmosphere was one of resentment and hatred. This led to Croats wanting independence, and Serbs wanting to keep the country united. Mainly the Serbs were unsatisfied by the 1974 constitution, which mined its territorial integrity because of the presence of two autonomous provinces, perceived as mining the sovereignty of Serbia. The issue was particularly strong in Kosovo, where ethnic Albanians wanted independence³⁹.

What has been crucial in the use of national identities for political purposes has been propaganda leveraging into these divisions and discriminations. One clear example has

³⁸ V. PESIC, *Serbian Nationalism and the Origins of the Yugoslav Crisis*, 01 April 1996, in *United States Institute of Peace*, available at: <https://www.usip.org/publications/1996/04/serbian-nationalism-and-origins-yugoslav-crisis>, p. 3.

³⁹ V. PESIC, *Serbian Nationalism and the Origins of the Yugoslav Crisis*, cit., p. 4.

been that of Kosovo Polje after the rise of violence between Kosovar Serbs and Albanians. Milosevic, who at the time was the leader of Serbia, held a discourse in this significant location, which was of great importance for the history of the Serbs in which they had suffered the legendary defeat by the Ottomans.

In his discourse Milosevic presented a video eliminating the scenes where the Serbs were throwing rocks at the police, and the latter looked like the aggressors without any reasons. The event was broadcasted nationally and not locally and aimed at having all Serbian minorities in Yugoslavia to unify. Milosevic became a Serbian hero and the Serbian people started following him even more, while he took control of media outlets⁴⁰. He continued holding speeches while the popular wave became more and more important in the country and his willingness was to mobilize the Serbs.

This also had a backlash in other Republics, especially in Slovenia and Croatia. The country was in a bad economic situation, with stagnation, decrease of salaries, inflation, and the League of Communists had dissolved. In this context the figure of Tudjman emerged as the leader of Croatia, aiming at independence. He used victimization rhetoric in order to reach his goals, affirming that Croatia had been oppressed by many powers, first Austria-Hungary, then Tito's Yugoslavia, and now Milosevic's Serbia⁴¹. His words were strengthened by the new power gained by Milosevic in the two autonomous regions and by the upsurge of the Serbian population. His strategy was that of «spreading the truth about Croatia»⁴², such as the victimhood, Serbia's misrepresentation of Croatia's history as collaborators of the Nazis in World War II.

By the beginning of the last decade of the century, the independent press in Serbia was non-existent and Milosevic was controlling all publications, the rise of Croatian nationalism caused fear among Serbs living within Croatian borders, strengthening even more Milosevic's position and ideas. This led towards the dissemination of paranoia among the Yugoslavian population and started turning into more physical violence such

⁴⁰ J. H. GROVE, *From Brotherhood and Unity to Fratricide: Propaganda in Former Yugoslavia*, *University Honors Theses*, paper 510, available at: <https://archives.pdx.edu/ds/psu/24243>, p. 10.

⁴¹ *Ivi*, p. 12.

⁴² *Ivi*, p. 13.

as in the Srpska Krajina rebellion of 1990 and 1991, which can be considered one of the focal moments which then led to the spread of the war.

As it will be further seen in chapter II, the ethnic and national discrimination were a core element of the violence perpetrated during the war by all actors in Yugoslavia. The history of the country shows how, even during the Tito regime, and especially after his death, these divisions were crucial in creating and fermenting violence within the country, with sporadic moments in which it started spreading more than others, such as the Croatian Spring, and others when these divisions led mainly to protests and political mobilization. This tensions finally erupted in the wars, bringing towards a kind of hatred and fear based on national belonging that ended with a genocide.

1.2 TRADITIONAL GENDER ROLES

Women have often suffered discrimination on the basis of their belonging to a determinate social, national or ethnic group, however, they have always suffered it also in which they are women. This is one of the main reasons why they are more subject than men to gender-based violence in conflict, because this problem has its roots in peacetime discrimination.

Traditional gender roles can sometimes be problematic in defining what women can or cannot do and their relation and status when compared to men, and lead to power relations which often see women as inferior or without self-determination.

In fact, GBV, especially against women, takes many forms and is connected with elements such as economic policies and gendered divisions of labour⁴³. In particular, Meger affirmed that «strategic use of sexual violence in armed conflicts becomes more effective when it is grounded in preexisting sociocultural dynamics that attach concepts of honour, shame and sexuality to women's bodies»⁴⁴. Gina Heathcote and Dianne Otto added how the way men behave towards women in conflict reflects their social attitudes in peacetime⁴⁵.

⁴³ A. ALI BITENGA, M. KITOKA MOKE, *Behind the weapon of war*, cit., p. 149.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

In particular, the case of the Democratic Republic of Congo (DRC) is one that clearly shows the relation between patterns of sexual violence and discrimination on the basis of gender during peacetime with GBV against women in wartime. In this conflict sexual violence has been perpetrated by all sides, both military and civilians, but most of the focus in the international discourse is on the former.

A study conducted by Professors Eriksson Baaz and Stern stressed how sexual violence was present in the country long before the beginning of the world, highlighting also the existence of a «significant gap in the literature on prewar sexual violence in eastern DRC»⁴⁶, but in reality this gap can be seen in all conflicts and societies.

The study conducted by researchers Bitenga and Moke⁴⁷ addressed how violence is dormant in peacetime, not absent, but just present in a smaller scale, but with conflicts it manifests with a greater severity and brutality, as well as diffusion. This is highly connected to masculinity and patriarchy, perceiving the first as «having a high sex drive, economic capabilities, obtaining multiple partners, giving gifts to receive sex, dominating and protecting women from other men»⁴⁸.

In this study, the two scholars analyzed the types of sexual violence present in DRC before the conflict, which was intended as a forced sexual intercourse against the will of the survivor. The study was conducted in 2018 in three territories: Bukavu town, Chiherano and Luvungi, with people who had directly or indirectly being involved in cases of sexual violence before the first war in 1996. The respondents, twenty men and ten women, were to respect certain criteria:

To be part of this research, respondents had to (1) be at least 14 years old in 1996, (2) have lived in South Kivu province before 1996 and (3) directly or indirectly experienced what is described as sexual violence to date. By direct and indirect experience of sexual violence we refer respectively to the respondents who witnessed sexual violence as perpetrators or victims and those who witnessed it in their communities but were not perpetrators nor victims. Respondents ranged in age from 36 to 75 years old.⁴⁹

⁴⁶ *Ivi*, p. 150.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ivi*, p. 151.

The respondents were asked a series of question:

(a) whether what they describe as sexual violence today existed before the war, (b) what they called this kind of violence, (c) who the perpetrators were, (d) what they thought about masculinity versus femininity, (e) what they thought the causes were of sexual violence, and (f) what they think about the current types of sexual violence in contrast to what existed prior to the war⁵⁰.

Among the other forms of sexual violence, gang rape was already common in the country before the war, as emphasized by the many examples brought by the respondents. The findings highlighted how gang rape, particularly common in Bukavu, was characterized by certain elements, first of all it was not accidental but «planned, organised and well-coordinated»⁵¹, it was carried out in places where the men felt comfortable and the presence of a man familiar to the victim was vital, as well as physical and psychological violence. The latter was both to force the women not to resist, but also to avoid them from reporting these acts. The same patterns were present in gang rapes during the conflict, especially for what concerns shame and fear of reporting what has happened and the fear for the neglect of the community.

According to respondents, in Luvungi sexual violence only existed in the form of forced marriage prior to the war. In this case the potential husband was the only perpetrator, but other men assisted him in the abduction of the woman. After the rape, the victim was socially obligated to marry the perpetrator to avoid social stigma. This was also reported in Walungu, where respondents affirmed sexual violence was expected during wedding events, and was considered as ceremonial rape to celebrate the marriage.

Another diffused kind of sexual violence was perpetrated in the Country by teachers, this was the tactic of *points sexuellement transmissibles*⁵², teachers would give girls a failing mark in order to demand sex in exchange for passing, while male pupils were requested to give money. According to respondents, this practice was still common when the study was conducted.

⁵⁰ *Ibid.*

⁵¹ *Ivi*, p. 152.

⁵² *Ivi*, p. 154.

These are just some examples of how girls and women suffered GBV, and especially rape, prior to the conflict, but there are many other forms of CRSV. The study also showed the strict relationship between sexual violence and gender norms. Some respondents, who were perpetrators, affirmed that sexual violence often had the purpose of correcting the behavior of girls perceived as prideful and rejecting boys, or to punish a girlfriend who misbehaved, or again just for pleasure.

Often, it was used by men to show their power and status upon women, especially those considered as not respecting men. Even when perpetrated only for sexual pleasure, this is connected with men's biological needs and pulses, and therefore with the idea that they have the right to satisfy them even with force.

The respondents associated masculinity with sexual performance and socioeconomic power, «an ideal man in eastern DRC should be sexually “virulent”, “capable of deflowering girls” and “able to make them cry on bed”»⁵³. An ideal woman had to be, on the contrary, submissive and hardworking, but most importantly a virgin and dependent on men. The interviews showed how women were considered as inferior to men, they had to respect their desires and obey them. A man involving his wife in decision-making and listening to her had a strong stigma and were considered as problematic.

Communities were also perpetrating these gender roles and therefore enabling sexual violence through impunity of perpetrators and social exclusion of survivors, especially if they did not marry the rapist. Sexual violence was considered as something that could happen to anyone. Marriage was considered so important for the social status of women that they could not avoid it, hence, if raped, they agreed to become spouses for the perpetrators in order to not be socially excluded. Refusing would mean not to be able to sustain herself, especially because they were traditionally segregated into households and could not perform other jobs.

This study has shown how sexual violence has been perpetrated in peacetime with a series of motifs. The idea of rape as punishment and humiliation of girls and women was present in peacetime, but was also particularly diffused in wartime. Some

⁵³ *Ivi*, p. 155.

respondents also perceived its perpetration in peacetime as resulting from biological needs, and this was also used as justification by the Congolese combatants⁵⁴.

Moreover, Cohen argued how rape is sometimes seen as an activity that promotes cohesion of the combatants and groups, and is therefore not always the result of a specific order by a commander, but the decision of a group. The idea of sexual violence as a cohesive force is also present in peacetime, especially in gang rape.

Brownmiller's argument that women have been considered men's property for centuries clearly explains the use of sexual violence as a weapon also against men, in which the rape of the women that belong to a man is a humiliation of the man himself, whatever the relationship with the victim: father, brother, husband.

According to Baaz and Stern, rape as a weapon of war is possible because of social constructs of masculinity and femininity which are not developed during the conflict, but which derive from concepts already present in spacetime. It is therefore used to construct or reconstruct masculinity⁵⁵.

Traditional gender roles have had a huge impact on wartime sexual violence also in other cases, such as in that of Yugoslavia, where the role and importance of women in the Muslim society has been one of the reasons why they were particularly targeted by Serbians during the war. Within this conflict sexual violence was used by all ethnic⁵⁶ and religious groups during the conflict, but the one perpetrated by Serbian men towards Muslim women was particularly organized and it was in fact a policy to destroy Bosnian Muslims⁵⁷.

The reason for this particular targeting of Muslim women lay in the role that they had in Muslim societies before the conflict. In fact, Muslim faith is strongly grounded on the

⁵⁴ Ivi, p. 158.

⁵⁵ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war*, cit., pp. 28-29.

⁵⁶ At the scholarly level there are several discussions on how to define such groups. However, given that the Convention on the Prevention and Punishment of the Crime of genocide refers, in the definition of such crime, to «national, ethnic, racial, or religious groups», and given that such Convention and its application will be of central importance *infra* chapter 2, this thesis will overlook the debate over the definition of ethnic group and use it according to the meaning given to it by the Trial Chamber of the International Criminal Tribunal for Rwanda. The latter defined an ethnic group as a group of which the members share a common language or culture.

⁵⁷ This matter will be further analyzed *infra* paragraph 2.2.

commitment to protect women, whose chastity and honor had a great role in keeping together families and communities, thus attacking them had a strong impact on the survival of the group's identity⁵⁸.

The violence was also strongly based on the idea that Muslim women and men cannot have sexual relations outside of the marriage, therefore rape of all women, married and unmarried, was outcasting them from their families and communities⁵⁹. This targeting of Muslim women in light of their role in Muslim societies also evidences what has been discussed in the preceding paragraph: here gender discrimination was strictly linked to ethnic discrimination.

This dualism was also reproduced in Rwanda, where the traditional role that women covered in everyday life was essential in determining the way men were considering them. The legal position of women was not so clear before the war, in fact the 1991 constitution called for equality among all citizens, however, women were not considered as legally competent and the men were considered the head of the household. A woman could only acquire land from her parents or by inheritance if she had no brothers, but if she married, or was married, the land would go to the husband and, in case of divorce, she could not claim it. In case of widowhood, the woman would not inherit anything. Summing up, a woman could not own anything⁶⁰.

Women's role in society was bound to the household and to raising children, girls usually did not study for a lot of years, if they went to school at all. They were taught house chores from an early age, as well as to be obedient, polite and submissive. Male domination was therefore the norm in the Rwandan society, while women had central roles as mothers and wives. For this reason they were highly targeted during the genocide, in which their rape and killing was mining the group's survival and honor.

⁵⁸ R. A. SITKIN, B. X. LEE, G. LEE, *To destroy a people: Sexual violence as a form of genocide in the conflicts of Bosnia, Rwanda, and Chile*, *Aggression and Violent Behavior*, Vol. 46, 2019, 219-224, ISSN 1359-1789, available at: <https://doi.org/10.1016/j.avb.2019.01.013>, p. 221.

⁵⁹ M. C. BASSIOUNI, M. MCCORMICK, *Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia*, International Human Rights Law Institute, 1996, p. 6.

⁶⁰ ARTSCOLUMBIA, *Women in Rwanda Before and After Rwanda Genocide*, 2022, available at <https://artscolumbia.org/women-in-rwanda-before-and-after-rwandan-genocide-175592/>, last accessed April 13th 2024.

In all the above mentioned cases, the traditional role that women covered in society was one of the reasons why they were particularly targeted through gender-based violence. This conclusion suggests how eliminating discrimination, both on ethnic or national basis, but especially on a gender one, is a key element in order to build societies where GBV is not present, not only during conflicts, but also in peacetime by fighting it at its origin.

CHAPTER II

THE PSYCHOLOGICAL REASONS DRIVING GENDER-BASED VIOLENCE

As seen in the previous chapter, gender-based violence in war originates from problems present in peacetime, such as discrimination and traditional gender roles. However, during conflicts, GBV may assume a totally different role and be used so thoroughly as to constitute a weapon of war or an act of genocide. This is because it is substantiated by psychological reasons that lay at the basis of its perpetration, which may be of different nature.

Firstly, soldier's life conditions may have a strong impact on their psychological status as to lead them to commit sexual violence, as in the Democratic Republic of Congo. Ethnical reasons, connected with discrimination, have been used in Rwanda and Yugoslavia to substantiate the perpetration of GBV against ethnic or national groups. A third motif may be that of class range and revenge, as in Cambodia.

In order to understand these, however, it is necessary to comprehend the difference between the 'sexed' and the 'gendered' story of rape, strictly connected with the use of sexual violence as a weapon of war.

The 'sexed' story of rape sees the latter as the result of a biological urge, and therefore a by-product of war. This is because conflicts are conducted by men, who are subjected to their natural instincts, which demand satisfaction, and therefore enact rape¹. This is supported by two main arguments:

First, the (male) soldier's libido is understood as a formidable natural force, which ultimately demands sexual satisfaction (ideally from women). Maintaining multiple sexual relations and displaying sexual potency are seen as 'natural' effects of male heterosexuality. According to this framework of understanding, often called the 'sexual urge' or the 'pressure cooker theory', wartime rape is a result of the heterosexual desires of men, resulting from their biological make-up².

¹ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war? Perceptions, prescriptions, problems in the Congo and beyond*, 2013, p. 17.

² *Ibid.*

This basic theory has then been developed in other ones, such as the determinist approach, which sees rape as a tool to perpetrate one's genes. According to the 'substitution' argument, which has gained more popularity in the latest years in respect to other theories of the 'sexual urge' discourse, soldiers perpetuate rape because they do not have access to women in other ways, therefore substituting rape for consensual sex out of necessity³.

This line of reasoning, popular in military contexts, sees a solution in providing soldiers with a regular access to women, for example through more leave permits or through 'comfort women' and also aims at avoiding homosexual rape. In reality, prostitutes have always been present around military bases, since antiquity, and it mostly did not comprehend consent.

The second argument in support of the 'sexed' story is that:

War suspends the social constraints that hinder men from being the sexual animals that they 'naturally' are/can be. According to this perspective, society 'normally' acts as a hindrance to males' natural sexual drives⁴.

This entails that, in given conditions, all men would be rapists, and that only living in a society with certain rules will avoid them from committing such crimes. In this way, the military, which is a separate entity from the normalcy of society, will be a context in which men are perpetrating sexual violence because it is not hindered.

These two arguments suggest that the 'sexed' story is based on the idea of male heterosexuality as a natural force that brings men to commit such crimes. In this case, gender roles are well assigned and deviance from them is not accepted or even imagined, men will be rapists in which they cannot resist their natural drives, while women will be natural victims to a natural force. Even if this theory has now been abandoned by most scholars, it is still present in the societies' understanding of such violence and especially in the military discourse.

³ *Ivi*, p. 18.

⁴ *Ibid*.

This storyline has been often criticized as too deterministic and negative towards men, furthermore it sees rape as a natural outcome of male instincts, therefore eliminating any political or military element from its systematic use. By connecting gender, militarization and warring, it is possible to highlight «the power of gender ideologies as underlying rationales for the ‘use of’ sexual violence in armed conflict»⁵. If sexual violence is understood in this way, it is possible to understand it as a weapon of war and tool to humiliate and annihilate the enemy.

This ‘gendered’ storyline has been developed thanks to the work of many feminist scholars, who do not understand masculinity as something intrinsic, but learnt through the military and the methods used to create soldiers who are willing to kill for the nation⁶. These constructs of masculinity and femininity are based on the idea of heterosexuality and of men as citizen-soldiers and women as peaceful beings in need of protection, contrasted by the male role of protector and warrior. The result is that during war the desired soldier is celebrating violence, order, obedience and domination.

Any deviance will be considered feminine and effeminate, and will be fought, conveying violence within the group itself in order to eliminate the “women” in the soldiers. Sexual violence against women also becomes a way for soldiers to show and prove their masculinity, especially when in doubt. However, they may also be raped as punishment for deviating from the traditional and assumed roles of femininity and womanhood, from the “woman that is worthy of protection”.

Moreover, women are often seen as bearing and transmitting ethno/national identity through motherhood, and are therefore often targeted in order to destroy the enemy group, also because victims of rape are often rejected by families and communities. At the same time, this is a humiliation of men, who have not been able to fulfill their roles of protectors.

However, in the ‘gendered’ story, women and girls can also be perpetrators, and men can be victims, in the latter case, the aim is that of destroying their masculinity by

⁵ *Ivi*, p. 19.

⁶ *Ivi*, p. 20.

feminizing them, while women may be perpetrating violence against both men and women in order to exert their power, feminize men and annihilate women.

This is the major difference with the ‘sexed’ story, in which the division between perpetrator and victim is not determined by male and female sexed bodies. In fact, in the storyline that sees rape as gendered, those who commit sexual violence are gendered as masculine, but if masculinity is learnt, it can be learnt by a female sexed body as well. Equally, the victims are gendered feminine, and this can also include male sexed bodies feminized through rape. Gender is therefore understood as masculinity or femininity rather than the sexed body. In this way, violence is not intrinsic in manhood⁷.

However, this causes a problem: this theory is based on the assumption of understanding who men are and on claiming that by “changing gender” sexual violence could be eliminated. From here arises the «sexgender paradox»⁸: the feminist representation of what women and men are or can be is, again, a construct and does not correspond to a truth of what women and men are or can be, they are products.

When thinking of gender, it always relays on ‘sex’ and on the division between the two: feminist theorists may perceive the feeling of having abandoned the sexed body behind, but the idea of gender as a construct is based on sexed bodies upon which gender acts. It is not possible to separate ‘sex’ and sexed bodies upon which gender acts: «we work to separate sex from *the construction of* gender and to concentrate on the power of gender, yet we fail fully to do so, as ‘sex’ haunts any rendition of ‘gender’ we may imagine»⁹.

When using the ‘gendered’ storyline to analyze conflict-related sexual violence, it is crucial to keep in mind the way ‘sex’ affects gender. In particular, Baaz and Stern have applied this framework to the Democratic Republic of Congo, but the ‘gendered’ story can be used also to analyze other cases, as will be seen in the remaining of the chapter.

⁷ *Ibid*, p. 22.

⁸ *Ibid*.

⁹ *Ivi*, p. 23.

2.1 SOLDIERS' CONDITIONS AS DRIVERS OF CRSV

The case of the Democratic Republic of Congo has often been depicted as exceptional. Baaz and Stern have emphasized how the sexual violence in this conflict has been written as 'gendered'. CRSV was part of a widespread gender-based discrimination which saw women as subordinated to men. This, together with militarization of soldiers, has led towards the use of GBV as a weapon of war. Even if there is no reliable data on the relation between gender discrimination in societies and conflict-related sexual violence, it is possible to sustain their correlation¹⁰.

However, the 'sexed' story is not left behind, in which men are depicted as the monstrous perpetrators who respond to natural instincts, and women as the victims. Hence, both storylines can be applied to this conflict, highlighting how they are always connected and rendering this case very particular, as it has also been described by the media. In fact, the extent and brutality of rape in the DRC has been object of global reporting and has emerged as unparalleled.

According to Baaz and Stern, this exceptionality is twofold: firstly because this violence is exceptional to the 'civilized' warfare, and secondly because it is 'gendered'. For what concerns the first, it is often accompanied by an intersection of race and gender, with bestiality as a central category of the discourse on soldiers. The main argument has been that this violence should not occur in civilized countries, and therefore the Congolese have been described as uncivilized.

This narrative, apart from being racist, has also supported the idea that CRSV has emerged as a natural fact in the conflict, in which these men were governed by biological forces. However, they are also abnormal because they are deviating from the civilized world. This 'raced' story complements the 'sexed' one and adds to the 'gendered' argument because it is anchoring sexual violence on certain sexed and radicalized bodies. The role of the 'sexed' story does not end here: it also helps in breaking down the *sexgender* paradox: «certain 'backward' racialized bodies are mired

¹⁰ *Ibid.*

in ‘sex’, while civilized modern bodies are free of sex and subject to different configurations of gender»¹¹.

According to the feminists theories, however, masculinity, which is at the base of the ‘gendered’ story, is something produced and built through the military, which often results in sexual violence. According to this, if sexual violence is not only against women because they are such, it is against them because they are the enemy. But if CRSV as a weapon of war is made possible through certain constructions of masculinity, femininity, violence, war and other concepts, then «those who rape in warfare are the ‘normal’ subjects successfully produced through [...] gendered militarization»¹². As a consequence, soldiers rape because they are unable to inhibit their nature and their instincts, and therefore commit such acts out of anger, frustration and anxiety.

Therefore, in Congo sexual violence was driven by a constructed masculinity, which can develop in hypermasculinity in three ways:

1) masculinity reminiscent of barbaric times [...]; 2) masculinity devoid of humanity [...]; or 3) sick, riddled with the cancer of violence and evil and/or the frustration erupting through its inevitable failings. The overall picture is one of gender gone awry and monsters being produced instead of men¹³.

While in the ‘sexed’ story there is a return of the civilized men to the ones dominated by biological needs, here there is a dehumanization of the rapists, considered as different from the rest of humanity. In this way, sexual violence is something distant from civilization.

Nonetheless, as in many other contexts, men have also been victims of sexual violence in the DRC. The experiences of men and women as victims of conflict-related sexual violence, however, are not always the same. Professor and researcher Charli Carpenter has identified three types of sexual violence experienced by men in such contexts: «1) rape and sexual mutilation; 2) civilian men and boys being forced to rape;

¹¹ *Ivi*, p.26.

¹² *Ivi*, p. 28.

¹³ *Ivi*, p. 29.

and 3) ‘secondary victimization’, in which rape of women forms part of a psychological torture against men»¹⁴.

All these have been present in the Democratic Republic of Congo, but there are very few data, and even in policy papers by international organizations this kind of violence has not been extensively considered as the one which sees women as victims.

For what concerns women as perpetrators of violence, they have participated in violent acts in the DRC as members of various armed groups, among which the state armed forces (FARDC). Regardless, the reporting of their acts is almost absent.

This can be connected with the idea of addressing sexual violence in the conflict by maintaining the categories of men as perpetrators and women as victims, because these are the dominant ones also at the level of international policies¹⁵. In fact, the acknowledgment of the possibility for these to change is too slow both at both the policy level and the media one. This, as will be seen in Chapter IV, is one of the main issues connected with the current international framework on the elimination of CRSV.

In order to better understand this discourse, it is essential to comprehend the reasons that lay behind sexual violence in the DRC. The discourse on its use as a weapon of war is widespread, but, as highlighted by Baaz and Stern, this would entail an intentionality and functionality of rape in the war, which they debate, highlighting how sexual violence is not always used as a weapon in conflicts, even if it may be very common¹⁶.

Moreover, the latter requires a series of elements, among which a cohesion of the military and the ability to maintain order. In the DRC these elements were lacking. In fact, the forces were constantly reorganized and often many groups were united, even if prior to this unification they were enemies. Furthermore, the integration of new members in the army often saw people with no formal training covering high rank positions and people with high level of training covering lower ranks. In addition, the soldiers’ conditions were not the best possible, and a sense of unfairness started to spread, especially against commanders.

¹⁴ *Ivi*, p. 34.

¹⁵ *Ivi*, p. 35.

¹⁶ *Ivi*, pp. 64-65.

According to Baaz and Stern, this led to the perpetration of sexual violence in various ways. Firstly because commanders who tried to limit violence did not have the standing to enforce rules and often the soldiers did not respect their orders. Secondly, the low military cohesion and the fact that units often operated far away from the commanders enhanced the lack of information flow.

