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ALL IS FAIR IN WAR - VIOLENT CONFLICT AND THE SECURITIZATION OF
RAPE

by

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A Dissertation Submitted to the Faculty of Old Dominion University
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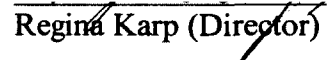
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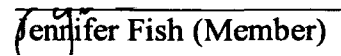
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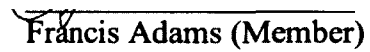
OLD DOMINION UNIVERSITY

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ABSTRACT

ALL IS FAIR IN WAR - VIOLENT CONFLICT AND THE SECURITIZATION OF RAPE

Sabine Hirschauer
Old Dominion University, 2012
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Systematic mass rape during conflict has for centuries met with global ignorance and political complacency despite its atrocious character. The conflicts in Bosnia and Rwanda in the 1990s altered the silence surrounding this long tolerated, dark underbelly of war. Applying Barry Buzan's and Ole Waever's *Securitization Theory* to the cases of Bosnia and Rwanda, this dissertation finds that rape during both wars was successfully *securitized*. Securitization Theory as a model and indicator of an effective shifting of rape from an apolitical or political perspective into the security realm was appropriate. Bosnia initiated the first convictions of rape as a crime against humanity. The Tribunal of Rwanda for the first time prosecuted rape as a distinct feature of genocide. Bosnia and Rwanda, however, also represent pivotal turning points, which not only caused this securitization – but appear to demand the continued securitization of rape lest it returns to the margins of politics. Through the *speech act*, the theory's key identifying mechanism, this dissertation traces specific rhetorical markers, which throughout the interplay of a multitude of actors (institutions; non-governmental organizations; states; media) securitized rape during both conflicts – and beyond. In 1998, the Rome Statute not only established the International Criminal Court but, similar to the tribunals in Bosnia and Rwanda, defined rape as a war crime. In 2000 and in 2009 the U.N. Security Council passed landmark resolutions, underscoring for the first time the inherent link between

systematic rape, war and global security. The successful securitization of rape, however, also introduces wide-ranging complexities – due to the uniquely distinct character of rape. This dissertation articulates these complexities and explores a research agenda that addresses the incentives and disincentives for the continued securitization of rape in violent conflict.

For my family,
in particular for my two mothers – Agnes Hirschauer and Luitgard Dietrich,
and for all the good people in my life, who made this and everything possible.

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CHAPTER I

INTRODUCTION

During the dreadful early days of the Rwandan rainy season in April 1994, when rain came down in sheets in the heart of Africa, when water clumps turned the red earth into unforgiving mud, a pregnant woman named Monique and her six-year-old daughter escaped the mass slaughter – just to fall victim to a different kind of death: rape, a death known to last a lifetime. The Interahamwe, a notorious Rwandan militia group, raped the pregnant mother and her young daughter. Repeatedly.¹

During the fastest genocide in modern history, somewhere another woman, named Donatilla, was sexually mutilated with rusty scissors,² then raped, over and over again, then left crippled. The Interahamwe thought her to be dead because one cannot survive such un-survivable suffering and pain. The perpetrators, including a journalist were later charged with rape utilized as a tool of genocide and convicted in an unprecedented international ruling.

During these haunting 100 days an estimated 250,000 to 500,000 Rwandan women were systematically raped, sexually abused, tortured and mutilated. And many of them gruesomely killed only after already enduring the most atrocious terror.

When it comes to the failure of humanity, there are many stories to be told. Most of them are shameful, dire, gruesome and ghastly accounts of the darkest corners of our collective souls as an international community.

¹ Coomaraswamy, Radhika, Special Rapporteur 1999, 8.

² Ibid., 8.

Bosnia 1992: Hotels, barracks and abandoned sheds turned into rape camps. Screams and wails lingering in the air, coming from a police station. Mothers and sisters, daughters and children systematically raped. Bosnian Muslim women chanting Serbian war songs, gone mad, after being beaten and raped. For days. Rwanda 1994: Street blockades used as temporary detention areas. Human placeholders on the crossroads between life and death. Women weighed how valuable they were. How a woman could pay for her life. Then “the guards as a group or the leader among them decided whether the person was to be killed on the spot, raped, kept for sex service or future execution, or perhaps released.”³ A nun “battered to death with a hammer.”⁴ Women forced to bury their husbands before being raped and mutilated, then ordered to “walk naked like a group of cattle for miles to Kabgayi.”⁵

All is fair in war.

When it comes to the failure of humanity, there are many stories to be told. Most of them are of the deepest disregard for human life, the complete abandonment of a moral compass, testimonies of the most barbaric atrocities committed by people to people. Tales of the end of all human dignity. And only on occasion these stories involve the notion of hope.

Such hopefulness - within the overarching framework of international relations – began at the end of the 20th century, infamously with the return of genocide to Europe and of unconceivable slaughter to a tiny central African country - and mass rapes of women to both. And it came from an unlikely and ideologically embattled place: the United Nations with the legal mechanisms of international law at hand.

³ Des Forges, Alison 1999, 163.

⁴ Ibid., 190.

⁵ Ibid., 164.

Not all horror in war is created equal. Systematic mass rape has always carried itself well as a silent collaborator and casual bystander in times of conflict. However, while rape during war throughout history has consistently been utilized as a weapon of war, it has never been recognized as such. Rape during war was not able to convey its horror to a wider international audience. As some scholars put it “for a crime to be international, it was thought that it had to be more than a garden-variety domestic crime.”⁶ Wartime rape did not evoke the same degree and sense of terror on an internationally political scale compared to what it created individually. Equally, many discounted the consistent systematic nature of wartime rape and only recently saw “rape elevated into a clear strategy of war.”⁷

The conflicts in Bosnia and Rwanda have thrust such systematic utilization into the international security forefront. The term called “security equality,” as coined by feminist scholars such as Louise Olsson in 2009, address such persistent disparity between the security of men and women during war.⁸ However, Bosnia and Rwanda have set legal precedents unseen before in international law. Bosnia accounts for the first convictions of state officials of rape as a crime against humanity - systematically implemented for specific strategic goals. Judges on the Tribunal of Rwanda expanded these international legal parameters even further. They issued the first conviction of rape as a distinct feature and mechanism of genocide. At the advent of the 21st century in the wake of the atrocities in Bosnia and Rwanda, the international community witnessed a consistent rise of norms, facilitated through international institutions such the United Nations and its international legal structures. Most importantly, however, the U.N.

⁶ May, Larry 2005, 98.

⁷ Ibid., 98

⁸ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 13.

Security Council through the establishment of the international tribunals of Bosnia and Rwanda has acknowledged that the atrocities during the two conflicts, including mass rapes, have presented “a threat to national and international peace and security.”⁹ Rape has elevated itself to a global security concern. It has finally arrived at last as a security actor and security threat within 21st century global crisis management.

And the application of Barry Buzan and Ole Weaver’s Securitization Theory will help us to explain this phenomenon. For decades, International Security Studies have, for the most part, ignored rape as a systematic weapon of warfare.¹⁰ Until Bosnia and Rwanda wartime rape consistently suffered from gendered perspectives toward state/national and international security. According to Barry Buzan, states “have constituted wartime rape as an expectable by-product of conquering soldiers.”¹¹ However, the horrific scope and scale of mass rapes in Bosnia and Rwanda have created a fundamental shift. It decisively altered these assumptions. The application of Securitization Theory will help us to explain this shift.

The theoretical and conceptual shackles of traditional International Relations theory such as realism and liberalism have for decades bypassed, underplayed, marred and marked the normative assumptions surrounding rape as a weapon of war. By utilizing the theoretical parameters of the Copenhagen School’s Securitization Theory, by developing a securitization matrix and scale and applying those to the case studies of the conflicts in Bosnia (1992-1995) and Rwanda (1994), this dissertation examines the development of securitization of wartime rape. It will discuss the roots of the initial

⁹ United Nations Security Council 1994, 1 and United Nations Security Council Resolution 752 United Nations Security Council 1992, 1.

¹⁰ Buzan, Barry and Hansen, Lene 2009, 56.

¹¹ Ibid., 140.

inability and gradual development of such securitization. It will point to the shifting of the assumptions of wartime rape from the natural to the strategic, from the individual to the collective, from the subjective to the objective, the insular/singular and incidental to the national, regional and international.

This dissertation will also discuss the effectiveness of securitization of wartime rape. With the conflicts in Bosnia and Rwanda, wartime rape, practiced and utilized as a systematic tool of war for centuries, changed. The interaction of a multitude of actors (global institutions; the EU; human rights and non-governmental organizations; the U.S. as the international hegemon and an increasingly globalized media) gradually securitized rape and, hence, shifted international norms and assumptions – e.g. International law. The mass rapes in Bosnia and Rwanda emerged as seismic watershed moments and ushered in these new assumptions and norms about wartime rape. It made its systematic structure and security impact visible, globally recognizable and recognized.

To critically analyze the development of securitization of wartime rape and to examine its security underpinning warrants the analyses of different aspects of mass rape. In Chapter II, this dissertation will examine how rape throughout history was consistently used as a weapon of war. It will trace the development of rape as a systematic method throughout history and examine the collective international failure to interpret its utilization as a crime. Chapter III will delve into the development of Securitization Theory; its theoretical underpinning and its historical and intellectual roots, political backdrop and global context. As its case studies, chapters IV and V will analyze how rape during the conflicts in Bosnia and Rwanda was securitized and finally recognized as a systematic (and punishable) weapon of war. Both case studies will address the

application and processes of Securitization Theory of mass rapes in Bosnia and Rwanda. The case studies will also interpret what securitization resembles in both conflicts and identify its securitizing actors. It also addresses questions such as: What were the steps that elevated rape to the level of “existential threat”? What were the extraordinary measures taken by the audience such as international institutions and states? In its analysis, Chapter VI will evaluate if one securitizing actor was more influential than another and if and whether or not securitization was in fact effective and functioning as it was supposed to function. It will delve into: What were the securitization processes that transformed rape progressively from a fluid/abstract/by-standing assumption to the tangible/real and consequential and existential? And what events marked the evolution of securitization and what were its normative consequences, if any? In its analytical core, it will examine if and how effective securitization of wartime rape has become and if and how its implications mattered, on the political and/or academic peripheries.

As a point of departure, this dissertation understands mass rape during conflict as a systematic weapon of warfare as practiced as such throughout history. Further by applying the theoretical parameters of Barry Buzan and Ole Waever’s Securitization Theory, this dissertation is testing the concept of securitization as a viable/pragmatic theoretical framework. Securitization Theory as an overarching concept turns a concern or problem - e.g. the environment, immigration, HIV-Aids infection, sexual violence – into a danger and labels it accordingly - as a security issue. It redefines its significance and its degree of importance. It moves and elevates an issue from a basic, benign, non-threatening to a threat level and turns it into a security issue. The act of securitization itself shifts an issue - e.g. environment or economic issues - into the realm of security.

When we apply securitization to wartime rape, the securitization of rape advances the act of rape not only from a “natural/common/opportunistic” occurrence to a systematic tool, but it assumes a constructive threat component and, hence, it becomes a national and international security issue. By doing so, it also de-genderizes rape, removes women as “depoliticized” entities and re-establishes them as “active agents.”¹² It elevates an issue from the political and policy level to the “existentially threatening” stage.¹³

As actors securitize an issue (turn it into an existential threat) norms and values about this issue change and extraordinary measures are being deployed to confront and combat this threat. A securitizing actor is someone (an entity or mechanism or influential leadership) who is declaring that something is a threat to the object’s survival. A securitizing actor is also an entity or mechanism that is articulating a threat. Such articulation expresses itself through “the speech act.” The speech act is a mechanism that is attaching the word “security” to an issue. Actors say/speak the word “security” to indicate the prominence of a threat. Such securitizing actors – in general - could include the state, individual political leaders; individuals within different forms of bureaucracies and agencies; governments; lobbyists; civil society. These actors speak on behalf of something/someone whose survival as an entity or body and existence is threatened.

Securitizing actors during the Bosnia are divided into external and internal securitizing actors. These actors either securitized or significantly influenced securitization from the outside (externally) or inside (internally) of the former Yugoslavian territory. As external actors of securitizing rape during the Bosnian conflict, for example, I am examining the involvement of International Institutions or international

¹² Buzan, Barry and Hansen, Lene 2009, 247.

¹³ Ibid., 214.

media. The speech act emerges as a key tool of identifying securitization. I examine how these actors securitized rape as a systematic tool of war through the securitization mechanism/method of the speech act (someone says/speaks the word “security) and through other rhetorical measures/images, which also effectively articulate the speech act. While focusing on the speech act from the actors’ perspective, I will then outline how securitization has been implemented by the audience through the deployment of commitments, legal measurers and resources. An audience is an entity or a body of authoritative and legitimate units (institutions, NGOs, alliance, hegemonic leadership) that not only accept securitization from the securitizing actor, but initiates and deploys actions. In conclusion of each case study, for example, an actor/audience matrix will help to summarize the different mechanisms/methods and deployed measurers.

The global recognition of mass rape as genocide and crime against humanity through the Bosnia and Rwanda tribunal rulings has emerged as a milestone in reframing wartime rape as a security issue. It not only resembles a legal watershed moment within international law, but it constitutes securitization of rape as a weapon of war. For generations, the definition of rape during conflict enjoyed simplicity and unchallenged intellectual discourse. Usually, rape during war has been denoted either as opportunistic, “revenge and triumph for the winning side,” or “humiliation and defeat for the conquered.”¹⁴ Rape’s gendered character, regardless of its systematic function as a weapon of war, has largely created the ideological underpinning of misinterpreting rape during warfare throughout history. It “depoliticizes sexual abuse in conflict” and has rendered rape, even on its massive scale, “as sexual or personal in nature.”¹⁵ Framing

¹⁴ Vikman, *Ancient Origins: Sexual Violence in Warfare*, Part I. 2005, 30

¹⁵ Kumar 2002, 101

rape today as a systematic weapon of warfare divorces the sheer act from its initially gendered, domestic and, hence, “inferior” and/or “softer” context to a conscious and effective method to advance specific strategic objectives. The sexual violence against Bosnian Muslim and Tutsi women during both conflicts, for instance, was orchestrated through Serbian and Hutu authority to achieve very specific and strategic goals such as genocide, ethnic cleansing and territorial and socio-political gains, including the dismantling of the societal fabric of communities. Genocide, as confirmed by the Rwandan Tribunal, was a key strategy and objective of Hutu leaders in their rape campaign against Tutsi women.

The Bosnian Tribunal unleashed with its first rape convictions of state officials an unprecedented reversal of the definition of wartime rape. It upset the centuries-old assumption and political undercurrent that rape was permissible during war. It for the first time introduced the notion of legal and international accountability. The Tribunal of Rwanda additionally not only convicted head of states and ministers for rape, but defined systematic rape as a function of genocide.

The term “genocide” was first coined by the Polish-Jewish attorney Raphael Lemkin in a report to the Legal Council of the League of Nations about the mass slaughter of Armenian Christians during World War I. Later Lemkin published a book that traced Germany’s rule in other countries throughout World War II. Lemkin’s definition of genocide created the basis for the Nurnberg Trials and the 1948 Genocide Convention. In 1948, the U.N. General Assembly adopted the convention and its internationally recognized legal definition. According to the Convention on the Prevention and Punishment of the Crime of Genocide, Article 2, genocide is defined as “the act of

committing certain crimes, including the killing of members of the group or causing serious physical or mental harm to members of the group with the intent to destroy, in whole or in part, a national, racial or religious groups, as such.”¹⁶ The United States failed, in fact, to ratify the Convention until 1988¹⁷, and it wasn’t until the 1990s that crimes of genocide began to be enforced. Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as “the intent to destroy, in whole or in part, a national, ethnical, racial or religious groups through killing, causing serious bodily or mental harm, deliberately inflicting the physical destruction, or imposing measures to prevent births within a group or forcibly transferring children of the group to another.”¹⁸

During the Nuremberg Trials following World War II, rape was cited as a form of torture, but never prosecuted. Acts of rape define themselves as crimes, according to international law, prohibited under the Geneva Convention and punishable by death or imprisonment under Article 120 of the American Uniform Code of Military Justice. The Geneva Convention IV of 1949 Article 27 states that “women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.”¹⁹

However, rape cases including the reported mass rapes by German soldiers during the 1941 Soviet invasion or the rapes of ten thousand German women by the Soviet Union army in the immediate World War II aftermath were never prosecuted. According

¹⁶ United Nations 1948, 277.

¹⁷ United Nations 2012.

¹⁸ United Nations 1948.

¹⁹ United Nations 1949, 307.

to the U.N. officials, the “absence of implementing mechanisms and an overall lack of accountability” has rendered the initial intention by the Geneva Convention ineffective.

However, the 1994 Tribunal of Rwanda reevaluated the link between rape and genocide. Since the Convention defined genocide as the act of destroying or the intention to destroy a particular ethnic group, international law and international institutions have increasingly qualified sexual violence and rape as genocide, if committed with such intentions.²⁰ Likewise, scholars such as Kelly Dawn Askin assert that raping a person in order to erase and destroy one’s ethnicity, can constitute genocide “if at least one of the additional elements, such as causing serious bodily or mental harm can be established.”²¹ Forced impregnation, systematically implemented through rape camps, most prominently during the Bosnia conflict, emerged as a key tool in this context. Beverly Allen explores the issue of forced impregnation and its implication further. During the Bosnia conflict, an estimated 35,000 women were impregnated and held captive in numerous camps spread throughout the region until an abortion was impossible. Women were raped by Serbian soldiers “to give birth to little Chetniks/Serb soldiers.”²²

The link between genocide and systematic rape was explored further by many feminist scholars. Allen and Askin created new terminology such as “genocidal rape,” “ethnorape” or “femicide” in connection with the central objective of forced impregnation/eradication of the victim’s cultural and ethnic identity. While this notion is biologically/genetically flawed (the child will have the genetic mix/build-up of the Bosnian mother and the Serb father), nevertheless, this illogic fueled the cleansing process, according to Allen. Focusing on Rwanda, other scholars such as Christopher

²⁰ Bijleveld, Catrien. Morssinkhof, Aafke and Smeuler, Alette. 2009, 213.

²¹ Askin, Kelly 1997, 393.

²² Allen, Beverly 1996, 96.

Mullins in 2009 similarly define genocidal rape as “a systematically organized military tactic of terror and genocide” that not only terrorizes the population, but aims to create the spoilage of identity through the birth of mixed ethnic children. Further, Mullins writes that genocidal rape “elevates assaults to a tactic of terrorism.”²³

Rape during the conflicts in Bosnia and Rwanda has also taken center stage as a calculated mechanism to psychologically destroy the structural fabric of a society, to damage and erase its patriarchal culture and structure/fabric as Tutsi or Muslim husbands, brothers, and fathers within Tutsi or Muslim communities, for example, were often forced to witness the rapes of their wives, sisters, and daughters. As men were emasculated and forced into watching the sexual assault of the female population, they were stripped of their masculinity and their masculine “instinct” to protect. Further, in general, the influx of children originating from genocidal rape in Bosnia and Rwanda injected yet another underlying component of social disruption as they caused “social chaos to the extent of destroying the culture and institutions of a society.”²⁴ Mass rape and enforced pregnancy due to the imposed trauma and terror on communal entities such as villages could reduce or even erase an entire generation and “might actually lead to physical destruction of the community.”²⁵

During the Bosnian conflict, for example, such communal destruction was fueled not only by the imposed psychological terror of the act of rape and the sexual strategic oppression of the female population, but in general by the multi-ethnic identity and the inclusive, rather than exclusive (heterogeneous, not homogeneous), nature of Bosnian Muslims. This identity was not only based on “ethnicity, but upon a multi-ethnic way of

²³ Mullins, Christopher W. 2009, 722.

²⁴ Cudd, Ann E. 2008, 193.

²⁵ Ibid., 193.

life.”²⁶ After ethnic cleansing, this inherent identity trait was often completely erased and almost impossible to recover.

Sexual violence was utilized as the facilitator of terror. Sexual violence, including public rapes and forced display of public nudity was used to humiliate and “add socio-cultural insult to physical injury for the victim and the ethnic group itself.”²⁷

Psychologically, sexual violence began to systematically erode and eventually destroy inter-communal fabrics. “Not only is the population itself eliminated, but the final memories of the people’s existence are tarnished.”²⁸ In Rwanda, however, the sexual derogation and identity spoilage of rape survivors had far more devastating social and economic ramifications. Most rape survivors were shunned by their community including their husbands because of the sexual abuse. Rape survivors were considered unfit as potential wives and marriage in many African states remains a critical social institution to ensure a woman’s economic survival. Additionally, many rape survivors have been infected by and are suffering from HIV/AIDS because of the mass rapes. These conditions marginalized many rape survivors and forced them into the social and economic periphery of their community. Some scholars deem such conditions as a function of genocide since they assist in the elimination of a population, physically and socially.”²⁹

The strategic nature of mass rapes during the Bosnia and Rwandan conflicts has created legal frameworks that acknowledged wartime rape as a systematic weapon of war. It, for the first time, defined rape as a security issue. Hence, it securitized rape as a

²⁶ Weine 1999, 15.

