

# ABOUT WOMEN, WAR AND DARFUR: THE CONTINUING QUEST FOR GENDER VIOLENCE JUSTICE

MARY DEUTSCH SCHNEIDER\*

## I. INTRODUCTION

Since World War II, some 250 conflicts of an international and non-international character have occurred which, along with tyrannical regime victimizations, produced an estimated one hundred seventy million casualties and other extensive harmful consequences.<sup>1</sup> Approximately ninety percent of current war victims are civilians, mostly women and children, compared to a century ago when ninety percent of those who died were military personnel.<sup>2</sup> Among the continuing horrors of war are many atrocities which happen to both men and women. Both are taken hostage, executed, shot, burned, bayoneted, hung, beaten, bombed, tortured, and forced into various forms of slavery. There is an overlay of additional brutality, however, that occurs with greater violence and frequency to women. Male civilians are killed; female civilians are typically raped, then killed. In

---

\*Executive Director of Legal Services of Northwest Minnesota; J.D., Emory University, 1979; L.L.M. in International Human Rights Law, Irish Centre for Human Rights at the National University of Ireland, Galway, 2005. Ms. Deutsch Schneider has presented internationally on gender violence for a global seminar at the Sorbonne in Paris, has been a Visiting Professor at Lazarski School of Commerce and Law in Poland, and was a representative at the United Nations NGO Forum on the Status of Women in Beijing. She is a member of the American Bar Association's International Law Section and Africa Committee, Individual Rights and Responsibilities Section and International Human Rights Committee. Ms. Deutsch Schneider has been recognized with a Bush Foundation Leadership Fellowship, Soroptimist International Past Governors Award, Moorhead Human Rights Award, Advocacy Excellence and Champion of Justice Awards, and various other honors. She is currently President of the 10-state Midwest Legal Services Project Directors, American Bar Association House of Delegates Representative from Minnesota, President of the Clay County Bar Association, a Minnesota State Bar Association Assembly Representative and Chair of its Task Force on a Civil Right to Counsel. She has served on numerous other state and national committees and task forces.

Ms. Deutsch Schneider wishes to thank her husband, Mark, children McLain and Liberty, her co-workers at LSNM and Irish Centre Director William Schabas for their help and support.

1. M. CHERIF BASSIOUNI, *THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT: A DOCUMENTARY HISTORY* 2 (1998).

2. Women 2000: Gender Equality, Development and Peace for the Twenty-First Century, Fact Sheet No. 5, Women and Armed Conflict, <http://www.un.org/womenwatch/daw/followup/session/presskit/fs5.htm> (last visited Feb. 11, 2008); see also Malinda M. Schmiechen, *Parallel Lives, Uneven Justice: An Analysis of Rights, Protection and Redress for Refugee and Internally Displaced Women in Camps*, 22 ST. LOUIS U. PUB. L. REV. 473, 473 (2003) (stating that eighty percent of displaced persons, at extreme risk as refugees, are women and children).

interrogations, males are savagely beaten; females are savagely beaten and raped.<sup>3</sup>

Sexual violence during armed conflict takes many forms, such as:<sup>4</sup> rape,<sup>5</sup> forced sexual intercourse or other sexual acts with family members,<sup>6</sup> forced impregnation,<sup>7</sup> forced pregnancy,<sup>8</sup> sexual mutilation,<sup>9</sup> sexual humiliation,<sup>10</sup> medical experimentation on women's sexual and reproductive organs,<sup>11</sup> forced abortion,<sup>12</sup> forced sterilization,<sup>13</sup> forced prostitution,<sup>14</sup> being compelled to exchange sexual favors for essential items or services,<sup>15</sup> being compelled to exchange sexual favors for the return of children,<sup>16</sup> being

3. KELLY DAWN ASKIN, WAR CRIMES AGAINST WOMEN: PROSECUTION IN INTERNATIONAL WAR CRIMES TRIBUNAL 12-13 (1997) [hereinafter ASKIN, WAR CRIMES]; see also SUSAN BROWNMILLER, AGAINST OUR WILL: MEN, WOMEN, AND RAPE 31 (1975).