Thirdly, low vertical integration reduced the willingness of commanders to hold abusers into account, maybe for the fear of rebellion. Lastly, the army was a weak combat organization, often operating on vague instructions and orders, as a result, actions were often shaped by contingent elements. Moreover, the toleration of rape can also be interpreted as a way for superiors to deal with the soldiers' frustrations for their conditions¹⁷. This lack of cohesion was also due to the fact that the FARDC had been created after the installation of the transitional government in June 2003, and it was unifying several rebel groups with the former government army. The government adopted the policy of *brassage*, which intended to mix brigades and new soldiers in order to break formed command chains. This led to 18 brigades being integrated.

This practice was supposed to continue up until the 2006 elections, but in reality it did not stop. After the elections, in fact, many brigades were sent in the eastern part of the country, where the violence was persisting, and in the meanwhile combatants from rebel groups kept joining the FARDC, exacerbating preexisting problems of coexistence between soldiers, as well as those connected with resources such as food and pay¹⁸. The soldiers were the main perpetrators of sexual violence in Congo, and often they have not been punished for the crimes they committed, even when in violation of international humanitarian law and even if some constitute war crimes¹⁹.

¹⁷ Ivi, pp. 76-77.

¹⁸ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, in www.hrw.org, July 16, 2009, available at: <https://www.hrw.org/report/2009/07/16/soldiers-who-rape-commanders-who-condone/sexual-violence-and-military-reform>, p. 20.

¹⁹ For further information on FARDC crimes, see: Human Rights Watch, *Democratic Republic of Congo: Renewed Crisis in North Kivu*, vol. 19, no.17(A), October 2007, <http://www.hrw.org/sites/default/files/reports/drc1007webwcover.pdf>, pp.42-45; Human Rights Watch, *Democratic Republic of Congo: Killings in Kiwanja: The UN's Inability to Protect Civilians*, December 2008, <http://www.hrw.org/sites/default/files/reports/drc1208web.pdf>, p. 21; "DR Congo: Brutal Rapes by Rebels and Army," Human Rights Watch news release, April 8, 2009, <http://www.hrw.org/en/news/2009/04/08/dr-congo-brutal-rapes-rebels-and-army>.

The huge role of FARDC in the perpetration of sexual violence is supported by the data offered by the United Nations Mission in the Democratic Republic of Congo (MUNOC). In fact, the data gathered in 2007 shows that 54% of all sexual violence reported cases from January to June of that year, were committed by FARDC soldiers²⁰.

Across the country, the brigades have committed sexual violence throughout the years in which they had been active. As expressed in the “Report of the Secretary-General on children and armed conflict in the Democratic republic of Congo”, girls have also been targeted by soldiers, especially in Ituri, North Kivu and South Kivu²¹.

One important case which can be brought as example, but not as an exception, is that of the 14th brigade. This, created in 2006, was the result of the above mentioned strategy of *brassage*. It was mainly formed by former combatants of the Congolese Rally for Democracy-Goma, a rebel group that during the Congo’s second war had fought the national government. The other combatants came from different armed groups, such as the Mai Mai, but also from the former government army, the FAC²².

The brigade had nine months of training and instruction from the International Committee of the Red Cross (ICRC) on International Humanitarian Law. It was moving around the border of North and South Kivu. The brigade was defeated in 2006 and those who survived perpetrated violence and destruction among civilians, even after the reconstitution of the brigade in 2008.

The soldiers were not provided with the necessary goods to survive, and therefore preyed on the local population to obtain shelter and food. They destroyed fields and arrived to the extent of detaining, torturing and killing civilians. In particular, girls and women were targeted through sexual violence²³.

This situation, which already lacked rule and command, was exacerbated by the internal division within the brigade itself, which culminated in a mutiny in June 2008.

²⁰ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., p. 21.

²¹ *Ibid.*

²² *Ivi*, p. 23.

²³ *Ivi*, p. 25.

However, the brigade continued to exist until early 2009 when it was again mixed with combatants from other rebel groups.

The soldiers of the 14th brigade perpetrated several acts of sexual violence, often at the same time as looting activities, and gang rapes were regularly carried out. Identification of these soldiers was possible thanks to the purple epaulettes they wore, and this was necessary because Colonel Rugayi often claimed these abuses were carried out by members of the nearby stationed 3rd brigade, or by police and civilians²⁴.

Among the witnesses, those in Kabare described the period in which the 14th brigade was present in the area as a “time of general trauma”, and highlighted the lack of judicial investigation on the violences carried out. In particular, several cases regarded young girls, but many also concerned children. Additionally, soldiers abducted women and girls to keep them as sexual slaves, and often offered girls living miserably money in order to go away with them, taking advantage of their situation²⁵.

As previously mentioned, the lack of a well-established chain of command was one of the reasons behind the widespread perpetration of sexual violence. In fact, according to a multitude of residents, General Masunzu, head of the 10th military region where they had been regrouped in 2007, said that the 10th military region had no control over the 14th brigade.

However, in an interview with Human rights Watch, General Mayala, who had been put in charge of the 14th brigade when it was first deployed in North Kivu, and in charge of the 8th military region, affirmed that the 14th brigade depended on its region for “operational” purposes, and on the 10th for “administrative” ones, such as salaries. Neither region, however, took any action to stop the violence against civilians that was perpetrated by the soldiers of the 14th brigade.

Moreover, the soldiers affirmed that they were under the control of the “operational command”, which is a command structure separated from military regions and which reported directly to the headquarters in Kinshasa. In reality, the brigade was under control of the headquarters, which sent a delegation to investigate the event of the

²⁴ *Ivi*, p. 27.

²⁵ *Ivi*, p. 30.

mutiny²⁶, but there was no instance of investigation or punishment of violence against civilians.

The relations between soldiers and civilians in the DRC were not optimal, and many described the violence as the result of «spirit and craziness of war»²⁷, as well as the use of drugs. Collins described this ‘spirit of war’ as a ‘forward panic’, which he defined as «emotional flow that can arise in circumstances of intense tension or fear. Forward panic occurs when such situations transform ‘into a sudden rush of frenzied overkill in an atmosphere of hysterical entrainment’»²⁸.

In fact, conflict-related sexual violence in the DRC was not connected to its use as a weapon of war, even if some instances of strategicness may have been present, for example to avoid insurrection or rebellion from soldiers. This violence seems to be driven more by frustration and the soldiers’ life conditions, as well as spirals of violence. Many soldiers testified how they became dull to violence, some even affirmed that targeting civilians was part of their initiation when they joined the armed groups.

Additionally, the Congolese army often lived among civilians, leading to higher opportunities to commit violence, and also to the creation of spirals. In fact, when one crime was committed, the relationship with the civilians degraded. In order to keep them from revolting, the soldiers would start using force and threats, leading towards other violence and so on.

Another element which brought towards a further spreading of sexual violence was the fact that soldiers often settled private and family conflicts through violent means, and this often ended up in mass rapes.

The government adopted some initiatives in order to fight the perpetration of sexual violence in the country, which will be further analyzed in Chapter III. Among them there is that of the reform of the Security Sector. This initiative, aimed at rebuilding and reforming the army, police and judiciary, had already started in the first years of the new century, and *brassage* was carried out within this strategy.

²⁶ Ivi, pp. 32-33.

²⁷ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war?*, cit., p. 83.

²⁸ Ivi, p. 78.

The reform of the security sector was affected by problems since the beginning, among which the lack of capability to respect human rights standards. The same *brassage* was characterized by a lot of ethnic division. Moreover, officers and soldiers, as well as armed group leaders and members who had committed human rights abuses were not investigated, their records were eliminated and they became part of the FARDC²⁹.

Among the reforms, there were attempts to better the living conditions of soldiers in order to give them higher payments, more access to shelters and food. Even if some steps forward were made, the soldiers still lacked basic necessities. Moreover, testimonies reflected their distress on living conditions and on being away from their families and loved ones. A soldier from the 14th brigade, affirmed:

We live like dogs. We live on civilians, asking them for their bananas. It's been three months without payment or something to eat [...]. Before, I got 37,000 FC a month [approximately US\$44]. The commander would then take 2,000 or 5,000 FC from that. [...] My biggest concern is that I want to have my wife and children here. But where would they live? I have no place for them. Recently the new commander [...] has chased the wives of some soldiers away. They don't know where to go.³⁰

These words show the big distress of combatants, as well as the corruption of the system, with the commander taking some money from the soldiers' pay. These dire living conditions enhanced the soldiers' afflictions and added to the already grave situation of the conflict.

The case of the Democratic Republic of Congo is, therefore, one of a conflict where there has been a widespread use of sexual violence, but not for purely strategical and military reasons. The dire living conditions of soldiers and the tensions between their ranks, as well as the lack of proper control from their superiors, has led them to commit sexual violence indiscriminately and without suffering any consequences for their actions. This has made the perpetration of GBV a way for soldiers to express their afflictions, and the impunity a way for commanders to avoid retaliation from the soldiers on which they already had low control.

²⁹ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., pp. 39-40.

³⁰ *Ivi*, p. 44.

2.2 RAPE AS A WEAPON OF WAR FOR ETHNICAL REASONS

The case of the Rwandan war has been object of thorough study, especially when it comes to the sexual violence perpetrated in this conflict. This is mainly because of the institution of the International Criminal Tribunal for Rwanda (ICTR), which has investigated the crimes committed during the genocide.

In this context, women and girls were targeted by sexual violence not only because of their biological sex, but also due to their ethnic belonging. The war, which started in July 1994, ended with about 85% of the Tutsis population being killed, amounting for nearly 10% of the Rwandan population. Reports show that around 250,000 women were victims of sexual violence. Many of them were killed, but of those who survived, 70% were infected with HIV³¹.

Media propaganda had a central role in spreading division and violence among the population, and in particular in targeting Tutsis as a danger for Hutus and legitimizing their destruction³².

Rape of Tutsi women became a tool to eliminate the population. This violence was carried out by the Interhamwe, which was a paramilitary militia backed by the Rwandan government and main perpetrator of the genocide. However, it was also carried out by Rwandan soldiers, officers, the National Police, the Presidential Guard and civilians as well³³.

Girls and women were raped, but also suffered mutilations and killings, as well as other forms of sexual violence. They were often forced to marry their rapists or used as sexual slaves. In order to destroy the Tutsi population, children were also targeted, girls were raped, mothers were forced to kill their children and fetuses were cut out of

³¹ M. LOWER, T. HAUSCHILDT, *The Media as a Tool of War: Propaganda in the Rwandan Genocide*, cit., p. 1.

³² See par. 1.1.

³³ R. A. SITKIN, B. X. LEE, G. LEE, *To destroy a people: Sexual violence as a form of genocide in the conflicts of Bosnia, Rwanda, and Chile, Aggression and Violent Behavior*, Vol. 46, 2019, 219-224, ISSN 1359-1789, available at: <https://doi.org/10.1016/j.avb.2019.01.013>, p. 221.

pregnant women's uteruses. In addition, impregnation of Tutsi women was another way of destroying the population³⁴.

The Human Rights Watch reports on the genocide in Rwanda highlighted the reasons behind the widespread perpetration of sexual violence against Tutsi women:

The humiliation, pain and terror inflicted by the rapist is meant to degrade not just the individual woman but also to strip the humanity from the larger group of which she is a part. The rape of one person is translated into an assault upon the community through the emphasis placed in every culture on women's sexual virtue: the shame of the rape humiliates the family and all those associated with the survivor. Combatants who rape in war often explicitly link their acts of sexual violence to this broader social degradation.³⁵

In this context, the targeting of Tutsi women, as well as Hutu ones that were married with Tutsi men, that were sympathetic with their cause or that refused to commit violence against them, was a planned and targeted policy. To this extent, rape was used as a weapon of war^{36,37}.

The strategic motive behind the perpetration of conflict-related sexual violence is, in this case, connected with ethnic identity. Often it is hard to prove the 'strategicalness' of CRSV, but in the case of Rwanda, there were no doubts, in which evidence of orders including the carrying out of these crimes have been presented and examined in front of the ICTR³⁸.

As affirmed by Brownmiller,

Defense of women has long been a hallmark of masculine pride, as possession of women has been a hallmark of masculine success. Rape by a conquering soldier destroys all remaining illusions of power and property for men of the defeated side³⁹.

³⁴ Ivi, p. 222.

³⁵ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war?*, cit. p. 54.

³⁶ D. E. BUSS, *Rethinking Rape as a Weapon of War*, in *Fem Leg Stud* 17, 145–163 (2009), available at <https://doi.org/10.1007/s10691-009-9118-5>, pp. 145-146.

³⁷ This matter will be further analyzed *infra* paragraph 3.1.

³⁸ C. KOOS, *Sexual violence in armed conflicts: research progress and remaining gaps*, cit. p. 3.

³⁹ *Ibid.*

Therefore, the relationship between the men who have conquered and the men who have been defeated, is mediated by women's bodies. According to Baaz and Stern, there are four points which determine the narrative of rape as a weapon of war. These are: strategicness, gender, culpability and availability. They did not give equal weight to all four, but considered the first as the main, in which it is the starting point of the whole narrative⁴⁰.

The explanation of strategicness is contextual to the different conflicts in which it has been present. It cannot be explained solely by the presence of a few elements, because those that determine it change on the basis of the context.

When reconnecting the discourse of rape as a weapon of war with that of the 'sexed' story and the division between humans and beasts, the strategicness entails purpose and the possibility to establish guilt, therefore the possibility to avoid such strategy. However, the element of biology affects this result by explaining wartime rape as the outcome of natural impulses to which men cannot resist. This, again, perpetrates the division between women as victims and soldiers, or men in general, as rapers, as clearly highlighted by the above mentioned Human Rights Watch report.

In the brief passage that has been cited, a woman is, at the same time, clearly defined as victim and gendered as female, to the extent that her womanhood and femininity, if stripped away, impact on the community as a whole. As a result, the perpetrator is necessarily an heterosexual man, most often a soldier⁴¹.

Thus, the discourse of rape as a weapon of war can be limiting if it does not consider other elements to the equation, other than the most commonly roles assigned to men and women. Moreover, it is often universalizing an experience that can assume different shapes for each victim and perpetrator. This also entails that sexual violence is a by-product of war, rather than a constant that also results from the way gender relations are perceived in peacetime.

Rape can be used as a weapon of war for many purposes. In the case of the Rwandan genocide, it was carried out because of ethnic discrimination. Sexual violence was used

⁴⁰ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war?*, cit. p. 44.

⁴¹ *Ivi*, p. 55.

to humiliate and annihilate Tutsis, but also Hutus sympathetic to them. Obviously Tutsis have also perpetrated sexual violence against Hutus, but the extent to which this has happened is way smaller than the one discussed in this chapter, and does not amount to the use of sexual violence as a weapon of war. However, it is still important to this discussion, in which, again, ethnical reasons were at the basis of the perpetration of CRSV.

Another case in which sexual violence has been used as a weapon of war on the basis of ethnic identity is that of Yugoslavia. During the Yugoslav wars, in fact, CRSV has been widespread and has seen all ethnic groups as both perpetrators and victims. However, the one carried out by Bosnian Serbs has emerged among the others for brutality and extension, to the degree of becoming a strategy of ethnic cleansing.

The majority of violence was perpetrated by soldiers of the Serbian and Bosnian Serb armies, but also by militants of paramilitary groups. In particular, it was used against Bosnian Muslim communities, especially because of the role of women inside these groups^{42,43}.

The reasons behind the decision of targeting other groups on the basis of ethnic identity was mainly because the Serbs wanted to build the “Greater Serbia”, and therefore to eliminate other ethnic groups from “their” territory. They also instituted detention camps, where people were tortured, raped and murdered.

The sexual violence used in this conflict assumed many forms, but often was accompanied by acts aiming at humiliating and denigrating the victims. For this reason, women and girls were raped publicly or in front of their families. Moreover, men were forced to rape their own mothers, daughters and wives. This kind of violence was often accompanied by looting and intimidation, with threats of killing them if they had not performed the rape.

Often, after an attack to a town or village, people would be separated by sex and women would be raped publicly. Later, the survivors would be brought in detention

⁴² See paragraph 1.2.

⁴³ M. C. BASSIOUNI, M. MCCORMICK, *Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia*, International Human Rights Law Institute, 1996, p. 6.

facilities, where people were separated by sex. Men of fighting age were tortured and executed or sent to perform forced work. Women generally were used as sex slaves, and gang rapes were not the exception. In particular, some survivors believe that they were detained in camps of which the sole purpose was that of sexual assault as punishment, where abuse was routine, accompanied by torture. This resulted in forced pregnancies and many women did not have the opportunity to abort.

In fact, there were camps, specifically called “bordellos”, which were used to keep women for men returning from the front lines. These women were taken from the camps and brought to hotels and private houses. The difference with the above mentioned camps was that here the main purpose seemed to be the one of providing sex for men, rather than to punish the victims⁴⁴.

The reported cases of sexual violence in Yugoslavia happened together with efforts to displace civilians from certain areas. In fact, cases of rape within the same ethnic group are very few, strengthening the idea that sexual violence was mainly perpetrated with an ethnic dimension.

As previously mentioned, the ways in which sexual violence was perpetrated had purposively a dimension aimed at denigrating the victim and her (or his) community. A farther dimension of this violence was that of mutilation, which most often took the form of castrations and circumcisions, and sexual violence often happened through foreign objects.

One crucial element of sexual violence as a tactic of war was that of forced impregnation of Muslims by Serbs. In fact, women were often told they had to bear children, who would have been Serbs, in order to eliminate the Muslim Bosnians from the land⁴⁵. This practice was common among all ethnic groups, but, again, the relation of Bosnian Serbs as perpetrators and Muslim women as victims was the prevalent one.

The description of such acts is to show the different ways in which sexual violence against women (and men) was performed. The great amount of study that has been carried on the case of Yugoslavia has resulted in a number of details way greater than

⁴⁴ *Ivi*, pp. 16-19.

⁴⁵ *Ivi*, p. 20.

that of other conflicts. However, this does not mean that in other wars, such as the ones discussed here, Rwanda, Congo or Cambodia, the extent of sexual violence was smaller.

Even if CRSV had different characteristics in all of these cases, the amount of study on the one performed in Yugoslavia shows how certain conflicts obtain more importance and attention at the international level, and how this impacts the outcome of peacebuilding and of international justice, as will be further analyzed in Chapter III.

In particular, two characteristics of CRSV in Yugoslavia support the fact that it has been used as a weapon of war: consistency and the presence of patterns. Detention camps provided proof that sexual violence was tolerated and not punished⁴⁶.

As highlighted by Baaz and Stern, the case of Yugoslavia, as the one of Rwanda, have been crucial in defining the use of CRSV as a weapon of war, even if this concept may still be problematic⁴⁷. As it has been argued for Rwanda, here again the way that this violence has been interpreted is strictly related to the ‘sexed’ story, seeing biological sex as a key determinant in the victim/perpetrator relation.

However, when talking about the crimes carried out by Serbian men against Muslim women, but more in general all sexual violence perpetrated during the Yugoslav wars, the ethnic element has always been present and predominant. This may suggest how, among the biological factors that bring men to become rapists, there also are hate and fear of the other. On the other side, these may be considered as being connected with the ‘gendered’ story, in which hate and fear have been “constructed” by society, propaganda and political powers.

Again, this example shows the difficulty in determining whether the ‘sexed’ or the ‘gendered’ story is determinant, and presents the *sexgender* paradox. However, it also highlights how complex is the question of the perpetration of sexual violence in conflicts and how it is a multi-faceted issue that requires a thorough analysis and response.

⁴⁶ Ivi, pp. 20-21.

⁴⁷ M. ERIKSSON BAAZ, M. STERN, *Sexual violence as a weapon of war?*, cit., p. 51.

2.3 CLASS RAGE, REVENGE AND IDEOLOGY IN CAMBODIA

During the rise of the Khmer regime in Cambodia, Pol Pot started to create a communist ideology based on class divisions that were present in the country, even if, as some studies present⁴⁸, these do not seem to have been as widespread as he was portraying them.

By playing on these divisions, as well as on notions such as that of disproportionate revenge, the Khmer Rouge were able to use the feelings of dissatisfaction, unrest and anger to have people joining their cause^{49,50}.

The ideological model of the Khmer Rouge was absorbed differently by the various groups, and the “burning rage” was directed towards many groups at the same time. This, in particular, was aiming at the reversal of roles between rich and poor people, where the former started constituting the “new people”, often also referred to as slaves, and targeted by the regime, forced into working for it and often killed. They were considered as less than human, hence, there were few moral implications in their bad treatment and in their killing: «to keep you is no gain; to destroy you is no loss»⁵¹.

In this context, the communist ideology was modeled on the Cambodian history and tradition, emphasizing problems, such as that of class division, and traditional elements that were violent, such as that of disproportionate revenge. This led to the spread of hate and violence among the population, and minimized the consequences of killing.

Militarization was a strong element of this conflict, where soldiers were dependent on the regime, obtaining rank, prestige and food from it. In return, they had to be ready to “cut off their hearts” and respect orders, including those that were concerned with the killing of other people:

Ângkar⁵² was the one who had done the greatest kindness [...] for them, not their parents [...] so they should do anything for the revolutionary party. In Ângkar pointed out

⁴⁸ A. L. HINTON, *Why did they kill? Cambodia in the shadow of genocide*, cit., p. 55.

⁴⁹ *Ivi*, p. 73.

⁵⁰ See *infra* par. 1.1.

⁵¹ *Ivi*, p. 86.

⁵² Ângkar Padevat was another name used to refer to the Communist Party of Kampuchea.

a traitor, they should dare to destroy that person without hesitation, even if the traitor was their mother or father⁵³.

In more than one occasion, in fact, cadres would be killing relatives to respect superiors' orders. Loyalty therefore became an essential part of this ideology, leading indoctrinated people to commit a variety of crimes. The importance of *Ângkar* was mainly due to the fact that, even if it was something new, it was strongly based on preexisting structures of meaning, such as the ones previously mentioned.

Ângkar therefore became essential in soldiers lives, and the figure of Pol Pot was increasingly important. His pictures, paintings and busts were produced and often placed in structures dedicated to soldiers, such as dining halls. His party line became more and more radical, and the idea of “eradicating microbes” started to spread, leading to purges, that culminated during the 1970s. In this way, belonging to the group and obeying orders was even more important than before in order to avoid being targeted⁵⁴.

Belonging was an essential part of the ideology. This class division that the party was trying to eliminate actually brought towards a new distinction in the population between those who belonged to the party and those who did not.

The Khmer Rouge tried to build this new society by working heavily on language, and one would only speak in the name of the group, a person was not part of a family or a single anymore:

Even the use of the first person pronoun [...] was often discouraged in favor of expression such as [...] we [...]. The commercial rules encourage children to refer to the parents of Conrad, or to extend the use of the more rural terms for mother [...] and father [...] to older adults in general. More broadly, the Khmer Rouge promoting the use of such rural terms, because the regime glorify the peasantry⁵⁵.

This aimed at creating homogeneity and transforming the population into a *mass*, which was easier to control and manipulate.

⁵³ A. L. HINTON, *Why did they kill? Cambodia in the shadow of genocide*, cit., p. 131.

⁵⁴ *Ivi*, pp. 132-135.

⁵⁵ *Ivi*, pp. 189-190.

Those terms that had been abolished within the group were often used to refer to prisoners and enemies, in order to highlight how they were not part of the community. By doing so, they were dehumanized and, again, violence against them was legitimated.⁵⁶

In this context, differently than in other conflicts, men and women were explicitly considered as equal, in which there had to be equality among all Kampuchean people. In the past, the woman's honor was considered in terms of purity, motherhood, orderly household, and so on, but now it was, as for men, in terms of «revolutionary zeal»⁵⁷.

Men and women performed now many similar tasks and the latter started covering authority positions as well. This was also connected with looks: women cut their hair short, started to dress as men and avoided the use of jewelry and perfume. This was part of gender homogenization that corroborated the feminine role in the household, and women started to adopt behaviors that were traditionally assigned to men.

In this context of homogenization and destruction of who was outside the group, the forms of violence perpetrated were many, and sexual violence was amongst them. There are not a lot of studies conducted on such matter, but the few present ones highlight how perpetrators were always part of the Khmer Rouge, while victims were belonging to different groups, not only civilians, but also low ranking cadres.

The study by members of the Transcultural Psychosocial Organization Cambodia and the United Nations trust fund to end violence against women⁵⁸ was conducted on 222 respondents who were interviewed, all of which are civil parties of the Case 002 of the Extraordinary Chambers in the Courts of Cambodia (ECCC). The study assessed the perpetration of several types of gender-based violence during the Khmer Regime and whether the respondents were direct victims or witnesses. The majority of perpetrators were male and of victims were females⁵⁹.

⁵⁶ *Ivi*, p. 191.

⁵⁷ *Ivi*, p. 193.

⁵⁸ J. STRASSER, T. KIM, S. STUDZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, September 2015, available at: http://gbvkr.org/wp-content/uploads/2014/06/TPO_GBV-under-the-Khmer-Rouge_Report_20151.pdf.

⁵⁹ *Ivi*, p. 13.

In this context, conflict-related sexual violence assumed many forms, among which the one of forced marriage and marital rape. Marriages were ordered by the *Ângkar*, and a refusal would result in torture or death. Marriage, in fact, was not aimed at happiness, but, as everything done under the regime, at the achievement of the revolution. However, higher ranking soldiers and officials were often allowed to choose a wife «choose a wife as an award for their contribution to the revolution»⁶⁰. After the wedding, forced sex was the norm, in which sexual intercourse was part of the union and therefore had to be carried out. Again, refusal would end up in torture and rape.

In the previously mentioned study, forced marriage was reported by 54.1% of the respondents, who were all direct victims, while there were no witnesses assessed. Over half of them tried to refuse and 70% of the latter were subjected to verbal threats, 4.8% to imprisonment, 3.2% to sexual assault and 12.9% to other forms of punishment. 80.5% of those who finally married were victims of marital rape, with or without the use of direct threats and physical violence⁶¹.

Rape, however, was not only perpetrated within the marriage. The central government had ordered to punish such violence, as any other case of sexual violence, apart from the one occurring within marriages, which was not considered as such as the couple was legally bound. Code Number 6 of the regime, in fact, ordered cadres not to abuse women, even prisoners⁶². These acts were considered as a moral offense and all sexual relations outside of marriage were to be punished through execution. However, they were still carried out, and the death of victims caused a lack on numbers and data on the extent of such phenomenon. Those who were not killed, did not dare denounce such acts.