²⁷ Mullins, Christopher W. 2009, 731.

²⁸ Ibid., 732.

²⁹ Ibid., 722.

weapon of war. It moved rape from condemning it as a moral hazard to a clearly spelled out international illegality and crime – and punished its utilization. The securitization of rape after the conflicts of Bosnia and Rwanda has aggravated and continued to initiate unparalleled developments and landmark decisions. Since Bosnia and Rwanda, the concept of rape as a systematic tool of war has globally gained judicial and political traction.

The International outcry over rape camps and mass rapes in Bosnia forced the United Nations' hand. It thrust various U.N. sub-entities, tasked with ensuring human and in particular women's Rights, into action. A flurry of measures to investigate systematic rape as a weapon of war and to implement mechanisms to prevent rape was launched. In March 1994, the U.N. High Commissioner for Human Rights appointed a Special Rapporteur for Sexual Violence during Conflict for a three-year period. The appointment of Special Rapporteur Gay J. McDougall followed the final declaration of the International Conference for the Protection of War Victims held in Geneva Aug. 30 – Sept. 1, 1993. The rapporteur, as tasked by the Commission, would on an annual basis not only report to the Commission, but to make recommendations at national and international levels how to combat the “endemic violence against women.” In a first 1994 report, the rapporteur expressed being “alarmed by the marked increase in acts of sexual violence directed notably against women and children”³⁰ and by the fact that systematic rape during war “remains the least condemned war crime.”³¹ One month after the appointment of the special rapporteur in April 1994 the mass rapes of Tutsi women began and would account for an estimated 250,000 to 500,000 rape survivors.

³⁰ U.N. High Commissioner for Human Rights 1993, 1.

³¹ Ibid., 493-499.

Against this political backdrop, in 1995 the World Conference on Women in Beijing for the first time shifted its focus from women and economic development to war and its effect on women.³² U.S. first lady Hillary Clinton in her conference address specifically identified systematic mass rape as a violation of international law and a violation of human rights. Then Secretary of State Madeline Albright, Human Rights specialist on the U.S. National Security Council, Eric Schwartz, and Winston Lord, assistant secretary of State for East Asian and Pacific Affairs, advised and urged Clinton to do so. They suggested to “beefing up passages about the effects of war on women, particularly the devastating proliferation of rape as a tactic of war.”³³ In her address Clinton linked systematic rape to the violation of international law. She said it is a human rights violation “when individual women are raped in their own communities and when thousands of women are subjected to rape as a tactic or price of war.”³⁴

The conference’s platform for action distinctly addressed not only the link of rape as a strategic instrument of war, but also pushed for the increased involvement of women “in conflict resolution at decision-making levels.”³⁵ The platform underscored this link, correlating rape to security when it addressed rape as a weapon of terrorism. The conference asserted that women have been disproportionately victims of war since increasingly various factions during a conflict are “using systematic rape as a tactic of war and terrorism.”³⁶ The platform consistently suggests a correlation between sexual violence, rape, violence against women and security. For example, it further reads that conflict resolution depends critically on the women’s input to “peace and security” and

³² Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 1.

³³ Clinton, Hillary Rodham 2003, 303.

³⁴ Ibid., 305.

³⁵ United Nations Women 1995.

³⁶ Ibid., 1995.

women's "equal access and full participationin all efforts for the prevention and resolution of conflicts are essential for the maintenance and promotion of peace and security."³⁷ The platform also urged the tribunals for the former Yugoslavia and for Rwanda and the International Court of Justice "to integrate a gender perspective"³⁸ when appointing judges to these international courts and to provide specialized training to addresses systematic rape forced pregnancy during war.

In 1997, Clinton visited the Rwandan Criminal Tribunal in Arusha, Tanzania, according to tribunal records, and met in Kampala, Uganda, a delegation of Rwandan women. In her 2003 memories, Clinton describes the tribunal's legal ramifications as not only critical for Rwandans "but vitally important for all Africans, but especially for women and children."³⁹ Clinton addressed the systematic nature of rape during the Rwandan conflict in her memories as she writes that "rape and sexual assault were committed on a mass scale, tactical weapons in the genocidal violence."⁴⁰

In 1998, the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities received a final report by Special Rapporteur Gay J. McDougall addressing the systematic rape during war. The study concluded that systematic rape during war, including internal conflicts, are violations of international criminal law. Such violations need to be documented and its perpetrators brought to justice.⁴¹ The report also connects rape with genocide. Acts of systematic rape including slavery and other sexual assaults during an external or internal armed conflict may constitute acts of genocide and other crimes against humanity, the report reads further. McDougall called on the

³⁷ United Nations Women 1995.

³⁸ Ibid., 1995.

³⁹ Clinton, Hillary Rodham 2003, 403.

⁴⁰ Ibid., 404.

⁴¹ McDougall, Gay J., Special Rapporteur 2000, 3.

international and national actions to condemn and actively help to combat the increasing practice of using rape as a systematic weapon of war. In 1999, the U.N.'s Commission on Human Rights extended McDougall's Special Rapporteur mandate for another year.⁴²

In 1998, the Rome Statute, which was signed by 120 states, not only established the International Criminal Court (ICC), but served also as yet another decisive step toward the legal underpinning that recognizes wartime mass rape as a violation of international law. Following the Rwandan example, the Statute's section 3 defines rape and sexual violence specifically as a war crime, crime against humanity that could resemble acts of genocide. The ICC can also institute reparations related to such crimes against humanity and "judges at the ICC are also required to have gender expertise."⁴³ Article 7 of the Statute of the International Criminal Court for the first time defines forced pregnancy. It is the "unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law."⁴⁴ The ICC Statute also provides specific provisions that judges should have legal expertise in gender-based violence including violence against women or children and "shall appoint advisers" with such expertise. Court's victims and Witnesses need to include staff "with expertise in trauma, including trauma related to crimes of sexual violence."⁴⁵

In February 1999, the United Nations with the General Assembly resolution 53/160 asserted its "concerns at the deterioration of the situation of human rights in the Democratic Republic of the Congo" and "in particular cases of summary and arbitrary

⁴² McDougall, Gay J., Special Rapporteur 2000, 3.

⁴³ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 23.

⁴⁴ McDougall, Gay J., Special Rapporteur 2000, 26.

⁴⁵ Ibid., 27.

execution, disappearances, torture, beatings, arbitrary and detentions without trial, sexual violence against women and children and the use of child soldiers.”⁴⁶ It was, however, also in 1999 when the gradual emergence and realization of the correlation between sexual violence and national and international security exemplified itself most dramatically and tangibly, for example, in the Kosovo conflict. The systematic genocidal rapes in Bosnia and the increasing securitization of rape added to the growing pressure on NATO to intervene in Kosovo, according to scholars. The fear of mass rape and reports of Serbian rape camps in Kosovo, which were later found as unsubstantiated, contributed to the legitimatization of NATO’s intervention during the crisis.⁴⁷

In 2000, the United Nations security body, the Security Council moved forward with an historic resolution to better address the intersection of rape and security equality. On Oct. 31, 2000, the U.N. Security Council passed with resolution 1325 for the first time in its history an U.N. document emphasizing the link between systematic sexual violence and war and the inherent international responsibility to protect women and children from systematic rape during warfare. “It was a demand for establishing women as equal voices in making decisions pertaining to peace, security, and ultimately power.”⁴⁸ It also emphasized the implementation of critical mechanisms to increase women’s “role in decision-making with regard to conflict prevention and resolution.”⁴⁹ One could interpret the mere fact that the U.N. Security Council, the U.N. body tasked “under the [U.N.] Charter for the maintenance of international peace and security”⁵⁰ passed this resolution as an indication to attach gender, sexual violence and rape during

⁴⁶ McDougall, Gay J., Special Rapporteur 2000, 23-4.

⁴⁷ Hansen, Gender, Nation, Rape. Bosnia and the Construction of Security 2001, 69.

⁴⁸ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 21.

⁴⁹ United Nations Security Council 2000, 1.

⁵⁰ Ibid., 2000, 1.

war to global security. However, the resolution per se did not specifically spell out such connection. It remained rather hesitant in linking rape to global security and similarly timid in providing real and tangible legal mechanisms. The resolution did not explicitly state that rape and sexual violence are threats to international peace and security. Such determination per se would have “invoked the authority and duty of the Security council under Chapter VII of the Charter of the UNS to evaluate and address them.”⁵¹ The resolution points to the impact of increasingly targeting women and children during war on “durable peace and reconciliation.”⁵² It calls for the integration of a gender perspective in peacekeeping and peace-building missions and U.N. field operations and for all states to prohibit the exclusion of systematic sexual violence against women during war from amnesty.⁵³ But the resolution fails in linking rape to international security.

The U.N.’s call for more processes to protect women and children from systematic rape and sexual violence and to integrate gender into decision-making processes of peace within the larger framework of international institutions has remained slow and rather cautious, on occasion even unrealized. In 2008, the women on accounted for only two percent of all international U.N. peacekeeping , three percent of military observers, and seven percent of the U.N. police division, according to a 2009 report about global peace operations.⁵⁴ Only ten percent – 19 out of 192 countries – have so far have implemented a national action plan to protect women from sexual abuse.⁵⁵ After Resolution 1325, the U.N. addressed rape as a systematic weapon war, but fell short to implement specific actions or to be effective in its rhetoric. In a July 2004 speech, then

⁵¹ United Nations 1945.

⁵² United Nations Security Council 2000, 1.

⁵³ Ibid., 2.

⁵⁴ Center on International Cooperation 2009.

⁵⁵ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 14.

U.N. Secretary General Kofi Annan asked the governments of the Sudan and Democratic Republic of Congo “to stop using violence against women as a weapon of war.”⁵⁶ The DRC today accounts for the largest mass rapes in recent history. At least 200,000 women were raped in the DRC as of 2009.⁵⁷

Four years after Annan’s speech, in 2008 (and 16 and 14 years, respectively, after the mass rapes in Bosnia and Rwanda), the U.N. Security Council took yet another momentous step forward to address rape and international security. The adoption of resolution 1820, which was officially implemented in June 30, 2009, was unique. It set itself apart from the official U.N. rape and sexual violence narrative in its implementation specificity – and its increasing affirmation of the link of mass rape as a weapon of war and national/regional and international security. The resolution’s rhetoric points in six different sections of the resolution to rape’s link to international peace and security. It reiterates that “rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide.”⁵⁸ It asserts that the systematic nature of rape “may impede the restoration of international peace and security”⁵⁹ and suggests that measures against systematic sexual violence will aid international peace and security. It points to the “equal participation and full involvement”⁶⁰ of women in peace and security measures and demands the “immediate and complete cessation by all parties to armed conflict of all acts of sexual violence.”⁶¹ While the resolution, similar to UNSC resolution 1325 does not per se spell out that rape

⁵⁶ Cudd, Ann E. 2008, 192.

⁵⁷ United Nations Population Fund 2009.

⁵⁸ United Nations Security Council 2009, 3.

⁵⁹ *Ibid.*, 2.

⁶⁰ *Ibid.*, 2.

⁶¹ *Ibid.*, 3.

and sexual violence were threats to international peace and security (which then would invoke Chapter VII of the U.N. charter), it does indicate “the Council’s readiness when considering situations on its agenda to, where necessary, adopt appropriate steps to address widespread or systematic sexual violence.”⁶² These steps can include “military disciplinary measures and upholding the principle of command responsibility,”⁶³ economic sanctions, specific sexual violence training for UN troops and higher percent of the deployment numbers of female UN peacekeeping forces. The resolution also addressed impunity for sexual violence perpetrators and the demand to exclude sexual violence from amnesty provisions.

Resolution 1820, for one, has the effect that “no Security Council peacekeeping mandate can be passed now without a paragraph requiring forceful civilian protection, especially for women.”⁶⁴ In 2008 the Council of the European Union, the African Union and the Organization for Security and Cooperation in Europe has adopted similar resolutions addressing sexual violence as a weapon of war. In 2010, the Spanish European Union presidency “made gender considerations in the context of armed conflict prevention one of its priorities.”⁶⁵

Further, the resolution asked for the Secretary-General to submit by June 30, 2009, a report that would track the proper implementation of the resolution. Some of the implementation milestones include “information on conflict situations in which sexual violence was widely or systematically employed against civilians; and proposals aimed at

⁶² 1820 Strategy Session International Women's Tribune Centre 2009.

⁶³ United Nations Security Council 2009, 3.

⁶⁴ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 116.

⁶⁵ Ibid., 116.

minimizing the susceptibility of women and girls to such violence”⁶⁶ and to develop effective guidelines and strategies to avoid widespread sexual violence. In 2010, the U.N. Civil Society Advisory Group on Women, Peace and Security is now tasked to evaluate how effective Resolution 1325 has been since its inception in 2000.⁶⁷

Some scholars have accredited the rise of a new generation of war for the increasing prevalence of mass rapes during conflict. “The violence in DRC embodies a new kind of war emerging in the 21st century – one that occurs in villages more than battlefields and affects more civilians than armed combatants,” states a recent report about the civil war in the Democratic Republic of Congo.⁶⁸ But Bosnia and Rwanda have redefined a new generation of wartime rape. And have for the first time thrust mass wartime rape into the collective human consciousness. Rape during the Bosnia war created a firestorm of global outrage and a public outcry in light of the ghastly details that emerged through an increasingly globalized media. “The construction of formalized rape camps to perpetrate ethnic cleansing in former Yugoslavia” fundamentally distinguished the Yugoslav conflict from other wars.⁶⁹ Rwanda became another seismic development in the increasing visibility of rape during war. It acknowledged rape’s genocidal capacity. By connecting rape to genocide, Rwanda inherently linked rape to security and securitized rape.

When it comes to the discourse about the intersection of rape and war, there is, however, also room for evidentiary discussion about opportunistic rape versus rape as a systematic tool of war. Not every rape and act of sexual violence during conflict is

⁶⁶ United Nations Security Council 2009, 4.

⁶⁷ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 119.

⁶⁸ Harvard Humanitarian Institute 2009, 5.

⁶⁹ Askin 1997, 295.

committed with specific strategic goals and war objectives in mind. Rape is not always a weapon of war. Throughout history, women were often the spoils of war, rape the mechanism of terror and the facilitator for the purpose of sheer sexual satisfaction. Rape is seen as men “having a good time.”⁷⁰ Also, some rape victims also include men. However, sexually abused men and boys have been marginalized as rape victims, often because stereotypes that do not align masculinity with sexual victimhood. A 2008 UN OCHA report about sexual violence in Armed Conflict concludes that “there is an extremely limited awareness of, and knowledge about, sexual violence against men and boys in conflict.”⁷¹ Such marginalization often stems from the core concept of Human Security, which has a very specific gendered perception as to who, for example, by international institutions or non-governmental or transnational organizations needs to be secured.⁷²

Bosnia and Rwanda have thrust the utilization of rape as a weapon of war onto the international security forefront. Bosnia and Rwanda have set legal precedents unseen before in international law – and securitized wartime rape.

When it comes to the failure of humanity, there are many stories to be told. Usually these stories include various shades of grey, a mixed bag of international reluctance, global complacency, disparaging indecision making and good intentions lacking political will and a moral urgency.

This is one of these stories.

⁷⁰ Aranburu, Xabier Agirre 2010, 614.

⁷¹ United Nations Office for the Coordination of Humanitarian Affairs 2008, 2.

⁷² Ibid., 3.

CHAPTER II

RAPE - A MATTER OF HISTORY

Throughout history war has always been an ugly endeavor, steeped in political rivalry, unimaginable brutality, torture and terror. The streets of Jerusalem were known to be running “with blood”, first after the Christian crusaders and later after the Romans captured the city in A.D. 70.¹ Sexual violence, rape and sexual slavery were common components of conflict. In Homer’s epic poem *Iliad*, Greek warriors are promised women as reward if Troy falls. “If the goods permit us to sack the great city of Priam, let him pick out twenty Trojan women for himself.”² And writers and artists were commonly the only ones envisioning – and documenting - the many tales of this dark underbelly of war. Shakespeare most famously filled stacks of linen paper, spilled and spent lots of ink, recounting very visually the gruesome mediaeval miseries of war – and the atrocities suffered by women, wives and mothers, daughters and children. Here, for example in *Henry V*,

The blind and the bloody soldier with foul hand
Defile the locks of your shrill-shrieking daughters
Your fathers taken by the silver beards
And their most reverend heads dash’d to the walls;
Your naked infants spitted upon piked
Whiles the mad mothers with their howls confus’d
Do break the clouds, as did the wives of Jewry
At Herod’s bloody-hunting slaughtermen.³

¹ Kern, Paul Bentley 1999, 353.

² Vikman, Elisabeth 2005, 24.

³ Shakespeare, William 2005.

Throughout history, massacres and bloodshed were common and plenty, the human tolerance for inhumane misery and pain immense. The degree of suffering, torture and terror, however, were not only commonly understood as a given and accepted as such, but had their own distorted, finite and constructed interplay: the suffering was gendered. Men were usually killed during battle while women and children became the spoils of war, a subhuman commodity usually sold off to serfdom and slavery. Sexual violence, rape, sex trafficking and sex slavery were common sets of behaviors and an accepted norm within this gendered divisions of war. The rape and war nexus, however, throughout history has displayed an interesting arc. One key characteristic and aspect of the sexual violence and wartime rape intersection includes its pure opportunistic nature, based on and driven by instant and immediate sexual gratification. However, more prominently, rape throughout history was also utilized as a systematic weapon of war, but for centuries effectively ignored as such. Only most recently, demonstrated through the conflicts in Bosnia and Rwanda, rape and sexual violence was not only utilized as a successful and effective instrument of war - with very specific strategic socio-political and economic objectives – but finally through international institutions and international law recognized as such. This chapter will trace this development.

A. WOMEN AND CHILDREN - THE CONVENIENT SPOILS OF WAR

Ancient and modern tales of wartime rape, sex slavery and sexual torture have remained a lesser known subset of history. These anecdotes provide for an intriguing narrative of a largely untold and silenced backstory of war. Throughout history war was brutal. And women and children most prominently were exposed and most vulnerable to the many atrocious acts of conflicts. Hebrew prophets, for example, around 2000 or 1800

B.C. portrayed a particularly grim scenario of the fate of women, infants and children of captured cities,

The infants will be dashed into pieces
Before their eyes
Their houses will be plundered
And their wives ravished.⁴

Quite commonly, these Hebrew prophets would very graphically elaborate on attacks on pregnant women and violence against infants. Such depictions in prophecies and curses, according to some scholars, were “reflecting a vision of a world without limits or structure or morality, in which men violated deep-seated taboos about sex, pregnancy, and survival.”⁵ The violation of these commonly understood taboos remained vast in scope and scale. Rape and sexual enslavement remained throughout ancient and modern history a key feature of war. During centuries of brutal warfare cities were sieged, looted and destroyed; men usually killed because they were thought to be harder to control,⁶ but women and children transported off, held captive and later usually sold off into slavery. During the Bur-Sin regime of Ur 2052-2043 B.C. a unique historical accounts notes a rare list of prisoners of war, which exclusively shows women and children⁷ as captives.

Rape was utilized indiscriminately by historical and religious figures alike and by leaders thought of as moral authorities of their times. Mosses ordered the rape of thousands of young girls during the war against the Midianites when he told his men “all the young girls who have not known man by lying with him keep alive for yourselves.”⁸ Rape similarly played a significant role in Greek war history. In Iliad, for example, the

⁴ Kern, Paul Bentley 1999, 82.

⁵ Ibid., 85.

⁶ Ibid., 23.

⁷ Ibid., 23.

⁸ Ibid., 23.