4. Judith Gardam & Michelle Jarvis, *Women and Armed Conflict: The International Response to the Beijing Platform for Action*, 32 COLUM. HUMAN RIGHTS L. REV. 1, 12-18 (2000).

5. BROWNMILLER, *supra* note 3, at 31-113.

6. See *Report of the Special Rapporteur on Violence Against Women: Report of the Mission to Rwanda on the Issues of Violence Against Women in Situations of Armed Conflict*, U.N. Doc. E/CN.4/1998/54/Add.1 8-10 (1997) [hereinafter *Rwanda Report*].

7. Asma Abdel Halim, *Attack with a Friendly Weapon*, in WHAT WOMEN DO IN WARTIME: GENDER AND CONFLICT IN AFRICA 94 (Meredeth Turshen & Clotilde Twagiramariya eds., 1998) (discussing the occurrence of this crime during conflict in Sudan).

8. Laura Pitter & Alexandra Stiglemeyer, *Will the World Remember? Can the Women Forget?*, MS., Mar./Apr. 1993, at 19 (detailing the practice in the Bosnian conflict of detaining women made pregnant as a result of rape until abortion was not possible).

9. See, e.g., Myrna Goldenberg, *Memoirs of Auschwitz Survivors: The Burden of Gender*, in WOMEN IN THE HOLOCAUST 285, 330-31 (Ofer & Weitzman eds., 1998) (describing women being forced to strip naked and lie on tables while SS officers stared and poked the women's genitals with a stick).

10. See Gardam & Jarvis, *supra* note 4, at 25-26.

11. See, e.g., *Rwanda Report*, *supra* note 6, at 10; see also AMNESTY INT'L, WOMEN ON THE FRONT LINE: HUMAN RIGHTS VIOLATIONS AGAINST WOMEN 18-24 (1991).

12. See, e.g., The Secretary-General, *Report of the Secretary-General on the In-depth Study on All Forms of Violence Against Women*, ¶¶ 143-46, delivered to the General Assembly, U.N. Doc. A/61/122/Add.1 (July 6, 2006) [hereinafter *In-Depth Study*].

13. See, e.g., ASIAN & PAC. DEV. CTR., WOMEN AND ARMED CONFLICT: A STATEMENT ON THE SITUATIONS AND FORWARDING OF RECOMMENDATIONS TO THE 42ND SESSION OF THE U.N. COMMISSION ON THE STATUS OF WOMEN 12-13 (1998) (describing forced sterilization of Tibetan women); MERANDA SSISSONS, EAST TIMOR HUMAN RIGHTS CTR., FROM ONE DAY TO ANOTHER: VIOLATIONS OF WOMEN'S REPRODUCTIVE AND SEXUAL RIGHTS IN EAST TIMOR 19-24 (1997) (discussing, *inter alia*, the use of Depo-Provera on East Timorese women and non-consensual tubal ligations).

14. See, generally USTINIA DOLGOPOL & SNEHAL PARANJPE, COMFORT WOMEN: AN UNFINISHED ORDEAL *passim* (1994) (describing forced prostitution of the "comfort women" by the Japanese army prior to and during World War II).

15. See, e.g., Nelia Sancho-Liao, *Clutching a Knife Blade: Human Rights and Development from Asian Women's Perspective*, in WOMEN AND CONFLICT 31, 34 (Helen O'Connell ed., 1993) (reporting this practice in the Philippines); Clotilde Twagiramariya & Meredith Turshen, *Small "Favors" to Give and "Consenting" Victims: The Sexual Politics of Survival in Rwanda*, in WHAT WOMEN DO IN WARTIME, *supra* note 7, at 101, 108-109 (describing practices in Rwanda).