Rape was also very common in prisons and reeducation centers for non-revolutionary citizens. The women who were considered “new people”, in particular, were repeatedly

⁶⁰ K. NAKAGAWA, *Gender-Based Violence During the Khmer Rouge Regime, Stories of survivors from the Democratic Kampuchea (1975-1979)*, March 2008, available at: <http://gbvkr.org/wp-content/uploads/2013/02/Kasumi-GBV-Study-2007.pdf>, p. 15.

⁶¹ J. STRASSER, T. KIM, S. STUDZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, cit. p.13.

⁶² S. DAVIS, *Sexual Violence Under the Khmer Rouge: A New Examination*, 20 July 2016, in *throws.org*, available at: <https://theowp.org/reports/sexual-violence-under-the-khmer-rouge-a-new-examination/>.

raped, especially by high ranking officials, who had not to worry about victims reporting them because of the power they held. Often, when these women became pregnant, they were killed to eliminate the evidence of the rapes, or because they had sex outside of the marriage⁶³. However, rape was not limited to “new people” and those who were non-revolutionaries, also female soldiers were victims of such acts, especially by high ranking men.

In this context, men were also victims, even if the data related to these cases is basically absent. In particular, there was a practice of gang rape by female Khmer Rouge soldiers. Additionally, men were also raped by other men, also within the Khmer Rouge⁶⁴.

In the above mentioned study, 30.6% of the respondents reported witnessing rape, while 4.6% of the respondents experienced it outside of forced marriage. Several witnesses reported how rape was often conducted before the victims were killed, therefore rendering it harder to obtain precise numbers on the practice of such acts. 85.1% of respondents reported Khmer Rouge cadres as perpetrators, all men, and 97% of victims were women. 44.8% of witnesses also reported the presence of more than one perpetrator.

Other forms of sexual violence were also carried out, survival sex was mainly to obtain food, medicines, protection or easier work duties. 23.5% of the respondents reported having witnessed such kind of acts, while only 2 had direct experience of it. For what concerns sexual mutilation, 20.4% of the interviewed reported it as witnesses, while only 2 were direct victims. Only one witness reported a female perpetrator, while all others were reported as males and especially Khmer Rouge cadres. About 20.5% of victims were male, which is a quite high percentage compared to other forms of gender-based violence⁶⁵.

⁶³ K. NAKAGAWA, *Gender-Based Violence During the Khmer Rouge Regime, Stories of survivors from the Democratic Kampuchea (1975-1979)*, cit., pp. 13-22.

⁶⁴ *Ivi*, p. 24.

⁶⁵ J. STRASSER, T. KIM, S. STUZZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, cit., p. 15.

The study conducted by Rochelle Braaf⁶⁶ is concerned, in particular, on sexual violence perpetrated against ethnic minorities. The respondents were 47 Khmer Krom, 39 Khmer Islam, 6 Vietnamese, 2 Cham and 11 identifying as 'other'. Again the data show a high percentage (60%) of forced marriage, and all data were gathered through personal experience. For what concerns rape, on the other side, all data, which have an 88% of occupancy, was collected either through witnesses or people that were told by the victim or by others. These two were among the predominant forms of sexual violence perpetrated during the conflict, and it is clear how victims of rape were often killed, in which the quantity of direct victims in both studies is very limited. These data, in particular, concern women (and men) belonging to ethnic minorities, who were often perceived as enemies of the regime.

In this context, therefore, even if some cases of sexual violence within the Khmer Rouge ranks occurred, the fact that it was mainly perpetrated on civilians is an indicator of the strong dehumanization of the latter. This was also the result of the militarization of the group, as well as the division of who was part of it and who was not, rendering the outsiders as less than human, and therefore giving less importance to the violence perpetrated on them.

Returning to the above-mentioned theory by Baaz and Stern, it could be argued that here there is more of a 'gendered' story rather than a 'sexed' one, in which masculinity was strongly constructed, especially for women joining the Khmer Rouge. However, there are other elements concurring to the perpetration of violence, such as ethnicity, class belonging and, most of all, adherence to the regime and its orders. Additionally, the perpetration of violence even within the Khmer Rouge ranks, its reinforcing the thesis that sexual violence is never a one-factor element, and therefore many elements concur to its perpetration.

In the case of the Khmer Rouge regime, the policy and ideology of the latter has been essential in the perpetration and impunity of sexual violence, but this was also based on other factors, such as cultural ones and ethnic discrimination.

⁶⁶ R. BRAAF, *Sexual violence against ethnic minorities during the Khmer Rouge regime*, 2014, in *gbvkr.org*, available at: http://gbvkr.org/wp-content/uploads/2014/05/Sexual-violence_ethnic-minorities_KR-regime_CDP-2014-Lo-Res.pdf.

CHAPTER III

PUNISHMENT AND IMPUNITY OF GENDER-BASED VIOLENCE

States have legal obligations under international law to prevent, investigate and punish sexual violence. In fact, they are bound by international human rights law, and, when it comes to wartime, by international humanitarian law (IHL). Acts of gender-based violence, including sexual ones, are prohibited under both bodies of law. In particular, international humanitarian law, which is also often referred to as “the laws of war”, is concerned with the protection of civilians and no-combatants during conflicts of any type, both international and internal. Sexual violence is explicitly prohibited by IHL, therefore both states and non-state armed groups shall not commit it¹.

Under such body of laws, States have the duty to investigate the perpetration of conflict-related sexual violence by their nationals, including the members of the armed forces, and prosecute those responsible. This duty also derives from the fact that CRSV can amount to a war crime, a crime against humanity and an act constituting genocide². Moreover, non-state armed groups also have the duty to prevent such crimes and prosecute those responsible.

As it will be seen in this chapter, the acts of conflict-related sexual violence can also be classified as crimes against humanity or crimes of genocide if some elements are present. This possibility has been codified in the Rome Statute of the International Criminal Court (ICC)³, which «specifies that acts of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity can constitute war crimes or crimes against humanity»⁴.

¹ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., pp. 16-17.

² This matter will be further analyzed *infra* paragraph 3.1.

³ The ICC was established in 2002 through the Rome Statute with the aim of investigating and trying individuals charged with genocide, war crimes, crimes against humanity and crime of aggression.

⁴ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., p. 17.

Moreover, under the principle of command responsibility, which is a principle of customary⁵ international humanitarian law incorporated in the Rome Statute, commanders and superiors of any kind are obliged to prevent, investigate and punish sexual crimes perpetrated by subordinates, and if they do not, they may be guilty for failing to do so.

Additionally, international human rights law, which has to be applied not only in peacetime, but also in times of conflict, prescribes the prohibition of any form of gender-based violence, comprehending not only rape, but also slavery, forced prostitution and discrimination based on sex. Finally, it «enshrines the right to an effective remedy, which obligates the state to prevent, investigate, and punish serious human rights violations. States must also provide reparations to victims of human rights violations, such as compensation for damages»⁶.

However, one of the major problems connected with the carrying out of gender-based violence during conflicts is also related to the impunity of perpetrators, both during and after the war. In fact, this is due to several reasons. One major problem is that of failure to report, on the one side because the victims may be afraid of the social stigma that this acts impose on them, on the other side because of fear of retaliation from the attackers, but surely also because there is little hope to obtain justice, or many do not even have a place to report to⁷.

According to Cherif Bassiouni and Marcia McCormick, the Commission of Experts investigating on sexual violence in former Yugoslavia, has found another limitation in the credibility of witnesses. The argument is that, given that many of them were refugees, had suffered many traumas and were often reliving and sharing their experiences with other people in the same situation, exaggeration and fabrication of experiences was happening.

⁵ Customary international law is constituted by rules which are considered as general practices accepted as law and exist independently of treaty law. It is crucial especially in international humanitarian law because it fills the gaps left by treaty law, which is, namely, codified law.

⁶ *Ivi*, p. 18.

⁷ M. C. BASSIOUNI, M. MCCORMICK, *Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia*, cit., p. 25.

Moreover, the Commission argued that the role of organizations, often not independent from governments, played a direct and indirect role in pushing individuals to testify experiences of sexual violence even when not real. Moreover, given that public outrage is useful for these organizations to receive funds and help refugees, rape was also used to obtain such benefits and resources⁸.

However, I argue that, even if inconsistencies and false reporting have been proved and are undeniable, the extent of gender-based violence perpetrated in the case of Yugoslavia, as well as in many other conflicts, are undeniable as well. Questioning the credibility of witnesses and victims can be very problematic, and can lead many of them to not report in fear of not being believed. However, this highlight the issue of lack of reporting on CRSV, which is one of the major problems at the basis of impunity.

Additionally, another problem derives from the fact that commanders are often not going to punish these crimes, as seen in the previous chapter. In fact, in some cases, such as in Rwanda and Yugoslavia, they have encouraged these acts, and had no intention and willingness to prosecute them. In other cases, as in Cambodia and Congo, they were not systematically used with a military purpose, but the commanders have condoned it.

One last level at which it is possible to have justice is that of international law. In fact, sexual violence is criminalized by many rules, some of which are codified, and some of which are customary⁹. As it will be further seen in this chapter, these crimes have been prosecuted in both Rwanda and Yugoslavia, opening for the possibility to recognize gender-based violence as constituting a war crime, an act of genocide or a crime against humanity.

The cases of the Democratic Republic of Congo and Cambodia have been subsequent to those of Rwanda and Yugoslavia, and to many extents the conflict in the DRC is still going on. However, the sexual violence perpetrated during these conflict has not received the amount of attention that it received in the other two civil wars. This opens up for a further discussion on why the international community and international

⁸ *Ivi*, pp. 26-27.

⁹ *Ivi*, p. 31.

law has not been able to stop the perpetration of sexual violence after the two groundbreaking cases and how securitization has failed in doing so.

3.1 THE BREAKTHROUGH CASES OF RWANDA AND YUGOSLAVIA

The cases of Rwanda and Yugoslavia have often been considered as particular because of the extent to which sexual violence was widespread in these conflicts. In reality, as shown in the previous chapters, the particular element was the consideration and attention that sexual violence obtained at the international level and the consequences of this. The reason why these two cases have been considered important, and why they often go hand in hand, is that, in fact, they have been groundbreaking in the criminalization of CRSV.

The work of the International Criminal Tribunals for Yugoslavia and Rwanda have been, in fact, essential under many points of view. When the first one was created in 1993 by the Security Council of the United Nations, the body affirmed it was alarmed by the grave reports on violations of international humanitarian law occurring in former Yugoslavia and how this situation «continue[d] to constitute a threat to international peace and security»¹⁰. The year after, when creating the ICTR, the Security Council similarly expressed its «grave concern at the reports indicating that genocide and other systematic, widespread and flagrant violations of international humanitarian law have been committed»¹¹.

These two bodies were part of a response system of the international community to conflict situations and had the specific role of prosecuting and trying those that were considered as being mostly responsible for the atrocities and humanitarian law violations occurring during the conflicts. Having a temporary mandate, they have now completed it and have terminated their activities respectively in 2017 and 2015¹².

¹⁰ UN DEPARTMENT OF PEACEKEEPING OPERATIONS, *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*, in www.icty.org, March 2009, available at: https://www.icty.org/x/file/Outreach/sv_files/DPKO_report_sexual_violence.pdf, p. 10.

¹¹ *Ivi*, pp. 10-11.

¹² *Ivi*, p. 11.

Thanks to these two Tribunals, for the first time sexual violence in a conflict was not considered as a by-product of war or as a collateral damage, as it had happened in the past. In fact, at the Nuremberg and Tokyo tribunals, after the end of the Second World War, there were testimonies of sexual violence, but they were not explicitly persecuted. Moreover, the decisions of the ICTY and ICTR were essential in the inclusion of sexual violence as a crime that can be persecuted by the International Criminal Court (ICC). However, it is not included in the statute of the Court as an act of genocide, but the link between this crime and sexual violence is contained in the ICC's Elements of Crimes Document, which is strongly reliant on the Akayesu case that will be examined hereinafter¹³.

The conquests by the Tribunals have brought many scholars and actors of the international community to believe that this was a first step forward in a way to stop impunity of sexual violence in conflict. In fact, they have been essential in the definition of conflict-related sexual violence as possibly constituting a “weapon of war”¹⁴.

The International Criminal Tribunal for Rwanda (ICTR) has been of great importance in outlining the definitions that state when rape and other forms of sexual violence can be considered acts of genocide or crimes against humanity. In particular, there were two significant cases that have been essential in the creation of these definitions: Prosecutor v. Jean-Paul Akayesu and Prosecutor v. Pauline Nyiramasuhuko¹⁵.

In reality, Akayesu was indicted on charges related to sexual violence only in a second moment, after the Tribunal heard the testimonies of many women who spoke openly about rape and sexual violence, even when not directly asked about it.

After this amend to Akayesu's indictment, the Trial Chamber affirmed that sexual violence and rape «constitute genocide in the same way as any other act as long as they

¹³ K. BLUEN, *Globalizing justice, homogenizing sexual violence: the legacy of the ICTY and ICTR in terms of sexual violence*, in *AJIL Unbound*, vol. 110, 2016, pp. 214–19, available at: <https://www.jstor.org/stable/27003210>, p. 215.

¹⁴ *Ivi*, p. 216.

¹⁵ B. FAIRBANKS, *Rape as an act of genocide: definitions and prosecutions as established in Bosnia and Rwanda*, Historical Perspectives: Santa Clara University Undergraduate Journal of History, Series II: Vol. 23, Article 13. Available at: <https://scholarcommons.scu.edu/historical-perspectives/vol23/iss1/13>, p. 114.

were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such»¹⁶.

In fact, as defined under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide, genocide is defined as

any of the following acts committed to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: a. Killing members of the group; causing serious bodily or mental harm to members of the group; c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d. Imposing measures intended to prevent births within the group; e. Forcibly transferring children of the group to another group^{17,18}.

Therefore, what the Trial Chamber was stating was that any act of sexual violence could be defined as constituting an act of genocide as long as it was in accordance with the above mentioned definition of such crime¹⁹.

Moreover, the Trial Chamber set out guidelines for the prosecution of sexual violence as crime against humanity:

Rape and sexual violence constitute crimes against humanity as long as they are: (a) part of a widespread or systematic²⁰ attack; (b) on a civilian population; (c) on curtailed catalogued discriminatory grounds, namely: national, ethnic, political, racial, or religious grounds²¹.

The latter were directly applied in the case Prosecutor v. Nyiramasuhuko. The defendant was charged with acts of sexual violence as part of her participation in the

¹⁶ *Ivi*, p. 115.

¹⁷ Convention on the Prevention and Punishment of the Crime of Genocide, New York, 9 December 1948, entered into force on 12 January 1951.

¹⁸ This definition contains a mental element and a physical one, where the first is most often difficult to be determined, and this often causes problems in defining certain crimes as genocide rather than, for example, crimes against humanity or war crimes.

¹⁹ B. FAIRBANKS, *Rape as an act of genocide: definitions and prosecutions as established in Bosnia and Rwanda*, cit. p. 115.

²⁰ As defined by the United Nations Department of Peacekeeping Operations Report on sexual violence elements in the rulings of the ICTR and ICTY, «“widespread” refers to the large-scale nature of the attack and the number of victims, while “systematic” refers to the organised nature of the acts of violence and the improbability of their random occurrence».

²¹ *Ibid.*

genocide. The element that gave particular relevance to this case was that the defendant was a woman, and, specifically, the only woman tried and convicted by an International Tribunal for the crime of genocide and for rape as a crime against humanity.

Additionally, this was groundbreaking because the charging of a woman for rape meant challenging the traditional narrative which saw women as victims and men as perpetrators. However, this case also determined a big failure of the Tribunal, and was one of the first elements creating a breach into the possible path that the work of the ICTR could have created for justice. In fact, Nyriamasuhuko was not prosecuted or convicted for genocidal acts of sexual violence.

This was, to some extent, determining a difference in the crimes committed by Akayesu and Nyriamasuhuko, returning to the classical distinction of men as perpetrators and women as victims. The fact that the latter was not persecuted for genocidal acts and sexual violence together, but that these were considered separately, marked a great failure of the Tribunal, which did not give the same weight to sexual crimes committed by a man against women and by a woman against men. In reality, the acts that the two had committed were very similar, but the charges they faced were different²².

According to Bailey Fairbanks, the Chamber did not see Nyriamasuhuko's crimes as the effect of her autonomy and ability to make decisions, but rather as influenced by the male leaders around her²³. Moreover, she argued how this undermined the innovative elements contained in these rulings, result also of the rigid nature of the definitions created by the two Tribunals. The immediate consequence is that the different experiences of sexual assault were minimized into a one-dimension story. As reported by Fairbanks, Joshua Kaiser and John Hagan stated how «Accounts of mass atrocities habitually focus on one kind of violence and its archetypal victim [...]: for example, rape only impacts women; genocide is only about dead battle aged men»²⁴.

²² *Ivi*, p. 116.

²³ *Ivi*, p. 117.

²⁴ *Ibid*.

The issue, on the one side, results exactly from the feminists attempts to create awareness in the international community on the extent and role of sexual violence in conflicts, with a particular focus on female-only narratives. This was reproduced by the two Tribunals: in fact, the cases of men being victims of sexual violence and women being perpetrators were mainly unreported or untried. Even when they were, as in the Nyiramasuhuko case, the weight and importance they were given was not equal to the one where the women and men had the roles traditionally assigned to them, strictly imposing a traditional narrative of such violence.

This simplifying understanding of the relationship between victim and perpetrator, together with the definitions of genocidal rape and rape as a crime against humanity given by the two Tribunals, creates obstacles in having these crimes actually fall under the above-mentioned definitions²⁵.

It can therefore be affirmed that the relation between the rigid definitions given by the ICTY and ICTR and the traditional gender roles attributed to men and women in sexual violence lead towards an hardship in defining sexual violence as genocidal unless the traditional gender roles are respected, as in the Akayesu case. This heavily influences the possibility to bring justice and to comprehend all different experiences of sexual violence without inserting them in a socially constructed type of experience.

Moreover, as highlighted by Kelly-Jo Bluen, the idea of sexual violence as instrumental can be problematic because its systematic perpetration and the absence of prosecution within, for example, military ranks, is not always the result of an explicit order from superiors to commit this kind of crimes, as in Congo²⁶ and Cambodia²⁷. For example, the requirement for sexual violence to be committed strategically implied that Hutu victims of sexual violence could not obtain justice because their suffering could not be connected with a strategical aim²⁸. Additionally, this excludes sexual violence

²⁵ Ivi, pp. 117-118.

²⁶ See paragraph 2.1.

²⁷ See paragraph 3.3.

²⁸ K. BLUEN, *Globalizing justice, homogenizing sexual violence: the legacy of the ICTY and ICTR in terms of sexual violence*, cit., p. 217.

suffered within the household from being prosecuted, as it has been the case in Cambodia or Congo.

Therefore, the Tribunals were mainly addressing sexual violence as strategic, leaving behind all of a series of other experiences related to sexual violence. This does not entail a universal justice. In particular, one aim of the Tribunals was that of eliminating denialism of the existence of conflict-related sexual violence as a strong element rather than a by-product of war. Nevertheless, the way it has done it may be denying other aspects of this kind of violence. As reported by David Luban, Marko Milanović believes that, in the case of former Yugoslavia, the ICTY and its ruling may have worsened the situation. This is because the Croats and Serbs strongly perceived the Tribunal as biased, therefore fueling divisions and sense of victimization that were already present in the conflict²⁹.

However, I strongly support Luban's counterargument³⁰ that, even if the decisions of the ICTY (and of the ICTR as well) have not completely solved the problem of conflict-related sexual violence and its persecution, they have opened up for a new possibility to highlight their existence and to bring justice. Therefore, I reject the idea that the ICTY made denialism worse, in which it allowed for a wider knowledge of the acts committed during the conflicts. In fact, the judgements of both the ICTY and ICTR were based on factual findings and witness testimonies, which, without the tribunals, would not have emerged.

It is also of high importance to notice one further limit in the scope of actions of the ICTY and ICTR: their judgements could not reflect and concern all the conflict-related sexual violence happening in former Yugoslavia and Rwanda. This is because of the fact that they were created to judge on atrocity crimes³¹, namely genocide, crimes against humanity and war crimes. However, the elements constituting these categories do not have themselves to be committed in a widespread and/or systematic basis.

²⁹ D. LUBAN, *Demystifying political violence: some bequests of ICTY and ICTR*, in *AJIL Unbound*, vol. 110, 2016, pp. 251–57, available at: <https://www.jstor.org/stable/27003216>, p. 253.

³⁰ *Ibid.*

³¹ By definition, atrocity crimes are violations of international criminal law that fall within the definitions of crimes of genocide, crimes against humanity and war crimes.

For this reason, the judgments of the Tribunals will not try to investigate whether these acts, and in these cases acts of sexual violence, were committed in a widespread and/or systematic way, but rather whether they «formed part of a widespread or systematic attack directed against any civilian population»³². As a consequence, the Tribunals will not judge all those that committed these crimes, but only those considered as most responsible.

Referring to the report of the United Nations department of Peacekeeping Operations report on the sexual violence elements of judgement of the ICTR and ICTY, the judgements of the Tribunals have highlighted how sexual violence can constitute an atrocity crime under many forms:

- (a) rape can constitute rape as crime against humanity and as war crime;
- (b) rape can constitute torture as crime against humanity and as war crime;
- (c) rape and/or other sexual violence can form part of genocide in that it can constitute an act causing serious bodily or mental harm to members of the targeted group;
- (d) rape and/or other sexual violence can form part of persecution and enslavement as crimes against humanity; and
- (e) sexual violence can form part of outrages upon personal dignity and inhumane treatment as war crimes³³.

However, limitations are also present here. For example. In neither Statute of the Tribunals sexual slavery is identified as a crime against humanity, therefore it can only be persecuted as part of a broader crime, that of enslavement as a crime against humanity³⁴.

To conclude, the rulings of the ICTR and ICTY have been groundbreaking and have opened up to the possibility of persecuting sexual violence committed in conflict. Still, their rulings and actions were not free of mistakes and problems, as highlighted in this paragraph. Nevertheless, their rulings could have been a starting point in the beginning the creation of a path towards justice and peace. However, this path they opened was not

³² UN DEPARTMENT OF PEACEKEEPING OPERATIONS, *Review of the sexual violence elements of the judgments of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda*, cit., p. 17.

³³ *Ivi*, p. 24.

³⁴ *Ibid.*

followed in future cases, and therefore the importance of these rulings has been undermined. This will be shown through the analysis of the cases of the Democratic Republic of Congo and Cambodia.

3.2 THE FAILURE OF JUSTICE IN THE DEMOCRATIC REPUBLIC OF CONGO

As previously mentioned, States have international obligations to prevent, investigate and punish gender-based violence. Additionally, they also have duties to do so under national law. However, in the Democratic Republic of Congo many laws concerning with such matter were introduced during or after the beginning of the war.

In fact, a new law on the prohibition of sexual violence was passed in 2006:

For the first time, the law specifically criminalizes acts such as the insertion of an object into a women's vagina, sexual mutilation, and sexual slavery. It defines any sexual relation with a minor as statutory rape. Penalties for rape range from five to twenty years, but are doubled under certain conditions, for example when committed by a public official, by several persons together, with use or threat of a weapon, or in situations of captivity³⁵.

Additionally, another law provided for some rights of the victims, such as the one of being seen by a doctor and psychologist, and being secured their well-being and security. Moreover, judicial proceedings had not to exceed the duration of three month in respect of the right to timely judgements. All of the above were to be applied by both civilian and military jurisdictions.

Under article 14 of the Congolese Constitution, the State has the obligation to fight all forms of sexual violence against women. In article 15 of the same document, sexual violence is defined as a crime against humanity³⁶.

War crimes and crimes against humanity are also defined in the Congolese Military Justice Code and Military Penal Code, which applies to both members of the army and the police, as well as combatants of non-state armed groups. Crimes of sexual violence are included in these definitions, even if they are less detailed than the ones of the Rome

³⁵ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., p. 19.

³⁶ D. E. BUSS, *Rethinking Rape as a Weapon of War*, cit., pp. 453-454.

Statute. According to the law, «superiors may be prosecuted as accomplices when they have tolerated the actions of their inferiors»³⁷.

However, since 2003 a bill aiming at implementing the Rome Statute in national law has been pending in parliament. This would allow a broader coverage of crimes within the two definitions of war crimes and crimes against humanity. Moreover, it would entail that the jurisdiction over these crimes would be expanded to the civilian judiciary.

Nevertheless, as seen in the previous chapter, the Congolese armed forces, both national and not, have committed several types of war crimes and crimes against humanity, including sexual violence under many forms, but there has been a high level of impunity.

The civilian population has complained to authorities at different territorial levels for the human rights violations committed by armed groups. Taking again into consideration the 14th brigade, the abundance of complaints has not brought to a real solution and punishment of perpetrators. The reports concerning the abuses and violence perpetrated by these soldiers also reached the United Nations Agencies, which established a task force on the 14th brigade and visited Kabare, establishing regular meetings with Colonel Rugayi in 2008, but the pressure that the UN were exercising was not enough to end human rights abuses and impunity³⁸.

Nevertheless, there were national and international attempts to stop the widespread perpetration of sexual violence. The above mentioned 2006 law, in fact, was passed especially thank to the actions and advocacy of women activists, human rights groups, humanitarian agencies and women lawmakers. This has contributed to the creation of a national, and international, body of laws and policies which aim at the elimination and prosecution of acts of sexual violence. These bound of policies and laws fall within the scope of the securitization of sexual violence³⁹.

Even if there have been steps forward, prosecution of soldiers and commanders has not been carried on. For example, in 2008 only 27 foot soldiers were convicted for

³⁷ *Ibid.*

³⁸ *Ivi*, pp. 30-31.

³⁹ See *Infra* chapter 4.

crimes of sexual violence in Kivus. Among those prosecuted, the highest rank was the one of captain. During the same year, in South Kivu 88 cases of sexual violence were brought before military courts, but only in 15 of them there was a conviction and three were acquitted. In North Kivu, of 34 cases concerning low-ranking soldiers only 10 led to convictions⁴⁰.