Greek have specific visions how to avenge equally horrific atrocities committed against them,

“Therefore let no man be urgent to take the way homeward
Until he has lain in bed with the wife of a Trojan
To avenge Helen’s longing to escape and her lamentations...”⁹

Around 500 B.C. the Persians threatened the Ionian leaders “we will make eunuchs of their boys, and carry their maidens captive to Bactra.”¹⁰ Beautiful girls were thrust into sex slavery as part of a harem; men impaled on stakes and their wives’ breasts cut off and displayed alongside their husbands’ severed bodies.¹¹ Most infamously, the Roman Empire was legendarily founded after the rape of the Sabine women. While this account remains a rather mythical tale and a questionable interpretation of reality, for some scholars it is, however, at least a strong indication of “one contemporary (positive) attitude towards sexual violence and its association with warfare.”¹²

For centuries the fate of women during conflict centered on being raped – sexually abused and violated – as part of a strategy. Religious texts and the anecdotes of ancient and modern warfare attest very sporadically as a telling paper trail, how rape evolved into a cruel, cheap and effective weapon of choice. Capturing women during conflict, for example, was a key mechanism and strategy to additionally humiliate one’s enemy. Public humiliation as a key characteristic and objective of forced nudity, rape, sexual violation and abuse can be traced back to the Old Testament,

“Behold, I am against you, declares the LORD the
hosts, and will lift your skirts over your face; and I

⁹ Kern, Paul Bentley 1999, 158.

¹⁰ Ibid., 78.

¹¹ Ibid., 80.

¹² Vikman, Elisabeth 2005, 27.

will make the nations look at your nakedness and kingdoms at your shame.”¹³

Rape was throughout history systematically utilized to humiliate the defeated. It was often the final insult and finishing touch to force one’s enemy into complete surrender. Nakedness and stripping off women’s clothes was used to disgrace not only the captured women and girls, to exploit and aggravate their vulnerability even further. But the violent nakedness of women was symbolic of the “nakedness” and the powerlessness of the defeated state as a whole. Nudity then symbolized the ultimate capitulation after war and displayed the breakdown of all norms of statehood. “There was a logical progression from stripping away the protective walls of a city to stripping the clothes off its inhabitants.”¹⁴ In particular siege warfare, total war and the complete territorial surrender of one’s city and population, according to some scholars, carried strong sexual undercurrents because it relates to the total collapse of control.¹⁵ It dismantles existing power structures and strip one of any rights as a human being.

Warfare across religious fault lines were also very much entrenched in rape and sexual violence. During the Catholic Church’s First Crusade (1096-1099) “knights and pilgrims took time off for sexual assault”¹⁶ when surging ahead toward Constantinople. And so were also 18th century struggles for independence. During the Battle of Culloden in 1745 in the Scottish Highlands, for example, men of the defeated clan were routinely forced to watch on as their wives were raped by the British,

¹³ Vikman, Elisabeth 2005, 23.

¹⁴ Kern, Paul Bentley 1999, 81.

¹⁵ Ibid., 81.

¹⁶ Brownmiller, Susan 1975, 31.

“Where the River Doe meets the Moriston in a black waterfall, Isobel Macdonald was raped by five soldiers, and her husband, skulking high in the heath, watched this in agony.”¹⁷

Further the account recalls in the same paragraph the role of humiliation and the shame of the rape victim also a key feature and objective of wartime rape: “The women who had been ravished made pacts not to lie with their husbands until nine months were passed.”¹⁸

One could also interpret this as an indication how rape survivors were often rejected and abandoned by their husbands or community.

B. THE RULES OF RAPE

Only on occasion did sexual violence during war in ancient times come with a policy or an understood set of behaviors how soldiers should treat female captures of war. Hebrews, for example, in the laws of Yahweh around 2000 or 1800 B.C. set out specific rules that prevented soldiers to sell women after they have been taken in as a soldier’s wife. “If you have no delight in her, you shall let her go where she will, but you shall not sell her for money, you shall not treat her as a slave, since you have humiliated her.”¹⁹ The implication here of providing female captives with a degree of moral dignity and providing soldiers with a framework of regulations of how to address female prisoners of war, however, remains unusual and unique and rather the anomaly than the rule. During Macedonian warfare, which was prominent 359 to 323 B.C., for example, it was common that enslaved women were prohibited to accompany soldiers during war campaigns.

¹⁷ Brownmiller, Susan 1975, 39.

¹⁸ Brownmiller, Susan 1975, 39.

¹⁹ Kern, Paul Bentley 1999, 82.

Macedonian leaders such as Philip and then Alexander the Great were known to have implemented such rules “in order to increase its [the army’s] mobility.”²⁰

Female captives were usually deemed as easily disposable sub-human products of war - without any rights for humanity and dignity. For example, at one point Alexander had allowed for some imprisoned women to come along during one particular war campaign. But in the Gedrosian desert, Alexander had ordered them to camp in a low riverbed, far away from the troops. All women and children consequently died in a subsequent flash flood, while the soldiers, who were all specifically positioned on higher ground, survived. Scholars later argued that Alexander had strategically placed the women in the lower riverbed to “lighten his army for the arduous desert march.”²¹

Whether or not sexual violence, rape, forced prostitution and sex slavery during war was a crime or a punishable act of low moral standards remained throughout history largely contested. In Babylon, for example, the female victim of rape was equally punished like her attacker. Both were thrown (bound) into the river. Later the Hebrews punished the victim and the rapist likewise by stoning since rape was considered adultery, regardless of fault.²² Others, however, saw rape as a rather corrosive underpinning of war, which fundamentally undermined and morally inflicted and corrupted troops. Richard II of England in 1385 wrote in one of the earliest articles of war for soldier-rapists to be hanged.²³ Likewise, many scholars encouraged and engaged in legal and philosophical discourse as to whether or not sexual violence carried far reaching implications, was morally tolerable and whether or not should be punished. On the advent

²⁰ Kern, Paul Bentley 1999, 235.

²¹ Kern, Paul Bentley 1999, 235.

²² Brownmiller, Susan 1975, 19.

²³ Ibid., 34.

of the Enlightenment, for example, the father of International Law, Dutch jurist Hugo Grotius, wrote in 1646 that “rape should not go unpunished in war any more than in peace.”²⁴ However, throughout history, rape remained an accepted side effect of war and a silenced undercurrent, endorsed by governments and authorities. This sanctioning of rape stems primarily from the character of rape, which – even if utilized during war – maintained throughout a distinct domestic feature. “Rape during war was not thought to have a similarly disruptive effect”²⁵ as torture, for example, merely because it was viewed as a domestic and rather private act between two individuals.

Despite of the commonality of rape and sexual violence during war, its effects were inherently traumatic – on the individual, communal or state level. For example, Roman men were known to kill their wives after they have been captured – and raped - by the enemy because of shame.²⁶ Or suicide has increasingly been advocated as a mechanism of choice to escape rape. In the siege of the Jewish fortress of Masada in A.D.73, for example, the leader Eleazar told his people to commit suicide or for the men to rather kill their wives and children to avoid for their wives to be raped,

Let our wives thus die undishonoured, our children unacquainted with Slavery; and when they are gone, let us render a generous service to each Other, preserving our liberty as a noble winding-sheet.²⁷

²⁴ May, Larry 2005, 98.

²⁵ Ibid., 100.

²⁶ Kern, Paul Bentley 1999, 345.

²⁷ Ibid., 1999, 350.

C. MODERN WARTIME RAPE AND PROPAGANDA

Rape during war, even in modern times, was hardly ever reported, but often accidentally revealed. Rape as a narrative, however, was also often utilized as an effective tool of allied so-called atrocity propaganda.²⁸ It was not until World War I when rape was for the first time in detail documented by historians. German soldiers were known to have strategically raped Belgian women and girls when Germany invaded Belgium in 1914, according to British historian Arnold Joseph Toynbee. Toynbee, who served for the British Army during World War I, was one of the first historians, detailing the accounts of these rapes in two books about the World War I. Not only the instant availability of details of these rapes remained an anomaly, but also the assertions that these rape were specifically utilized as a systematic weapon of war. Such anomaly eventually introduced doubt into the truthfulness of these rape accounts. Toynbee argued, for example, in his writing that “the German General Staff deliberately mounted a campaign of terror in the first three months of the war.”²⁹

However, other scholars saw in Toynbee’s depiction rather as a mechanism of political propaganda by allied troops than one of historical truth. Feminist Susan Brownmiller wrote in 1975 that “in the hands of skilled Allied manipulators, rape was successfully launched in world opinion, almost overnight, as a *characteristic* German crime, evidence of the “depraved Boche” penchant for warfare by atrocity.”³⁰ Brownmiller cited publications such as the volume of the American Newell Dwight Hillis’ *German Atrocities: Their Nature and Philosophy*, which were published in 1918

²⁸ Gerlach, Christian 2010, 154.

²⁹ Brownmiller, Susan 1975, 41.

³⁰ Ibid., 44.

in the U.S., Great Britain and Canada to underscore the German barbaric methods of war.

Hillis, for example, wrote,

“When the Germans ruined a village near Ham, they carries away some fifty-four girls and women between the ages of fourteen and forty. These girls were held behind the lines among the camp women, kept for the Huns.”³¹

Hillis then elaborated very graphically how the German soldiers had raped one particular girl and then killed her. Many scholars today agree that most of these accounts were exaggerated, graphically embellished and used to fuel anti-German sentiments during the war. Rape was – due to its emotional potential and domestic character - effectively used as a tool of political propaganda. The British account of the German invasion, the *Report of the Committee on Alleged German Outrages*, later known as the Bryce report, for example, explicitly detailed horrific accounts of German rapes in Belgium. A Belgian soldier for example recited that “he had seen the Germans gang-rape fifteen women on tables set up in the main square of Liege.”³² Accounting for more than twelve-hundred eye witness accounts from refugees and soldiers of atrocities committed by Germans against civilians, but did not name any of them or identified them.³³

Eventually translated into ten languages by June 1915 and named after James Bryce, British member of the House of Lords, former Chief Secretary for Ireland and former ambassador to Washington, the report however was just one of many official records, which utilized rape as a political propaganda tool. According to newspaper accounts, the May 7, 1915 German torpedo attack and sinking of the British ocean liner *Lusitania* aggravated anti-German sentiments and public discourse. After the attack,

³¹ Brownmiller, Susan 1975, 45.

³² Zuckerman, Larry 2004, 133.

³³ Ibid., 132.

allied forces linked the various Belgian hear-say rape accounts immediately to German evilness and inhumane barbarism. Rape became the emotional qualifier of good and evil and emerged as a galvanizer of morality. The New York Herald, for example, was quoted to have written that “the two [the Belgian rape accounts and the sinking] together ended any hope that German atrocities had been exaggerated.”³⁴ Rape became a tool of war propaganda to outrage the masses and fuel war efforts. The New York Tribune linked the sinking to the rape of Belgian women when they printed photo captions such as “At least they only drown your women.”³⁵

Today, these embellished and unsubstantiated mass rape accounts during World War I have been coined a successful “propaganda stunt”³⁶ also utilized to recruit British soldiers for the war effort. Military recruitment posters, for example, were displayed, asking “Have you any women-folk worth defending? Remember the women of Belgium.”³⁷ Rape was utilized as a moral justification of war. Princeton professor Dana Carleton Munro, who had visited Belgium to assess the conditions in 1915, filed a report with the Rockefeller Foundation referred to the various mass rape accounts as “so-called German atrocities.”³⁸ The Bryce report was eventually deemed flawed, inaccurate and grossly embellishing German rapes. The 350 eye witness accounts “containing 155 references to mutilation, rape, deliberate murder of children, or a combination of these, but no two statements confirmed any single incident.”³⁹ After rape was successfully utilized as a propaganda mechanism during and after World War I, it again fell silent. In

³⁴ Zuckerman, Larry 2004, 132.

³⁵ Ibid., 131.

³⁶ Ibid., 134.

³⁷ Ibid., 135.

³⁸ Ibid., 137.

³⁹ Ibid., 133.

1941, for example, the Yale University Press published a report about *Atrocity Propaganda 1914-1919* and “expended no more than a few skimpy sentences to construct a witty dismissal of rape.”⁴⁰

Even today, some historians and scholars refer to World War I as an example of how wartime rape acclaimed undeserved prominence. Scholars such as Larry Zuckerman in 2004 concluded that the Bryce report’s focus on mutilation, sexual violence and rape “obscured the murder, arson, pillage and deportations” which did happen and “made the terror seem trivial, at least in retrospect.”⁴¹ This statement in itself, however, again undermines the gravity of wartime rape. It suggests again a disqualification of rape as a “legitimate” tool of terror, war crime and crime against humanity. It places other wartime atrocities such as “murder, arson, pillage and deportations” above rape and creates an absurd hierarchy of terror. It renders rape once again as a secondary or inferior method of violence, a subset of wartime reality and it renders rape once again insignificant and inconsequential.

Rape also during World War II remained an understood, accepted yet silenced by-product of conflict. At the advent of World War II, General George S. Patton was quoted, saying “there would unquestionably be some raping.”⁴² German soldiers, for example, by law were prohibited - according to Nazi ideology underwritten by the Nurnberg 1935 race laws – to rape or have sexual relationships with Jewish women. Such sexual relations between Jewish and non-Jewish Germans were deemed – and officially punishable - as “Rassenschande” or “so-called racial defilement legislation.”⁴³ However,

⁴⁰ Brownmiller, Susan 1975, 47.

⁴¹ Zuckerman, Larry 2004, 136.

⁴² Brownmiller, Susan 1975, 31.

⁴³ Arnot, Margaret L. and Osborne, Cornelia 1999, 243.

despite of these legal restrictions, rape of Jewish women and young girls, for example in the Warsaw ghetto, were common and “sexual humiliation had a part to play as the Germans tightened their grip on the Warsaw ghetto.”⁴⁴ Rape was also commonly utilized by Germans throughout their increasing eastern encroachments and invasions of Poland, Hungary and eventually the Soviet Union. Rape by German soldiers cut a swath of horror, for example, to Stalingrad in 1942. During the Nurnberg trials after World War II, Soviet foreign minister V.M. Molotow entered the “*The Molotov Note*,” which detailed the many horrific accounts of “lust-maddened German gangsters break into the houses, they rape the women and girls under the every eyes of their kinfolk and children” and “women and girls are vilely outraged in all the occupied areas.”⁴⁵

D. RAPE AS AN INVISIBLE WEAPON OF WAR

But rape was not only a hallmark feature of European or westernized warfare. The Asian Pacific War and the consequent Japanese invasion and occupation of parts of China and the Korean Peninsula in 1931 would eventually introduce the terminology of “comfort women” to a global memory. During the Japanese occupation of the Korean Peninsula from 1919 to the Japanese capitulation in 1945, an estimate 50,000 and 200,000 of women were held as sex slave. These women, mainly Korean, were referred to as “comfort women” according to the English translation of the Japanese word *ianfu*. The meaning of *ianfu* itself stems from the combination of “comfort or solace” and “woman or wife.” The *ianfu* system was implemented to provide “solace and comfort to Japan’s Imperial Forces”⁴⁶ during the occupation. The women were primarily Korean, but also included also Japanese, Chinese and other women in the British colonies of

⁴⁴ Brownmiller, Susan 1975, 52.

⁴⁵ Ibid., 55.

⁴⁶ Orreill, Kirsten 2000, 129.

Burma and Singapore, for example.⁴⁷ So-called “*ianjo*” or “comfort stations” were first established during the second Sino-Japanese War in 1937.⁴⁸ Often Korean “entrepreneurs” women and men ran these “comfort stations”⁴⁹ for Japanese soldiers. But it is believed the system, including brothels, were already set in place way before then. Some historical accounts referred to these brothels as “licensed prostitution” and of pleasure quarters, starting as early as during the Russo-Japanese war (1904-1905).⁵⁰ Usually, Korean women and girls were either sold by their very poor parents to human sex traffickers to the Japanese military or forced into sex slavery by recruiters. Japanese brothel owners in Korea also solicited prostitutes from their own homeland, calling them “second class geisha.”⁵¹

After the Russo-Japanese War, Korea was officially colonized by Japan in 1910 and known as a Japanese protectorate. The concept of colonization and the comfort women as a mechanism and function of colonization adds to the complexity of sexual violence implemented during the Japanese occupation of the Korean peninsula. It links sexual violence, sex slavery and rape to an institutionalized system of political oppression. Sexual violence becomes then a function of a political strategy. Korean scholars argued that “the plight of Korean women can be linked to the failure of their country to avoid colonization by Japan.”⁵² In the 1990s an increasing movement to condemn these sexual atrocities by the then imperial Japan have been launched and the surviving Korean women of the *Ianfu* system consistently pressured the Japanese

⁴⁷ Soh, Chunghee Sarah 2008, xii.

⁴⁸ Orreill, Kirsten 2000, 131.

⁴⁹ Soh, Chunghee Sarah 2008, 4.

⁵⁰ Ibid., 8.

⁵¹ Ibid., 9.

⁵² Orreill, Kirsten 2000, 132.

government for an official apology. Most recently, Japan's comfort women legacy prohibited the country to receive a permanent seat at the U.N. Security Council.⁵³

Most notoriously, however, the rape of Nanking exemplifies the brutal atrocities of the 20th century Japanese Imperial Forces. When Japan invaded China in summer 1937 during the Second Sino-Japanese War to acclaim valuable Chinese territory and resources, the siege and capture of the former Chinese capital Nanjing became a key strategic war objective. The city fell on Dec. 13, 1937. The capture and siege of Nanking, however, entered the history books only reluctantly, but when it did it revealed one of the worst atrocities committed in modern history. Not only the scope and the sheer number of the death toll, but the matter of how most of the Chinese found their death was in particular notorious. More than 200,000 people were slaughtered, usually tortured before they died. "For months the streets of the city were heaped with corpses and reeked with the stench of rotting human flesh."⁵⁴ Most astonishing, however, was the ensuing mass rape that followed the siege. An estimated 20,000 to 80,000 women were raped, often with their husbands, brothers, relatives or young children forced to look on. Japanese soldiers would later carry amulets made from pubic hair of their rape victims for "magical powers against injury."⁵⁵ The scope of the capture still today remains one of most controversial and most horrific conflicts worldwide. For example, the death toll at Nanking even exceeded the nuclear bombing of both, the Hiroshima and Nagasaki nuclear bombings, combined.⁵⁶

⁵³ Orreill, Kirsten 2000, 129.

⁵⁴ Chang, Iris 1997, 4.

⁵⁵ Ibid., 49.

⁵⁶ Ibid., 6.

By the end of the 20th century, the Nanking massacre became a symbol of the brutal Japanese war atrocities. John Rabe, for example, a German businessman in Nanking, tried to establish safety zones to protect civilians. According to his diary entries:

“Last night up to 1,000 women and girls are said to have been raped, about 100 girls at Ginling College Girls alone. You hear nothing but rape. If husbands or brothers intervene, they’re shot. What you hear and see on all sides is the brutality and bestiality of the Japanese soldiers.”⁵⁷

In Japan, the incident and in particular the mass rape remained a silenced and contentious interpretation of Japanese history⁵⁸ throughout the later part of the 20th century. Only as recently as in 1997 appeared the very first English account of the atrocities written by former journalist Iris Chang. The book became not only a New York Times bestseller, but also political bone of contention between China and Japan. When the book was first published, the Japanese ambassador to the U.S. called the book riddled with errors “and one-sided.”⁵⁹ However the Chinese embassy issued a statement, saying that the “Nanjing Massacre was not a historical fiction.”⁶⁰ Consequently, the 1999 Japanese version of Chang’s book was canceled.⁶¹

Rape in war was utilized not only as a reward for the victors of war, but also as revenge and a retaliation force. As German soldiers left a horrific trail of rape and sexual violence on their way to Stalingrad in 1942, in the aftermath of a defeated Nazi Germany, the west-marching Soviet Red Army likewise killed and raped their way into Germany. The fall of the German capital Berlin in 1945 became for German women the symbolism

⁵⁷ Woods, John E. 2000, 77.

⁵⁸ Yoshida, Takashi 2006, 164.

⁵⁹ Ibid., 161.

⁶⁰ Ibid., 161.

⁶¹ Ibid., 165.

of Soviet revenge of the immense death toll suffered by the Soviet Union during World War II. It is estimated that the UDSSR lost approximately 26 million people. This accounts for disproportionately more military and civilian deaths compared to any other nation during World War II. The Red Army reached Berlin on April 27, 1945 and the hunt for women – and the mass rape - began shortly afterward. “Hordes of Russian troops coming up behind the disciplined front-line veterans demanded the rights due to the conquerors: the women of the conquered.”⁶² Estimates about the women raped in Berlin, according to Russian archives, are about one million German women and two million in the regions of eastern Germany occupied by the Soviet Union. Berlin in early 1945 was a city, mostly consisting of women, children and the elderly. Men were either dead or at the front. Similar to Stalin, Hitler had refused to evacuate the civilians from the city “in order to force his troops to defend the city more bravely.”⁶³

The mass rapes in Berlin and in the Soviet occupied regions became not only a mechanism to humiliate the enemy even further, but in case of Germany elevated itself also into a function, according to some accounts, of a perverted de-Nazification process. German women were raped not only as a symbolism of war conquest, but to un-German the German war Nazi.⁶⁴ Some of the earliest and most detailed accounts of the mass rapes of German women by Soviet troops were based on a diary by a female journalist, who was also for weeks and months raped during the fall of Berlin. The book “A woman in Berlin” was first published anonymously as an incomplete version in English in 1953/4 and in German in 1959, it found harsh German critics. One reviewer, for example “complained about the author’s shameless immorality. German women were not

⁶² Brownmiller, Susan 1975, 67.