16. See, e.g., *Rwanda Report*, *supra* note 6, (describing soldiers kidnapping refugee children and demanding sex from their mothers as ransom).

involved in trafficking in women,<sup>17</sup> forced sexual slavery<sup>18</sup> being the subject of pornography,<sup>19</sup> and forced cohabitation/marriages.<sup>20</sup> In recent years, women and girls have been raped with burning wood, knives and other objects.<sup>21</sup> They have been sexually assaulted and raped by government forces and non-state actors, friendly forces, police responsible for their protection, checkpoint guards, prison guards, administrators and staff of refugee camps, fellow refugees, looters, lawless gangs, local politicians, neighbors,<sup>22</sup> and family members under threat of death.<sup>23</sup> They have been maimed or sexually mutilated, and often later killed or left to die.<sup>24</sup>

Sexual torture of women is also used to cause terror sufficient to drive whole populations out of an area, or to deter male activists from revolutionary activity. "In this respect, the gendered division of violence acts to keep repressive regimes in power."<sup>25</sup>

While there is a hoped-for major impact on impunity with the Yugoslavia and Rwanda Tribunals, and the new International Criminal Court, there has been sexual violence against women in armed conflict almost anywhere and everywhere in the world: Aceh,<sup>26</sup> Afghanistan,<sup>27</sup> Algeria,<sup>28</sup> Angola,<sup>29</sup> Azerbaijan,<sup>30</sup> Bosnia,<sup>31</sup> Bougainville,<sup>32</sup> Chad,<sup>33</sup>

17. See, e.g., AFRICAN RIGHTS, RWANDA: DEATH, DESPAIR, AND DEFIANCE 769 (rev. ed. 1995) [hereinafter AFRICAN RIGHTS] (reporting the buying and selling of woman among the Interahamwe during the 1994 conflict in Rwanda).

18. See *Report of the Special Rapporteur on Systematic Rape, Sexual Slavery and Slavery-like Practices During Armed Conflict*, U.N. Doc. E/CN.4/Sub.2/2000/21 17 (June 22, 1998).

19. Catharine A. MacKinnon, *Turning Rape into Pornography: Post Modern Genocide*, MS., July/Aug. 1993, at 24 (discussing conflict in Bosnia).

20. See, e.g., BINAIFER NOWROJEE, HUMAN RIGHTS WATCH, SHATTERED LIVES: SEXUAL VIOLENCE DURING THE RWANDAN GENOCIDE AND ITS AFTERMATH (1996), available at <http://www.hrw.org/reports/1996/Rwanda.htm> (reporting stories of women who were "rescued" only to become sexual slaves or "wives" of their captives during the 1994 conflict in Rwanda).

21. *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Violence Against Women*, U.N. Doc. E/CN.4/2001/73 14 (Jan. 23, 2001) [hereinafter *Violence Against Women Report*].

22. Gardam & Jarvis, *supra* note 4, at 13-14.

23. *Violence Against Women Report*, *supra* note 21, ¶ 44.

24. *Id.*

25. V. SPIKE PETERSON & ANNE SISSON RUNYAN, GLOBAL GENDER ISSUES 87 (1993).

26. *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Addendum: Mission to Indonesia and East Timor on the Issue of Violence Against Women*, U.N. Doc. E/CN.4/1999/68/add.3 93-98 (Jan. 11, 1999) [hereinafter *Report on Indonesia*].

27. See, e.g., *In-depth Study*, *supra* note 12, ¶ 145.

28. See, e.g., Zazi Sadou, *Algeria: The Martyrdom of Girls Raped by Islamic Armed Groups*, in WITHOUT RESERVATION: THE BEIJING TRIBUNAL ON ACCOUNTABILITY FOR WOMAN'S HUMAN RIGHTS 28 (Niamh Reilly ed., 1996) [hereinafter WITHOUT RESERVATION].

29. INT'L FED'N TERRE DES HOMMES, THE FALSE START: A PRELIMINARY STUDY ON SEXUAL VIOLENCE, ABUSE AND EXPLOITATION OF CHILDREN IN TIMES OF ARMED CONFLICT 22 (1996).