The first time in Congo's history that rape was tried as a crime against humanity was in the province of Equateur, where seven soldiers were found guilty of crimes against humanity for the collected rape of at least 119 women and girls in 2003⁴¹. This was an important advance, which also marks the beginning of a period, from 2003 to 2008, during which the amount of cases brought before the courts raised. Nevertheless, the military justice system remains very weak.

First of all, only a small percentage of the crimes of sexual violence has been prosecuted and, secondly, but of equal importance, mainly only foot soldiers have been the objects of such trials. The second problem is also related to the fact that, according to Congolese law, the judge in a court has to have a higher rank than the defendant, therefore many judges cannot perform their tasks on higher-ranking officers. Moreover, the political and military authorities have interfered with trial of higher-ranking soldiers: «A justice official told [...] that he was unable to pursue a strong and well- documented case of rape against a top general in the Congolese army because the general in question was “protected” by influential individuals»⁴². These authorities often transfer judges or force them to seek the authorization of commanders before proceeding with the investigation for a case. Moreover, commanders often protect their soldiers from identification.

In particular, returning on the case of the 14th brigade, according to the information received by Human Rights Watch, there were only 7 convictions for sexual violence of

⁴⁰ HUMAN RIGHTS WATCH, *Soldiers who rape, commanders who condone*, cit., p. 46.

⁴¹ *Ivi*, p. 47.

⁴² *Ivi*, p. 48.

its soldiers⁴³. Many victims tried to identify their attackers, but these were protected by their commanders.

Each brigade had an intelligence officer, called S2, which possessed the rank to investigate alleged crimes committed by soldiers. The one of the 14th brigade found himself in front of many cases, but did not act and justified this by saying «This was an exceptional situation, do you arrest 80 percent of the unit?»⁴⁴.

A difference is to be found in the way the acts committed by this brigade were prosecuted in North and South Kivu. In the first, the prosecutor opened 20 files related to crimes committed by the brigade, of which 6 contained rape cases. A first lieutenant and a corporal were also convicted for rape. In South Kivu, instead, there was not an investigation, even in the case of two convicted men.

According to TRIAL International⁴⁵, one of the main problems of impunity is in the courts themselves, being inadequate to carry out their tasks. In fact, in South Kivu only four courts were competent in judging a crime of rape. Moreover, victims stated their difficulties in accessing legal assistance. To face the shortage of courts, mobile court hearings were established, but they had very big limits which hindered their actions: firstly, they were very expensive and organized by international actors, secondly, the country was still very unsure and dangerous, making it hard for cases to be heard away from where crimes occurred. Moreover authorities, but also victims, often had preconceived notions of victims and sexual violence⁴⁶.

Another problem was related to the difficulties in accessing the judicial structures. Victims may have been afraid of social consequences and stigma, but were also threatened or intimidated⁴⁷. Often victims faced difficulties also because they could not

⁴³ *Ivi*, p. 50.

⁴⁴ *Ivi*, p. 51.

⁴⁵ TRIAL International is an international non-governmental organization active in many countries which fights against impunity of people who have committed international crimes. This organization is based in Bukavu, in South Kivu and guarantees judicial assistance to victims of grave violations of human rights. In particular, it deals with girls and women victims of sexual violence.

⁴⁶ TRIAL INTERNATIONAL, *Sexual violence in the DRC: Why is impunity so persistent?*, in www.trialinternational.org, last modified February 2019, available at: <https://trialinternational.org/latest-post/sexual-violence-in-the-drc-why-is-impunity-so-persistent/>.

⁴⁷ *Ibid.*

afford to pay judicial fees or travel expenses to access the justice system itself.⁴⁸ Additionally, even if in each territory there was a Peace Court, a High Court and a Military Court, only the second and the third had the power to judge on crimes regarding sexual violence.

Moreover, magistrates often do not act and try to adopt a “wait-and-see” approach, forcing the civil society, and especially NGOs, to refer cases to the courts. Nevertheless, these organizations often lacked funds, resources and skills to carry out such tasks.

Another problematic was created by the absence of programs protecting the victims and the witnesses, or helping them deal with trauma due to the sexual attacks. There was no legal provision criminalizing the threats and attacks that victims and witnesses dealt with. Judges often did not adopt the necessary measures to protect and assist witnesses and victims. Prosecutors also lacked the means to investigate, but mainly lacked the skills to prosecute this kind of crime. Adding to the incapacity and inadequacy of the courts, were the high corruption rates, which often influenced the courts’ decisions⁴⁹.

At the international level, the investigation by the International Criminal Court began in 2004. However, four years later, the United Nations Independent Expert on the Situation of Human Rights in the DRC affirmed that «little progress has been made to date with regard to the administration of justice and the fight against impunity, and thus it seems that a climate of virtually generalized impunity persists»⁵⁰. Only in 2013 the Parliament adopted a legislation implementing the Rome Statute and therefore giving the jurisdiction to the ICC to crimes within the state of civilian courts.

In 2004, experts, NGOs and the civil society started discussing the possibility to try crimes under the Rome Statute through the establishment of a specialized mixed chamber or a special international or hybrid tribunal. While mixed chambers are made up by national judges with the temporary inclusion of international staff, in hybrid ones

⁴⁸ D. E. BUSS, *Rethinking Rape as a Weapon of War*, cit., pp. 456-457.

⁴⁹ *Ivi*, 457-458.

⁵⁰ *Ivi*, p. 465.

both are incorporated and working together on the basis of both national and international law.

Nevertheless, both systems have problems. The prominent role of national judges in the mixed chambers highly impacts on the credibility of the court, which is, moreover, also enhanced by the lack of capacity of the Congolese judicial system. For what concerns hybrid chambers, they take a long time to be established, and may require the completion of a treaty between the United Nations and the DRC because of the need for the country to give jurisdiction over criminal matters to the independent international court. Moreover, a recurrent problem of this kind of courts is that they do not assist the country and its population in the national reconciliation and the reconstruction of the judicial system and the rule of law⁵¹.

In order to have justice, it is necessary to eliminate those obstacles that impede its reach. According to Mansfield, one issue is related to the lack of access to health services for victims of sexual violence, affirming that this is also caused by the constant insecurity in the country⁵². He also highlights the problems of corruption within the justice system in the country, with a particular focus on gender justice and on the need for a feminist perspective when considering international humanitarian law, allowing women to tell their stories and not to have them inserted in a patriarchal framework, which often suppresses their stories and disempowers them⁵³.

Even if the latter argument is of crucial importance in the inclusion of victims within the path towards justice and the elimination of sexual violence, the consideration of women as the sole victims, which implicitly entails the perception of men as the sole perpetrators, is quite problematic, and does not allow for justice for all. This is not dangerous only because it risks the inclusion of the idea that men are all perpetrators, but it also eliminates the experiences of men who are victims and females who are perpetrators, as well as the different experiences of victims in general, diminishing sexual violence in conflicts only to a single experience.

⁵¹ *Ivi*, pp. 466-467.

⁵² *Ivi*, p. 469.

⁵³ *Ivi*, pp. 470-471.

3.3 CAMBODIA BETWEEN IMPUNITY AND NEW ATTEMPTS

Under Code Number 6 of the Khmer Regime, sexual violence against women was prohibited, in which it was considered as a moral offense. Nevertheless, this kind of violence persisted, and both civilians and members of armed forces carried out CRSV in many different forms⁵⁴.

The Khmer Rouge regime was standing way before the conflicts in Rwanda and Yugoslavia, and especially before the rulings of the ICTR and ICTY. Nevertheless, impunity remains a problem even after the establishment of these two Tribunals, and the end of their mandates. There are still attempts at bringing justice and acknowledging the problems related to conflict-related sexual violence and the extent of the violences.

Many problems rise from the fact that, given that sex outside of marriage was considered as a moral offense, many victims were killed in order to be silenced. Those who did not suffer this fate, most of the time have been afraid to talk either because of threats or fear of retaliation, or because of the social stigma associated with sexual violence. Additionally, among the forms of sexual violence that were mostly perpetrated, there was the one of forced marriage and, consequently, rape within such legal bond. These have often not been documented because, even when non-consensual, sex within the marriage was not classified as rape⁵⁵.

In order to understand the work done by the civil society and international organizations on sexual violence in Cambodia, it is essential to state that, even if the CPK ruled only from 1975 to 1979, it was present in the country for four decades, from the 1950s to 1999. During this period, the regime committed several acts of violence, among which sexual ones, but, adding to the difficulties previously mentioned, is the fact that their 40-years presence in the Country also entailed that many perpetrators are no longer alive or are very old.

It is only in 2006 that the Extraordinary Chambers in the Courts of Cambodia (ECCC or Khmer Rouge Tribunal) started its works through the preliminary investigations. This

⁵⁴ See *infra* chapter 2.3.

⁵⁵ J. STRASSER, T. KIM, S. STUDZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, cit. p.13.

Chambers, born thanks to an agreement between the United Nations and the Royal Kingdom of Cambodia⁵⁶, had the purpose of prosecuting crimes committed under the Khmer Rouge Regime rule, therefore during the Democratic Kampuchea (DK), as the Country was called in that period⁵⁷.

The ECCC, now not active anymore, had jurisdiction over crimes committed both in violation of the Cambodian Penal Code, and of International Humanitarian Law, in particular for those crimes which constitute a crime of genocide, war crimes and crimes against humanity. The ECCC could judge those acts committed by senior leaders and those most responsible for the above mentioned violations. It was following the hybrid model, being composed by both national and international judges and staff⁵⁸.

One of the most important features of the ECCC was the possibility for victims to apply as civil parties and become party of the proceedings alongside the prosecution and the defense. The victims of gender-based violence who apply to become a civil party have the same rights as the prosecution and the defense. Their participation aimed at supporting the prosecution by the ECCC and «seek collective and moral reparations»⁵⁹. These civil parties could be interviewed by the Co-Investigating Judges during the investigation and be heard during the trial by the Trial Chamber, however, given their high numbers, only few gave a statement in Court.

It is, in fact, the possibility for civil parties to participate in the works of the ECCC that has allowed the inclusion of sexual violence within the acts for which people have been incriminated, investigated and prosecuted for. A particular focus was set on forced marriage which, as previously seen, was prominent in the Country. This was of crucial importance: before the investigations carried out by the Chambers, the general perception was that the regime had tolerated such violence. However, these acts were

⁵⁶ The Country was transformed again in a Kingdom in 1992, with the restoration of the monarchy, which became elective.

⁵⁷ J. STRASSER, T. KIM, S. STUDZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, cit., p. 29.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

only introduced later in the investigation, and therefore the Cases 001 and 002 did not include any investigation on the matter⁶⁰.

Case 001 was mainly regarding the prosecution for killings committed by the regime. However, Mr. Kaing Guek Eav was convicted for one case of rape carried out against a female prisoner in the Security Prison S-21 during an interrogation. This was legally classified by the Trial Chamber as a crime of torture under the category of crimes against humanity. The Prosecution, however, appealed in which it wanted this crime to be considered as a crime of rape under the category of crimes against humanity. A first downfall of the possibility for the ECCC to bring a comprehensive justice was in the fact that the Supreme Court Chamber, affirming that rape «was not a distinct crime against humanity during 1975-1979»⁶¹, denied this possibility. Moreover, a further problem was given by the fact that Mr. Kaing Guek Eav spontaneously revealed this crime during an interrogation, therefore this was considered as accidental evidence.

On the other side, the practice of forced marriage was included in the closing order of Case 002 thanks to the testimonies of victims and the work of civil parties and their lawyers. This led to the inclusion of forced marriage as a «crime against humanity of rape and of other inhumane acts through acts of forced marriage»⁶².

However, case 002 held many problems. Firstly, some instances of rape outside of forced marriage were included as facts in the indictment of the case, but were later discarded as the Khmer Rouge policy was trying to prevent sexual violence and, even if it did not succeed, rape could not be considered as a tactic used by CPK members and leaders. In fact, some evidence demonstrating the existence of patterns within the sexual violence perpetrated by party members had been submitted by Civil Party Lawyers. Nevertheless, the latter evidence was disregarded, making the inclusion of forced marriage in the agenda of Case 002 a conquest, but also an isolated one⁶³.

⁶⁰ *Ivi*, p. 31.

⁶¹ *Ivi*, p. 32.

⁶² *Ivi*, p. 33.

⁶³ *Ibid*.

This limited victory was further crushed when the case was separated in 2010 and the crimes of forced marriage were postponed to a later stage, even if there had been 780 civil parties admitted due to forced marriage. The latter were represented by two Lead Co-Lawyers appointed by the Court, who did not agree with the inclusion of forced marriage within Case 002/01, as the Civil Party Lawyers were willing to. Disregarding the opinion of the Civil Party Lawyers, the trial Chamber included such crime within Case 002/02, but did not include rape outside of forced marriage within Case 002/002:

The Chamber (wrongly) held that these cases were already dismissed by the Office of the Co-Investigating Judges because [...] while including the facts of these rapes into the closing order, nevertheless held that the accused cannot be held liable for these rapes. [...] was not a policy of the Khmer Rouge leaders and in fact sexual violence was prohibited and prevented under their rule. [...] The Trial Chamber upheld that it is not authorized to include “new” facts. By doing this, the Chamber ignored that they are seized with the facts of the closing order and that they are not bound by liability findings of the Office of the Co-Investigating Judges. The Lead Co-Lawyers who represent the “consolidated group” of civil parties did not object to the Chamber’s conclusions. Neither did the Co-Prosecutors. Therefore, the findings of the Trial Chamber determine the exclusion of sexualized violence cases outside of the context of forced marriage from Case 002⁶⁴.

Nevertheless, a positive outcome of the work done by the Co-Investigating Judges, but especially by Civil Party Lawyers and victims who had the courage to stand up, has been that:

The new research confirms the hypothesis and demonstrates that the Khmer Rouge committed different forms of sexualized and gender-based violence beyond the context of the forced marriage policy. Sexualized and gender-based violence was used by the Khmer Rouge as a means in the widespread and systematic attack against the civilian population and an instrument against those who were alleged enemies of the regime. The findings stand in obvious contrast to the common and widespread perception of the regime⁶⁵.

Apart from the act of sexual violence itself, victims experience the consequences of these acts, starting from the stigma which is often attributed to those who are raped and their families, with fear of exclusion from the community or retaliation from those who have committed the acts. Women and girls may become pregnant due to rape, and have

⁶⁴ *Ivi*, p. 34.

⁶⁵ *Ivi*, p. 32.

to deal with forced pregnancy, with all its consequences, both physical and mental, as well as social and economic, or with abortion.

Moreover, victims may risk infections, sexually transmitted illnesses, pain, and many kinds of disability. This goes hand in hand with psychological issues related to the traumatic experience. This can take many forms, among which anxiety, depression, panic attacks and insomnia⁶⁶.

The possibility for victims to access health facilities or any other kind of support was also restricted, making their situation harsher. For them it has been hard to access justice and support. For this reasons, the ECCC was a groundbreaking opportunity for survivors to share their stories and obtain justice. Nevertheless, the Cambodian society is still permeated by gender-based violence: as reported by the study about victims' participation at the ECCC.

Recent Cambodian research indicates that [...] one in four women who have been in a relationship report experiencing violence. [...] one in four men admits to having raped a woman or girl, while one in 25 admits to taking part in gang rape. [This is exacerbated by the aftermath of the Khmer regime, which has led to] poverty, lack of education and unemployment, drug and alcohol abuse, widespread trauma in the community, as well as a culture of impunity⁶⁷.

For this reason, the ECCC could have been the appropriate space to give voice to victims, and acknowledge the existence of gender-based violence under the Khmer Regime, but also in the years following their rule. Nevertheless, the above mentioned limitations to the work of the Chambers trumped this opportunity.

These issues have triggered a reaction from many actors. In particular, there was the creation of the project “Women and Transitional Justice in Cambodia” (hereafter referred to as the Project). The latter has been implemented by three partners: the Victims Support Section (VSS) of the ECCC, the Cambodian Defenders Project (CDP) and the Transcultural Psychosocial Organization Cambodia (TPO). The project funded for a period of three years by the UN Trust Fund to End Violence Against Women, started in 2011, was guided by the goal to enhance the engagement of female survivors

⁶⁶ *Ivi*, p. 35.

⁶⁷ *Ibid.*

in the transitional justice⁶⁸ process, but also to increase gender equality and prevent GBV in the society of Cambodia as a whole⁶⁹.

Moreover, the project aimed at gathering information on the types and practices of GBV during the Khmer Rouge regime, and explore their effect on the victims and the society. It also tried to evaluate the Project's impact on the civil parties participating in the ECCC works by assessing their attitudes towards the Chambers themselves, their participation in the justice process and reparations⁷⁰.

In particular, the project encompassed five strategies: firstly, to improve the trial attendance of GBV survivors and improve their legal literacy. In fact, apart from the various reasons for which survivors prefer not to share their stories, there is also the one of obstacles that they face when they decide to speak up, including economic struggles and their (lack of) knowledge of both the Cambodian and international legal systems.

Secondly, the project promoted civil justice and historical documentation, which tries to face the lack of truth and knowledge on what has happened under the Khmer Rouge Regime at the local level. This allows for individual and community healing. Thirdly, providing psychosocial intervention for survivors has been crucial in order to help them deal with their traumas and to be able to speak up, this has been done through self-help groups and "testimonial therapy", which is a culturally adapted, short-term trauma treatment approach.

The fourth strategy regarded building capacity around gender sensitivity among legal practitioners and NGOs by conducting trainings on GBV with lawyers and managing also information sharing with other NGOs regarding problem solving, documentation of good practice and networking. The latter has helped the construction of GBV prevention and response strategies. Lastly, the delivering of public education aimed at raising

⁶⁸ Transitional justice is the answer to the massive violation of human rights while focusing on the rights and dignity of victims, looking for accountability, acknowledgment and redress for their suffering. This may lead to reforms of the society, of political systems and judicial ones.

⁶⁹ J. STRASSER, T. KIM, S. STUDZINSKY, S. TAING, *A study about victims' participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge Regime*, cit., p. 36.

⁷⁰ *Ivi*, p. 38.

public awareness on GBV and CRSV in a society where these crimes often led to stigmatization of the victim or lack of knowledge on the extent of these crimes⁷¹.

The project also faced some limitations, mainly because, being the respondents civil parties to the ECCC, findings faced the risk of being biased for those who already had expressed and told their experiences at the ECCC. The sample was quite small, therefore not being able to give a credible image of the extent of the various forms of sexual violence and the relationship between gender of the victim and gender of the perpetrator, especially because the majority of respondents were female, which were over-represented, because the Project was targeting GBV on female victims.

Moreover, the authors of the report assumed that many respondents did not disclose personal experiences but only stated they had witnessed certain crimes because of the stigma correlated with sexual violence, the fear of reliving a trauma and the way sexual violence is perceived in the Cambodian culture⁷².

This project had many positive elements: in primis, the data, briefly reported *infra* chapter 2.3, indicated the wide extension of GBV, highlighted the majority of forms it assumed, gave indication of the amount of violence perpetrated against women or against men, and on how many victims of rape outside marriage were killed. Moreover, the civil parties which participated to the survey, which were all participating to the Case 002, expressed how their involvement in the justice process had positively impacted them, and also highlighted «the need for integrated support systems combining legal aid, psychological care and information sharing»⁷³ as well as platforms where victims can share their stories. The survivors also need to be educated about their legal rights and to attain psychological and social support.

Therefore, the project also helped in defining some guidelines for the government and the justice system, with a particular emphasis on the need for redress and reparation of victims and training of medical staff to deal with issues related to GBV. Moreover, this opens the door to more thoroughly consider sexual violence crimes in cases 003 and

⁷¹ *Ivi*, pp. 36-38.

⁷² *Ivi*, p. 40.

⁷³ *Ivi*, p. 92.

004, stressing the need for the ECCC to work closely in contact with the victims, their representatives and the civil society⁷⁴.

To conclude, this project has been a good example of civil society participation to the justice system and has opened up for a further discussion on what courts as the ECCC can do and how the voices of victims and witnesses can help in bringing justice, but also in building a more fair and safe society.

⁷⁴ *Ibid.*

CHAPTER IV

SECURITIZATION: BETWEEN ADVANCEMENTS AND NEW PROBLEMS

During the last decades of the twentieth century, especially in the nineties, the perpetration of sexual violence against women during conflicts has sparked the interest of international actors, organizations and civil societies. As a consequence, the issue has started to be the focus of media attention, leading it to become a question of politics, and, most importantly, of security.

In fact, this attention brought the issue of the so-called conflict-related sexual violence to be considered as a security threat and, therefore, the theory of securitization was applied to it. However, the latter theory, as its application to CRSV, received many critics, particularly from feminist scholars.

In this chapter there will be an introduction to securitization studies and theories, with specific reference to the Copenhagen School and the critics it has received, as well as comments from supporters of such theory. Secondly, there will be an analysis of the application of securitization theory to CRSV, with a particular focus to its historical development and the most important Resolutions adopted by the United Nations Security Council. Finally, there will be a distinct focus on the critics posed to such application, with a special focus on the theory of fetishization of sexual violence in conflict proposed by Meger.

4.1 SECURITIZATION THEORY AND THE COPENHAGEN SCHOOL

The theory of securitization is usually associated with the Copenhagen School of security studies, which emerged from the Conflict and Peace Research Institute of Copenhagen. However, there are also the Paris and the Aberystwyth Schools, as well as a variety of other approaches and theories that have developed throughout the years.

While the first two Schools are more similar, the latter distances itself a little bit more from them, in which it is an alternative to securitization theory. Regardless, the

great amount of theories that have been developed on security and securitization led to the fact that not all fall within one of the three Schools¹.

As previously mentioned, the Copenhagen School is the one where the securitization theory has first been developed. Among the scholars which led to its creation, there were Barry Buzan and Ole Wæver. The latter was the first one to elaborate the concept of securitization in the framework of the debate on whether threats are objective or subjective². The Copenhagen school took another path, and claimed that the main issue with security was not its reality, but rather a speech act: the way a certain issue is socially constructed as a threat³.

By affirming this, any act or element could become a security issue. However, in order for a speech to be considered as a securitizing speech, and therefore for its subject matter to become an issue of security, three rhetorical criteria have to be fulfilled:

[it has to be] a discursive process by means of which an actor (1) claims that a referent object is existentially threatened, (2) demands the right to take extraordinary countermeasures to deal with that the threat, and (3) convinces an audience that rule-breaking behavior to counter the threat is justified. In short, by labeling something as “security,” an issue is dramatized as an issue of supreme priority⁴.

By assuming this definition of securitization, any non-political and political matter can become an issue of security of major urgency, making national security policies a subject carefully designed and created by politicians and decision-makers. As a consequence, it can be affirmed that issues are not threatening by themselves, but it is securitization that makes them worthy of the security agenda⁵.

¹ T. BALZACQ, S. LÉONARD, J. RUZICKA, ‘Securitization’ revisited: theory and cases, in *International Relations*, 2016, 30(4) pp. 494-531, available at: <https://doi.org/10.1177/0047117815596590>, pp. 498-499.

² In realism and neo-realism, insecurity is the result of an objective issue and threat. On the contrary, other scholars believed that it was the result of subjective elements.

³ R. VAN MUNSTER, *Securitization*, 26 June 2012, in *obo in International Relations*, available at DOI: 10.1093/OBO/9780199743292-0091.

⁴ *Ibid.*

⁵ C. EROUKHMANOFF, *Securitisatation Theory: An Introduction*, May 7th 2020, in *E-International Relations*, available at: <https://www.e-ir.info/2018/01/14/securitisation-theory-an-introduction/>, last accessed May 3rd 2024, p. 1.

The Copenhagen school focused on certain sectors, studying the dynamics of security within them. Nevertheless, the scholars preferred desecuritization rather than securitization because the latter may allow for emergency measures outside of democratic control⁶. In fact, words and speech are of crucial importance to determine the urgency of a matter, and it «places security as an exceptional realm»⁷. This ascribes to securitizing actors, usually the States, the power to take decisions which suspend the democratic framework and make choices which manipulate populations.

According to the Copenhagen School, international security is defined in a military context. In spite of this, broadening the concept of security to other subjects and seeing securitizing actors other than the States is essential. This has been done in more recent developments of the securitization theory; as a consequence, the Copenhagen School has highlighted the existence of matters which are non-politicized, politicized and securitized. Issues are moved from the second category to the latter through a process of securitization, which entails a security act and a political one, therefore making it hard to clearly distinguish the two categories⁸.

Securitization happens firstly through the portrayal of the issue and secondly through the success in convincing the audience that a matter is a security threat. In this regard, in the first theories of the Copenhagen School, speech had a great role in both moments. In later theories, facilitating conditions were considered, but, as will be seen later, they have not been broadly analyzed⁹.

The importance of speech entails the relevance of the audience: those to whom the speech is directed. The Copenhagen School, however, did not develop this concept very broadly. In reality, focusing on what the audience is, its different declinations and its context is essential to understand securitization, and it also reveals the tension between

⁶ R. VAN MUNSTER, *Securitization*, cit.

⁷ C. EROUKHMANOFF, *Securitisation Theory: An Introduction*, cit., p. 1.

⁸ A. DOES, *Securitization theory*, in *The Construction of the Maras*, Graduate Institute Publications, 2013, available at: <https://doi.org/10.4000/books.iheid.719>.

⁹ *Ibid.*

subjectivity and intersubjectivity in the securitization theory formulated by the Copenhagen School¹⁰.

Intersubjectivity has acquired an important role in the theories of the Copenhagen School even if it is sometimes in contrast with speech, and this leads to questions on the importance of the audience. Wæver affirmed that the audience is as difficult to be identified as that sometimes it is impossible to do so. This, however, complicates even further the subject matter, in which securitization becomes an intersubjective issue where the subjects are not totally defined and clear. However, an accurate definition of the audience and the other individuals involved is essential in order to have precise securitization policies and moves which can have a positive impact¹¹.

This first problem of the securitization theory elaborated by the Copenhagen School, entails other complications, concerned mainly with power relations between securitizing actors and the audiences. Furthermore, acknowledging the existence and role of power relations helps in shifting the focus from what security is to what it does.

This naturally entails that the elites that hold the power are the ones able to determine what is a matter of security, but this also helps them to further increase their power if they have been successful in their securitization work. Nevertheless, the audience is not a passive actor, and therefore has the power to accept or reject a securitizing move. To conclude, such relations can be declined in many ways depending on the capacity of both the power holders and the audiences¹².