⁶³ Anonymous; Philip Boehm 1953; 2000, xv.

⁶⁴ Sy-Quia Colier, Hillary and Baackmann, Susanne ed. 2000, 45.

supposed to talk about the reality of rape; and German men preferred not to be seen as impotent onlookers when the Russians claimed their spoils of war.”⁶⁵ Later, the author asked for the diary not to be republished until she had died.

According to this diary, the rape of German women was initially part of the random Soviet de-Nazification campaign against surviving Germans. Later, however, Red Army troops became more selective and picked their rape victims based on attractiveness. Some rape victims also came to “informal agreements with a particular soldier or officer, who would protect them from other rapists.”⁶⁶

For decades, information and details about the mass rapes of German women after the end of World War II was silenced. The Cold War and the iron curtain had effectively divided Europe not only politically or ideologically, but it had also separated Europe memory into two different truths. Equally, in West-Germany, the topic of Soviet mass rape was taboo. “....the male half of the German population wanted the subject to be buried.Women were forbidden to mention the subject of rape as if it somehow dishonored their men, who were supposed to have defended them.”⁶⁷ The provisional West-German government at the time approved a policy to fund abortions for thousands of rape victims.⁶⁸ In October 1949 the Soviet Union claimed the regions of Saxony, Saxony Anhalt, Thuringia, Mecklenburg and Brandenburg under Soviet and communist rule and as an entire new country, referred to as the German Democratic Republic (GDR). Mass rapes of German women continued way the end of World War II in the Soviet occupied regions, but were effectively silenced.

⁶⁵ Anonymous; Philip Boehm 1953; 2000, xi.

⁶⁶ Ibid., xx.

⁶⁷ Ibid., xxi.

⁶⁸ ed. Dombrowski, Nicole A. 1999, 16.

While in Europe the Cold War and the Iron Curtain had effectively muffled reports about systematic rapes in the Soviet occupied eastern territories, mass rapes equally were silenced elsewhere around the world. Rape as a weapon of war, for example, was systematically utilized during the Bangladesh independence war with Pakistan in 1971. Today, it is estimated that between 200,000 to 400,000⁶⁹ women and girls were sexually abused and raped by Pakistani troops. Often women were gang raped in broad daylight during the conflict, in front of their husbands and brothers and small children. Many women were also held as sex slaves for several months in particular “military cantonments or camps.”⁷⁰

Today many scholars argue that mass rape and forced impregnation were part of an overarching systematic strategy by the Pakistani government to retain and reclaim the Bangladesh territory. A Pakistani officer was quoted after the defeat “We are going. But are leaving our seed behind.”⁷¹ According to estimates, between 25,000 and 150,000⁷² abortions were performed in the after-war period. Like in other conflicts, rape was also known during the independence war to be utilized by the Pakistani military leadership as a form of humiliating the Bengali men and “feminizing” them in the “view of West Pakistanis who, referring to the *lungi* customary in Bengal, had a saying: “In the East [...], the men wear the skirts and the women the pants. In the West, things are as they should be.”⁷³ The social implications of sexual violence during the war were also far-reaching. Because of the cultural stigma that was attached to rape and its survivors, many women were either killed by their husbands, or relatives, committed suicide or moved to

⁶⁹ Gerlach, Christian 2010, 154.

⁷⁰ Ibid., 155.

⁷¹ Ibid., 155.

⁷² Ibid., 157.

⁷³ Ibid., 156.

neighboring Pakistan.⁷⁴ A government program called *biranganas* (war heroines), initiated in 1972, which was designed to help rape survivors to recover and to integrate them back into their communities, failed.⁷⁵

E. WAR AND RAPE TODAY

Rape, however, has never lost its effectiveness. In other areas of conflict, for example, in the Sudan Arab militia groups have raped women of non-Arab descent to bear Arab children and to dominate territory. Amnesty International reports that Arab women cheered and sang on when Sudan militia raped black Sudanese non-Arab women. The Arab women have been quoted by Amnesty International, saying “We take their goods and we chase them from our area and our cattle will be in their land.”⁷⁶

However, most notoriously today remains the current civil war in the eastern part of the Democratic Republic of Congo. Coined “Africa’s World War,” the conflict has cost nearly six million lives and produced human rights violations on an unprecedented and epidemic scale. The conflict accounts for some of the worst sexual violence offences including mass rapes the international community has witnessed, utilizing rape as a cheap and effective weapon of war. The civil war in the DRC began to engulf shortly after the genocide in neighboring Rwanda in April 1994 and remains a hodgepodge of rivaling internal and external forces.

The conflict still today includes “seven foreign armies and a myriad of militias and mercenaries.”⁷⁷ These forces took advantage of a fragile central government and corrupt leadership to mainly fight over the DRC’s vast natural resources such as

⁷⁴ Gerlach, Christian 2010, 157.

⁷⁵ Ibid., 157.

⁷⁶ Cudd, Ann E. 2008, 192.

⁷⁷ Adebajo, Adekeye 2010, 44.

diamonds, gold or other valuable minerals. National troops from the Uganda People's Defense Forces (UPDF), the Rwandan Patriotic Army (RPA) and Congolese rebel groups including the *Congres national pour la defence du peuple* (CNDP) and the *Forces democratiques pour la liberation du Rwanda* (FDLR) which side either with the Rally or Congolese Democracy (RCD) and the Congolese Liberation Front (CLF) began to rival over power – and mining territory - as early as 1996. After the genocide in Rwanda in 1994, the Rwandan Tutsi-led government began to infiltrate the fragile DRC. In 1998, Uganda and Rwanda admitted having troops in the DRC⁷⁸. After the first wave of the civil war ended officially in 2003 with a glimpse of hope for peace. The Lusaka Ceasefire Agreement in summer 1999 initially halted rebel fights. A power sharing agreement brokered by South Africa in 2003 promised a return of a functioning government and a presidential election in summer of 2006. The CNDP eventually became part of the official DRC army after a fragile peace agreement in 2009.⁷⁹

In 2007, United Nations Under-Secretary-General for Humanitarian Affairs John Holmes declared that the growing rape crisis in the DRC was “the worst in the world.” In 2009, U.S. Secretary of State Hilary Clinton called rape in the Congo “one of mankind’s greatest atrocities.”⁸⁰ The U.N. Special Representative on Sexual Violence in Conflict, Margot Wallstrom, briefed the U.N. Security Council in fall 2010 that the “mass rapes in Walikale demonstrate a nexus between the illicit exploitation of natural resources by armed elements and patterns of sexual violence.”⁸¹ For example, the eastern part of the DRC, which is bordering the Lake Kivu region in Rwanda, today is home of the “world’s

⁷⁸ Reyntjens, Filip 2009, 293.

⁷⁹ U.S. Department of State 2011, 2.

⁸⁰ Harvard Humanitarian Institute 2009, 7.

⁸¹ U.S. Department of State 2011, 31.

largest Coltan reserves.”⁸² Coltan is a mineral used, for example, in cell phones, laptops and other high-tech appliances. These multi-million dollar Coltan deposits, in addition to large reserves of gold, silver and diamonds, coupled with ethnical rivalry and political muscle-flexing, have sparked the DRC conflict. Wallstrom in 2010 linked the “competition over mining interests” to the horrific sexual violence atrocities in the conflict.⁸³

For centuries, rape during conflict has enjoyed a widespread legal reluctance to hold perpetrators accountable. Usually, rape during war was denoted either as “revenge and triumph for the winning side” or “humiliation and defeat for the conquered.”⁸⁴

Crimes against Humanity only recently were legally defined and took on a more universal character. During the Nurnberg trials after World War II, many Nazi war criminals were prosecuted “because they are accused of having offended against society itself, and society, as represented by international law, has summoned them for explanation; their crimes, it said were not crimes against any specified country, but against humanity. Humanity is the sovereignty which has been offended.”⁸⁵ Only recently, international law scholarship linked mass rape and mass sexual violence to international prosecution. “When the assault is either directed at a group [women] or involves a state (or state-like) actor, and ideally when both conditions are met, then it is sufficiently linked to the international harm principle to call for international prosecution.”⁸⁶

⁸² Lalji, Nadira 2007, 35.

⁸³ U.S. Department of State 2011 31.

⁸⁴ Vikman, Ancient Origins: Sexual Violence in Warfare, Part I. 2005, 30.

⁸⁵ Geras, Norman 2011, 45.

⁸⁶ May, Larry 2005, 106.

Framing rape today as a systematic tool of warfare divorces the sheer act from its initially gendered, domestic and, hence, “inferior” context to a conscious and effective method to advance specific strategic goals. Rape as a systematic tool of war was utilized during the conflicts in Bosnia and Rwanda – and recognized as such. The definition of “systematic” for example during the Bosnia conflict was very specific. The 1991 “Ram” or “Brana” Plan, outlined very specifically the objectives of warfare during the Bosnian conflict. It points very specifically to women and children as the target for the conflict’s psychological war. Focusing on a specific portion of the population, the plan then became “military policy.”⁸⁷ Likewise, the U.S. attorney Daryl Mundis, who prosecuted the notorious Foca trial in 1992 saw a clear strategic connection between the rape camps in Foca, for example, and an overarching strategy. “You can certainly draw inferences that there might have been, or that there was, a common purpose or plan.”⁸⁸ Prosecutor Dirk Ryneveld also consistently argued that “rape is one of the constituent ingredients in the widespread or systematic attacking.”⁸⁹

The objectives of mass rape during the Bosnia conflict, for example, were specifically genocide, territorial, political and social gains. During the genocide in Rwanda, rape and sexual violence was linked to the systematic eradication of the Tutsi ethnic group. The Rwandan Tribunal, for the first time in history, convicted officials and mass rapists for utilizing sexual violence as a mechanism of genocide. The conflicts of Bosnia and Rwanda – compared to the other wars throughout history - uniquely established sexual violence and rape finally as a crime against humanity – and made rape finally visible.

⁸⁷ Allen, Beverly 1996, 56.

⁸⁸ Hagan, John 2003, 180.

⁸⁹ Ibid., 181.

CHAPTER III

SECURITIZATION THEORY - A MATTER OF WORDS

This chapter explores the genesis of the Securitization Theory. It looks at its historical and intellectual roots, trying to address fundamental questions such as who created the theory and why. It also explores its political backdrop and its global context, which so critically seem to have underwritten a new theoretical framework. It explains what the theory is, what it does and what steps and processes are essential to make the theory work – and, as such, to make it effective. Further, this chapter points to current applications of the theory and provide examples and analyses of its current utilization such as areas of terrorism, global warming, and migration. Additionally, it outlines and addresses the critics of the Securitization Theory, the debate and intellectual and political “ambiguities” that often have been attached to the use of the word “security.” It also briefly surveys other theoretical frameworks and how they have effectively succeeded (or failed) to interpret rape as a systematic weapon of war.

A. WHAT IS SECURITIZATION?

Securitization Theory was first introduced in the late 1980s by Barry Buzan and Ole Waever. Securitization, in general terms, means shifting an issue/a concern into the realm of security. The theory primarily holds that someone or something cannot be dealt with the normal/regular way. Once an issue reaches this point “of no return,” this point beyond normalcy and beyond the previously understood, it will be viewed and treated as a threat and a security issue. Securitization turns a concern or problem - e.g. the environment, immigration, HIV-Aids infection, sexual violence – into a danger and labels

it accordingly as a security issue. It redefines its significance and its degree of importance. It moves and elevates an issue from the regular level to the threat and security status.

Securitization Theory emerged from the growing debate among security scholars after the end of the Cold War, challenging core realist and liberal theoretical views. Realists link almost exclusively security to military issues. Realism and Liberalism focused on the nation state and the prevalence of the national interest as the dominating security objective. The post-Cold War security debate then began to focus on what the end of the superpower rivalry between the U.S. and the Soviet Union really meant and symbolized for international relations in general - and for International Security Studies and its intellectual discourse in particular. While realists and liberals, for example, struggled with explaining the peaceful end of the Cold War, Buzan and Waever saw in the newly emerging post-Cold War environment an opportunity to redefine security. The sudden absence of the Cold War, superpower rivalry and nuclear muscle flexing presented for Buzan and Waever the backdrop for a new theoretical framing, a fresh look at what constituted security in a new political reality.

Security studies and in particular its traditional pillars, Realism and Liberalism, privileged the nation state almost solely as the core and central object that needed to be secured. Wars were fought and peace was “waged” to protect the state, its people, its borders, interest and power. However, for Buzan and Waever the newly emerging post-Cold War security environment revealed a new frontier, an opportunity for a new theoretical terrain that allowed for a larger, expanded and wider view of what security means. It reexamined and challenged the traditional way of how we have thought and

explained security in the past. It shifted the notion of international security from the traditional to a broader and more all encompassing concept. This became later better known as the widening and deepening of security studies. It widened its focus to more areas and issues – and deepened its core functions as to who needed to be secured from the state vertically downward to the local and finally the individual. Securitization Theory then became one of the theoretical underpinnings for these new “shades of grey,” these new nuances of how the term security is transcending the traditional state and military nexus.

For Buzan and Waever, the act of securitization itself shifts an issue - e.g environment or economic issues - into the realm of security. Buzan also defines securitization as the opposite of politicization or normal politics; as the opposite of initial norms and rules, the understood and acknowledged peripheries of things; as contrary to the established rule of law, different to open political deliberation and other processes with accepted norms and guidelines. According to Buzan, securitization takes place once a referent object is being transformed from a non-political, then a political issue into a threat.

This is how this process works:



Very distinctly, he argues that once someone (political leadership, institutions, non-governmental organizations etc.) defines an issue as a threat – for example a threat to the sovereignty of the state, to national identity or the cohesion of a nation – the assumptions that have surrounded “this something” (area, sector, object) for so long are being

¹ B. W. Buzan 1998, 23.

redefined. It's being moved and transformed from its original to a new state. It's being securitized. The act of securitization – of attaching the term “security” to an issue - lifts an issue (object, area, or sector) above politics and above regular (political) agenda setting.

Further, securitization can view and privilege other issues in lieu or in addition to the nation state as the object or problem or concern that needs to be secured. These other issues can include multitudes of areas such as the environment (global warming, the survival of species and food supply) terrorism, economic multinational firms; development; national and global markets, society (migration; identity, gender, religion). Securitization Theory then becomes the theoretical construct that explains the act and the processes of securitization. It morphs into a mechanism that explains if and when something is worth to be securitized, how securitization exactly works, who securitizes an issue, why - or why not. It also elaborates as to how successful - or not - this method is.

On a theoretical spectrum, securitization brings Buzan's discussion about *sectors of security* and Waever's redefinition of *security* under one theoretical umbrella. Buzan defines “sectors of security” as a variety of different areas - e.g. military, environment or economic issues – where the process of securitization can occur and where issues are affected by the sheer act of labeling something as a security concern. Waever, on the other hand, defines security as a process that focuses exclusively on the threat and how one defies such a threat. For Waever, security allows anyone or anything involved to deploy all possible actions or measures to dampen, curtail or eliminate danger. Security,

according to Waever “moves the particular case into a specific area, claiming a special right to use the means necessary to block this development.”²

To fully understand securitization, it warrants a brief discussion as to how one defines security in the first place. The term security stems from the Latin *securitas*, which translates into “a condition of individuals, of a particular inner sort. It denoted composure, tranquility of spirit, freedom from care.”³ Throughout most recent history, security has been termed as a key function of what states and governments do: states ought to provide security and safety for their citizens. States protect their citizens from harm, violence and injustice and, by doing so, states usually perpetuate an environment that fosters peace. Security and peace are not only defined as the absence of war, but also as critical conditions that help societies and human beings to grow and flourish: economically and politically, but also as social, cultural and moral markers. The absence of a constant slaughter instills confidence and trust in the state. And this confidence in turn creates and projects prosperity from the inside out to other states and their citizens.

The philosophical roots of the term security originate in part from the discussion surrounding British philosopher and political theorist Thomas Hobbes (1588-1679). Hobbes sees men in a constant state of nature where people are at war with each other all the time. This state is inherently anarchical because there is no one or no overarching governmental entity that provides universal norms, rules and regulations. Life is brutal and its outlook pessimistic and dire. Life and the survival of men are constantly under threat by men themselves. Hobbes finds human beings prior to the organized system of states trapped in a world surrounded by “continual fear, and danger of violent death; and

² Wæver 1995, 5-6.

³ Rothschild, E. 1995.

the life of man, solidarity, poor, nasty, brutish, and short.”⁴ Hobbes argued that human beings can only overcome these desperate and brutal circumstances if they surrender themselves to an entity (a person or a structure) that will protect them from constant harm. Hobbes calls this entity Leviathan. Leviathan is able to provide an environment without the ever-presence of war and violence in people’s daily lives. Leviathan protects citizens from this brutish, consistent insecurity and the constant state of despair. Without Leviathan, human beings are doomed to live with “no propriety of goods, or lands; no security.”⁵ But Leviathan comes at a price. According to Hobbes, security is being accomplished by people surrendering their individual independence, self-determination and responsibility for one’s own destiny. By surrendering this degree of independence, individualism and self-governance to an overarching, broader government or entity (Leviathan), one gains security.

Several centuries fast forward, the term security remains attached to the state as the central object to be secured. It also remains still inherently connected to the military and the threat and the use of force. In 1943 journalist and political adviser Walter Lippmann, who is also known for turning the term “Cold War” into a household name, argued that “A nation has security when it does not have to sacrifice its legitimate interests to avoid war and is able, if challenged, to maintain them by war.”⁶ Here Lippmann clearly argues for security and its traditional state centrism and the notion that only war, counter-aggression and force can in fact provide such security. Henry Kissinger argued in his 1957 dissertation that good statesmanship has to understand how actors define security and threat likewise (Kissinger1957/Carr1939). Kissinger also wrote that

⁴ Hobbes 2008, 84.

⁵ Ibid., 142.

⁶ Lippman 1943, 51.

political leaders have to be able to understand the threshold at which other actors will feel threatened.

Other scholars tried to delve into the objectivity and subjectivity, the ambiguities the concept of security provides. Yale University Professor Arnold Wolfers in 1959, to compare, addresses the intersection between the reality of a threat and how one perceives a threat. He wrote that “security, in an objective sense, measures the absence of threats to acquired values, in a subjective sense, the absence of fear that such values will be attacked.”⁷

Against the backdrop of the Cold War and a looming nuclear inferno, former Swedish Premier Minister Olof Palme, for example, explored alternative definitions of security. He, in the Independent Commission on Disarmament and Security Issues Report in 1982, saw security in a nuclear age as an endeavor of the collective, what he referred to as “common security.”⁸ Such common security emerges, according to Palme, due to the devastating nature of a nuclear war. The prospect of the evitable destructiveness then calls for a security system that understands the concept of security as a “joint survival.”⁹ Some scholars defined security as to what it does to (or fails to do) for a specific portion of a population e.g. women. In 1985, for example, the World Conference to Review and Appraise the Achievements of the United Nations Decade for women saw security and peace for women as a multi-faceted concept. The definition of peace, for example, not only included the sheer absence of conflict, but also included “the enjoyment of economic and social justice.”¹⁰ Most recently, however, many scholars interpreted

⁷ Wolfers 1952, 485.

⁸ Palme and Vance 1982, xiii.

⁹ Ibid., xv.

¹⁰ Tickner, 1992, 55.

security more of a fluid and flexible notion. In 1990, G.M. Dillon, for example, interpreted security not as a “universal need or a universal concept, but a function of discourse, a function within a specific and modern discursive economy of the political.”¹¹ Further, security then becomes a “process of subjectification”¹² or “pervasive cultural practices that serve to discipline ambiguity.”¹³

To connect these varieties of security definitions to Securitization Theory, Barry Buzan interprets security as being inherently linked to existential survival, the survival of not only people and states, but also objects and issues such as the environment, global health and identity. For Buzan, insecurity, and inversely then also security, is a condition, which is based on who is threatening the survival and sheer existence of objects and issues. Buzan defines insecurity as reflective of “a combination of threats and vulnerabilities.”¹⁴ It is likewise linked to how these objects and issues expose themselves to certain threats, how these issues become vulnerable and indicate certain vulnerabilities. If insecurity is the combination of threats and vulnerabilities, security then is the result of mastering and diffusing these threats and vulnerabilities.

For Buzan like Wolfers in 1959, broadly described, security can be objective (there is a real threat) or subjective (there is a perceived threat). For example, one could argue that Iraq after the Sept. 11 terrorist attack was perceived by the U.S. government as an existential threat while in reality (and objectively) such a threat lacked substantive backing e.g. the weapons of mass destruction. A purely objective measure of security – as proposed and advocated by realists - is nearly impossible because, according to Buzan,

¹¹ Dillon, G.M. 1990, 110.

¹² Ibid., 114.

¹³ Campbell, D. 1998, 17.

¹⁴ Buzan 1983, 112.

such a measure has not been provided by any security theory.¹⁵ For example, an invasion could be a threat to some (e.g. the elite of a country), but an invading army could also resemble a liberating force to others.¹⁶ Buzan offers the example of a “hostile” tank. Even in the face of an immediate threat, e.g. a hostile tank at the border, such a threat not necessarily has to be objectively perceived as a threat because the tank could also be related to a peacekeeping force. The tank can represent and resemble something completely different to different people. Its capacity as a threat is subjective. For one group, it’s an invasive act and a threat to one’s survival; for another group it represents just the opposite – namely liberation.

Likewise, who securitizes – who constructs the process of securitization and its mechanisms - remains subjective. As Buzan points out, with such subjectivity comes a wide range of ambiguities. Not every country and government defines security - and threat - equally. Global warming such as rising sea levels might be a security issue for one state such as Japan, but not for another, such as Liechtenstein. Likewise, political ideology (a conservative versus a liberal government) can trigger securitization in one country, but not in another. For example, immigration in the U.S. has emerged as a clear security issue after the Sept. 11 terrorist attacks. Conservative leaders such as President George W. Bush tightened immigration enforcement and imposed more immigration regulations and restraints. Similarly, a growing immigration and assimilation debate in Europe has heightened overall cultural and social tensions, for example, in England and France. However, immigration has not reached security levels and threat assumptions in very liberal states such as Norway. Securitization takes on a political undertone

¹⁵ Buzan 1998, 30.

¹⁶ Ibid., 30.

depending on who is constructing it – and against what political backdrop. These converging ambiguities are what Buzan calls “a political fact that has consequences.”¹⁷

Since within the framework of Securitization Theory, the definition of the term “existential threat” is also critical, it warrants for a brief description what “existential threat” exactly means. A threat is not necessarily a threat because it is real, but sometimes a threat can also be perceived (wrongfully or rightfully so) as one. Michael Shapiro in 1992, for example, argued that the deployment of military means are usually deployed not to tackle a random threat. “They function as an adjunct to some already determined, often historically conceived threats.”¹⁸ According to Buzan, threats can emerge from military areas (issues that are directly linked to any branch of the military) and non-military entities (issues that do not have any links to the military e.g. the environment, global health or migration). A threat can also be an individually perceived threat or a threat that is based on structural implications such as structural violence. Structural violence is a threat, which presupposes that a threat has structural origins e.g. such as the Apartheid regime in South Africa, the Nazi government in Germany, the Red Scare during the 1950s.

To consider a threat as a security issue, it has to meet certain criteria, elevating the nature of a threat from a benign, normal level to a sudden height of severity and crisis mode. The reasonableness and such severity of a threat are critical within the process of securitization. A threat needs to be deemed existential otherwise securitization will fail. A threat needs to question the existence of an issue or needs to target key components that are essential for the survival of an issue or area. The legitimacy of a security claim or

¹⁷ B. W. Buzan 1998, 30.

¹⁸ Shapiro, M.J. 1992, 456.

claim for survival needs to be real. However, such reality can only come from a logical and coherent existential nature of the threat. The threat of blue jeans and Coke to the Soviet Union (compared to the U.S. and Europe) or the Danish complacency during the Cold War ¹⁹ are examples of unreasonable and illogical threats. If a threat is unreasonable, not legit or weak and flawed, securitization remains limited, artificial and ineffective, hence weak and flawed itself. Reasonableness and credibility of a security claim, the interaction of who securitizes and the interplay between various actors and units (political leaders, institutions or non-governmental organizations) amid the securitization process are critical for a successful securitization.

The assumptions, which traditionally have surrounded the definition of 'security' in International Relations theory, have usually unleashed very narrow and predictable measures and responses. Usually these responses were connected to force, aggression and the military as the actor. They include invasions, first strikes, attacks and other common actions. However, Securitization Theory, in comparison, suggests alternative measures, which are not linked to the military or the traditional use of force. These alternative measures often include resolutions of international institutions such as the UN, international legal actions through the international court system, economic sanctions and the curtailment of domestic rights and liberties. The widening of these alternative measures connects to the widening and deepening of issues after the end of the Cold War.

The interplay between various actors and units (political leaders, institutions or non-governmental organizations) amid the securitization process is also essential not only in legitimizing a security claim for survival, but in accepting the breaking of rules or tolerating the scope of extraordinary measures (which otherwise would not have been

¹⁹ Buzan 1998, 30.

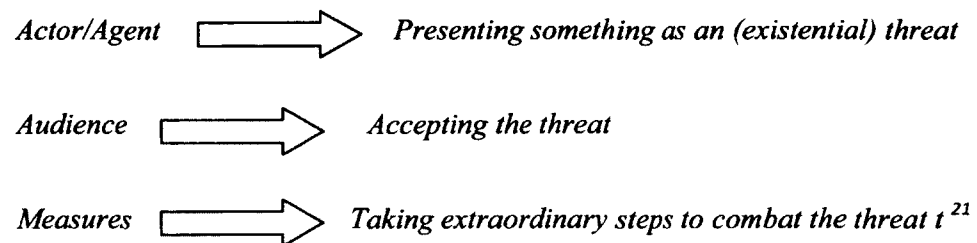
tolerated). Such threats have also been deemed existential because they provoke and generate extraordinary measures to deal with the severity of the threat. Such emergency measures are forces and actions completely “beyond existing binding rules.”²⁰ These measures bypass and surpass existing norms and regulations and establish often new and extraordinary ones to combat this extraordinary threat. The exceptional threat here not only justifies the exceptional means, but actually requires and demands them.

As a process, the Securitization Theory holds that once actors securitize an issue (turn it into an existential threat) norms and values about this issue change and extraordinary measures are being deployed to confront and combat this threat. For example, once a state is being attacked, it acts within its rights of self-defense and preservation of its sovereignty. It deploys extraordinary measures to defuse and eventually overcome the threat that had questioned its existence. Such urgent and extraordinary measures not always need to include force, but rather could also encompass other actions and procedures such as sanctions, the withholding of aid, or the domestic curtailment of rights and liberties of a population. In short: These measures are called extraordinary because they consist of something leaders or other entities/units of authority (institutions or non-governmental organizations) would not do under normal conditions and under regular circumstances. Through elevating something to a security issue, actors such as political leaders or institutions or non-governmental organizations recognize the urgency and crisis mode and, hence, begin to abandon prior values, assumptions and norms (and procedures, rules) and assume new ones.

²⁰ Buzan 1998, 5.

WHAT ARE THE STEPS?

The widely accepted method of securitization as proposed by Buzan and Waever in general undertakes three steps and stages. These steps are: 1) the presentation of an issue as an existential threat 2) The acceptance of this threat by a credible audience and 3) The deployment of extraordinary measures to combat this threat. This is - in general - how a simple securitization outline would look like:



FIRST STEP:

The issue (the concerns e.g. environment, HIV infection, migration etc.) needs to be presented to someone or something of competence and authority as an existential threat. Such competence is also referred to as a credible audience. However, just portraying something as a threat (Buzan calls this a *securitization move*) does not automatically produce and result in securitization. It only initiates the first step toward securitization. The securitization move – shifting something from the ordinary to the extraordinary, from the regular to security - creates a platform from which eventually it is possible to take extraordinary actions.

Emergency or extraordinary measures are steps that would not have been possible had the discourse not taken on the form of an existential threat. According to Buzan, such a securitization move – the initial argument to validate such an emergency measure - does

²¹ Buzan 1998, 23.

not necessarily need to be adopted, but only the existential threat needs to be argued and the threat accepted as such.

According to Buzan, this first, initial step usually involves a process that is called the speech act. A speech act means someone “speaks/writes” the word “security” (or a word that in its meaning articulates a similar notion than the word security). By “speaking,” connecting the word security to an issue, this issue then becomes a security concern. The speech act underscores that something is being spoken and, therefore, is being defined or articulated a certain way. However, this act also has very real and tangible implications. By saying the words, by labeling an issue as a security concern, something is also being done. The speech act implies and creates specific actions. A speech act, therefore, is never only passive, but entails very specific active components. It is active as it is consequential. Creating securitization through speaking comes with specific consequences and reactions. A speech act creates real effect and actions. However, successful speech acts (successful in its ultimate goal to securitize), do not automatically imply that the same speech act will be successful again or is consistently successful. New or unexpected conditions or different factors can alter an established and once successful securitization pattern, shift trends – and then obviously change the outcome.

SECOND STEP:

Buzan’s second securitization step draws attention to “audience.” An audience is an entity or a large body (e.g. of international institutions and/or NGOs) that is able to recognize an existential threat and security issue as such and then execute actions. Such an audience is the ultimate receiver of the labeling of an issue as a security issue. The

audience becomes a key actor that carries the sole responsibility of evaluating an issue as an existential threat. This receiver or audience needs to be credible and, therefore, an entity or person of legitimate competence and authority. This audience then needs to recognize a threat as an existential one and deem a security issue as valid and real. This second step also establishes the negotiation between who securitizes and who accept such securitization as legit (the audience). Only a credible audience can interpret and then accept the extraordinary and existential threat as such: something that “cannot be dealt with the normal way.”

THIRD STEP:

The third stage of securitization encompasses the actual reaction to the act of securitizing an issue. During this stage all involved parties and entities agree to deploy a set of measures to combat the threat. These measures, however, need to be extraordinary. They are called extraordinary because they are so inherently severe and different from the norm that they are actually seen as a violation to established rules. This kind of violations of rules for the sake of one's (an issue's/object's) survival is also a key feature and driving force of securitization.

Buzan's securitization - summary of securitization steps:

The realization (and articulation/speech act) of an existential threat (A securitizing move upsets orders of mutual accommodation among units



The securitizing agent says someone cannot be dealt with in the normal way
(Negotiation between securitizer and audience); Moving referent object from the

political to security



The deployment of extraordinary measures to combat this threat



The securitizing agent obtains permission to override rules

that would otherwise bind it



De-Securitization: return the referent object from the security to political realm²²

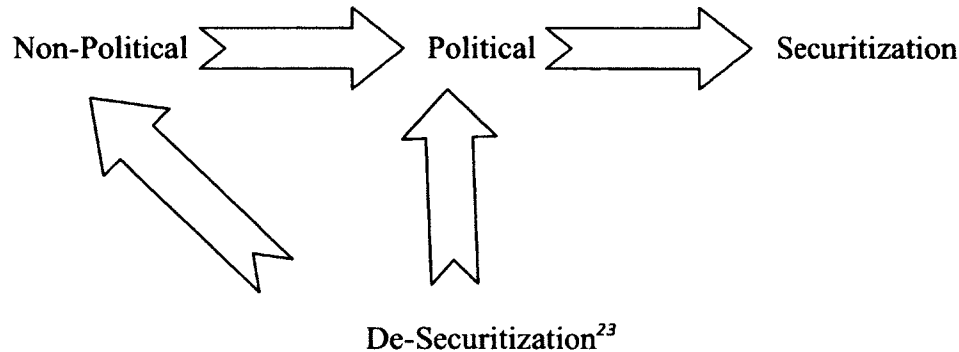
FOURTH STEP:

After an issue has been successfully securitized, extraordinary measures have been deployed and the threat has been dealt with, according to Buzan and Waever, then de-securitization can take place. De-securitization reverses the initial securitization move and the securitization process. It returns the object or issue, which was initially securitized, to the political sphere. It removes the threat and reverts the issue to its initial, pre-securitization state, to its normal and previous condition. De-Securitization is, in fact, the removal of issues from the security agenda. This step only occurs once the object and the subsequent threat has been – satisfactorily for the audience – treated and removed. Extraordinary measures have been successfully launched and implemented to deal with

²² Buzan 1998, 23.

and defuse the threat. De-Securitization can even entail to return an issue to a non-political agenda. It's being again addressed in a regular fashion and with ordinary measures. An issue now can again be dealt with the normal way.

De-Securitization as a process then would look like this:



In the last two decades, securitization has been successfully applied to several fields. Most prominently such successful securitization applications were utilized in the areas of the environment, migration and global terrorism after the Sept. 11 terrorist attacks in New York.

B. SECURITIZATION AND ITS CURRENT APPLICATION

1. ENVIRONMENT

Securitization of the environment gradually developed due to the increasing strain the worldwide industrialization and development has put on the globe and its natural resources. The United Nations Environment Programme, for example, sees climate change, resource efficiency, disasters and conflict, environmental governance, harmful substances and hazardous waste and ecosystem management as its six priority areas of

²³ Buzan 1998, 23.

the global environment.²⁴ Securitization holds in its core argument that the environment is in danger and needs to survive because without it, the sheer survival of human kind seems questionable. The application of Securitization Theory, therefore, makes the case that an audience (a state, a region or the international community as a whole) is accepting the assertion of such an existential threat and is deploying extraordinary measures to protect the environment – and to protect humanity per se.

Some International Relations scholars such as Robert D. Kaplan in the 1990s have explored this link between security and the environment. Kaplan argued in his 1994 article “The Coming Anarchy” that the destruction of the environment in the 21st century will become a fundamental threat to national and global security. In his article he clearly equates the term environmental sustainability with the state or a national identity that needs to be secured. “The environment, I will argue, is part of a terrifying array of problems that will define a new threat to our security.”²⁵ Kaplan argues that a rising world population will trigger mass migration, deforestation, water depletion, soil erosions, air pollution and the spreading of diseases. He sees the environmental degradation and abuse on a supra-scale that will eventually threaten the survival of central governments, national boundaries and territorial sovereignties. Kaplan’s declared prophecy of “*The Coming Anarchy*” holds that local militia, riots and conflicts along ethnical and religious fault lines will dominate the future. This coming anarchy will not only inflict nations in the south such as Africa and Asia, but will most prominently affect and devastate the developed and advanced civilizations in the north and west.

²⁴ United Nations Environment Programme 2012.

²⁵ Kaplan, Robert 1994, 20

While often such “doomsday” prophecies struggle to make themselves heard and affect real change outside the realm of academia, many environmental concerns have evoked specific actions by many national governments. As early as in 1979, the Brandt and Brundtland commission pointed to the link between socio-economic factors and the environment and argued already then for the expansion of security to the environment.²⁶ Most recently, such as in June 2009, the British government included key environmental issues such as climate change and energy into its national security strategies. For example, the British connected global warming and climate change very clearly to security by calling both “a wide-ranging driver of global insecurity.”²⁷

By connecting climate change to poverty, migration and the “risk tipping fragile states into instability, conflict and state failure,” Great Britain securitized the issue. The British government obligated itself to reduce its emissions by 2050 by at least 80 percent through Great Britain’s Climate Change Act. Likewise, the United States acknowledged in 2006 in its National Security Strategy environmental factors to destruction “whether caused by human behavior or cataclysmic mega-disasters such as floods, hurricanes, earthquakes or tsunamis”²⁸ as a threat to national security.

As Buzan, however, points out, successful securitization of the environment, for example, depends on “whether states, major economic actors, and local communities embrace the scientific agenda”²⁹ that sees the environment existentially threatened. Successful securitization depends on following the logic and pattern of Buzan’s outlined

²⁶ Tennberg 1995, 241.

²⁷ Peoples, Columba and Vaughan-Williams, Nick 2010, 93.

²⁸ Ibid., 93.

²⁹ Buzan 1998, 91.

conditions such as the effective portrayal of a credible and existential threat and the deployment of extraordinary measures to curtail such a threat.

In the early 1990s, the term environmental security was increasingly utilized by environmental advocacy groups such as Greenpeace, the Sierra Club etc. to bring attention to a variety of environmental issues such as climate change. Such utilization points to the fact that in particular environmental degradation is not exclusionary affecting just one state, but has widespread consequences. For example, some see Bangladesh threatened by the rise of sea levels triggered by climate change. Such threat, however, does not only have local and domestic implications, but spreads across national borders to other states. Domestic politics of neighboring states, for example, will be affected and threatened by the projected influx of refugees from Bangladesh.³⁰ Such regional threat symbolizes a crisis mode, creates a sense of urgency and, hence, starts the securitization process. “The security label is a useful way both of signaling danger and setting priority, and for this reason alone it is likely to persist in environmental debates”³¹.

Realists often oppose the securitization of the environment by arguing that it removes security from the state as the key object that needs to be secured since environmental issues usually transcend territorial boundaries and state borders. Daniel Deudney in 1990 opposed the link between national security and the environment mainly because he as a realist resists the widening and deepening of security studies – and the expanding of the term (international and national) security – in the first place. Such expansion of what security means has not been accepted “in principle outside certain

³⁰ Peoples, Columba and Vaughan-Williams, Nick 2010, 81.

³¹ Wæver 1995, 63.

progressive circles, despite the sound reasoning behind it.”³² Deudney like many realists rejects that environment and conflict are in fact connected and argues that both are not connected to “the traditional focus of national security – interstate violence.”³³ Deudney also argued that the link between security and environment diverts attention from the environmental core issues and objectives. For example, Deudney also criticized that securitizing the environment by environmental groups only “dresses their programmes in the blood-soaked garments of the war system” which then “betrays their core values and creates confusion about the real task at hand.”³⁴ Also, labeling an environmental issue as a security concern could in some cases be unhelpful, even aggravate measures and elevate instead of ease problems in the first place. For example, attaching security to climate change and pollution could enact strict if not defensive measures in one country and, therefore, evoke protectionism instead of cooperation in neighboring countries.

2. *INTERNATIONAL MIGRATION*

Migration and the move of populations – and the conflicts and the controversies that come with it – have been a consistent trend throughout history. According to the most recent report by the U.N. the number of migrants has more than doubled from 75 million global migrants in 1960 to 191 million in 2006.

With the increase of migration globally comes the ebb and flow of a political and societal pull and push for and against immigrants. In the wake of the global economic crisis, Xenophobia, for example, has emerged as a world-wide problem without borders. The lack of jobs and the fear of the otherness have played significantly into the rise and growth of global Xenophobic tendencies, stretching from Europe to Africa to the

³² Deudney 1990, 469.

³³ Ibid., 461.

³⁴ Deudney 1990, 474-5.

American and Asian continent. Xenophobia, has globally connected immigration and to security. Such securitization has thrust migrants and immigrants into the realm of human rights protection and many international advocacy groups have taken on migration and immigration issues.

On a domestic level and in particular after the Sept. 11 terrorist attacks in the U.S. and the consequent tightening of immigration laws has underscored and fueled the fear of the otherness, often along religious and ethnical fault lines. As the U.S. has emerged as the country with the largest influx of international migrants in 2005, the U.S. government (and also other countries) has increased its border controls and security measures. Such new measures have connected and, hence, securitized immigration and migration with international crime including terrorisms, drug wars and sex trafficking.

On a global level, international institutions such as the United Nations have tried to ease growing anti-immigration sentiments and, by doing so, also inversely securitized the issue. As the UN likes to see universal standards and processes and bilateral, multi-lateral efforts, to change “the often inflammatory mainstream political discourse on migration”³⁵ such global legal standards have in itself a security component to it and serve as a securitization mechanism. With the UN pushing for “creating a level playing field for immigrants, employers and states and international instruments,”³⁶ migration and immigration has been placed on the global security agenda.

Scholars such as Jef Huysmanns argued in 2006 that immigration, for example, in post- World War II Europe has been often successfully utilized as a political tool to win elections. Immigration was, for example, a hotly contested and domestically politicized

³⁵ United Nations 2011, 4.

³⁶ Ibid., 4.

issue in the 1960s. Huysmanns cited a 1968 speech, for example, of Enoch Powell, who rallied his constituents against the increasing influx of immigrants into Great Britain.³⁷ According to the Securitization Theory, this would then symbolize the first stage of securitization: moving an issue from the non-political to the political phase. Security for Huysmanns has become “a political technique of framing what structures social relations.”³⁸

For Huysmanns the gradually increasing European integration under one EU umbrella, most prominently with the lifting of the borders and hence the implementation of specific EU asylum and migration legislation in the 1990s, began to define also a moment whereas a political issue has been securitized. Connecting very specific legal parameters, rules and regulations e.g. asylum to migration is linking the political issue of migration to securitization. According to Huysmanns, this defines a securitization move because it placed migrations in the larger context of security within the newly created European Union. It connects migration with the notion of a European security.