It is also important to keep in mind the prominent role of the context in which a securitizing move takes place and is implemented. Related to this matter are many ontological (what is the context) and epistemological (does the context influence the success of a securitizing move) questions. However, they will not be broadly discussed, but it is important to affirm that, related to the latter, there are different theories.

¹⁰ T. BALZACQ, S. LÉONARD, J. RUZICKA, 'Securitization' revisited: theory and cases, in *International Relations*, cit., pp. 499-500.

¹¹ *Ivi*, p. 501.

¹² *Ibid.*

Buzan, in particular, believed that the context is a «facilitating condition»¹³ which might influence the securitization. However, some critic this statement by saying it is contradictory with his idea that «security has a ‘logic’ of its own that remains fundamentally unaltered, regardless of the context in which it is deployed, and that the performative nature of security utterances is sufficiently strong to produce security problems»¹⁴.

Many scholars tried to define the role of context in securitization. In the externalist approach the context shapes securitization, because the audience has to be convinced. As a consequence, the way a matter of security is portrayed highly depends on the context and how the latter is perceived by the audience and the actors in general. Balzacq affirmed how securitization is an «historical process that occurs between antecedent influential set[s] of events and their impact on interactions»¹⁵.

The theory of the Copenhagen School, by contrast, adopted the internalist approach, which focused on the fact that it is the act of securitization to change the context. However, Wæver affirmed his skepticism towards contextual elements, but, on the other hand, stated how «certain arguments that are powerful in one period or at one place can sound non-sensible or absurd at others»¹⁶, therefore the Copenhagen School seemed to be undecided on the role of context in securitization.

Moreover, it acknowledged how the sole focus on speech act may be problematic. Even if this acknowledgment has been criticized by many as too superficial, McDonald identified three ways in which the Copenhagen School engaged with contextual factors.

First, external conditions for securitization moves can vary from sector to sector [...]. Second, the School emphasizes the backing-up of a speech act by the audience in the new framework, which may highlight the importance of the context. Third, the [...] ‘facilitating conditions’ also indicate a more externalist, comprehensive understanding of securitization [...], these conditions provide a framework that is better suited to an empirical analysis of securitizations. However, McDonald [...] criticizes the fact that the

¹³ Ivi, p. 503.

¹⁴ Ibid.

¹⁵ A. DOES, *Securitization theory*, in *The Construction of the Maras*, cit.

¹⁶ T. BALZACQ, S. LÉONARD, J. RUZICKA, ‘Securitization’ revisited: theory and cases, in *International Relations*, cit., p. 504.

Copenhagen School's recognition of the "conditions historically associated with [a] threat" relates to context but leaves it under-theorized¹⁷.

Additionally, the broad focus on the speech act creates the risk of ignoring other important elements of securitization, such as bureaucratic practices, policy tools and images, which are essential both to operationalize security and to obtain the consensus of the audience¹⁸.

Matt McDonald went beyond the critic of the analytical framework and the ones mentioned above, and further highlighted the question of the moment in which an issue becomes a security threat. This depends on many elements: «it may be at the point when an issue is defined as a security issue (the speech act), at the point where an audience 'backs up' or acquiesces to that designation of threat, or at the point at which extraordinary measures are implemented»¹⁹.

Buzan and Wæver looked at examples of securitization in emergency rather than at the speech act beyond the securitization. This allowed them to find a tension between focus of speech, acceptance or emergency measures, which led to the idea that the moment of securitization is specifically defined. However, McDonald believed that this causes three problems: firstly, an issue may become a security threat over a long period of time; secondly, focusing on the moment does not help in understanding why or how an issue has become of security interest; thirdly, this focus on the moment entails a dichotomy between security and politics²⁰.

Moreover, he highlighted how the centrality of threats brings forward the idea that security is constituted through the opposition of what is a matter of security and what is not. Representation of threat leads to different ways in which a same topic is inserted in the issue of securitization, and a change in the way security is understood consequently changes the way in which a security issue is tackled. However, a strict focus on threats

¹⁷ A. DOES, *Securitization theory*, in *The Construction of the Maras*, cit.

¹⁸ *Ivi*.

¹⁹ M. McDONALD, *Securitization and the Construction of Security*, in *European Journal of International Relations*, in *SAGE Publications and ECPR-European Consortium for Political Research*, Vol. 14(4): 563–587, available at: DOI: 10.1177/1354066108097553, p. 575.

²⁰ *Ivi*, p. 576.

leaves behind other elements, such as the values that need to be protected or the way in which security is understood in a certain context²¹.

Many scholars of the Copenhagen School have, therefore, argued in favor of desecuritization, which entails the removal of issues from the security agenda. However, this can also be problematic in which it «depicts security as a failure of ‘normal politics’ rather than recognizing security as a site of contestation and therefore for (even emancipatory) change»²². This is particularly puzzling because security remains a powerful political category which defines political priority.

By focusing on the Copenhagen School and going beyond the problems since here highlighted, it is possible to see how different scholars have perceived the outcome of the work of its theories, whether positively or negatively.

In fact, this theory has received a lot of criticism, but it is important to note how it has also received support. Rita Taureck, in fact, believes that the moral and ethical criticism that the theory of Wæver has received has two forms: firstly, it is concerned with the absence of normative conceptualization of securitization and desecuritization, secondly, it disregards the political consequences of the theory itself. She defines these critics as “normative security theorists”, in which they stream from scholars of a wide spectrum of critical security theory.

According to Taureck, much of the critics posed to Wæver’s theory is useful, but not within the theory itself, because they come from a misunderstanding of securitization theory. In fact, she also sustains that «‘securitization theory’ aims to answer fundamentally different questions than normative critical security studies, making the goals of the two approaches incommensurable»²³. As a result, she argues that moral and ethical criticism at the theory of securitization is flawed, nevertheless, some can be considered as useful.

In fact, she affirms that the critics are moral and ethical, but the theory never aimed at being either, and never had goals in such realms. In particular, she cited Claudia

²¹ Ivi, pp. 577-579.

²² Ivi, p. 580.

²³ R. TAURECK, *Securitization theory and securitization studies*, in *Journal of International Relations and Development*, 2006, 9 (53–61), available at: doi:10.1057/palgrave.jird.1800072, p.54.

Arafat by affirming that the latter defined securitization as a technique of government which creates a threat and, as a consequence, provokes the real possibility of violent death²⁴. Here, securitization is not anymore an analytical tool as in Wæver's, but it becomes a political one, and, as a consequence, it is morally and ethically important.

According to Taureck, this critic is based on the fact that the analyst is never neutral, but co-creates political reality. Therefore, security as theory and security as normative practice merge into one, and, deriving from this, the analyst has a political responsibility. Taureck answers by affirming that normative security theory and securitization theory, as above mentioned, have different analytical goals, and therefore these criticism to the latter is misplaced. In fact, securitization theory tries to answer the question "what does security do?", while the former tries to answer the question "what should security do?". Moreover, she adds how securitization theory cannot have normative connotations, but this does not mean it will not be useful²⁵.

Even if I agree with Taureck's statement that ethical and moral goals were never present in securitization theory, I also believe that theory will always be applied in practice, in which it looks at reality and tries to describe and define it. For this reason, I affirm that when applying securitization theory, the latter starts to have a moral and ethical dimension and, therefore, such critics can be accepted. Even if they are directed to the normative application of the theory, given that the norms and policies which are being criticized derive from it, the latter can also be criticized.

Having seen the critics and arguments in favor of the securitization theory of the Copenhagen School, the study from Stephane Beale and Diana Jalea on the latter theory reviewed securitization research over 25 years. This analysis revealed how the theory, over time, has been more and more appreciated, but there has been an imbalance between the development of theory and the strengthening of empirical work. Secondly, the theory was not globally embraced²⁶.

²⁴ Ivi, p. 56.

²⁵ Ivi, pp. 56-59.

²⁶ S. J. BAELE, D. JALEA, *Twenty-five Years of Securitization Theory: A Corpus-based Review*, in *Political Studies Review*, 2023, Vol. 21 (2) 376-389, available at: DOI: 10.1177/14789299211069499, p. 377.

Related to the first issue, the broadening of theories on securitization was able to shift from the strict focus on speech act and encompass more factors that play a role in securitization. As a consequence, more matters have been gathered under the umbrella of security issues. Nevertheless, the methods and practices of empirical application of the theory have not received a great attention. This led to the theories and arguments on securitization to remain abstract²⁷.

The latter problem is interconnected with the fact that securitization has remained mainly in a “Western” setting, both theoretically and empirically, with a particular prominence in the United Kingdom. This geographical observation is the proof of clustering of studies over securitization, therefore «carving a niche rather than engaged in an outwards-facing effort aimed at ‘translating’ the theory to other communities»²⁸.

However, the Copenhagen School was not the only one to theorize over security. Departing from its focus on the linguistic of securitization, the scholars of the so called “Paris School”, who were more practice oriented, shifted their focus on techniques of government.

A great attention was posed by some scholars on the field of practice²⁹, in which the different agents can be identified on the basis of their relation to one another and the amount of “capital” or resources they own, which grants them power. The members of a same field also want to tackle problems together and this leads to the rise of regimes of practices, which are determined by the power relations of the field itself, giving them their form and content. The field is in a mutually constitutive relationship with the *dispositif*³⁰, which manifests itself through the policy instruments.

²⁷ Ivi, pp. 379-382.

²⁸ Ivi, p. 384.

²⁹ This concept, as well as the one of “*habitus*” was mainly inspired by Bordieu, while the ideas of “governmentally” and “*dispositif*” were borrowed from Foucault.

³⁰ Foucault defined the *dispositif* as «a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions—in short, the said as much as the unsaid. The *dispositif* itself is the system of relations that can be established between these elements.»

The *habitus*, the «system of enduring behaviors and discourses of the agents that populate a given field»³¹ clearly denotes a departure from the focus on linguistic and speech. In fact, through it, it is possible to highlight the problems of changing the linguistic into non-linguistic elements of insecurity and security. By doing so, the *dispositif* is one of the instruments used in order to theorize security without linguistic premises. Therefore, even if the field gives context to the *habitus*, the two are mutually exclusive. The field, however, has a colonizing attitude, and tends to conquer other fields, this may lead to the dealing of certain problems through a securitization approach without taking into consideration other lenses, such as that of inequality or injustice.

In conclusion, the Copenhagen and the Paris Schools have developed two different approaches to securitization, one focused on speech, and the other on practice. Nevertheless, neither is able to fully understand and explain securitization on its own. Following the development of theories, however, new scholars have put together linguistic and practices in new approaches to securitization, especially through the study of empirical cases³². Therefore, taking both the linguistic and the empirical approach together can be the way in order to fully understand the subject matter.

In conclusion, I believe that, having seen how the securitization theory was developed, especially within the Copenhagen School, and what have been the critics and points in favor, it can be argued that such theory per se can be a useful tool to understand how certain matters become issues of security. However, there are many problems connected with this its creation and evolution, starting from the inadequacy of comprehension of the audience and the context, and ending with the lack of connection between theory and empirical work. In order to have functioning empirical work in securitization and to avoid problems and eliminate the present ones, it is essential to connect theory and practice.

³¹ T. BALZACQ, S. LÉONARD, J. RUZICKA, 'Securitization' revisited: theory and cases, in *International Relations*, cit., pp. 505.

³² Ivi, pp. 505-507.

4.2 THE SECURITIZATION OF CONFLICT-RELATED SEXUAL VIOLENCE

A further debate within the framework of security after the end of the Cold War was whether security issues were only those concerned with the security of the state, and therefore strictly political and military, or if they also included those that affected people rather than States. In this context, feminist scholars, and feminism in general, started to push for the recognition of the importance of gender within the framework of security, and of how the State itself was often causing harm and insecurity for women³³.

This clearly shows the debate around securitization and its elements, which is also intertwined with an ideological or moral element, therefore bringing towards the idea that securitization is not necessarily positive or universal.

As mentioned in the previous chapters, the conflicts in Rwanda and Yugoslavia have been of great importance in determining the acknowledgement of the extent and role of sexual violence in conflicts by the international community. Before these two wars, the attention given to CRSV was minimal, if not absent, but this does not mean that the extent of these crimes was not equally horrific.

With the voicing of victims' experiences and stories, as well as the willing of international NGOs and organizations to stop sexual violence, these crimes have started to spark attention, and a light has lit on its extension. This led to the recognition of the use of sexual violence as a weapon of war and as constituting war crime, and, as seen in the previous chapter, also as possibly constituting a crime of genocide³⁴.

This created a strong pressure on the United Nations Security Council to adopt Resolution 1325 (from hereafter UNSCR 1325), with which sexual violence was, for the first time, recognized as a security issue, opening a new discourse on gender-based violence. This Resolution highlighted the importance of protection of women during conflicts, but also stated the importance of women's participation in peacemaking.

³³ C. EROUKHMANOFF, *Securitisation Theory: An Introduction*, cit., p. 1.

³⁴ A. B. HOUGE, I. SKJELSBÆK, *Securitising sexual violence: transitions from war to peace*, July 2018, available at: https://www.researchgate.net/publication/326557626_Securitising_sexual_violence_Transitions_from_war_to_peace, last accessed May 3rd 2024, p. 26.

In UNSCR 1325 there was an agency approach which demanded for critical changes at the social and political level, as well as institutional one. Women were recognized as potential decision-makers, representatives and envoys, personnel in the field, peacekeepers and peacebuilders, refugees and ex-combatants³⁵. This acknowledgment of the fact that women are more than just victims and peaceful beings was a fundamental part of the resolution and was a great achievement of women's activism.

Following the adoption of this Resolution, "women's issues" were added to the agenda of the Security Council, but many anti-militaristic aspirations of the NGOWG³⁶ were abandoned. However, this Resolution was a stepping stone, in which it was the first recognition of the relationship between women and conflict from when the Council had been created, 55 years before³⁷.

However, the Resolution still perpetrated certain stereotypical elements, such as the fact that women were categorized with children more than once throughout the UNSCR 1325, carrying out the idea that they are intrinsically peaceful and maternal, not able to exert violence. In particular, the «Council used the phrase 'women and children' 163 times from 1999 to 2003, and the phrase 'women as combatants' only six times in the same period [...]. 'Women as (ex-)combatants' are mentioned 3 times in the 10 resolutions on WPS»³⁸.

Nevertheless, UNSCR 1325 was criticized by many as being too vague and broad, and making it hard to operationalize the efforts. Moreover, in relation to sexual violence, women were mainly understood as primary victims and the Resolution explicitly called for the protection of women and girls from rape and other forms of sexual violence during conflicts.

³⁵ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War, A (Feminist) Critical Discourse Analysis of the United Nations Security Council's Resolutions on Women, Peace and Security from 2000-2009*, 2022, available at: <https://www.diva-portal.org/smash/get/diva2:1690914/FULLTEXT01.pdf>, p. 25.

³⁶ The NGOWG was the Non-governmental Organization Working Group on Women, Peace and Security. This Group was essential in the lobbying for the adoption of UNSCR 1325 and for the inclusion of feminist ideas about security within the resolution.

³⁷ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., p. 27.

³⁸ *Ivi*, p. 26.

This reinforced the idea of women and girls as passive actors in need of protection, and avoided to acknowledge how men can be victims and women can be perpetrators. The latter was not a new element, in which it had already been part of discussion at the International level, which had brought to the creation of the Beijing Platform for Action after the UN World Conference on Women in 1995.³⁹ However, this portraying of women as in need of special protection was controversial and sparked many debates⁴⁰.

The case of Bosnia is essential to understand how securitization of conflict-related sexual violence began in the '90s. In fact, even after the end of the conflict, the Country was deeply divided and in dire conditions, moreover, the Dayton Peace Agreement (DPA)⁴¹, left the Country divided into the Republic Srpska and the Bosnian Federation, with presidencies, ministers and legislatures tripled.

In this context of deep fragmentation, women, who had been victims of CRSV during the conflicts from 1992 to 1995, became of central concern and their experiences led to the adoption of UNSCR 1325, with a particular focus on gender issues also in Bosnian politics. To this extent the Resolution allowed for more participation from the part of women into the police and military forces, more efforts to combat gender-based violence and greater participation of women in politics. Nevertheless, critics remained: scholars Annika Björkdahl and Johanna Selimović argued how this Resolution did not bring a substantial change in gender dynamics within the Bosnian society⁴².

Meger, reflecting what has been affirmed by Barry Buzan and other scholars of the Copenhagen School (1998), affirmed how securitization «involves constructing a particular political issue (wartime sexual violence) as a security threat, necessitating a

³⁹ The UN World Conferences on Women, which began in 1975, aimed at creating a framework to advance women's rights. At its fourth conference, in 1995, the Beijing Platform for Action was adopted. The latter is considered as one of the main instruments to achieve such goal.

⁴⁰ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., p. 22.

⁴¹ The Dayton Accords, adopted in November 1995, formally ended the war in Bosnia and Herzegovina. Such Agreement led to the creation of a Bosnia divided between the Bosnian-Croat federation and the Bosnian Serb Republic. These Agreements have often been criticized for recreating those divisions that had brought to the beginning of the war in former Yugoslavia.

⁴² S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., pp. 22-23.

militarized response»⁴³. In fact, with the United Nations Security Council Resolution 1820 of 2007, there was the recognition of sexual violence as a weapon of war and threat to international peace and security. This acknowledgement sparked a harsh debate on securitization and its consequences. Since the adoption of UNSCR 1820, other four Resolutions have been adopted by the Security Council: UNSCR 1888, 1889, 1960 and 2106.

While UNSCR 1325 was focusing on participation, prevention, protection and peacebuilding, the two that followed it, namely UNSCR 1820 and 1888, had a shift in focus. UNSCR 1820 was the first resolution passed on the topic of Women, Peace and Security after UNSCR 1325. One of the main critics posed to this document was the fact that it was created in a male-dominated framework, and that it contained again the idea of women and girls as victims rather than agents. In fact, the majority of the Resolutions was based on the protection from sexual violence, with a shift towards the recognition of the latter as a tactic of war.

Even if this recognition could be considered as positive element, in which it acknowledged the role of sexual violence in conflicts and the fact that it can be a threat to peace and security, and consequently, the possibility to prosecute such crimes, it also opened the doors for responding militarily to CRSV⁴⁴. Even if UNSCR 1820 aimed at ending impunity for crimes of sexual violence, it also limited further the role that women can have in peacebuilding, because it is argued that their ability to participate in such operations is hindered by the violence, intimidation and discrimination they suffer.

By stating this, women's ability and capability to participate in peacebuilding, but also in general in life, is connected with their sexual well-being⁴⁵. Consequently, this Resolution failed in empowering them and further perpetrated those mistakes that were present in UNSCR 1325, while not implementing the road opened but the positive elements contained in that first documents.

⁴³ S. MEGER, *The fetishization of sexual violence in international security*, in *International Studies Quarterly*, Vol. 60, No. 1 (March 2016), pp. 149-159, available at: <https://www.jstor.org/stable/43868313>, p. 149.

⁴⁴ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., p. 27.

⁴⁵ *Ivi*, p. 28.

UNSCR 1888, as the previous one, was also almost exclusively related to victims of CRSV, but there was a slight response to the critics of the previous resolution, which resulted in a change in relation to gender-neutrality. One modification was that of acknowledging how men and boys could also be potential victims of CRSV, therefore the expression “women and girls” was changed into “civilians, particularly women and children”. However, this categorization was still problematic and stigmatizing⁴⁶.

Women were still presented as primary victims and their agencies and capacities were limited by stigmatization⁴⁷. Their possibility to contribute to peacebuilding was further limited by the statement that «ending impunity is essential if a society in conflict or recovering from conflict is to come to terms with past abuses committed against civilians affected by armed conflict»⁴⁸.

According to Madsen, this entails that the victims of sexual violence are a problem for the rebuilding of the society after the conflict unless those responsible for such crimes face legal repercussions. Even if, in order to bring justice, punishing those responsible for sexual violence is essential, the latter statement of the Security Council limits women’s possibility to be anything but victims, and therefore cannot participate in peacebuilding, recalling UNSCR 1820⁴⁹.

The above mentioned Resolutions entail that conflict-related sexual violence is a problem of security. By looking at CRSV as a security threat, the feminist point of view has become central, therefore distancing itself from traditional security studies, which is often criticized by critical feminist security studies as being exclusively concerned «with state-centered and public security, and questions how security is – or should be – perceived»⁵⁰. On the other side, the feminist security studies focus on «the lived experiences and consequences of structural, international, national and individual in/

⁴⁶ *Ibid.*

⁴⁷ *Ivi*, p. 20.

⁴⁸ UNITED NATIONS SECURITY COUNCIL (UNSC) Res 1888 (20 September 2009) UN Doc S/RES/1888.

⁴⁹ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., p. 28.

⁵⁰ A. B. HOUGE, I. SKJELSBÆK, *Securitising sexual violence: transitions from war to peace*, cit., p. 20.

security – emphasizing how gender and in/security intersect and work on one another»⁵¹.

By taking into consideration sexual violence, feminist scholars acknowledge how it is not a by-product of war and it is present before, during and after a conflict. By doing so, gender-based violence assumes a different dimension, challenging the notions of conflict and peace⁵².

Per se, securitization does not only mean the acknowledgment of sexual violence as a security threat. Apart from critics to securitization, it has for sure been a landmarking development of the idea of sexual violence at the international level, especially in conflicts, because it has embraced the concept that CRSV is not a side effect of war, but a multi-faceted phenomenon. Moreover, it entails a shift in the understanding of conflict-related sexual violence from a matter of «political non-concern, or a concern of ordinary politics, to the realms of security politics»⁵³. By doing so, there is also a shift in the instruments that can be used to tackle such issue.

This was also based on many feminist theories, such as the one by Susan Brownmiller, who saw CRSV as a form of political violence and an instrument of social power. Moreover, Liz Kelly argued that conflict-related sexual violence, and women's security in peacetime, are strictly connected to the same power relations. Sexual violence during conflicts was perceived by the first feminist scholars as the result of gender inequality, military culture and armed conflicts⁵⁴.

In more contemporary theories, there are, instead, two perspectives: the opportunistic one and the weapon of war one. The former is returning to the notion of sexual violence as an inevitable by-product of war, enhanced by the dire conditions of the population during the conflict: social and economic struggles, political instability and so on. Within such understanding, sexual violence, and in particular rape, assumes the role of satisfying individual needs and desires of the rapist or «serves the collective

⁵¹ *Ibid.*

⁵² *Ivi*, p. 21.

⁵³ *Ibid.*

⁵⁴ S. MEGER, *The fetishization of sexual violence in international security*, cit., p. 150.

"mythology" of the group's masculine identity»⁵⁵, going back to the idea that men will rape in which they are men, or in which they are soldiers. On the other side, the idea of CRSV as a weapon of war, emphasizes a strategic dimension of this crime.

Contrasting Paul Kirby's idea that these two ways of interpreting sexual violence during conflicts are two «differing modes of feminist analysis»⁵⁶, Meger considers them as «resulting from a departure from feminist frames of analysis in favor of a narrower, more traditional security framework for understanding the causes and consequences of sexual violence in war»⁵⁷.

However, the consideration of sexual violence as a weapon of war risks to insert this kind of violence within a narrative that puts sexual violence in a hierarchy considering its strategic and instrumental use as worse than other forms of sexual violence, and moreover, obscures other forms of gender-based violence and the different perpetrator-victim relationships. This is the framework within which securitization was born: the idea of sexual violence as an egregious and atrocious weapon of war. This sparked several discussions and opinions on the effectiveness of policies within the securitization framework.

Another problem, highlighted by Madsen, is that the way in which conflict-related sexual violence is tackled in the UNSC Resolutions brings forward the willingness to eliminate sexual violence through military intervention, which becomes the tool by which women are protected. However, by enabling the use of force to fight CRSV, the Security Council gave legitimacy to the securitization of women's bodies⁵⁸.

Moreover, the above-mentioned Resolutions also acknowledged how women may themselves become victims of certain actions, such as sanctions. However, according to Madsen, this highlighting of the negative effects of sanctions on women, rather than on

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ S. S. MADSEN, *The securitization of Conflict-Related Sexual Violence Against Women and the Myth of Protection in War*, cit., p. 31.

all civilians or all vulnerable groups, can be more in favor of the Council's member States' interests rather than the one of women⁵⁹.

Another problem is that sexual violence becomes a security threat for the Council only under certain circumstances, but mainly does it when there is a lot of external pressure to recognize it as such, and, most importantly, does not acknowledge gender-based violence, and especially sexual one, as a security issue during peacetime. For this reason, Madsen argues⁶⁰ that this highlights how the securitization of CRSV only in times of war serves the militaristic agenda of the Council itself.

However, the adoption of the latter Resolutions is a great step forward on the recognition of sexual violence as an issue, and, in later Resolutions, more gender-neutral terms have been adopted or there has been an acknowledgement to the fact that men and boys are also victims of sexual violence, therefore distancing from the strict protection of women and children, which is a central aspect of masculinity and militarization, as it has been discussed in the previous chapters.

Nevertheless, there remains a strict connection between the protection of women and children, rather than of all people. This highlights the general acceptor perception that men are not considered as a vulnerable group, while the fact that CRSV is explicitly used against women for a certain purpose is not considered⁶¹.

4.3 FETISHIZATION OF CRSV THROUGH SECURITIZATION

As seen in the previous paragraphs, the critics to the theory of securitization have been many. However, when it is applied to conflict-related sexual violence, its critics become even more. In particular, this paragraph will concentrate on two important statements. The first one, done by Annette Houge and Inger Skjelsbaek, is that securitization of CRSV has brought to an hyper-visibility of the problem, with serious consequences. The second, done by Meger, is that there has been a fetishization of

⁵⁹ *Ivi*, p. 32.

⁶⁰ *Ibid.*

⁶¹ *Ivi*, pp. 32-34.

sexual violence in conflict situations through the application of securitization theory to this problem.

Before the conflicts in Bosnia and in Rwanda, conflict-related sexual violence did not receive much attention, and was often discarded as a natural by-product of war which could not be avoided. However, after the two above-mentioned conflicts, victims started to voice their experiences, and this happened also in other conflicts, leading to the creation of a memory of their experiences. This was also thanks to the work of activists, journalists and NGOs, as well as the United Nations and other International Organizations⁶².