While in the past many politicized migration issues were nearly exclusively connected to migrants from the developing world in Africa and Asia, after the Sept. 11 terrorist attacks Muslim immigrants emerged as a specifically targeted migrant group. The securitization of migration soon was linked not only in the U.S., but also in Europe to radicalized young Muslim men, for example.³⁹ Against this political backdrop, Huysmanns finds securitization being often exploited by politicians, who try to create the idea of a culturally homogenous and sovereign community/enclave. As this culturally homogenous enclave is being infiltrated, intruded and tainted by immigrants, it sheer

³⁷ Peoples, Columba and Vaughan-Williams, Nick 2010, 137.

³⁸ Huysmans, 1998, Xii.

³⁹ Peoples, Columba and Vaughan-Williams, Nick 2010, 137.

existence is being threatened. Huysmanns argues that politicians then securitize the existence of such a community “through the exclusion of those migrants who are identified as cultural aliens.”⁴⁰

3. *GLOBAL TERRORISM*

The securitization of terrorism after the Sept. 11 attacks is one of the prime examples of the successful application of the Securitization Theory since it has taken on almost escalating national and global dimensions. The invasions of Afghanistan and Iraq are just two examples of such a securitization. Terrorism is not something new and unique to the 21st century. In fact, its definition in terms of securitization has always been linked to a political context. For example, Nelson Mandela was sentenced to 27 years in prison in South Africa for sabotage, but he became in 1994 the country’s first black president. Likewise, other formerly-coined terrorists such as Yassir Arafat ended up winning the Nobel Peace Prize. Someone else’s terrorist is another one’s freedom fighter.

However, after the Sept. 11, 2001 terrorist attacks, the securitization of terrorism globally took on a priority of unprecedented proportions. Domestically, for example, the U.S. created an entire new body of bureaucracy with its Department of Homeland Security to address terrorism and national security. The new department now is responsible not only for immigration, domestic emergency preparedness, prevention of chemical, biological, and nuclear attacks, but also intelligence information analysis.⁴¹ It enacted a slew of new legislation (including the controversial Patriot Act) to open new channels for a more effective information flow between governmental departments and potential sources of terrorism. Myriad extraordinary measures in the post-Sept. 11

⁴⁰ Peoples, Columba and Vaughan-Williams, Nick 2010, 138.

⁴¹ Ibid., 109.

security environment not only included force (the invasion of Afghanistan and Iraq), but in the U.S. also the curtailment of domestic rights and liberties.

Elsewhere e.g. in Europe, governments had already tightened their terrorism legislation prior to the Sept. 11 terrorist attacks. Great Britain in 2000 passed the UK Terrorism Act. On a global scale, international institutions, for example, the United Nations Security Council passed with Resolution 1566 in 2004 a new definition of terrorism, following pressure mainly from the United States and Great Britain.

C. SECURITIZATION AND OTHER CONCEPTS AND THEORETICAL FRAMEWORKS

1. SECURITIZATION AND HUMAN SECURITY

In the 1970s and 1980s, rising economic inequalities, environmental concerns and populous movements became indicators for a gradually changing theoretical playing field in International Relations. In the 1990s, identity and growing transnational issues such as organized crime added to the new political environment that eventually drove the dynamics between the “narrow versus the widening/broadening” debate in International Relations. New theoretical lenses began to explore new security concepts and to develop new theoretical off springs. One of the most successful concepts became what now is known as the concept of “Human Security.”

Securitization as a theory and Human Security as a concept emerged from the security debate after the end of the Cold War. Human Security as a new framework tried to expand the definition and objective of security and put a “human face” on security studies. Human Security aimed to connect security to humanity, and by doing so, linked for the first time security to the individual itself. Within this debate about a new post-

Cold War security environment, this is also referred to as deepening. The deepening vertically expanded the object that needed securing downward from traditional state-centrism to the local and individual. Human Security, however, also broadened and shifted the focus from the state as the key security objective to a variety of issues. This expansion to other areas such as the environment and global health is also referred to as the deepening and widening of security studies. This “widening/broadening” is an approach that horizontally expanded the object that needed securing to various fields. It started “claiming security status for issues and referent objects in the economic, environmental and societal sectors.”⁴² It began to include research areas, which up until then had stayed far removed from the conventional fields of security studies.

The new areas that suddenly sought to be worth of securing varied from migration and identity to environmental and global health and have one factor in common: they focus on people, on individuals as the key object that needed securing. It focused on the human being as a singular unit that mattered most when it came to security. Additionally, it also expanded the term security to include development and the notion of a collective significance and consciousness. By doing so, it privileged the intersection of the theoretical narrative, political activism and the sense of moral responsibility/a collective consciousness as a new, yet critical and legitimate part of security studies.”⁴³ No other concept in international relations packs the metaphysical punch, nor commands the disciplinary power of security.”⁴³ Instead of consistently privileging states interests, territorial boundaries and nuclear muscle-flexing, international relations scholarship sought out to expand security to global non-military issues. Areas such as infectious

⁴² Buzan 1998, 1

⁴³ Der Derian, J. 1995, 24-5

disease, food, health, gender and the environment combined theory with an activism component and a specific policy agenda and practical objectives. These objectives included to reduce poverty and foster development. Human Security also introduced a historical and more of a contextual component to security studies. For example, the U.N.'s eight Millennium Development goals as outlined in the 1994 UN Development Report ARE a Human Security concept.⁴⁴ The report, for example, pointed out that people's daily security concerns have been neglected in the shadow of the five decades of the Cold War. "Forgotten were the legitimate concerns of ordinary people who sought security in their daily lives. For many of them, security symbolized protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression and environmental hazards." ⁴⁵

The UN report pointed to four key points of Human Security:

1. Human Security is a universal concern.
2. Components of Human Security are interdependent; overlapping responsibilities and objectives
3. Emphasis on prevention rather intervention
4. Human Security is people-centric ⁴⁶

Also, new political realities such as the dissolution of the former State of Yugoslavia underscored the legitimacy of a new security discourse and a new theoretical terrain. The securitization of migration and immigration in a new restructured Eastern Europe, resurfacing in the 1990s, for the first time again after World War II, became such a Human Security concept. Human Security emerged, similar to Securitization Theory, as an event and history-driven framework. Scholars began to see these new theoretical and

⁴⁴ United Nations Development Program 1994.

⁴⁵ Ibid., 1994.

⁴⁶ Ibid., 1994.

conceptional lenses “in terms of the relation between the way that security is theorized and the historical context in which that theorization takes place.”⁴⁷

Human Security steered the key object that needed to be secured away from the traditional narrowness of realism and liberalism toward a more people/humanity and individuality-driven centrism. The widening toward Human Security triggered a shift within the overarching definition of security: are food shortages, regional and global terrorism and economic despair security issues? Caroline Thomas, for example, argued in 2001 for economic inequality as a key security factor. She wrote that “the globalization process is resulting in highly uneven distribution of gains, and, without converted action, inequality may deepen further with all its attendant implications.”⁴⁸ The emerging Human Security perspective helped to shift traditional bi-polarity foreign policy objectives to a broader approach that focused on human rights issues. States such as Norway and Canada were among one of the first nations in the late 1990s to embrace the Human Security concept. These countries began to endorse international law, international institutions and globalization and, hence, legitimized them as progressive parameters of a new security environment.

Human security, however, also attracted its pool of critics. Some, for example, made the argument that only “middle power” or weak states (Norway, Japan) advocate for Human Security as a legitimate security concept as a tool to assert their power on the global stage, while superpowers such as the United States and China employ more conventional instruments (nuclear weaponry, UN veto rights etc.). As some celebrate it as an inventive and creative way to expand security studies from the state to the individual,

⁴⁷ Peoples, Columba and Vaughan-Williams, Nick 2010, 8.

⁴⁸ Thomas, Carolina 2001, 173-4.

others doubt its theoretical and practical effectiveness. For most critics it's "at best an unhelpful chimera, and at worst an understanding so broad it both voids the concept of security of any substantive meaning and simultaneously subjects a whole new range of human activities to security practices unnecessarily."⁴⁹

Roland Paris, similar to many other scholars, fundamentally questioned the relentless inclusiveness (the deepening and widening) and lack of discriminatory capacity of Human Security. Paris, similar to Stephen Walt, argued that the seemingly endless expansion of this new 21st century security environment renders those new security issues increasingly meaningless. "If human security means almost anything, then it effectively means nothing."⁵⁰ Paris and others argued that the widening becomes too broad and issues lose their political and theoretical (security) relevance. Stephen Walt further articulated in 1991 that the inclusion of poverty, AIDS, environmental hazards, drug abuse etc. into the concept of security studies runs "the risk of expanding security studies excessively."⁵¹ In Walt's opinion, this would "destroy the intellectual coherence and make it more difficult to devise solutions to any of these important problems."⁵² Stephen Walt argues against the widening and deepening of security studies as suggested and practiced, for example, through Buzan and Waever's Securitization Theory. According to Walt, these widening and deepening efforts are excessive and essentially destructive rather than productive and effective. Walt underscored with this argument the realist view

⁴⁹ Peoples, Columba and Vaughan-Williams, Nick 2010, 120.

⁵⁰ Paris, Roland 2001, 7.

⁵¹ Walt, Stephen M. 1991, 213.

⁵² Walt, Stephen M. 1991, 213.

that security studies should remain focused on the centrism of the state and the explanation of “Phenomena that can be controlled by national leaders.”⁵³

Others also criticize fundamentally contradicting tendencies of Human Security itself. Some critics argue that Human Security underplays the relationship of state and individual while yet in turn Human Security requires some degree, if not quite a lot, of interaction between the individual and the state as key actors. Another source of controversy for Human Security as a legitimate security concept is its adoption as a tool in the 2001 report of the “Responsibility to Protect,” published by the International Commission on Intervention and State Sovereignty (ICISS). This report outlines if and when to intervene and to invade a country in order to protect people. Some critics pointed for many powerful states and in particular Western states to use Human Security as a convenient alibi to muddle in other nation’s (often developing countries) domestic affairs.⁵⁴ Also, Human Security’s close link to development – and the assumption that underdevelopment is a security concern - raises critical questions about national sovereignty, imperialism and whether or not development has been too western-centric.

Duffield points to the intersection of human security and underdevelopment and argues for containment and management of underdevelopment rather than for underdeveloped countries, trying to copy the rampant industrialization of developed countries. This would just further paralyze smaller developing countries and eventually cause them “to die chasing the mirage of self-reliance.”⁵⁵ He argues that a western-centric

⁵³ Walt 1991

⁵⁴ Peoples, Columba and Vaughan-Williams, Nick 2010, 127.

⁵⁵ Ibid., 129.

development has damaged small developing nations to a point “within which the modalities of underdevelopment have become dangerous.”⁵⁶

Also, some argue such as Williams and Peoples in 2010 that human security (and in general the widening and deepening of security studies) has been gendered and therefore such gendering has creating a perception of femininity and softness surrounding human security.⁵⁷ While very rightfully so human security shifts the attention of what security is to what security does, gendering human security by including sexual violence only removes human security from what’s real – from real issues, security threats and how to curtail them.

2. *SECURITIZATION AND CONSTRUCTIVISM*

To be able to interpret Securitization Theory and Human Security and its critics accurately, one also needs to explore the foundation and the scope of Constructivism. Human Security as a new security concept and Securitization as a new theoretical underpinning widened security studies. To compare, Constructivism as a theory deepened security studies and questioned the core assumptions of realism and liberalism. Constructivism, in broad terms, argues that conditions in international relations are not given, as realists believe. They are not a sheer fact of human nature and, therefore, static, constant and not able to change. Instead, constructivist rather argue that conditions are socially constructed and often a product of historical and social context. Therefore, according to constructivists, change is possible and, in fact, inherent to the international system. Constructivists such as Alexander Wendt, for example, argued that structures such as the concept of anarchy in international relations as recognized by realists and

⁵⁶ Duffield, Mark and Waddell, N. 2006, 15-6.

⁵⁷ Peoples, Columba and Vaughan-Williams, Nick 2010, 130.

liberalists are socially constructed. This social construction is achieved through ideas and interaction between actors rather than given by nature. For example, realists such as John Mearsheimer and Kenneth Waltz struggled with explaining the peaceful end of the Cold War while constructivists such as Wendt were able to utilize these events to underscore their arguments. According to Wendt, the dissolution of the Soviet Union was the result of a historical development rather than a rational decision as argued by realists.⁵⁸

Culture also became in the 1990s a key aspect of Constructivism. Peter Katzenstein in 1996 argued with his book *"The Culture of National Security"* for the inclusion of culture as a key marker for explaining security issues and state behavior. According to Katzenstein, for example, structure as argued in realism (anarchy) cannot explain, or only in a limited fashion, the actions that lead for many countries to the Iraq and Afghanistan invasion (e.g. Germany's reluctance to participate). Yet, according to Katzenstein, history and culture can. For Katzenstein, it is critical to understand norms, identity and institutions to analyze the actions of states. According to Katzenstein, "Constructivists could prove that ideational explanations could account for outcomes missed by materialistic realists and liberalists"⁵⁹ Other constructivists such as Kenneth Booth and Richard Wyn Jones, for example, began with the Welsh School to introduce the notion of emancipation and expanded on the constructivists' focus on the individual. Booth argued that human beings need to be emancipated from the shackles of "physical and human constraints, which stop them carrying out what they would freely choose to do."⁶⁰

⁵⁸ Wendt, Alexander 1999, 76.

⁵⁹ Katzenstein, Peter 1996, 24.

⁶⁰ Booth, Kenneth 1991, 319.

Some scholars saw clear common philosophical roots of Constructivism and Securitization, despite the fact that constructivists pushed for security to focus on the individual while securitization continued to embrace its attention toward an issue or an object rather than the individual. According to Johan Erickson, while there were correlations between realism and securitization, Buzan and Waever increasingly became more constructivists. “With each new book, however, the authors take one step further toward a wider, more inclusive and constructivist approach to security.”⁶¹ Erickson even linked Securitization Theory with Alexander Wendt’s social constructivism. “Security is viewed as a social construct. According to this view, there are no objective threats, only attempts to saddle issues with security implications.”⁶²

Other scholars such as Kjell Goldman argued already in the 1970s that labeling anything else but military issue as a security issue should be termed as “security politicization.”⁶³ Goldman seemed also rather radical in his fundamental repudiation of securitization. Goldman, for example, goes so far as to advocate for denying securitization theorists funding usually allocated for security studies because the securitization of basic human needs is “straightforward political advocacy.”⁶⁴

3. *SECURITIZATION, REALISM, AND FEMINISM*

Within Critical Theory, feminist and gender scholars most prominently applied a unique theoretical lens to the intersection of global security, gender, women and war. In particular after the Cold war, feminist and gender scholarship began increasingly to interrogate questions such as why and how for decades Security Studies, a field primarily

⁶¹ Eriksson 1999, 314.

⁶² Ibid., 315.

⁶³ Ibid., 312.

⁶⁴ Ibid., 313.

dominated by realists, has effectively bypassed women and the effect of security (insecurity) on women. Feminist scholars likewise explored whether or not war and security affect women differently and how structures, norms and assumptions within Security Studies are gendered to suggest (perpetrate and perpetuate) key social, economical and political disparities.

The core assumptions of feminist/gender theory compared to realist are different. Realism and Neo-Realism, as one of the traditional pillars of International Relations theory, centers its structural framework on the nation state as the main actor. Feminism and gender theory, broadly described, places its emphasis more on the individual and the local and domestic as its immediate environment. The realist view of security employs an equally rather narrow focus. It sees the use of force as a key mechanism of power and a central function within the international system. Additionally, capabilities, power and the balance of power are also some of the key dynamics within the system. Realists Stephen Walt, for example, defined security studies as a field that examines and interrogates “the conditions that make the use of force more likely, the ways that the use of force affects individuals, states and societies, and the specific policies that states adopt in order to prepare for, prevent or engage in war.”⁶⁵ He defines security studies further as a field that aims to explain war and as a very nuclear study “of threat, use and control of military force.”⁶⁶

Feminist security studies, in its core argument, focuses on individual security, rather than collective and national security.⁶⁷ Feminists, however, increasingly have tried to cross these ideological faultlines within the established international relations theory.

⁶⁵ Walt 1991, 212

⁶⁶ Ibid., 212

⁶⁷ Buzan, Barry and Hansen, Lene 2009, 140.

Feminist scholarship has “played an important role in proposing alternative conceptions of power and violence that go beyond the traditional military configuration of the discipline of IR, including ideas of common and cooperative security arrangement, and non-state-centric perspectives on security.”⁶⁸ Feminist and gender theory, early in its assertions, for example in 1985 after the Women’s International Peace Conference in Canada, measured security more based on various sectors and structures in which women feel insecure. These include poverty, health, labor/working environments, domestic violence and areas that display structural violence e.g. racism, political and economic discrimination.⁶⁹ Feminist theorists also argue that the field of security studies and its central issues such as identities, state’s sovereignty, sources of conflict and resolutions etc., are consistently masculinity-dominated. This means that these issues have been for centuries debated, argued and resolved - by men. While women have been part of armies, wars and conflict resolutions throughout history, many feminist scholars such as J. Ann Tickner argue that “images of war depend on rendering women invisible.”⁷⁰

However, feminist scholars have remained not solely focused on the individual, but are also concerned with structures and spaces in which women operate. Many feminists have observed, studied and effectively re-farmed or dismantled existing traditional power structures. “We must work through them, understand them, displace them in order to create space of [our] own, a space designed and inhabited by women, capable of expressing their interests and values.”⁷¹ In the 1990s, feminists have expanded

⁶⁸ Wibben, Annick T.R. 2011, 5.

⁶⁹ Tickner, J. 1992, 54.

⁷⁰ Tickner, J. 2001, 57.

⁷¹ Cross, E. 1990, 60.

into Security Studies, trying to re-define and reframe security. According to Christine Sylvester, for example, “security is elusive and partial and involves struggle and contention. It is a process rather than an ideal in which women must act as agents in the provision of their own security.”⁷² Sylvester sides with conventional constructivists such as Alex Wendt who sees security not as a constant and a structural concept, but rather an evolution and a consistent development. Sylvester argues that security which “relies on protection to reinforce gender hierarchies”⁷³ does not make women feel safer but “diminishes women’s real security.”⁷⁴

In the late 1980s and early 1990s, feminism and gender theorists began increasingly to consistently challenge the privilege of patriarchy within security studies. Realism’s focus on military and state-centrism, according to many feminist scholars, marginalized women within the non-political and political spheres, but also within traditional security settings such as conflicts. Men were not only seen and interpreted as key top-down authoritative actors, but also as prominent war casualties (soldiers) and victims⁷⁵ while women have been consistently portrayed as passive victims of war.⁷⁶

Feminists argue that realism has entertained for decades the notion of a masculinity-tainted “top-down” political approach while Feminist Theory is seen as operating from the “bottom-up.” A masculinity-tainted top down approach means that political decisions are made and national security provided mostly by men in authoritarian (top) positions.⁷⁷ These positions usually include all functions of

⁷² Sylvester, Christine 2002, 4.

⁷³ Ibid., 6.

⁷⁴ Ibid., 2002, 6.

⁷⁵ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 189.

⁷⁶ Ibid., 171.

⁷⁷ Tickner, J. 1992, 43.

governments, states, national and international institutions. Feminist theorists, in general, see a “bottom up” approach, evaluating peaceful resolutions as the utilization of the individual and civic society from “the bottom up.” This compares to the top down approach that comes from the hierarchical power structures from “the above” (state leadership, military) etc. Women act from a local point of departure (again the reference to “bottom up”) and are often found “at the grassroots level in peace, environmental, women’s and other social and economic movements.”⁷⁸ This notion, however, is most recently also expanding with some feminist scholars defining feminist International Relations not only “global but local in its globalism.”⁷⁹ This widens the feminist view from the local to the international, expands the personal to the political and argues that its local emphasis affects the international politics and global security concerns.

Sandra Whitworth argues that the social order of International Relations is oppressive almost by default because of its masculine centrism. Feminist theory tries to explore how to change such an oppressive and discriminative environment.⁸⁰ Feminist scholars also accuse the traditional security theorists to be gender-tainted and for key International Relations terms such as state, power, hegemon, deterrence and anarchy to privilege masculinity. By doing so, traditionalists have discredited for decades other theoretical modules of interpretation and nearly completely excluded gender from the theoretical debate.

The gradual and inevitable broadening of security studies, feminist and gender scholars made the intersection between global security, gender, women and war more visible and diversified it. For example, feminist scholarship introduced the notion of

⁷⁸ Tickner, J. 2001, 129.

⁷⁹ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 223.

⁸⁰ Tickner, J. 2001, 137.

security narratives and “how security has worked by producing particular types of security narratives.”⁸¹ In particular after the end of the Cold War, feminist and gender scholarship started more persistently to interrogate questions such as why and how security studies as a research field remained dominated by realists and how and why realists have so effectively bypassed the impact of security and insecurity on women. Feminist and gender scholarship began increasingly to examine whether or not war and security affect women differently and how structures, norms and assumptions within security studies are gendered to suggest (and perpetrate) key social, economical and political disparities.

Yet even today how to effectively articulate such challenges to traditional realist views is controversial even within the scholastic circles of feminism and gender studies. For example, liberal feminist Cynthia Enloe, author of the 1989 International Relations feminist text *Bananas, Beaches and Bases*, centers her key argument on the notion of female visibility. For Enloe, female visibility (and the lack thereof) emerges as central in International Relations and Security Studies. Enloe’s work is groundbreaking because it, for the first time, argues for elevating the Feminist-inherent personal-political view (“personal is political”) from the domestic to the international (and international relations) level.⁸² It takes the argument that the “personal is political” from the local to the global. Further, for Enloe the increased invisibility of women has created a lopsided and exclusionary framework within International Relations that is far removed from the actual global reality. It portrays an international system orchestrated and controlled by men that intentionally excluded half of the world’s population, namely women. It renders

⁸¹ Wibben, Annick T.R. 2011, 25.

⁸² Enloe, Cynthia 2000, 195.

issues that involve women as secondary on the international security agenda. By doing so, it portrays a fundamentally flawed picture of international politics and foreign affairs, “only men, not women or children, have been imagined capable for the sort of public decisiveness international politics is presumed to require.”⁸³ The recognition of such exclusionary attitude is important and critical because it deprives security studies of one critical segment of the populations as key political actors: women. This renders women’s issues not as priorities and such neglect has real security implications. It causes security studies to become a flawed and artificial framework that lacks the critical power relationship and interaction between men and women with all its social and political implications. It “hides the workings of both femininity and masculinity in international politics.”⁸⁴

While Enloe’s work is being criticized of largely catering toward the realist point of view of state centrism (privileging the state as the key actor and structure within the international system), J. Ann Tickner, to compare, is often credited for trying to upset these gendered structures. In order to do so, Tickner utilizes and integrates women’s views and experiences into explaining international relations. Tickner argues that the sheer distinction between the “domestic” and the “international” is gendered – and has been remained uncontested and accepted as such. Domestic, for example, in general has been recognized as a more feminine term while masculinity is usually automatically linked to international relations principles such as power, anarchy, and force. According

⁸³ Enloe, Cynthia 2000, 4.

⁸⁴ Ibid., 11.

to Tickner, “Ideals of both, manhood and the state, have been mutually reinforcing throughout the history of warfare, as encapsulated in the figure of the citizen-soldier.”⁸⁵

While Enloe seem to accept gender discrimination within international relations as a given reality,⁸⁶ Tickner sees the gendered identity and gendered power relationship as purely socially constructed. Tickner argues that even the most basic international political structures such as local governments, council and relationships among local government departments have been constructed around realism’s masculinity. Tickner writes, “International politics has always been a gendered activity in the modern state system.”⁸⁷ By deconstructing such gendered identities and mechanisms, Tickner argues for the interconnectivity between the domestic and the international and for explaining “revealing and challenging these “gendered hierarchies.”⁸⁸ She argues that feminine views have very tangible objectives such as they enhance the possibility for more peaceful resolutions.⁸⁹

D. SECURITIZATION AND RAPE

1. *FEMINIST/GENDER THEORY AND CONFLICT AND VIOLENCE*

In general, feminist theorists of the 1990s such as J. Ann Tickner have explored how violence during conflict affects the individual in general and women specifically. Tickner, for example, points to the absurdity of the definition of a “just war.”⁹⁰ The loss of civilian lives, according to Tickner, alone defeats the justification of war and its assumption that war is fought to protect the ones (the weak and vulnerable) who cannot

⁸⁵ Tickner, J. 1992, 1.

⁸⁶ Ibid., 18.

⁸⁷ Ibid., 5.

⁸⁸ Ibid., 19.

⁸⁹ Peoples, Columba and Vaughan-Williams, Nick 2010, 40.

⁹⁰ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 171-5)

protect themselves. War and security within the overarching framework of gender studies and feminist theory maintain a fragile position. Tickner, for example, argues that the relationship of women, state and security is inherently ambiguous. “Women’s space was usually inside households, which has been often beyond the reach of law in most states.”⁹¹ Due to the historical exclusion of women from public life, Tickner argues further that feminists have to question the construction of a state-centric security and the notion of the perpetual peace because it’s exclusively “based on the knowledge and experience of men.”⁹²

2. *REALISM, FEMINISM, AND RAPE*

To connect rape with securitization, according to Buzan, Security Studies and its traditional theoretical frameworks such as Realism and Liberalism have, for the most part, ignored rape as a systematic tool of warfare.⁹³ “Domestic and sexual violence and violence against marginalized groups have also been traditionally beyond the gaze of security studies, and such concerns are usually given greater salience within discourses of human security.”⁹⁴ For decades scholars and governments have bypassed and neglected wartime rape as a valid state, national and international security concern. According to Barry Buzan, states “have constituted wartime rape as an expectable by-product of conquering soldiers.”⁹⁵

In particular realists have consistently denied legitimacy to the claim of rape as a systematic weapon of war, but saw rape rather as natural, exceptional and insular during

⁹¹ Tickner, J. 1996, 21.

⁹² Ibid., 17.

⁹³ Buzan, Barry and Hansen, Lene 2009, 56.

⁹⁴ Peoples, Columba and Vaughan-Williams, Nick 2010, 130.

⁹⁵ Buzan, Barry and Hansen, Lene 2009, 140.

war. As Lene Hansen argued, realists view rape as “predictable and unavoidable,”⁹⁶ and do not think for mass rapes to “constitute a security problem.”⁹⁷ Realists see war time rape solely defined as an “individual, not a collective problem.”⁹⁸

To analyze the symbolic nature of women as victims of mass wartime rape, some argue that women serve as a proxy not only as enemies and women, but also as a symbol of the nation state. Women are often perceived as the core of the enemy. Feminist scholars argue, for example, that by systematically attacking women during conflict, the state as an entity is being attacked. Using documentation from World War I, scholars Sjoberg and Peet argued in 2011 that “Belligerents attack civilians to attack women to attack the essence of the enemy.”⁹⁹ Also, by expanding on the Clausewitz notion that war is only effective if it strategically targets “the center of gravity,” some feminist scholars see rape of women during war as such center of gravity.¹⁰⁰ Clausewitz defines such a center of gravity as the “symbolic centers”¹⁰¹ of a society, the core that symbolizes a state and differentiates itself from other states such as its culture, social norms, leadership, government, moral compass etc. The Clausewitz analogy is based on the argument that effective war defends or attacks such centers of gravity. Other feminist scholars see the sheer femininity of women as a convenient target during war. By exploring the correlation between Human Rights and Women, for example, feminist International Law scholar Hilary Charlesworth argued in 1994 that women are almost by default vulnerable during conflict because of their sex, because of them being women.¹⁰²

⁹⁶ Hansen, Lene. 2000, 57.

⁹⁷ Ibid., 57.

⁹⁸ Ibid., 57.

⁹⁹ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 19.

¹⁰⁰ Ibid., 171.

¹⁰¹ Ibid., 174.

¹⁰² Charlesworth 1994, 71.

Many feminists also see systematic wartime rape as a form of “sexualized ethnonationalism” that attacks this center of gravity. It attempts to destroy the ideological and social heart of the state by attacking, raping and psychologically destroying its women. It also feminizes the men of the enemy since they failed to protect their state’s women, failed to protect the symbolic center of their state.¹⁰³ Through interviews of soldiers, for example, in the Democratic Republic of Congo, scholars found that these soldiers often expressed their frustration with the failure of their masculinity through violence. They seem to exert violence toward women because they were not able to fulfill their role as the head of the household their role as a man. This failure, according to some scholars, led them to the fulfillment of masculinity in other forms e.g. sexual violence during combat. This “manifests itself in a negative and sexualized image of women”¹⁰⁴

For Tickner, for example, the Bosnian and Rwandan conflicts driven by ethnic rivalry, clearly underscored the strategic and systematic nature of sexual violence consciously utilized as a weapon of war.¹⁰⁵ Women began to symbolize very drastically “the other,” the enemy for the opposing military force. And this symbolism ushered in “directly or indirectly legitimized sexual savagery beyond the norm in military conflict.”¹⁰⁶ Also Lene Hansen sees a clear correlation and inherent link during the Bosnian conflict between national security and gender. “The rapes were subsumed by the Bosnian and Serbian governments in a security debate centered on the nation.”¹⁰⁷

¹⁰³ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 177.

¹⁰⁴ Ibid., 75.

¹⁰⁵ Tickner, J. Ann 2001, 50.

¹⁰⁶ Hough 2004, 113.

¹⁰⁷ Hansen, Lene 2000, 299.

3. *SECURITIZATION THEORY AND RAPE*

Feminist scholars find the sheer concept of norms within International Relations and its literature problematic. The problem not only includes that norms are gendered, constructed by usually masculine actors or masculinity-tainted entities/institutions, but they are also conditioned as to what makes norms possible. These norms are conditioned to what interests and ideals are pursued, which actors are powerful and hence effective. If we extend this notion to the norms of securitization, gendered norms would then define what issues are being securitized and “what counts as a problem, and whose voices are represented and marginalized.”¹⁰⁸

However, Buzan and Waever argued that wartime rape within its theoretical context has increasingly been securitized. Women have been increasingly seen as a collective body or collective entity that needs to be secured. This securitization triggered a shift, reversing rape as an individuality-driven, opportunistic act to a strategic function that threatens national/regional security. Categorizing rape and dividing it into “peace-time” and “war-time” rape, Hansen argues that war-time rape is a threat to collective security because it occurs not as a sheer consequence of the behavior of individuals, but “it happens as a question of national warfare.”¹⁰⁹ Since in Bosnia and Rwanda hundreds of thousands of women were primarily raped because of their ethnicity and cultural identity and only secondarily because they were women, this de-genderizes them as victims. It turns them into a body of individuals and collectively into a strategic war objective. It removes them from the assumption that rape was utilized en masse as insular sexual assaults. Rather, these assaults targeted them as individuals of one ethnic group and

¹⁰⁸ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 76.

¹⁰⁹ Hansen, Lene 2000, 59.

therefore made them into a collective strategic objective of war. This separates wartime rape from a domestic assault and elevates it to a collective and systematic method of warfare. Barry Buzan also argues that the securitization of rape is elevating the act of rape not only from a natural/common/opportunistic” occurrence to a systematic tool, but turns it into a national and international security issue. By doing so, it likewise also de-genderizes rape, removes women as “depoliticized” entities and re-establishes them as “active agents.”¹¹⁰

The Bosnia and Rwanda tribunal records also underscore these assertions. In the case of Bosnia, for example, the prosecution completely bypassed the issue of rape as a pure sexual conduct. It treated the systematic nature of rape as a security issue and as a systematic method that received attention by the state as such. Judges, for example, wrote that “the increased attention to wartime rape is in part a result of increased attention at the national level.”¹¹¹

E. SECURITIZATION AND ITS CRITICS

While Securitization Theory has been endorsed by many post-Cold War scholars as a valid and effective theory, it has also encountered its fair share of criticism. Criticism, for example, focuses on the theory’s shortcomings such as: its Western- and Euro-Centrism; its potential of being used (and abused) as a political tool; its state and elite centrism and its exclusion of the individual and gender, for example.

Some critics of Securitization Theory find the concept of securitization too Western and Euro-centric and see it as a too culturally homogenous and exclusive framework. Such narrow focus, according to many scholars, leaves very little room for

¹¹⁰ Buzan, Barry and Hansen, Lene 2009, 247.

¹¹¹ Hansen, Lene 2000, 70.

other, non-western views and approaches. Columba Peoples, for example, most recently in 2010, questioned the sheer fact of the Western labels being attached to various schools of thought that provided the philosophical and intellectual underpinning of Securitization Theory: e.g. the “Copenhagen” School (similar to the “English” or the “Welsh” School). The theory is western-based, western-funded and is, therefore, viewing and measuring security issues from a limited point of view. According to Peoples such restrictive approaches raise “valid questions over the role institutional and funding structures play in this.”¹¹² Such Western centrism tilts Securitization Theory a certain way and affects (and confines) how the theory is applied within a broader global security agenda. Claire Wilkinson argued in 2007 that Securitization Theory was inherently unsuited to explain conflict beyond Western borders. She based these findings on her unsuccessful application of Securitization Theory to explain the overthrow of the Kyrgyzstan government in 2005. Wilkinson concludes that the “Westphalian straitjacket,” the European understanding how politics and the state system is constructed and should work, hinders Securitization Theory to be applicable to conflict outside a Western periphery. Securitization Theory, according to Wilkinson, is a continuation of such euro-centrism that “contributes to a portrayal of a situation that is by default cast in Western terms.”¹¹³

Wilkinson also asserts, for example, that Buzan and Waever apply very exclusive and limited Western views when it comes to defining what a nation state means.

According to Wilkinson, Securitization Theory evaluates identity and society in terms of

¹¹² Peoples, Columba and Vaughan-Williams, Nick 2010, 10.

¹¹³ Wilkinson 2007, 8.

Western assumptions and is basing it on the “Westphalian notion of the nation state.”¹¹⁴ Wilkinson argues that Securitization Theory neglects, local culture, relationships and any other social particulars, and relies too heavily on the speech act. Such reliance focuses on the ability of the object that needs to be secured to voice what it feels and experiences e.g. fear. It assumes that one can articulate an existential threat and through such articulation can express and ask for securitization. “The central position of speech in the School’s conceptualization of security thus sets overly restrictive criteria for an analysis of security.”¹¹⁵

The theory’s application as to how and when one securitizes an issue or an object is also a source of controversy and increasing criticism. Some scholars argue that sometimes securitization is being exploited and misused or even over-utilized by elites or people in power to achieve very specific political goals. Sometimes extraordinary measures are being deployed (for example the invasion of Iraq after the Sept. 11 terrorist attacks) in the name of national security, however, such securitization is often utilized to serve very different domestic and foreign policy goals (the removal of Saddam Hussein). Some scholars argue that the sheer utterance of the word “security” in connection with an immediate crisis situation or a political stalemate can be abused as a political vehicle for goals that have nothing to do with the core principle of securitization in the first place. According to some critics, there are specific “costs” and dangers associated with the relatively narrowly defined and applied framework of Securitization Theory. Some declare securitization as panic politics that helps leaders to profit from the ambiguous and vague assumptions and constructions of what constitutes a threat or not. Baldwin

¹¹⁴ Wilkinson 2007, 11.

¹¹⁵ Ibid., 12.

asserted that “Careless use and abuse of the security concept may already have rendered it useless for everyone but the politicians).¹¹⁶

In less developed countries, for example, domestic politics is often securitized for pure political reasons. The call for national security (securitization of a national issue), so Buzan, then often becomes a convenient tool to silence oppositions.¹¹⁷ To compare, in democracies, on the other hand, the act of securitization is usually consistently exposed to transparency, pushed into public discourse and open debate. However, democracies are not immune to the abuse of securitization either. The creation of an artificial threat also in democracies can aid certain elites to keep the population or a particular segment of the population in check, to keep its voice politically suppressed and its rights and liberties for the sake of national security curtailed. “It is always a political choice to securitize or to accept a securitization.”¹¹⁸ Securitization can also be over-utilized, used excessively and, hence, being abused for various political or other purposes. The speech act and the utterance of security buzz words and language in itself can escalate and artificially create more or even unwanted securitization. By manipulating and abusing securitization, political leaders can in fact create an environment of fear and anxiety and corrupt specific political outcomes. “Even when talking security in order to achieve de-securitization, it is possible that one contributes to securitization by the very act of producing more security talk.”¹¹⁹

Some critics also worry that securitization could, occasionally, be over-utilized. The effects of excessive securitization (security dilemmas) or the lack of securitization –

¹¹⁶ Baldwin 1997, 26.

¹¹⁷ B. W. Buzan 1998, 28.

¹¹⁸ Ibid., 29.

¹¹⁹ Wæver 1995, 252.

“the inability of handling an issue effectively unless it is securitized.”¹²⁰ can be widespread and effecting entire regions. By citing as examples the former Soviet Union, North Korea and Iran, some scholars assert that over-utilization and excessive securitization and widening security issues potentially – “stifles civil society, creates an intrusive and coercive state, cripples (eventually the economy, and maximizes the intensity of the security dilemma with neighbors who do not share the ideological project”¹²¹ Eriksson also criticized Buzan and Waever to act not like researchers or scholars or analysts, but politicians who are “objectifying security, and spreading the negative connotations of threats and enemies to new issue areas.”¹²²

Some critics see Securitization Theory, similar to the traditional theories of Realism and Liberalism, as too state and elite centered and too focused on the state and elites as the key objects that need to be secured. Many scholars, for example, argue that the notion of authority and its link to successful securitization can cause significant, if not corrupt, implications. For example, it leaves securitization and the use of “security grammar,” which words to use to imply that something needs to be securitized, as an exclusive tool of the powerful, the elite. For Waever, this “creates something of an ethical dilemma for the prospective analyst of securitization.”¹²³

These converging interests of securitization and elitism not only are most visible within the speech act in power politics itself, but transcend into the more fluid worlds of gender and culture. Lene Hansen, for example, criticized the focus of Securitization Theory on dominant voices. Hansen argues that Securitization is oppressive as it has the

¹²⁰ B. W. Buzan 1998, 40.

¹²¹ Eriksson 1999, 316.

¹²² Ibid., 316.

¹²³ Peoples, Columba and Vaughan-Williams, Nick 2010, 85.

tendency to privilege the powerful and suppress the weak and/or silent. Hansen argues that securitization relies too heavily on the speech act. It relies on the person who securitizes to be able to do so, to articulate security concerns. It relies on the ability of actors to freely utilize the speech act – to be able to speak. Sometimes victims, according to Hansen, in particular of sexual violence, remain silent because of the shame and social pressures such violence has caused. Hansen criticizes Buzan and Weaver for not offering an alternative to the speech act for those victims who have to remain silent e.g. also HIV infected people. “Reliance on speech act theory presupposes the existence of a situation in which speech is indeed possible.”¹²⁴

According to Hansen, Buzan’s speech act argument bypasses the issue of gender and does not provide measures in particular in countries where gender disables people of speaking of security. Using, for example, the honor killings in Pakistan, where often girls and women are being killed for bringing dishonor to one’s family or village, Hansen argues that Securitization Theory discriminates against women.¹²⁵ Women in many developing countries, for example, are not able to claim security and to effectively attach the security label to a threat. Hansen calls this the “silent security dilemma.”¹²⁶ Such a silent security dilemma occurs when the object that needs to be secured is unable to speak of its insecurity. The security issue is not only being oppressed, but in fact aggravates exactly the opposite: securitization becomes insecurity and turns into a threat. For example, Hansen argues that a HIV infection could cause societal pressure and ostracizing or even punishment in some communities. This is when the call for

¹²⁴ Hansen, Lene 2000, 285.

¹²⁵ Ibid., 291-3.

¹²⁶ Ibid., 287.

securitization, when speaking about one's HIV infection is reversed and turned into a threat to the community. This is when securitization becomes insecurity.¹²⁷

Additionally to the speech act as centrally utilized in Securitization Theory, other critics of the theory see the complexity of the women identity (gender linked to ethnicity or religion, for example) as difficult to grasp within the securitization framework. "This multidimensionality of identities makes gender a tough fit the Copenhagen School's qualification of referent object."¹²⁸

Critical theorists such as Kenneth Booth criticize the marginalized role of the individual within the Copenhagen School. According to Booth, the Securitization Theory does not move far enough into the direction of "real people in real places."¹²⁹ The exclusion of the individual as an object that needs to be secured provides for a weak and unreliable theoretical framework. Also, the connection of security and survival implies state and elite centric roots.¹³⁰ Booth also deems the Copenhagen School as politically passive (neither progressive nor radical), conservative and dominated by elite discourse.¹³¹ Richard Wyn Jones, likewise, argues that the title of Buzan's *"People, States and Fear"* should not include "people" because "Buzan's broadening only accounted for the ways in which non-military issues such as environmental degradation and economic crisis might threaten the state"¹³² and completely bypassed the individual. Similarly, Bill McSweeney also very heavily criticizes Securitization Theory for not going after the intellectual heart of hearts of security: the human being. McSweeney

¹²⁷ Hansen, Lene 2000, 286.