In particular, there was the establishment of fact-finding missions aiming at evaluating journalists' claims on the systematic use of sexual violence in Bosnia. The consequence was that many organizations, such as Amnesty International and Human Rights Watch, as well as national organizations and UN Commissions, started documenting sexual violence, as well as other forms of violence, in Bosnia and Herzegovina, estimating the number of victims of rape from 20,000 to 60,000. The same was done in Rwanda, and the estimation was that of 500,000 women raped during the 100 days of genocide⁶³.

The number of cases, as well as their description and the pictures had the consequence of starting the recognition of CRSV, not only as a weapon of war or as constituting genocide, but per se. As seen in the previous chapter, this led to the prosecution of such crimes in front of the ICTR and ICTY. This entailed an important «expansion and enforcement of existing international criminal law, premised on a reconceptualisation of CRSV as a national and international security crisis that threatened not only women but also states»⁶⁴.

This led to the adoption of all the Security Council Resolutions concerned with such matter, which framed sexual violence within the framework of security issues and, therefore, of securitization. Meger, as it will be seen shortly, criticized the entrance of

⁶² A. B. HOUGE, I. SKJELSBÆK, *Securitisating sexual violence: transitions from war to peace*, cit., p. 25.

⁶³ *Ivi*, pp. 25-26.

⁶⁴ *Ivi*, p. 26.

CRSV within the framework of securitization, affirming how it resulted in a fetishization of sexual violence, which is at the expense of other kinds of gender-based violence, both in times of peace and conflict.

Houge and Skjelsbaek, as other scholars, distanced themselves from this idea of fetishization, and affirmed that there has been an hyper-visibility of particular forms of GBV in conflict rather than other forms it can assume or rather than its forms in peacetime. In particular, Doris Buss expanded the concept of hyper-visibility as applied to the rulings of the two International Criminal Tribunals for Rwanda and Yugoslavia. She affirmed that hyper-visibility is not only referred to the great focus on certain types of CRSV which made it visible in the first place, but also to the way in which the violence was reproduced, with an excessive focus on dark imagery and little representation of victims and the individual experience⁶⁵.

In particular, Buss affirmed how the way in which sexual violence was presented in front of the ICTR was mainly focused on rape as a tool to target the Tutsi community and as women raped as a group. On the other side, the individual woman was not considered⁶⁶.

Moreover, Buss reports Chiseche Mibenge's work, which highlights how the stories of rape were selectively used for certain purposes, such as through the media and radio, while when they were used to ask for reparations or health care, women were often silenced. Therefore, rape was spoken about only when political connotation was given to it, highlighting the «bestiality of the Hutu extremists»⁶⁷.

The understanding of rape as hyper-visible, can be confusing, in which there has been a high reference to such crimes in the ICTR and ICTY works, but mainly to rape as a generalized pattern of genocide or weapons of war, with multiple times it has been taken into consideration, but without embracing the different individual experiences and how they can be made visible. Through their work, the Tribunals created their own narrative of rape and sexual violence, understanding it only in some of its declinations.

⁶⁵ Ivi, p .27.

⁶⁶ D. E. BUSS, *Rethinking Rape as a Weapon of War*, cit., p. 153.

⁶⁷ Ivi, p. 154.

As a consequence, rape becomes, again, a weapon, an «instrument that ‘one side’ picks up and uses against the ‘other side’ assumes that rape is always available as a weapon, and that women exist as always raped or “‘inherently rapable’»⁶⁸.

This dynamic seems to follow Sharon Marcus’ «rape script»⁶⁹, according to which the «gendered grammar of violence»⁷⁰ defines the roles in the script. Therefore, the way in which CRSV was depicted during the Tribunal’s work, where rape was recognized as an instrument of genocide, saw males, females, Hutus and Tutsi covering particular positions in the script. This strictly reduces the various and different sexual violence experiences to only one uniform experience, through the emphasis of shared patterns of violence, therefore providing only a partial account of all forms of CRSV and of GBV.

For sure the fact that CRSV was considered as a security issue to be introduced within the securitization framework has opened up also for many opportunities, such as a change in the legal order and legal representation of CRSV and GBV in general, or the recognition of harms in both the judicial and political realm, but, especially, allowed for the issue to become topic of discussion.

However, this attention was limited to only certain types of victims, certain types of perpetrators, and certain types of violences. It was immediately clear in Bosnia, where, after the end of the war, the international actors funded project on CRSV, but not on other forms of GBV. And this was reported also in relation to other conflicts, but also to societies at peace⁷¹.

Moreover, this hyper-visibility lies also on the fact that CRSV was associated with crisis language and therefore «differentiated from the “rape as usual”»⁷², therefore not taking into consideration GBV as a whole, or the fact that it is not only limited to conflict. According to Houge and Skjelsbaek, «the hyper-visibility of one form of gendered violence [...] is, thus, a two-edged sword, impacting not only on the

⁶⁸ *Ivi*, p. 155,

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ A. B. HOUGE, I. SKJELSBÆK, *Securitising sexual violence: transitions from war to peace*, cit., pp. 27-28.

⁷² *Ivi*, p. 28.

continuum of violence within conflict but also along the temporal continuum of violence that spans beyond»⁷³.

As previously mentioned, Meger goes further in criticizing securitization of sexual violence. According to her, the inclusion of CRSV into scholarship, advocacy and policy had as a result the disassociation of such acts from its context and structural roots, creating the conditions for its fetishization⁷⁴.

Her theory of fetishization draws from the critics posed by other scholars. Baaz and Stern, for example, argued how in the Democratic Republic of Congo, securitization of conflict-related sexual violence resulted in its commercialization and the creation of an industry of CRSV response. Within the latter, individuals and organizations CRSV became an income earning strategy by using international norms and aid programs. Similarly, Severine Autesserre evidenced a link between the focus of international aid and policy agendas on sexual violence and the incentive of organizations to apply the securitization discourse to CRSV in order to take advantage from the resources available for responding to it⁷⁵.

However, Meger criticizes the above scholars in which, even if they posed some critics to the securitization of CRSV and its commercialization, they did not reflect on the relationship between these two elements, while Meger argues that securitization produces fetishization. In order to understand when the application of such theory has negative consequences, it is important to study this relationship.

Meger takes into consideration Marx's concept of "commodity fetish", according to which «material objects, through monetary exchange, are infused with enhanced independent value beyond their immediate utility»⁷⁶, which, as a consequence, obscures social relations. By doing so, when CRSV becomes an issue of security, the security framework presupposes that CRSV's values and meanings preexist the social relations

⁷³ *Ibid.*

⁷⁴ S. MEGER, *The fetishization of sexual violence in international security*, cit., p. 150.

⁷⁵ *ivi*, p. 151.

⁷⁶ *Ibid.*

that produce it. As a consequence, the outcome of securitization is a framework which cannot effectively address CRSV, but is also counterproductive in eliminating it.

According to Meger, fetishization results through three stages: decontextualization or homogenization, objectification and blowback. The first stage occurs at the beginning of the securitization process, when the issue is considered as a security threat and therefore included in the framework. However, there is an absence of voices from the subjects of conflict-related sexual violence, namely victims and perpetrators, who do not participate in policy making or scholars' discussions. Even in advocacy, there is a lack of such voices.

The consequence of this is that only a few subjects, who are not directly involved in CRSV, have the power to determine the meaning that CRSV assumes, as well as the values related to it, therefore shaping international and national policy, advocacy and scholarship discourses through a particular understanding of such issue. Hence, those who give meaning and values to CRSV within the security framework are external actors, «who have the power and resources to articulate the threat within their own frames of reference and context»⁷⁷.

This is clearly shown by the fact that the norms adopted to contrast conflict-related sexual violence have not thoroughly taken into consideration feminist analyses of the causes and consequences of such violence. On the contrary, as the issue gained more attention, it was described as homogenous and was decontextualized from the context and orders of meaning in which the perpetration of sexual violence in conflict is dependent. As a consequence, CRSV was homogenized into the categories of rape as a weapon of war.

This was the result of a «selective engagement of scholarship, policy, and advocacy with feminist analyses of wartime sexual violence»⁷⁸. As a consequence, the focus was on rape against civilians perpetrated with the purpose of punishing, humiliating or destroying certain groups and communities. Even if the use of sexual violence with this purpose was widespread, such reductive view caused sexual violence to become an easy

⁷⁷ *Ivi*, p. 152.

⁷⁸ *Ibid.*

weapon to achieve strategic goals. Another issue was the focus on forms of sexual violence, which, however, was never comprehensive. On the other side, there was no attention to the different perpetrators and victims, as well as purposes⁷⁹.

Moreover, this caused wartime sexual violence to be decontextualized and be the same in every conflict, and, additionally, to be considered as exceptional and listing from other forms of gender-based violence, including sexual violence occurring in peacetime. In fact, as reported by Meger, the IASC Task Force in 2005⁸⁰ affirmed that «"sexual violence is the most immediate and dangerous type of gender-based violence occurring in acute emergencies»⁸¹. As a consequence, CRSV is detached from all of those social, political and economic elements which are underlying its perpetration and the continuum of violence between peacetime and conflict.

Meger believes that decontextualization is essential in securitization in which, in order to be a security threat, an issue has to pose a threat sufficient in immediacy and scope, which allows for an extraordinary response. Therefore, securitization limits the reasoning on CRSV to the reasons behind it, without considering the social relations and context that produce it. This leads towards the formation of a hierarchy of which forms of sexual violence constitute a threat and which are relevant for security.

Meger highlights how, while in SCR 1325 there was a broader understanding of the link between GBV in peacetime and wartime, the other resolutions that followed adopted a narrow view on GBV and in particular on CRSV. The consequent policies are very problematic, in which they do not consider the continuum between GBV in peacetime and in wartime, they require CRSV to follow certain patterns, to the extent

⁷⁹ *Ibid.*

⁸⁰ The Inter-Agency Standing Committee (IASC) is an inter-agency forum of the United Nations and on-UN humanitarian partners. It was created in 1991 and since then started to work with the aim of strengthening humanitarian assistance. In 2005 IASC published guidelines on prevention and response to sexual violence in emergency.

⁸¹ S. MEGER, *The fetishization of sexual violence in international security*, cit., p. 152.

that there has been the establishment of a six-pillar test to determine whether sexual violence can be considered as a threat to security⁸².

However, this excludes several forms of sexual violence and presumes that the latter, as well as gender insecurity, can be addressed through the restoration of State authority and prosecuting perpetrators⁸³. However, this «denies the preexisting gender inequalities that make women vulnerable to a range of political, social, and economic insecurities, including sexual and gender-based violence both in times of war and in times of peace»⁸⁴.

This also means that, when the six-pillars test is not met, sexual violence is not a threat. In this way, given that the State is the referent subject of securitization, women's experiences are only important when they are relevant for the State's interest. Therefore, conflict-related sexual violence becomes a commodity in the market of global governance.

The second stage of fetishization, namely objectification, is strictly connected with the previous one, in which it occurs when sexual violence is extrapolated from its context and meaning, and becomes an object with a purpose, and therefore an "exchange-value". In fact, the previous phase of fetishization caused sexual violence to transform into a «commodity in international politics. Separated from its use-value (determined by the pre-existing gendered social relations [...]), objectification imbues sexual violence with an exchange-value, rendering it consumable and thus banal»⁸⁵.

By doing so, sexual violence becomes normalized because its presence in conflict is normalized. This is further enhanced by the simplistic reference to rape as a weapon of war, without taking into consideration the broader context in which this happens, as well as other forms of CRSV, GBV and different roles and relations between victims and perpetrators.

⁸² The following are the six conditions in order for sexual violence to be considered as a matter of security in conflict: 1. Crime of concern to the international community as a whole; 2. Command responsibility is entailed; 3. Civilians targeted; 4. Climate of impunity - sexual violence "normalized" after conflict; 5. Cross-border implication such as displacement or trafficking; 6. Ceasefire violation.

⁸³ S. MEGER, *The fetishization of sexual violence in international security*, cit., p. 153.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

Furthermore, the media have often reported grave and very brutal stories, with a particular focus on the numbers of violences. Even if this allowed for such issue to be considered by the media, the governments and international organizations, it is problematic in which a strict focus on numbers, again, forgets about all other elements of such violence. Additionally, media often used testimonies, and while this helped in giving voices to victims, it also contributed to the transformation of sexual violence into a consumption good for readers, especially western ones.

This, again, contributed in making sexual violence a commodity, and sexual violence becomes endowed with symbolic and material value, to the extent that scholars as well, benefit from such resources. Even within the aid world, agencies compete for primacy within the area of providing aid to victims of conflict-related sexual violence. This results in «"victim appropriation" and withholding information from other agencies or coordinating bodies [...]. 97). Organizations are reportedly [treating] victims as 'commodities'»⁸⁶.

All the elements that compose objectification, such as the focus on numbers and the aid provided to victims are positive: they contribute in bringing justice and helping victims of violence. However, the lack of attention to the phenomenon of CRSV, all its forms and reasons behind it, as well as its connection to GBV in peacetime, cause the impossibility to have a comprehensive understanding of sexual violence. As a consequence, there is a reiteration of the same problems that lay at the basis of the perpetration of CRSV. In a vicious circle, this causes the normalization of such violences, as well as of the social elements at its root.

The third and last stage of fetishization of sexual violence is that of blowback. In fact, when CRSV becomes a commodity and gains more importance than the other forms of gender-based violence, there also is a marketization of a certain social relation considered to be at the basis of such violence.

Blowback, is, in itself, the unintended negative consequences of securitization of conflict-related sexual violence: «specifically, there is some evidence to suggest that the local reception of this norm is influencing the behaviors of actors in conflict.affected

⁸⁶ Ivi, p. 154.

areas in unintended ways»⁸⁷. According to Meger, one of these blowbacks is, in fact, the commodification of CRSV.

Through the media and other campaigns, certain images and interpretations of CRSV are reproduced and impact on the process of policy-making, which depends on the agreement on common definitions of certain phenomena. According to Meger, an unintended consequence of such process has been that of orienting international aid and justice only to certain types of GBV rather than to all. For example, in the DRC, a medical aid worker in North Kivu affirmed how the funds were mainly used for emergency response even if there were enough to answer to other needs, such as providing health care⁸⁸.

Given that aid is increasingly focusing more on one issue rather than targeting many, CRSV becomes one of the variables on which NGOs activities are dependent, and therefore become part of the agendas of international and national organizations. Additionally, Autesserre, as reported by Meger, affirmed how the disproportionate focus on CRSV raised sexual abuse to be a tool for combatants in order to obtain notoriety and fame in the DRC: «A [...] MONUSCO⁸⁹ political affairs officer told [...] that rebel groups were motivated to engage in gang rape by the prospect of seeing their name in headlines and the increased negotiating power this provided them»⁹⁰.

The other side of the coin is that of women exploiting CRSV as a survival strategy, by claiming of being victims of rape and therefore have access to the health, social and judicial care. This has arrived to the extent that women in the DRC «exhibited "shopping behaviour," whereby they "exchange information on the organisations that offer most or free assistance»⁹¹. However, also community workers have convinced women to say they had been raped in order to obtain financial and material assistance.

⁸⁷ Ivi, p. 155.

⁸⁸ *Ibid.*

⁸⁹ UN Stabilization Mission to the Congo.

⁹⁰ S. MEGER, *The fetishization of sexual violence in international security*, cit., p. 155.

⁹¹ *Ibid.*

Through these behaviors, sexual violence became also a tool within disputes over land, income and property.

Through the three stages of fetishization, therefore, conflict-related sexual violence has become a commodity which serves certain purposes for all actors. However, this reproduces pre-existing behaviors, social relations and social roles which are at the basis of the perpetration of sexual violence itself. By not tackling comprehensively the reasons at the basis of CRSV, in fact, fetishization has been created, and it does not help in eliminating sexual violence, but, on the contrary, reiterates it.

CHAPTER V

PEACEKEEPING AND PEACEBUILDING: FRIENDS OR FOES?

The United Nations adopts a range of activities in order to maintain peace and security at the international level. These are based on Chapters VI and VII of the UN Charter¹. These measures are five: conflict prevention, peacemaking, peacebuilding, peace enforcement and peacekeeping. The five of them should be used together, in a mutually reinforcing way, and not in an isolated one².

The first, as the name itself suggests, aims at preventing conflicts through diplomatic measures when tension between States arise. The second also involves diplomatic action and attempts to reach an agreement between the parties of a conflict that has already started. Peacebuilding, on the other side, has the aim of reducing the risk of conflict; it does so through actions that strengthen national capacities regarding conflict management and by creating the necessary conditions for a sustainable peace and development. Therefore, this is a long-term project by creating the conditions for a long-lasting sustainable peace.

Peace enforcement, on the other side, abandons diplomatic measures and adopts coercive ones, including the use of military force in order to restore peace and security. This particular mechanism requires the authorization of the Security Council and can be used in cases of threat to peace, breach of peace or act of aggression.

Finally, peacekeeping operations are deployed for the implementation of a ceasefire or peace agreement and have an active role in peacemaking and peacebuilding. Peacekeeping is, therefore, multidimensional. The measures discussed here are, in fact, often overlapping or their boundaries are blurred. In particular, peacekeeping can overlap and be part of the other mechanisms, for example by supporting the

¹ Chapter VI of the UN Charter is about pacific settlement of disputes, while Chapter VII regards action with respect to threats to the peace, breaches of the peace, and acts of aggression. These two are relevant in which they prescribe the powers of the Security Council and of its resolutions. The latter, when adopted under Chapter VI are meant to be followed and implemented through negotiation between the parties. Under Chapter VII require nations to comply with their content.

² UNITED NATIONS PEACEKEEPING, *Terminology*, in *peacekeeping.un.org*, available at: <https://peacekeeping.un.org/en/terminology>, last accessed May 16th 2024.

organization of elections and promoting the rule of law and human rights, or by reintegrating soldiers and combatants into the societies after the end of the conflict³.

In particular, as previously mentioned, peacekeeping can often overlap with peacemaking and peacebuilding. These three aim at attaining the goal set by the United Nations Charter of avoiding war in order to save future generations. Specifically, they exist in the light of Chapters VI and VII of the Charter. In the former, a list of peaceful, diplomatic and judicial means of resolving disputes constitutes what is commonly intended as peacemaking. As a consequence, this is considered as a first step, before peace enforcement and sanctions, which are, in contrast, contained in Chapter VII.

Peacebuilding, on the other side, is highly focused on the reintegration of combatants and soldiers in society, on a large inclusion of local agents within the creation of peace, reconstruction of strengthening of governance and governing mechanisms, and looks at the future in a long-term perspective. The outcome of Peacebuilding, and particularly the inclusion of the local population, highly depend on the donor: the deductive approach is very based on the latter element, in which it is the donor which decides the tools and capacities to implement and use, resulting in mixed or failed missions.

On the other side, inductive approaches are focused on conflict parameters and strategies that are being employed, with a particular focus on local capacity building. By using this approach, there will be a focus on local participation, but also on the non-violent conflict-managing. In this way, a successful peacebuilding can happen only when peacebuilders are not dominant, but are facilitators, and the peacebuilding is highly dependent on local participation rather than a vertically driven operation⁴.

Peacekeeping is based on three basic principles: the consent of the parties, impartiality and non-use of force except in self-defense and defense of the mandate. In particular, the latter element highly depends on the mandate of the UNSC, which may, in fact, set out stronger or weaker mandates. In the cases of mandates which allow

³ *Ibid.*

⁴ G. M. LUCUTA, *Peacemaking, peacekeeping, peacebuilding and peace enforcement in the 21st century*, in www.peaceinsight.org, April 25th 2014, available at: <https://www.peaceinsight.org/en/articles/peacemaking-peacekeeping-peacebuilding-peace-enforcement-21st-century/?location=&theme=>, last accessed June 3rd 2024.

peacekeepers to use all necessary means, the use of force may be authorized. However, this is still different from peace enforcement in which, in this case, force can only be used with authorization of the UNSCR and consent of the main parties to the conflict. The latter element in fact is not required for peace enforcement. However, peacekeeping missions should only use force as a last resort.

Peacekeeping began in 1948, when, for the first time, the United Nations Security Council authorized the deployment of military observers to the Middle East. The aim of the mission, known with the name of United Nations Truce Supervision Organization (UNTSO), was to monitor the Armistice Agreement between Israel and the neighboring countries.

After this first mission, several others have been deployed during the decades, with which peacekeeping has evolved. In fact, it was initially aiming at maintaining ceasefires and stabilizing situations by providing support to resolve the conflicts. Later on, in 1956, with the Suez Crisis, the UN Emergency Force, the first armed peacekeeping operation was deployed. Only four years later, the first large-scale military mission was launched.

With the end of the Cold War, the number of peacekeeping operations increased and their agendas enlarged. These missions, in fact, aimed at helping with the implementation of peace agreements, stabilizing the security situation, reorganizing the military and police and electing new governments and building democratic institutions.

In the same period, however, the UN Protection Force (UNPROFOR) and UN Assistance Mission for Rwanda (UNAMIR), were established. These were highly problematic in which, when the operations with mobilized, the conflicts had not yet ended⁵.

In this same period after the end of the Cold War, peacebuilding started to emerge from the need for multilateral peace operations⁶, sometimes performing tasks that were different from the one carried out in past operations. The first example was that of the

⁵ UNITED NATIONS PEACEKEEPING, *Our History*, in *peacekeeping.un.org*, available at: <https://peacekeeping.un.org/en/our-history>, last accessed May 16th 2024.

⁶ R. PARIS, *At War's End: Building Peace after Civil Conflict*, Cambridge University Press, 2004. p. 17.

mission to Namibia, where in the mandate of the operation, there was also the preparing of the country to its first democratic election and assisting in the drafting of the new constitution. More missions involving the organization of elections, drafting of constitutions and human rights training and monitoring took place over the following years.

Therefore, peacebuilding started to emerge in this request for a multilayer peace process, but its borders with peacekeeping remained blurred, even if the two are not the same thing, they often went hand in hand. This similarity brought towards the use of the term peace operations, which was used generically to refer to the various types of peace missions of the United Nations. In 1992, *An Agenda for Peace*, a policy statement issued by the secretary General Boutros Boutros-Ghali, contained a taxonomy of peace operations. By looking at this taxonomy, it emerged that the majority of operations after the end of the Cold War were aiming at peacebuilding after conflict.

Peacebuilding operations had the purpose of promoting a stable and lasting peace through democratization, marketization and protection of human rights, with particular attention to civil and political ones⁷. However, these operations focused on peacebuilding differed from peacekeeping operations also because they were not only composed by personnel of the United Nations, but also by international agencies and even specialized agencies of the UN itself. This led to a lack of a central organization which had control over the totality of peacebuilding, and has been considered as a great element of peacebuilding.

Peacemaking, peacekeeping, peacebuilding, conflict prevention and peace enforcement can be crucial in maintaining or reconstructing peace, and, specifically, in eliminating those elements of societies and mentalities which lead towards the perpetration of gender-based violence and, in particular, of sexual violence, both in peacetime and in wartime.

However, these have also received many critics, which will be analyzed later on in this chapter. Nevertheless, they could be a starting point in order to build better societies, without the violences which have been the focus of this thesis. In particular,

⁷ *Ivi*, p. 19.

this chapter will focus on the importance of peacekeeping, in which the center of this thesis has been on conflict-related sexual violence, even if there has been a broad consideration of the role that peacetime societies have in its creation.

To strictly talk about one of the latter strategies is reductive, in which they have to be considered as interconnected. For the purpose of this thesis, however, there will be a focus on peacekeeping and peacebuilding, in which the first entails the use of armed forces, and the second entails the participation of locals to the peace processes and post-conflict reconstruction. In fact, these are two very important elements which have been highly criticized, as it will be seen later on.

Through this chapter there will be an analysis of the impact of peacemaking and peacekeeping on local populations, with a particular attention to women's rights and the perpetration of sexual violence. Secondly, there will be a focus on the role that women can have in peacekeeping and peacemaking. Finally, there will be an evolution of what has been argued in this thesis and there will be the final conclusions on whether a new way of interpreting gender-based violence can help to overcome the problems of securitization and of conflict-related sexual violence.

5.1 THE IMPACT OF PEACEKEEPING ON WOMEN'S SAFETY

The focus on peacekeeping operations has often been on their results, but without an adequate attention to the unintended consequences of such missions. Among the latter it is possible to find the perpetration of sexual exploitation and abuse (SEA). According to the definition provided by the United Nations, sexual violence is an «actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another»⁸, while abuse has been defined as «the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions»⁹.

⁸ R. NORDÅS, S.C.A. RUSTAD, *Sexual exploitation and abuse by peacekeepers: understanding variation*, in PRIO papers, p. 2.

⁹ *Ibid.*

The literature related to SEA in peacekeeping is mainly dominated by policy reports and case studies which have only made hypothesis and suggestions on the factors associated with SEA and the legal challenges faced by victims, but there has not been any empirical test of the relationship between various potential risk factors and SEA reports¹⁰.

However, such analysis is necessary in order to understand what are the risks of peacekeeping operations, what challenges are faced by women and what are the consequences of the carrying out of SEA on the general outcome of the peacebuilding and peacekeeping, as well as on the shaping of the future society. Moreover, UNSCR 1325 on Women, Peace and Security demanded for a larger role of women in peacekeeping, which can also be undermined by the carrying out of sexual violence and abuse from peacekeepers.

In order to understand what is the extent of SEA and the factors related to it, Ragnhild Nordås and Siri Rustad, researchers at the Peace Research Institute of Oslo (PRIO), have analyzed a dataset of the 35 international peacekeeping missions carried out by the United Nations, NATO, the Economic Community of West African States (ECOWAS) and the African Union between 1999 and 2010.

Through the dataset resulting by the analysis of these missions, they carried out a statistical study on variation of reported sexual violence and abuse in the latter operations. This dataset on *Sexual Exploitation and Abuse by Peacekeepers* (SEAP dataset)¹¹ aimed at facilitating comparative studies through the analysis of the (limited) public information available on such missions, as well as reports from non-governmental organizations, academic studies and media sources. The main results were that:

SEA was more frequently reported in situations with lower levels of battle-related deaths, in larger operations, in more recent operations, the less developed the country

¹⁰ *Ibid.*

¹¹ See Annex A.

hosting the mission, and in operations where the conflict involved high levels of sexual violence¹².

In fact, one of the first operations which was reported for the perpetration of sexual violence and abuse from peacekeepers was the one in Cambodia from 1992 to 1993. However, reports of such violence were present in many following operations, among which the one to the Democratic Republic of Congo. In particular, there were reports of peacekeepers coercing vulnerable people in providing sexual favors in exchange for first need goods, such as food and medicines, as well as payment, but there were also instances of rape, even at gunpoint.

These acts can undermined the mission itself, as well as the relationship between locals, especially when rape causes social exclusion and stigma¹³, as well as causing unwanted pregnancies and spread of sexually transmitted diseases.

However, the dataset demonstrated how SEA is not equally distributed in all missions, but there is considerable variation. Under-reporting is a well-known problem, but, according to the authors, it should not explain such variation¹⁴. The latter may be explained by taking into consideration others factors and understanding whether they are conducive or countering to SEA. The study took into consideration the troop contributing country (TCC), the mission-specific elements and host-specific factors.

The findings highlight that the number of troops on the ground was impacting on the probability of occurrence of SEA perpetrated by peacekeepers: larger missions carried a higher risk of such crimes. Moreover, laws protecting women from rape and sexual violence proved not to be effective in preventing SEA, while missions in countries with higher development levels were less likely associated with SEA. SEA was more likely when there was a wide extent of penetration of conflict-related sexual violence, with also a risk of lower reporting. Reporting, on the other side, was more common after

¹² R. NORDÅS, S.C.A. RUSTAD, *Sexual exploitation and abuse by peacekeepers: understanding variation*, in PRIO papers, p. 1.

¹³ See *infra* chapter 1.

¹⁴ R. NORDÅS, S.C.A. RUSTAD, *Sexual exploitation and abuse by peacekeepers: understanding variation*, cit., p. 4.

2005, which could be associated with a wider attention to sexual violence and abuse from the media and the public opinion¹⁵.

Nordås and Rustad built a theoretical framework for this study by analyzing past literature on rape. Particularly, they took in consideration Russell's four-factor model on the preconditions that bring to the perpetration of rape, these are:

(1) factors creating a predisposition or a desire to rape, (2) factors reducing internal inhibitions against acting out this desire, (3) factors reducing social inhibitions against acting out this desire, and (4) factors reducing the potential victim's ability to resist or avoid the rape¹⁶.

Moreover, they took in consideration how rape is also more common when its costs are low and victims are devalued. Related to this, they argued that:

From the general literature on rape we can therefore assume that the prevalence of sexual exploitation and abuse should be higher when the males in the population hold negative views of women in their surroundings, when there is social acceptance for the behavior, and when potential victims are vulnerable to targeting. The peacekeeping operation context may sometimes influence these factors and generate an environment conducive of abuse¹⁷.

Based on such premises and the analysis of the dataset, the researchers elaborated various possible explanations for the perpetration of SEA from peacekeepers. In particular, they elaborated seven hypothesis, which will be here shortly reported and commented.

Such hypotheses were studied through a multivariate regression model¹⁸, which considered explanatory variables and control variables, through which the researchers built five models in order to understand if the data were supporting or contradicting the hypotheses. The variables will not be further discussed, but the result of the models are essential in order to understand what has an effect on the perpetration of SEA.

¹⁵ *Ivi*, pp. 4-5.

¹⁶ *Ivi*, p. 11.

¹⁷ *Ivi*, p. 13.

¹⁸ See Annex A.

Three of such hypothesis focus on factors related to the mission itself. The first, «(1) peace operations which mention women in the mandates are less likely to be associated with reports of SEA by peacekeepers, all else equal»¹⁹, was based on the idea that when the mandate of a mission contains explicit provisions to protect women, the peacekeepers are expected to not engage in SEA in which they are protecting women. In fact, the models of the study proved this hypothesis to be true.

On the other side, the second hypothesis is that «(2) there will be more SEA in missions when the troops come from countries that do not protect the rights of women to be spared from unwanted sexual advances»²⁰. Therefore the mandates will comprehend the need to protect women in hitch they are in a particularly disadvantaged situation and at risk. In such context, the peacekeepers' background on masculinity and gender relations will play an important role in the probability of carrying out of SEA. The variables' directions were in favor of this hypothesis, however, they were not statistically important, therefore suggesting that such element does not have great significance in determining the presence of SEA in peacekeeping missions.

The third hypothesis is self-explanatory, and was proved to be right through the models. It entails that «(3) the larger the missions in terms of troop size, the higher the likelihood of reports of SEA»²¹. This might also be due to the difficulty in controlling all peacekeepers when a mission is larger.

When shifting their focus on host factors, meaning the conditions of the local environment and society, they highlighted other hypothesis. The fourth looked at the economical conditions of the country, with a particular attention to women: «(4) SEA is more likely the lower the economic development of the host country»²². This is based on the thesis that peacekeeping operations may establish a real peacekeeping economy, where sexual favors, as previously mentioned, can be exchanged to obtain food, money

¹⁹ R. NORDÅS, S.C.A. RUSTAD, *Sexual exploitation and abuse by peacekeepers: understanding variation*, cit., p. 14.

²⁰ *Ivi*, p. 15.

²¹ *Ivi*, p. 16.

²² *Ivi*, p. 17.

or medicines. Again, this hypothesis was proved by the models, which showed how the missions in less developed host countries have a higher probability of having reports of SEA.

The fifth hypothesis, on the other side, focused on the presence of a culture or practice of impunity of GBV, and/or a weak legal protection of women: «(5) SEA is more likely when the host country does not legally protect the rights of women to be spared from unwanted sexual advance»²³. However, the variables were slightly going in the opposite direction than the expected one, therefore confuting this hypothesis.

The sixth hypothesis affirms that «(6) SEA is more likely if there was extensive sexual violence during the preceding armed conflict»²⁴. This takes onto consideration normalization of sexual violence, which may lead to women be willing to exchange sexual favors for goods. Moreover, a high presence of sexual violence in the conflict may heighten the possibility for women to be excluded from their communities and become even more vulnerable, and may create a real sexual exploitation system. The variables were strongly supporting such hypothesis.

Lastly, «(7) the more intense the ongoing violent conflict, the less reports of SEA»²⁵, this hypothesis is based on the fact that if general security is low and the situation is at high-risk, peacekeepers may have less contact with local populations, therefore also engaging less in SEA. However, this may also lead to less reporting. This hypothesis as well was proved to be true.

In general, after 2005, year in which there was the publication of the Zeid report²⁶, the reports increased. This could be due to the high attention that was given to SEA at the time. However, many problems still persist, and, among these, is the lack of data, studies and research on subsequent missions, which does not give the possibility to further analyze if reporting of SEA has increased or not. Moreover, it has to be kept in

²³ *Ivi*, p. 18.

²⁴ *Ibid*.

²⁵ *Ivi*, p. 19.

²⁶ Prince Zeid Ra'ad Zeid Al-Hussein was the secretary-general's special advisor. His report on a comprehensive strategy to eliminate future sexual exploitation and abuse from peace operations of the United Nations has been particularly important in determining the actions to be taken in order to eliminate such problem, as well as in acknowledging its existence.

mind that reporting is a positive element, however, it means that sexual violence and abuse is still perpetrated by peacekeepers. Therefore, better steps would be adopted in order to avoid the occurrence of such crimes.

The above discussed study is essential in understanding the extent of sexual violence and abuse perpetrated by peacekeepers, and especially which are the situations in which it is mostly probable and which factors favor it. However, it is also important to consider what are the factors that lead to its perpetration, as it has been done with CRSV.

5.2 THE REASONS BEHIND SEA

As it has been seen, conflict-related sexual violence has often been used with a strategic purpose, but not always. At the light of the analysis done in chapters from one to three, it is not surprising to affirm that sexual violence can be carried out by peacekeepers even if they are not part of the conflict, given that sexual violence is carried out for several reasons, which have already been analyzed in such chapters.

The perpetration of sexual violence from peacekeepers has seen sexual assault, rape, gang rape and other kinds of sexual violence and abuse in many missions. However, the data available is very limited²⁷. In particular, opportunistic sexual abuse has been documented in many missions, among which the one in the Democratic Republic of Congo. As also evidenced in the study by Nordås and Rustad, such violence is more likely to occur in those countries where sexual violence has been widespread during the conflict. Moreover, the majority of accounts of violence have revolved around military peacekeepers, who are soldiers, rather than around civilian peacekeepers and aid workers, who appear more in transactional sex. Therefore, the militarization of masculinity again reproduces certain behaviors which are violent²⁸.

Transactional sex, also named as survival sex, is the exchange of sexual favors for food, money, jobs or medicines. These behaviors are explicitly prohibited by the

²⁷ J.K. WESTENDORF, L. SEARLE, *Sexual exploitation and abuse in peace operations*, in *International Affairs*, Vol. 93, No. 2, March 2017, pp. 365-387, available at: <https://www.jstor.org/stable/10.2307/48569547>, p. 369.

²⁸ *Ibid.*

missions, but they are also very common, in which, in reality, such form of behavior is not necessarily criminal²⁹. In fact, transactional sex involves a certain level of agency and negotiation among the parts, and the “victim” is giving her consent to perform sexual acts in order to gain something. Even if it can be argued that this is abuse of power and abuse of fragility of the victim, not always this is a crime.

In fact, understanding the parameters of consent in such cases is quite hard, especially when minors are involved. In fact, often girls were raped and afterwards payed, in order for the rape to be passed as a transactional sex³⁰. In any case, poverty and unequal power dynamics are at the basis of transactional sex economies, and therefore power abuse by peacemakers shall be stopped and prosecuted.

Another form of SEA emerged from reports of the peacekeeping mission in the former Yugoslavia, where there were reports of peacekeepers involved in trafficking of women from neighboring countries to Kosovo and Bosnia and Herzegovina. This was due to the “increase in demand” of sex services after the arrival of the peacekeepers. Reports show that «international personnel, particularly soldiers in the Stabilization Force, accounted for an estimated 70 per cent of profits made from prostitution in Bosnia, and an estimated 30–50 per cent of clients»³¹.

Moreover, there were evidences that peacekeepers patronized brothels operated outside of Serbian concentration camps outside of Sarajevo. Similarly, they were much involved in the trafficking and forced prostitution of women both in Bosnia and Herzegovina and in Kosovo, through the connection with criminal networks.³² This last element is what distinguishes networked SEA from transactional sex. Peacemakers were not only involved in the perpetration of the abuses, they were also gaining from them.

Differently from the other types of sexual abuse, the planned and sadistic one does not have any transactional or opportunistic element. There have been reports of regular

²⁹ *Ivi*, p. 371.

³⁰ *Ivi*, p. 372.

³¹ *Ivi*, p. 373.

³² *Ivi*, p. 374.

raping of children, both males and females, as well as beating, torturing and raping young boys and girls who were caught stealing food which was left out as bait³³.

Additionally, as for conflict-related sexual violence, lack of accountability and widespread impunity are two important elements in determining such perpetration. Again, one problem is related to hardship in investigating such violences due to trauma, fear, stigma and isolation of victims. Moreover, the abuses may also not be denounced in which women may be consentient in order to obtain food, medicines or money. Even when there are allegations, there might not be any criminal prosecution due to lack of data and proof on the perpetration of sexual violence and abuse³⁴.

The responsibility to discipline and criminally section members of the operations' forces is of the troop-contributing countries. Even in the cases in which these countries did not have exclusive jurisdiction over other type of personnel, the UN referred to them. In cases of allegations of serious misconduct, comprehending sexual violence and abuse, the United Nations has the power the repatriate the individuals concerns, make recommendations to the country and ban those individuals from future peacekeeping operations. After repatriation, such individuals should be subject to criminal and disciplinary jurisdiction. However, often this does not happen, also due to a lack of evidence and obstacles posed by local laws on extraterritorial prosecutions³⁵.

Moreover, there is lack of data on the investigations carried out by troop-contributing countries, and the available statistics is only noting aggregate numbers of responses to queries by the Conduct and Discipline Unit, but without detailed data by State and nature of the query³⁶.

In 2007, in order to overcome such problems, the memorandum of understanding between troop-contributing countries and the United Nations was amended, and took into consideration the recommendations contained in the Zeid report. According to such

³³ *Ivi*, p. 370.

³⁴ USIP, *Criminalizing Sexual Exploitation and Abuse by Peacekeepers*, in www.usip.org, September 2013, available at: [https://www.usip.org/sites/default/files/SR335-Criminalizing Sexual Exploitation and Abuse by Peacekeepers.pdf](https://www.usip.org/sites/default/files/SR335-Criminalizing%20Sexual%20Exploitation%20and%20Abuse%20by%20Peacekeepers.pdf), last accessed May 16th 2024, p. 3.

³⁵ *Ivi*, p. 4.

³⁶ *Ibid*.

amendments³⁷, the troop-contributing countries have the obligation to provide assurance to the UN that they will exercise their jurisdiction in cases which entail such crimes and offenses. However, these assurance cannot be legally enforced, they only have moral weight. Secondly, they have the obligation to regularly provide information to the Secretary-General on the progress and outcome of misconduct investigations and prosecutions. However, this is not completely respected.

With the revised memorandum, the UN was authorized to carry out preliminary fact-finding investigations in cases of serious misconduct. The Investigations Unit of the UN is also authorized to start administrative investigation if the sending State was unable or unwilling to do so. This is an important step forward which, however, highlight the difficulty for States to comply with their obligation, and can also cause problems when the investigation is not done with the correct sensitivity, causing evidence to be tainted or the chain of custody broken.

Troop-contributing countries also have the obligation of «vetting candidates for national armies and security forces to ensure the exclusion of those associated with serious violations of international humanitarian and human rights law, including sexual violence»³⁸. In this way, those who already have records of misconduct and violence shallot be selected. This requires a minimum standard in order to be selected to participate in a peacekeeping mission.

These are all positive steps in the way to eliminate SEA and to punish perpetrators. However, there still are numerous gaps to this memorandum, highlighted by the failure of the Conduct and Discipline Unit to publish detailed statistics on the crimes and abuses perpetrated by the peacekeepers³⁹.

A possible solution to these problems was proposed by a Group of Experts created in 2005 by the UN general Assembly's Special Committee on Peacekeeping Operations. The Group of Experts issued a report in 2006 in which it highlighted the importance of the role of the host country. In particular, it stated the importance of host countries to be

³⁷ *Ivi*, pp. 5-6.

³⁸ *Ivi*, p. 5.

³⁹ *Ivi*, p. 6.

able to investigate and prosecute peacekeeping officials, UN staff and experts of missions, who have fictional immunity⁴⁰. However, it is unlikely that the UN would waive the immunity.

The Group also suggested how the host State shall be helped through capacity-building initiatives in order to strengthen the judicial system. However, this would be difficult given the need for a timely response to crimes and violence, while the strengthening of the legal system is a long-term process, often also object of the peacebuilding missions. However, the Group of experts argued ohhh the host state should receive help in providing support or technical assistance to carry out the investigations. In this way, the evidences would be promptly gathered and preserved. However, such evidences may not be admissible in the prosecution held in another State⁴¹.

Moreover, the Group of Experts stated how other states should have the jurisdiction to investigate and prosecute crimes perpetrated by peacekeepers when the host state doesn't have the capacity to exercise jurisdiction. It also suggested the possibility to extend universal jurisdiction over peacekeeping crimes under the reasoning that they entail an abuse of power which is the interest of the whole international community to prosecute. moreover, they proposed the introduction of an extradite or prosecute provision for other states. However, it is unlikely that either of them will happen⁴².

The steps forward in recognizing sexual violence and abuse perpetrated by peacekeepers have been many, thanks mostly to reports of such acts. However, the steps made forward still lack many elements, starting from the ones cited here, such as the real contribution of States to the investigation and prosecution of there crimes, to the ones that go towards the understanding of them. In fact, as for conflict-related sexual violence, it is essential to understand what are the reasons behind such perpetrations, which is the only way in order to stop them at their root and create peacekeeping and

⁴⁰ They cannot be prosecuted or incur civil liability for acts undertaken under the fulfillment of their official functions.

⁴¹ *Ivi*, p. 7.

⁴² *Ivi*, p. 8.

peacebuilding operations which aim at creating a society without gender-based violence.

Having seen these elements, it is possible to affirm how, the sexual nature of these crimes and the fact that they are mostly perpetrated by men highlight again the importance of gender construct and militarization in the perpetration of sexual violence. Again, the element of masculinity is essential to understand the preparation of SEA, with accounts of peacekeepers admitting to having perpetrated such crimes in order to prove they were not homosexual and that they were soldiers⁴³.

As it will be seen in the following paragraph, the role of women in peacebuilding has often been considered as the key solution to eliminating SEA and contributing at the creation of a society where there is real equality and to tackle the needs of the victims of CRSV.

5.3 THE ESSENTIAL ROLE OF WOMEN IN PEACEKEEPING

The Department of Peacekeeping Operations (DPKO) of the United Nations Secretariat, is an important body supporting peacekeeping missions. In 2000, it stated how the presence of women in such operations can be crucial to support and help local women. Moreover, this will make male peacekeepers more responsible and it will broaden the set of skills available within the mission. In particular, it referenced to the importance of gender mainstreaming, which has been defined by the United Nations as:

The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality⁴⁴.

⁴³ J.K. WESTENDORF, L. SEARLE, *Sexual exploitation and abuse in peace operations*, in *International Affairs*, cit., p. 375.

⁴⁴ E. REHN, E. J. SIRLEAF, *Women, war and peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, in www.unwomen.org, 2002, available at: <https://www.unwomen.org/en/digital-library/publications/2002/1/women-war-peace-the-independent-experts-assessment-on-the-impact-of-armed-conflict-on-women-and-women-s-role-in-peace-building-progress-of-the-world-s-women-2002-vol-1>, p. 63.

Sabrina Karim and Kyle Beardsley have analyzed two particular elements related to sexual violence perpetrated by peacekeepers and the composition of the mission⁴⁵. The first one is the proportion of women and the second are the records of gender inequality in the contributing countries. These two elements, in fact, help in understanding the variation in perpetration of sexual violence and abuse.

The scholars highlighted how, after the first reports of SEA emerged related to the mission in Cambodia in 1993, and continued with other missions, it was only in 2003 that the UN Secretary General announced a zero-tolerance policy for exchange of money, food, help or anything of value for sex from the part of peacekeepers. Moreover, only two years later the DPKO established a Conduct and Discipline team to train peacekeepers and conduct investigations in cases of violations of the code of conduct. Data on SEA allegations started being collected only in 2006, however, SEA allegations remained high even after the take of conscience of the UN⁴⁶.

According to Karim and Beardsley, SEA can be explained by militarized masculinity and its prevalence of feminine behavior. Moreover, in peacekeeping missions soldiers may be asked to carry out tasks that are normally assigned to civilians, leading them to have to prove their masculinity and therefore to sexual exploitation and abuse. Moreover, the widespread abuses and sexual violence on local women perpetrated by male peacekeepers has led towards a certain hypermasculinity and tolerance of these violences, often excused by male-dominated institutions.⁴⁷ an example is that of the mission in Cambodia, where the UN Special Representative of the Secretary General Yasushi Akashi answered to concerns on SEA raised by NGOs with the sentence «boys will be boys»⁴⁸.

However, hypermasculinity does not explain SEA in its entirety. The above mentioned study carried out by Nordås and Rustad, has helped in defining which are the

⁴⁵ See Annexes B and C.

⁴⁶ S. KARIM, K. BEARDSLEY, *Explaining sexual exploitation and abuse in peacekeeping missions: the role of female peacekeepers and gender equality in contributing countries*, in *Journal of Peace Research*, 2016, Vol. 53(1), pp. 100-115, available at: DOI: 10.1177/0022343315615506, pp. 101-102.

⁴⁷ *Ivi*, p. 102.

⁴⁸ *Ivi*, p. 103.

factors mostly related with high levels of SEA within a mission. In particular, they have highlighted how SEA also emerges from a component of opportunism. However, all of these factors cannot fully explain the variation across patterns of SEA in different missions. For this reason, Karim and Beardsley have focused on the role of women in peacekeeping operations, as well as the gender inequalities in the contributing countries.

In fact, they argue how there is a link between patriarchy and the physical security of women. Therefore, patriarchy becomes, together with militarized masculinity, one of the main issues at the roots of the perpetration of sexual violence and abuse during peace operations⁴⁹.

It has often been affirmed how SEA can be mitigated by reducing patriarchy and militarized masculinity through the composition of the forces by increasing the proportion of female peacekeepers and of those who have a substantial exposure to the practice of gender equality. According to Karim and Beardsley, a more holistic approach is necessary to reach these goals.

Connected with the first element, the immediate positive effect expected is that men are the majoritarian perpetrators of SEA, and, therefore, this will necessarily lead to a decrease in the number of cases, therefore «shrinking the pool of likely offenders»⁵⁰. Moreover, this may mitigate militarized masculinity and patriarchy within the personnel: if SEA is due to a male-dominant culture in the mission, women's participation has to be connected with a change in such cultures. As a result, women are necessarily highly feminine and through this element they are minimizing militarized masculinity.

Another argument in support of the role of women in reducing SEA is that men will be less likely to engage in sexual abuse when more women are around, because the latter increase the chances of reporting and confronting. In this way, women will be a deterrent and a mitigating factor of sexual abuse.

However, all of these arguments entail a woman who is highly feminine, even if this is not necessarily true, because, as previously seen, femininity is a social construct.

⁴⁹ *Ibid.*

⁵⁰ *Ivi*, p. 104.

Moreover, it also entails that these women will be able to counteract masculinity and patriarchy. However, a male-dominated culture may as well have the opposite effect, and SEA may be hidden from female members of the mission, or who threatens to report may be threatened herself. Or again, loyalty to the mission and the country may be stronger than the one to locals, therefore reducing the possibility that these women will report. And, finally, but very importantly, this gives to women a very important role: those few women that will be part of the mission will have also the job to control that no sexual violence and abuse is perpetrated on the part of their compatriots⁵¹.

Another possible solution is that of recruiting individuals with strong values for gender equality, without regarding at their gender. If more members of the mission value gender equality, patriarchal and hyper-masculine behaviors may be hindered. In this way, male and women will share the process of reformation of the mission and avoiding the perpetration of SEA. Obviously these two approaches are not mutually exclusive, and increasing the number of women in peacekeeping mission, as well as the number of individual with strong gender equality values, goes hand in hand⁵².

The data gathered through the study included the analysis of data concerning twenty-three missions across years, from 2009 to 2013. This resulted in findings in support of the thesis that a great presence of women in the mission would lead to a decrease in SEA allegations. However, such effect is not very robust, which might be because the number of women in the missions is not high enough. However, it is a first element in support of the thesis that increasing the number of women across mission has a positive effect on SEA reduction⁵³.

Moreover, the results supported the theory that there is a strong relationship between gender equality in the contributing country and lower SEA allegations in military units. Again, this supports the idea that recruitment of individuals with stronger gender equality values is positive to reduce SEA⁵⁴.

⁵¹ *Ibid.*

⁵² *Ivi*, pp. 104-105.

⁵³ *Ivi*, p. 107.

⁵⁴ *Ivi*, p. 109.

These data and the outcomes of their analysis shows how, in fact, women can have a positive role in diminishing the allegations of perpetrations of sexual violence and abuse within missions. However, it is important to notice how the strongest factor in its reduction is, in fact, the presence of personnel which is highly oriented to gender equality, whatever their gender. To this extent, it is possible to see what the UN has done in order to try to give a stronger role to women in peacekeeping missions.

Returning to the definition of gender mainstreaming given by the UN and to the stress that the DPKO has put on women's role in peace operations, it is crucial to understand how the reality of peacekeeping operations is very different. In fact, only few women are appointed to senior positions and, in general, their numbers are way lower than those of men in the operations. Gender mainstreaming does not only mean the inclusion of women in missions, but it entails a series of trainings, programmatic integration of gender in all activities, monitoring, reporting and evaluation, as well as systems to hold the operation accountable.

The mission itself has to be structured in a way that ensures gender equality both within the mission and in the environment receiving it. The different needs of men and women have to be accessed and addressed. However, as reported by the Independent experts' assessment on the impact on women and women's role in peace-building of 2002, this had not been implemented despite willingness and political statements to do so⁵⁵.

According to Elisabeth Rehn and Ellen Johnson Sirleaf, the main obstacle to the implementation of gender mainstreaming is the misperception of what are the requirements to serve in a leadership position. However, they also recognizes how women may be discriminated also because some posts are not advertised and candidates are picked from old networks where there are mainly only men. This highlights the need for more transparency and accountability, as well as the need for the establishment of an advisory group to facilitate the choice of personnel and senior staff. Moreover, even in the application of the mission's activities there is a discrimination, in which, when

⁵⁵ E. REHN, E. J. SIRLEAF, *Women, war and peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, cit., pp. 63-64.

rebuilding the national institutions, there are rarely affirmative actions that aim at filling the gender gap in these positions⁵⁶.

As of 2002, the year of the publication of such assessment, only four of 15 peace operations analyzed had dedicated staff working on gender issues, and this was often composed by only one person. Both missions to Kosovo and the democratic republic of Congo had such gender units or offices, however, they had great difficulty in performing their jobs in which they were not funded by the mission, but relayed on donors⁵⁷.

In general, their goal was that of ensuring the integration of gender issues within the mandate of the mission, raising awareness on such problems, reach out to groups of women at the local level, conduct gender training for peacekeepers, military observers and civilian police, and assist the capacity building of women participating in peace processes. However, given that they did not receive funds from the UN and that they often lacked staff as well, their ability to carry out such operations was hindered.

In reality, there is a wider need for women's roles in peacekeeping, but also for bigger attention from the top, funding, for example, is one of the main obstacles to carrying out the activities of such units. According to Rehn and Sirleaf, women's leadership role at the grassroots level is essential, in which they are able to create campaigns, institute human rights reporting, lobby for ceasefires and build networks for victims of the war, and they bring forward some examples, such as that of the Women in Black. Such organization protested against the government of Slobodan Milosevic and with time women starting to join them more and more⁵⁸.

Moreover, such organizations can be the starting point for an international networking, Women in Black itself is an international organization asking for peace and demilitarization.

Nevertheless, even if women may be active at the local level, they are mostly not included at the peace table. When they are able to do so, it is thanks to a combination of

⁵⁶ *Ivi*, p. 65.

⁵⁷ *Ivi*, p. 66.

⁵⁸ *Ivi*, p. 76.

activism and help from national and international organizations. However, their presence is essential in bringing forward different needs than those presented by politicians and the military. They represent the needs of the victims of hunger, violence and abuses.

The role that women should cover in peacekeeping and peacebuilding operations is, therefore, multifaceted. In order to include women within all the aspects of such missions, both at the local level and at the mission level, it is necessary to have certain mechanisms that allow for such inclusion. The use of quotas has often been widespread in ensuring women's participation to peace operations. In particular, the Beijing Platform for Action called for a 30% minimum representation of women in decision-making bodies. The UNSCR 1325 itself urged for the presence of women in peace operations. As expected, many NGOs have protested against this 30% requirement, because it has often not been implemented, but also because they call for parity, with a range from 45 to 55 %⁵⁹.

Even if the system of quotas can be helpful in ensuring the presence of women in such operations, it does not eliminate any problem connected with gender disparity and GBV. In fact, this does not guarantee the respect of women's rights and the elimination of discrimination. In order to do so there is the need for a structural change and acknowledgement of gender issues and the reasons at the basis of GBV and CRSV. This calls for changes at many level, starting from the inclusion of women's rights and gender equality in constitutions and national laws. But again, this does not mean a real implementation of such rights.

Judicial reforms are also a necessary step to go towards the construction of societies where men and women have the same rights. In fact, national judicial systems often are mostly constituted by men. Judges and lawyers often do not focus on the prosecution of abusers and perpetrators of sexual violence, minimizing the violences that women suffered and discriminating against them⁶⁰.

⁵⁹ *Ivi*, p. 81.

⁶⁰ *ivi*, pp. 83-84.

Furthermore, there is a need for women to have the political space to express their needs and opinions, and that these are considered as important as those of men. They also have to be guaranteed access to decision-making⁶¹. The road towards duality and the elimination of all elements which stand at the basis of GBV is quite long, but without giving space to women to express themselves and tell their side of the story, it is impossible to do so.

One of the main reasons why there are obstacles to this role of women is, however, in the way in which women's role in peace operations is conceived⁶². Andrea Schneider, drawing on the work made by gender scholars, affirmed how peace operations are dominated by «gender hierarchies, hierarchies as gendered, and hierarchies as gendered institutions»⁶³, in this sense, masculinity and femininity are intended as socially constructed categories, which are «performative and productive»⁶⁴. They entail certain characteristics that place people in a certain social position.

Schneider analyzed several reports written by staff of UN Women, academics, independent consultants, and international not-for-profit think tanks. Through this work she individuated a certain conception of women's role in peace operations. In fact, in ten of the twelve reports she analyzed, women's experiences of war were highlighted as different than those of men. Moreover, they were depicted as victims, with a particular reference to sexual violence, which is in line with the focus of the UNSC Resolutions and the Women, Peace and security Agenda. On the basis of their "victimhood", their experiences and knowledge of security, war and peace are considered to be different than those of men⁶⁵.

When it comes to procedural terms, women's role seems to be beneficial in as high they are considered as less aggressive and threatening than men to conflict parties. According to some reports, this is because of women's role in families and

⁶¹ *ivi*, p. 86.

⁶² A. SCHNEIKER, *The UN and women's marginalization in peace negotiations*, in *international affairs* 97:4, 2021, pp. 1165-1182, available at: doi: 10.1093/ia/iiab068, p. 1166.

⁶³ *Ivi*, p. 1168.

⁶⁴ *Ibid.*

⁶⁵ *Ivi*, p. 1173.

communities, that allowed them to develop such abilities⁶⁶. Again, this view plays on the traditional masculinity and femininity division, assuming that men will be aggressive and dangers, while women will be calm and more condescending, because they developed these abilities in their “natural place”: the house and the community. This is also connected with the idea that women have different relationships than men with the community, in which they are more likely to be considered as trustworthy, especially because men tend to neglect issues concerning the civil society⁶⁷.

All of these elements, other than playing on the traditional gender divisions and gender roles, also highlights the importance of the “ideal woman”. However, this same view which sees women as facilitators of peace, is also limiting their role. In fact, it limits the scope of issues women are expected to deal with. As reported by Schneiker, «women were often told by representatives of international organizations and of states [...] ‘to just talk about one or two women’s issues, but [not to] talk about the whole security problem that’s out there’»⁶⁸. Moreover, the ideal woman does not have divergent opinions, and especially, cannot deviate from the role they were given. When not advocating for women’s rights, the reports reported these activism as deviant.

Additionally, nine of the analyses reports highlight how women’s alleged experiences, abilities and links that made them so important for peace negotiations also excluded them from them. Those alleged experiences in fact become a hindrance at the domestic level: women do not represent the armed group and therefore are not considered as legitimate participants by the negotiating parties, which are mostly male-dominated. Moreover, the same elements also create a stereotype of woman that will not have the capacity to be a leader, and which lacks negotiation skills⁶⁹.

Therefore, these reports highlight how, when it comes to peace operations, women are included all in one category, without considering their different experiences and skills. They are, again, all the same, creating a hegemonic femininity and an ideal

⁶⁶ *Ivi*, p. 1174.

⁶⁷ *Ivi*, p. 1175.

⁶⁸ *Ivi*, p. 1176.

⁶⁹ *Ivi*, pp. 1179-1180.

woman. Based on these presumptions, their different abilities, needs and interests are not taken into consideration, and when it comes to covering important positions, they are considered in which they are women, and not because of their skills and abilities.

Moreover, even if it is true that they are often victims of sexual violence more than men, and that they have different experiences of war and peace than men, considering these differences as so important as to define their possible contribution to peace operations is minimizing and dehumanizing. In this way, the woman becomes the violence she has suffered and, in the case in which she was not victim of sexual violence, she becomes the violence suffered by other women, in which, as a woman, she could have been in their position.

This again highlights how, even when women's role is recognized as important in peace operations, this recognition is undermined by the fact that it is stereotypical and never actually revolves in the implementation of gender equality at the peace negotiation level. This recalls a kind of powerless empowerment, as defined by Outi Donovan, who recalls how the major problem is that there is the assumption that women's issues can be eliminated by simply enhancing their capacities and skills, without eliminating those structural impediments to their participation. In fact, capacity building is often prioritized over real participation to decision-making⁷⁰: women get training, while men participate.

Often, women's exclusion from peace negotiations is justified in terms of the culture of the country, which is often paternalistic, and their training is considered as a compromise to ensure the dialogue with the parties⁷¹. However, this puts at risk the possibility to create a society where culture is respected, but so are human rights and, in particular, women's rights.

Moreover, Brianne Nicole Hernandez highlighted how the way in which the United Nations tackles SEA adopts a problematic gendered perspective which does not address gender issues and does not try to understand perpetrators and the conditions under

⁷⁰ O. DONOVAN, *Promise or peril? Exploring the gender dimension of pragmatic peacebuilding*, in *International Affairs* 99:1, 2023, pp. 279-297, available at: doi: 10.1093/ia/iiaac267, pp. 291-292.

⁷¹ *Ivi*, p. 293.

which they carry out abuses. She argues how, to create missions which reflect the complex issues around the perpetration of GBV and SEA, it is important to take into consideration the elements of the context and the embedded gendered social conditions which structure the society⁷².

She affirmed how the way in which women's role is portrayed within peace operations, depicted them as problem-solving forces for what concerns sexual violence, but also as protectors of local women from the violence perpetrated from both local men and foreign peacekeepers. In this way, gender stereotypes are reinforced, in which women have the role of being pacific and victims in need of protection, while men are dangerous and may carry out sexual violence. Moreover, this can cause a workload on women peacekeepers, and, as a consequence, the mission itself and all its activities will be put at risk⁷³.

In general, this approach by the UN sees women as a «quick fix»⁷⁴ of the problem of sexual violence. However, by not taking into consideration that this simplistic view is problematic, it reiterates those elements that bring towards and environmental and social relations which favor the perpetration of sexual violence and gender inequality, and which protects men in the name of the “boys will be boys” narrative or the militarized masculinity.

To conclude, SEA has many elements in common with conflict-related sexual violence. As for any cases of the latter, there are differences in each mission, and each case is particular. However, there are many similarities within and among these categories. First of all, as already stated and discussed in the first chapter, CRSV is strongly rooted in the gender discrimination which is present in peace-time societies. Similarly, SEA not only is rooted in these, as shown by the studies discussed above, but it also is strongly rooted in CRSV itself, creating a vicious circle.

⁷² B. N. HERNANDEZ, *Sexual Abuse in UN Peacekeeping: The Problem of Viewing Women as a 'Quick Fix'*, in *E-International Relations*, February 20th 2020, available at: <https://www.e-ir.info/2020/02/20/sexual-abuse-in-un-peacekeeping-the-problem-of-viewing-women-as-a-quick-fix/>, last accessed May 3rd 2024, pp. 1-2.

⁷³ *Ivi*, p. 3.

⁷⁴ *Ivi*, p. 4.

In order to overcome these problems and the ones highlighted when talking of securitization, it is essential to adopt a comprehensive view of what are the reasons behind GBV as discussed in the previous chapters. Only in this way it will be possible to consider the possibility of eliminating GBV and sexual violence from societies in general, reaching real equality for all.

5.4 HOW TO DEAL WITH THE PROBLEMS ARISING FROM SECURITIZATION

To conclude this thesis, I argue that the analysis of the elements that have been highlighted as being at the basis of gender-based violence, and especially of conflict-related sexual violence, in the four conflicts taken in consideration, can be extended to all conflicts. It is always crucial to keep in mind how every society and every conflict have their own characteristics, as it has been shown within the four case studies. However, there are always similarities, and gender-based violence is often rooted, firstly, in the gender roles attributed to men and women.

From this first division between genders, different declinations of gender inequalities emerge, taking into consideration the specific context of a society and of a conflict. This highlights the importance of considering such differences and similarities when it comes to peace operations and securitization. The policies and actions taken in order to rebuild a society after a conflict, have to be comprehensive of what were the problems before and during the conflict. However, as it has been highlighted, these missions often do not considerer thoroughly the connection between CRSV and GBV in peacetime.

From the studies discussed throughout this thesis, and in particular throughout chapters 4 and 5, it emerged the importance of having a securitization, as well as peace operation which go beyond the classical division between gender roles and that take into consideration's those elements that have been cited above. Building societies where there is a high respect for gender issues is not an easy task, and the change has to happen in all societies, not just in those who have suffered a conflict.

However, the latter are in a quite particular situation where, generally speaking, there has been a widespread perpetration of GBV, therefore they can be the starting point to

build more conscious societies where gender inequalities are reduced and acknowledged.

Here lays the problem of securitization and peace operations: not only they do not take onto consideration the issues related to GBV, moreover, they reiterate those societal elements which are problematic in the sense that they recreate negative spirals of gender inequality.

To conclude, I argue that, in order to embrace the path towards the elimination of GBV and reduce the risk of CRSV in case of conflict, there is the necessity for peace operations and policies which are comprehensive of all the elements at the basis of their perpetration and which are contextual to where they have to be applied. Moreover, it is essential to eliminate those gender roles and stereotypes which perpetrate the idea of women as peaceful and victims and men as aggressive and perpetrators.

Only by eliminating such dichotomy it is possible to embrace the fact that such roles, even if often predominant, are not ascribed to gender per se, but rather to the socialization of gender. Moreover, by acknowledging this it is possible to embrace the possibility for gender equality for everybody, in which it is not only women who fight for it, but all people, regardless of their gender.

CONCLUSION

Throughout this thesis I have studied whether a thorough analysis and understanding of the reasons behind the perpetration of gender-based violence in conflict, with a particular attention to conflict-related sexual violence, can be the key to fight such problems and re-build societies after conflicts which do not reiterate those elements that cause them.

By focusing on four case studies, Cambodia under the Khmer regime, the Democratic Republic of Congo, Rwanda and Yugoslavia, it has been possible to highlight some elements present in each case. The main outcome has been that of identifying three main categories of factors: social norms, psychological reasons and impunity. Even if in different forms, these were present in all case studies.

These three broad categories allowed for the conclusion that all these factors work together in determining the extent and forms of gender-based violence in conflict. In all four conflicts the violence that was exerted in peacetime was rooted in some kind of discrimination, among which gender one had a special role.

In particular, the latter was strongly connected with the ideas of machismo and patriarchy, which clearly distinguish between the roles that men and women can and must have in societies. When conflicts arise, such narratives are not only perpetrated, but also mixed with other factors, determined by the second and third categories.

Here the situation is more diversified, and the factors determining the perpetration of GBV vary more between cases. In the Democratic Republic of Congo the pre-existing discrimination was conjoined with the dire soldiers' conditions. This, together with the lack of punishments from the authorities, led to a widespread perpetuation of CRSV against civilians.

In Rwanda and Yugoslavia, the discrimination on ethnic ground and the one based on gender were combined in the perpetration of such crimes. However, the peculiarity of both cases lays in the fact that it was rather the ethnic ground to cause the perpetration of women of other groups, rather than the gender being the primary source of such violence. Moreover, the extent to which this was carried out was so broad as to raise

awareness in the international field, leading to the institution of the International Criminal Tribunals for Rwanda and Yugoslavia.

As it has been seen, the tribunals opened the way for an acknowledgment of the perpetrator of conflict-related sexual violence in wars, and even for their recognition as constituting a war crime, crimes against humanity and genocide. However, the outcomes of the rulings of the two, especially concerning Rwanda, were problematic and reiterated those same elements that had brought to the upsurge of such violence in the first place.

For what concerns Cambodia, it is the perfect example of how social elements present in peacetime can highly determine the way in which gender-based violence is perpetrated in conflict. In fact, under the Khmer Rouge regime the majoritarian type of GBV were those of forced marriage and marital rape. On the contrary, in the other conflicts that were hereby analyzed, the majority of reports were about rape, either performed individually or in groups, against civilians outside of marriage.

Moreover, this case also showed how impunity played a role even when the conduct itself was prohibited by the Penal Code of the party. As it has been seen, sexual violence outside of marriages was carried out, even if in a smaller extent rather than within them. Moreover, the victims were often killed in order to avoid having proof of the perpetration of such crimes.

A first conclusion drawn from these chapters is that those elements that determine gender-based violence in peacetime, combined with the conflict and its consequences gives rise to a perpetration of GBV which is exacerbated by the war. This first conclusion is the starting point for the discussion highlighted in chapters four and five.

The analysis of the securitization theory, with its development and critics, has been essential to understand which are the limits of such theory, and especially of its application. In fact, the application of such theory to conflict-related sexual violence has been problematic in which it reiterated again those same elements that bring to gender-based discrimination. In particular, this has been done through the adoption of Resolutions of the United Nations Security Council, which tackled the issue of CRSV superficially. Such superficiality was evidenced firstly by the consideration of women as

in need of protection, with the frequent reference of “women and children”, the direct consequence of this is that, if they need to be protected, they will not be able to act in order to fight against discrimination and violence, but it will be other parties that will do so. From this it stems that women are not given a great role in fighting gender-based violence.

Many similar critics were posed to the theory of peacekeeping and peacebuilding, which, again, understood women as fragile. Moreover, when considered as participative actors of peace operations, they were still inserted in traditional gender schemes and understandings of their role. This way, women had the job to prevent sexual violence and abuse to be perpetrated from male peacekeepers. Not only this poses on them excessive expectations in which it becomes their duty to oversee the acts of coworkers, but it also reiterates the idea that men will rape no matter what, and, moreover, it avoids considering homosexual rape and women as perpetrators.

The critics posed to the securitization theory and peace operations are not only similar, but also related to those same elements that cause the perpetration of conflict-related sexual violence and sexual violence and abuse. It can be therefore concluded that the failures of such schemes are highly dependent on those same elements that cause CRSV and GBV.

Therefore, I conclude that the only way to elaborate security policies and peace operations which avoid reiterating such elements is by taking into consideration which are the elements that lead to the perpetration of such violence in the first place, with a necessary contextual analysis of each conflict. Only by doing so it is possible to shape operations, policies and recommendations in a way that does not perpetrate dangerous understandings of gender role and sexual violence.

Even if the conclusion is consistent with the thesis studied throughout the chapters, it is also important to understand some limitations of this analysis. In fact, considering only four case studies, no matter how relevant they are, is limiting in a thorough understanding of all the ways in which gender-based violence is executed in conflicts. Additionally, it would be useful to analyze cases in which GBV was not widespread and

which were the elements that characterized such wars, and the same is true for peacekeeping operations.

Moreover, even if homosexual rape and sexual violence carried out by women can be reconnected with the same elements that cause sexual violence perpetrated by men on women, some differences still persist. A careful analysis of such elements would also be essential in order to carefully shape policies and peace operations according to them.

However, the conclusions drawn in this thesis are essential in order to start a border analysis of gender-based violence in conflicts and how to avoid its perpetration and reiteration through securitization and space operations.

ANNEX A - SEAP DATASET AND REGRESSION MODEL

TABLE 1. SEAP Dataset: International Peace Missions Since 1999 (UN, NATO, AU, ECOWAS)

ID	Years incl.	Country of operation	Name	SEA types reported
1	1997-1999	Angola	MONUA	
2	1998-1999	Sierra Leone	UNOMSIL	
3	2000-2008	Eritrea/Ethiopia	UNMEE	Rape, prostitution, abuse of minor
4	2004-2007	Burundi	ONUB	Rape, prostitution, abuse of minor, other
5	1999-2010	DRC	MONUC	Rape, prostitution, abuse of minor, other
6	1997-2000	Haiti	MIPONUH	
7	1993-1996	Haiti	UNMIH	
8	1994-2000	Tajikistan	UNMOT	
9	1999	East Timor	UNAMET	
10	1999-2002	East Timor	UNTAET	Rape, prostitution
11	2002-2005	East Timor	UNMISSET	
12	1993-2009	Georgia	UNOMIG	
13	1995-2002	Bosnia/ Herzegovina	UNMIBH	Prostitution
14	1995-1999	Macedonia	UNPREDEP	
15	1996-2002	Croatia	UNMOP	
16	1991-2003	Iraq/Kuwait	UNIKOM	
17	1991-2010	Western Sahara	MINURSO	
18	2003-2010	Liberia	UNMIL	Rape, prostitution, abuse of minor, other
19	2004-2010	Côte d'Ivoire	UNOCI	Prostitution, abuse of minor, other
20	2005-2010	Sudan	UNMIS	Rape, prostitution, abuse of minor, other
21	2007-2010	Sudan	UNAMID	Unspecified SEA
22	2007-2010	Central Afr. Rep. /Chad	MINURCAT	Unspecified SEA
23	2010	DRC	MONUSCO	Unspecified SEA
24	2004-2010	Haiti	MINUSTAH	Rape, prostitution, abuse of minor
25	2006-2010	East Timor	UNMIT	Prostitution
26	1964-2010	Cyprus	UNFICYP	Rape
27	1999-2010	Kosovo	UNMIK	Prostitution, abuse of minor, other
28	2001-2010	Afghanistan	ISAF (NATO)	
29	1948-2010	Israel/Middle East	UNTSO	
30	1999- 2010	Kosovo	KFOR (NATO)	Rape, prostitution, abuse of minor, other
31	1996-2004	Bosnia/ Herzegovina	SFOR (NATO)	Prostitution, rape
32	1999	Guinea-Bissau	No name (ECOWAS)	
33	2003	Liberia	ECOMIL (ECOWAS)	
34	2007-2010	Somalia	AMISOM (AU)	
35	2004-2007	Sudan	AMIS (AU)	Prostitution, abuse of minor
36	1999-2005	Sierra Leone	UNAMSIL	Prostitution, abuse of minor, rape

TABLE 2. Multivariate Logit Regression: Reported SEA in Peace Mission Years, 1999-2010

	(1) Mission	(2) Mission	(3) Host	(4) Host	(5) All
<i>Mission</i>					
Women in mandate	1.206*** (0.430)	0.623 (0.682)			1.751 (1.141)
Spousal rape law, TCC	-0.087 (0.489)	0.597 (0.567)			-0.345 (0.743)
Mission size, ln		1.204*** (0.189)			1.854*** (0.482)
<i>Host</i>					
Ln GDP/capita, host			-0.745*** (0.225)	-0.863*** (0.310)	0.830 (0.719)
Spousal rape law, host			0.955* (0.562)	1.903** (0.751)	0.678 (1.124)
Conflict Sexual Violence				1.789** (0.729)	1.910*** (0.593)
Conflict Level				-0.677** (0.308)	0.938 (0.671)
<i>Controls</i>					
Post 2005	2.139*** (0.645)	1.622** (0.725)	2.170*** (0.660)	2.668*** (0.759)	1.322 (1.121)
Mission years	-0.123*** (0.032)	0.101* (0.057)	-0.082** (0.036)	0.013 (0.061)	0.342*** (0.109)
Constant	-1.130** (0.467)	-10.797*** (1.930)	3.404*** (1.241)	2.106 (2.198)	-23.688*** (8.447)
Pseudo R ²	.350	.474	.335	.292	.557
Missions	31	23	33	27	20
N	315	161	278	157	124

Robust standard errors in parentheses, S.E clustered on mission.

*** p<0.01, ** p<0.05, * p<0.1

ANNEX B - SEA ACCUSATIONS IN MILITARY CONTINGENTS

Table II. SEA accusations in military contingents, negative binomial regression

<i>Variables</i>	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>
Female ratio balance in PKO mission	-33.79* (16.40)	-17.73 [†] (9.202)	-19.10 (16.69)
Avg. contributor primary school gender ratio	-0.055* (0.0234)		
Avg. contributor labor force gender ratio		-0.099* (0.0436)	
Avg. contributor physical protection of women index			1.149 (1.014)
Size of military contingent in PKO	2.37e-04** (4.04e-05)	1.85e-04** (3.14e-05)	1.90e-04** (6.20e-05)
GDP per capita in host country	-3.04e-04 (4.55e-04)	-4.06e-04 (4.23e-04)	-2.36e-04 (5.50e-04)
Index of mass rape in the previous war	-0.746 (0.534)	-0.786 [†] (0.426)	-0.768 (0.579)
Constant	6.604** (1.674)	6.633** (1.917)	-2.401 (4.751)
ln(alpha)	-0.413 (1.036)	-1.245 (1.453)	-0.216 (1.130)
Observations	80	80	80

** $p < .01$; * $p < .05$; [†] $p < .1$ in a two-tailed test. Standard errors in parentheses.

Table III. SEA accusations in military contingents, negative binomial regression

<i>Variables</i>	<i>Model 4</i>	<i>Model 5</i>	<i>Model 6</i>	<i>Model 7</i>	<i>Model 8</i>	<i>Model 9</i>
Female ratio balance in PKO mission	-35.28* (17.59)	-24.53** (8.796)	-3.465 (13.38)	-24.22 (21.20)	-12.04 (12.12)	-17.87 (17.46)
Avg. contributor primary school gender ratio	-0.044 [†] (0.026)			-0.064 [†] (0.035)		
Avg. contributor labor force gender ratio		-0.094** (0.032)			-0.093* (0.047)	
Avg. contributor physical protection of women index			3.485** (1.195)			0.428 (2.224)
Size of military contingent in PKO	2.47e-04** (3.40e-05)	1.99e-04** (3.01e-05)	1.66e-04** (3.28e-05)	2.03e-04** (6.36e-05)	1.71e-04** (4.60e-05)	1.90e-04** (6.35e-05)
GDP per capita in host country	-3.81e-04 (4.19e-04)	-4.45e-04 (3.31e-04)	-1.66e-04 (2.62e-04)	-1.41e-04 (5.79e-04)	-3.61e-04 (4.84e-04)	-2.49e-04 (5.71e-04)
Index of mass rape in the previous war	-0.835 (0.516)	-0.876* (0.345)	-0.811* (0.331)	-0.648 (0.630)	-0.740 (0.500)	-0.753 (0.591)
Avg. contributor Polity score	0.133 (0.160)	0.162 [†] (0.0943)	0.538** (0.138)			
Avg. contributor GDP per capita				-8.82e-05 (9.64e-05)	-2.59e-05 (3.33e-05)	-3.93e-05 (8.82e-05)
Constant	5.145** (1.745)	5.832** (1.789)	-13.53* (5.281)	7.601** (2.489)	6.334** (2.194)	0.296 (8.731)
ln(alpha)	-0.771 (0.932)	-1.532 (0.982)	-1.569** (0.568)	-0.340 (1.133)	-1.135 (1.617)	-0.184 (1.121)
Observations	80	80	80	80	80	80

** $p < .01$; * $p < .05$; [†] $p < .1$ in a two-tailed test. Standard errors in parentheses.

**ANNEX C - TROOP CONTRIBUTING COUNTRIES AND SEA ALLEGATIONS IN
MONUSCO**

Table V. Top troop contributing countries and SEA allegations in MONUC/MONUSCO

<i>Top troop-contributing countries to MONUC/ MONUSCO</i>	<i>Labor force participation</i>	<i>Primary school ratio</i>	<i>Physical security index</i>	<i>Allegations of rape committed by military in the media (outside of missions)</i>	<i>Proportion of female peacekeepers (military)</i>	<i>SEA allegations in mission^a</i>
India	29.3	101.9	4	Yes	0.002	Yes
Pakistan	22.4	86.1	4	Yes	0	Yes
Nepal	80.3	106.8	4	Yes	0.01	Yes
Morocco	26.0	93.7	4	Yes	0	Yes
Tunisia	25.3	97.1	3	No	0	Yes
South Africa	44.0	94.7	3	Yes	0.17	Yes
Uruguay	55.5	96.7	3	No	0.06	Yes
Bangladesh	57.0	106.1	4	No	0.004	No
Senegal	66.0	105.9	3	No	0	No
Benin	67.2	87.5	3	No	0.03	No
Ghana	66.8	97.2	4	Yes	0.12	No
Egypt	23.5	95.0	4	Yes	0	No
China	67.9	99.5	2	No	0.07	No
Jordan	15.4	98.7	4	No	0.007	No

^a It is important to note that these may not be the only troop contributing countries that received allegations. Those listed are those that have been made public and reported by the media.

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