¹²⁸ Hudson 2007, 9.

¹²⁹ Booth, Kenneth 2005, 366.

¹³⁰ Booth, Kenneth 2005, 106.

¹³¹ Booth, Kenneth 2005, 165.

¹³² Wyn Jones, Richard 1999, 112.

argued that “security must make sense at the basic level of the individual human being for it to make sense at the international level.”¹³³

To diffuse some of these arguments, Weaver contended that focusing on the individual would expand the securitizing principles too far. It would turn everything into a threat and a security issue. Such indiscriminate inclusiveness would render these security issues meaningless. “The concept of security becomes all-inclusive and is thereby emptied of content.”¹³⁴ Weaver also argues against including individual security as an aspect of Securitization, rendering it “impractical for the purposes of analysis.”¹³⁵ Some scholars claim that security issues and securitization in general deals with urgency and secrecy that involves only a small pool of actors. Since only a few contribute to the political debate about how one issue should be addressed and securitized, such logic is not consistent with the principles of liberal democratic politics. It mutes the voices of the majority by adhering to the rules of the few. Also, other critics such as Williams (2003) advocate for expanding the scope of the speech act to include visuals and images (internet, television and photography). Further, some critics argue for greater focus on “the key role played by security experts and institutions in securitization”¹³⁶ and see the need for the speech act to “be supplemented by awareness that audience, political agency and context are crucial to successful securitization.”¹³⁷

¹³³ Booth, Kenneth 2005, 225.

¹³⁴ Weaver 1995, 49.

¹³⁵ Peoples, Columba and Vaughan-Williams, Nick 2010, 82.

¹³⁶ Ibid., 86.

¹³⁷ Peoples, Columba and Vaughan-Williams, Nick 2010, 86

CHAPTER IV

SECURITIZATION OF RAPE - THE APPLICATION: CASE STUDY I BOSNIA

A. INTRODUCTION:

In the 1990s the Bosnian War emerged as an unparalleled conflict in many ways. When NATO in February 1994 shot down four Serbian planes over Bosnian airspace, the world witnesses the first use of force of the transatlantic alliance since its creation in 1949. When reports about rape camps, forced impregnation and the systematic rape of Bosnian Muslim women first surfaced, the sheer barbarism about these acts seemed incompatible with a globalized community at the advent of the 21st century. After the Srebrenica massacre in July 1995, genocide and the ghosts of the Holocaust had officially returned to the European continent.

Most significantly, however, Bosnia made its mark as the conflict that transformed how the international community with its institutions and legal mechanisms interprets wartime rape. Bosnia brought the haunting images of systematic rape and rape as a relentless and gruesome weapon of war into people's living room. And into international institutions' assembly halls. Mass rape during war began to step outside of its for centuries established periphery. With the International Criminal Tribunal for the former Yugoslavia the mass rapes in Bosnia evolved and became internationally recognized crimes against humanity and war crimes against international law. And with the 2001 conviction of three Bosnian Serbs Kunarac, Kovac and Vukovic, the Tribunal

underscored this historical evolution holding for the first time in history perpetrators accountable for rape during war.¹

The objectives of mass rape during the Bosnia conflict were genocide, territorial, political and social gains. The constant psychological terror of rape aims to systematically destroy communities and to paralyze and dismantle local governmental authorities, institutions, and structures. It eventually progresses toward a strategic goal of territorial gains as the lack of security drives the terrorized population to abandon its villages. They become refugees and settle somewhere else for security. According to Tribunal testimony, Beverly Allen describes the methodical act of rape with the strategic goal of territorial gain as follows: Serbian forces enter a village and rape several women in public view. The now terrorized population is then promised to be able to leave the village safely, under the condition they will never return to the village.² A strategic plan, which during the trials was referred to as the Ram or Brana Plan, specifically defines assaults against women and children as an effective military policy to gain territory and “to provoke the spontaneous flight of many communities.”³ During the Foca trial, the prosecutor Ryneveld successfully argued that rape in Bosnia was used as a method of terror and humiliation “with the goal of setting examples and getting Muslim residents to permanently leave the area.”⁴

Rape has also taken center stage as a systematic tool to psychologically rip apart the structural fabric of a society, to damage and erase the patriarchal culture and structure/fabric as husbands, brothers and fathers are often forced to witness the rapes of

¹ ICTY, [http://www.icty.org/sections/Aboutthe ICTY](http://www.icty.org/sections/Aboutthe%20ICTY) 2011.

² Allen, Beverly 1996, 62.

³ Ibid., 57.

⁴ Hagan, John 2003, 187.

their wives, sisters and daughters. As men are emasculated and paralyzed into watching the sexual assault of the female population, they are being stripped of their masculinity and their masculine “instinct” to protect. Scholars have argued that in particular in Balkan patriarchy the failure of the Bosnian men to protect their women from rape has demoralized the Bosnian masculinity and this failure “to control their sexual and procreative powers” has become “a critical symptom of weakness.”⁵ Further, in particular Muslim men in Bosnia felt responsibility toward the exposure and vulnerability of women. This became “religious and social concerns of Muslim men for the women and children of their families,” “the whole community was then vulnerable to being manipulated through these concerns of its men” and the concerns of the Muslim fathers, husbands, and brothers in turn become concerns about “the future of the community”⁶ Claudia Card also argued in a 2003 paper that the social death of victims - she defines social death as the loss of social vitality and standing due to the loss of social identity – is central to genocide, regardless whether or not genocide resulted in homicide.⁷ This separates the initial definition of genocide from the context of mass killings⁸ and allows for the conceptualization of mass rapes in Bosnia as genocide (with women and men suffering a social death).

The influx of children originating from genocidal rape “could cause social chaos to the extent of destroying the culture and institutions of a society.”⁹ Mass rape and enforced pregnancy due to the imposed trauma and terror on a community, hence, could reduce or even erase an entire generation and “might actually lead to physical destruction

⁵ Hansen, Lene 2000, 66.

⁶ Card, Claudia 2008, 177.

⁷ Ibid., 182.

⁸ Cudd, Ann E. 2008, 191.

⁹ Ibid., 193.

of the community.”¹⁰ Such communal destruction is fueled not only by the sheer horror of rape and the sexual strategic oppression of the female population, but in general by the multi-ethnic identity and inclusive rather than exclusive (heterogeneous, not homogeneous) nature of Bosnian Muslims. This identity was not only based on “ethnicity, but upon a multi-ethnic way of life.”¹¹ After ethnic cleansing, this inherent identity trait could be almost possible to recover.

B. THE CONFLICT

The Bosnian War was a conflict of its time. It erupted from the political and ethnical rubbles of the Cold War and it made its mark in history as the conflict that returned the term genocide to European soil.

Yugoslavia, a patchwork of regions and ethnicities since 1918, dissolved with the Soviet Union in 1991. In its wake, it left its six republics – Bosnia and Herzegovina, Serbia, Croatia, Slovenia, Macedonia and Montenegro – struggling to find their own political destinies. In 1991, wealthy regions such as Croatia and then Slovenia quickly declared their independence. In 1992, Serbia and Montenegro merged and created the Federal Republic of Yugoslavia.¹² Ethnical enclaves within the Serbian territory such as Kosovo and Vojvodina became autonomous provinces.¹³ Likewise, Bosnia and Herzegovina and Macedonia pushed for independence. Serbian nationalism and its claim of regional supremacy proved troublesome. Already in the 1980s, Yugoslavian president Slobodan Milosevic, a Serb, emerged in the Balkans as a stern promoter of “Serbian

¹⁰ Cudd, Ann E. 2008, 193.

¹¹ Weine 1999, 15.

¹² Ching, Jacqueline 2009, 9.

¹³ Appendix I Timeline about the Bosnian Conflict 1992-2008.

nationalism.”¹⁴ The looming Bosnian independence in 1992 seemed a slap in the face of the Serbian ambition for a Greater Serbia. In 1991, Bosnia and Herzegovina accounted for 44 percent Muslims, 31 percent Serbs and 17 percent Croats.¹⁵ The collapse of the Ottoman Empire with the two Balkan Wars in 1912 to 1913 brought about the influx of Islam in parts of Albania and Bosnia-Herzegovina.¹⁶ In January 1992, Serbian forces and the Yugoslav People’s Army (JNA) pushed against Bosnian independence and announced after a military intervention the Serbian Republic of Bosnia. In February and March 1992 Bosnian Muslims and Croats officially voted for their independence, while Serbs in Bosnia boycotted the referendum.¹⁷ The tensions between Bosnian Muslims and Serbs in the region began to escalate into a full-fledged civil war after the European Community and the United States in April 1992 officially recognized the independence of The Republic of Bosnia and Herzegovina. The Bosnian Serb leader Radovan Karadzic shelled Sarajevo, captured the city and declared it the capital of the new Serb Republic.

From 1992 through 1995, the conflict saw the largest human slaughter on the European continent and first genocide since the end of World War II. Starting in 1994, NATO authorized aerial bombardments eventually forced the Serbian army out of Bosnian territory. In July 1995 Serbian forces invaded Srebrenica, one of six declared U.N. “safe areas,” slaying all of its Muslim men. Later, the Srebrenica mass killings of 8,000 men will officially be declared genocide, the first of such account since the Holocaust during World War II. In November 1995, Bosnian President Alija Izetbegovic, Croatian President Franjo Tudjman and Serbian President Slobodan Milosevic came to a

¹⁴ Appendix I Timeline about the Bosnian Conflict 1992-2008.

¹⁵ Ching, Jacqueline 2009, 10.

¹⁶ Buzan, Barry and Waever, Ole; 2003, 380.

¹⁷ Reuters 2008.

peace agreement in Dayton, Ohio. The consequent Dayton Peace Accord of Dec. 14, 1995 divided the disputed territories into Bosnia-Herzegovina and Serbian states.¹⁸ It also brought about the presence of 66,000 NATO peacekeeping troops. In February 2002, Milosevic was charged with numerous counts of genocide and war crimes. Karadzic was captured and charged with genocide in 2008.¹⁹ Eventually, the war would cost 200,000 lives, injuring several hundred-thousand including 50,000 children, systematically raping at least 20,000 Muslim women and sparking the largest refugee crisis throughout the European continent since World War II.²⁰ Bosnia still today is struggling with its past. An International Crisis Group asserted in a report in 2001 that Balkan states in general still wrangle with having efficient institutions and political structures in place, which t allow for a well-functioning and reasonably corrupt-free political system. After the dissolution of the State of Yugoslavia were “dominated by the expectation that public office and state-dominated assets should and will be exploited as a source of power and patronage.”²¹ As of September 2011, there are 10,000 people missing related to the Bosnian conflict.²²

C. THE CASE STUDY

Through the application of the Securitization Theory, the study of the Bosnian War allows us to investigate the development of securitization of rape during the conflict. The issue or the referent object that seeks securitization during the conflict are Bosnian Muslim women. I am proposing that the securitizing actors during the Bosnia conflict need to be divided into external and internal securitizing actors. These actors either

¹⁸ Appendix I Timeline about the Bosnian Conflict 1992-2008.

¹⁹ Reuters 2008.

²⁰ Center for Balkan Development 1996.

²¹ International Crisis Group 2001, 15.

²² European Commission Staff 2011, 22.

securitized or significantly influenced securitization from the outside (externally) or inside (internally) the former Yugoslavian territory. A securitizing actor is someone (an entity or mechanism or influential leadership) who is declaring that something is a threat to the object's survival. A securitizing actor is also an entity or mechanism that is articulating the speech act and by doing so, is attaching the word "security" to an issue. Such securitizing actors – in general - could include the state, individual political leaders; individuals within different forms of bureaucracies and agencies; governments; lobbyists; civil society. These actors speak on behalf of something/someone whose survival and sheer existence is threatened.

As external actors of securitizing rape as a systematic tool of war during the Bosnian conflict, I am examining the involvement of International Institutions, which includes various entities of the United Nations e.g. the Security Council, the UN Higher Commissioner of Refugees and U.N. international law entities such as the International Criminal Tribunal for the Former Yugoslavia.

Other external actors are also the International Media, which includes accounts collected by representatives of the international media; Non-Governmental Organizations (NGOs) and Transnational Networks (TANs), which includes the Red Cross, Human Rights Watch, Amnesty International and other non-governmental and transnational actors and agents; and the state, which the United States and the European Community/Union and other European states as individual countries, which securitized or effectively influenced securitization.

As internal actors and agents, I am examining the involvement of the State – or entities that resembled something functionally similar to what is commonly understood as

the state. In the case of Bosnia, these actors are the representatives of the newly declared state of Bosnia and the Serbian state. This category includes actors and agents of the political regimes in power and opposition leaders, who securitized rape during the conflict.

I will examine how these actors securitized rape as a systematic tool of war through the securitization mechanism/method of the speech act (someone says the word “security) and through other rhetorical measures/images, which also effectively articulated the speech act. While focusing on the speech act from the actors’ perspective, I will then outline how securitization has been implemented by the audience through the deployment of commitments, legal measurers and resources. An audience is an entity or a body of authoritative and legitimate units (institutions, NGOs, alliance, hegemonic leadership) that not only accept securitization from the securitizing actor, but initiates and deploys actions. In the conclusion of the chapter, the following actor/audience matrix will then summarize the different mechanisms/methods and deployed measurers.

This part of the case study is therefore divided into *Speaking of Rape* and in the later part *Securitization through Audience Deployment of Extraordinary Measurers*. This is important to point out, because, the International tribunals, for example, “speak of rape” as a security issue in their initial statutes, but deploy measurers only later in this case study through the actual convictions and various rulings.

TABLE 1. ACTOR AND AUDIENCE MATRIX BOSNIA I:

Actors	The State incl. Political Opposition	Intl. Institutions	NGOs / TANs / Civil Society	National and Intl. Media
Audience				
Speech Act				
Other Rhetorical Measures (e.g. Imagery)				
Commitments				
Legal Measures				
Resources				

D. SPEAKING OF RAPE: SECURITIZATION THROUGH THE SPEECH ACT

1. *INTERNATIONAL INSTITUTIONS*

The 1980s saw gradual shifts of the ideological fault lines, which had underscored the Cold War for more than four decades. The foreign policy of the Soviet Union began to soften toward the West. Soon the thawing and the subsequent end of the Cold War ushered in an array of multilateral efforts. International institutions such as the United Nations began to take center stage at the front of global conflict resolution by revitalizing global UN peacekeeping efforts. While Margaret Thatcher, for example, had argued for a more unilateral take to resolve the 1990-91 Gulf War,²³ then US President George H. Bush and his advisors such as James Baker advocated for a multi-nation alliance against Iraq, underwritten by the UN. Consequently, UN Resolutions 678 condemned the Iraq invasion of Kuwait and endorsed the multilateral use of force. In the wake of such multilateral efforts, the definition and parameters of international security took on new dimensions. For example, in 1992, the UN Security Council resolution 688 condemned Saddam Hussein's terror against Iraq's citizens in particular the Kurdish minority population in the north. This was unique because it marked the first time for the UN to call out such oppression of an internal actor (Kurdish minority) as a threat to international security.²⁴

However, the mid 1990s brought about four key failures of UN peacekeeping: Angola, Somalia, Bosnia and Rwanda. The Bosnia conflict in particular with its ethnic and religious entanglement and the involvement of UN peacekeeping troops

²³ Thatcher, Margaret 1993, 826-8.

²⁴ Dannreuther, Roland 2007, 150.

(UNPROFOR) proved too complex against the backdrop of a new generation of brutal warfare that left “little or no regard for humanitarian principles.”²⁵

The Bosnian conflict became the first European test case of the new post Cold War security environment. It revealed the many ailments of the international institutions, immature and ill prepared to function effectively without the clear bi-polar Cold War structures. It brought about the realization within the international community how its institutions lacked mechanisms and the political will to function as effective peacemaking or peacekeeping instruments.

During the increasing escalation of tensions in the Balkans the UN was not able to function effectively without NATO. Additionally the Bosnian conflict also produced security challenges with regional and international implications. It triggered one of the largest refugee crises in the heart of Europe since World War II, which was seen as a “politico-strategic threat to regional and international security.”²⁶ It also perpetuated an increasing fear that the “cycle of ethnic cleansing and communal violence”²⁷ which included rape could spread throughout the Balkans. Additionally, the inconsistency between Europe and the U.S. how to resolve the conflict causes a rift in the transatlantic relationship.

a) THE UNITED NATIONS SECURITY COUNCIL

With fighting of Serbian forces and Bosnian militants ensuing in April 1992, the U.N. Security Council with its Resolution 752 of May 15, 1992 for the first time mentioned its concern about the “rapid and violent deterioration of the situation in Bosnia

²⁵ Dannreuther, Roland 2007, 151.

²⁶ Ibid.,153.

²⁷ Ibid.,153.

and Herzegovina.²⁸ The speech act of securitization of rape, however, and the mentioning of rape specifically as one of the key atrocities committed during the conflict for the first time does not appear until the passing of U.N. Security Council resolution 808 on Feb. 22, 1993. With this resolution the Council formally established the International Criminal Tribunal of the former Yugoslavia.

A report attached to the resolution mentioned for the first time to allegations of atrocities committed against Muslim women in Bosnia. Referring to a European Community investigation, the resolution included the following passage,

Noting also with grave concern the “report of the European Community investigative mission into the treatment of Muslim women in the former Yugoslavia” (S/25240, annex I),²⁹

On May 2, 1993 the U.N. Security Council report of the Secretary-General, according to paragraph 2 of resolution 808, outlined the statute of the ICTY. While the report in its introductory paragraph 6 mentioned these detailed crimes and atrocities,

especially in Bosnia and Herzegovina, including reports of mass forcible expulsion and deportation of civilians, imprisonment and abuse of civilians in detention centres, deliberate attacks on non-combatants, hospitals and ambulances, impeding the delivery of food and medical supplies to the civilian population, and wanton devastation and destruction of property.³⁰

it fails to mention rape. Only in the statute’s paragraph 9, rape is mentioned for the first time.

By letter dated 9 February 1993, the Secretary-General submitted to the President of the Security Council an interim report of the Commission of Experts (S/25274), which concluded that grave breaches and other violations of international humanitarian law had been committed in the territory of the former

²⁸ United Nations Security Council 1992, 1.

²⁹ ICTY, http://www.icty.org/x/file/Legal%20Library/Statute/statute_808_1993_en.pdf 1993, 2.

³⁰ ICTY, http://www.icty.org/x/file/Legal%20Library/Statute/statute_re808_1993_en.pdf 1993, 3.

Yugoslavia, including willful killing, “ethnic cleansing,” mass killings, torture, rape, pillage and destruction of civilian property, destruction of cultural and religious property, destruction of cultural and religious property and arbitrary arrests.³¹

Below the statute of the ICTY specifically for the first time included rape as a crime against humanity. Furthermore, in paragraph 10, the report calls these human rights violations in Bosnia “a threat to international peace and security,” as the below paragraph points out and, therefore, connects rape as one of many violations, which are threatening international security:

The Council determined that this situation constituted a threat to international peace and security, and stated that it was determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them.³²

The statute’s articles 2 and 4 refer to repeated grave breaches according to the 1949 Convention on the Prevention and Punishment of the Crime of Genocide.³³ Article 4 defines genocide as acts “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”³⁴ Investigating the relationship between rape and genocide during the Bosnian conflict, some scholars concluded from this definition that raping a person in order to erase and destroy one’s ethnicity, can constitute genocide “if at least one of the additional elements, such as causing serious bodily or mental harm can be established.”³⁵ When rape and sexual violence are committed as part of a widespread or systematic attack directed against any civilian population, such acts can constitute an element of genocide/ethnic cleansing, for example through forced impregnation.

³¹ ICTY, 1993, 4.

³² Ibid., 4.

³³ Ibid., 12.

³⁴ Ibid., 12.

³⁵ Askin 1997, 393.

Paragraph 48 of the Tribunal's statute confirms such interpretation. It refers to crimes against humanity as "inhumane acts of a very serious nature" and names torture or rape "committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds."³⁶ Paragraph 48 concludes that such inhuman acts not only included ethnic cleansing, but also the "widespread and systematic rape and other forms of sexual assault, including enforced prostitution."³⁷

On July 31, 2003 with the Stakic case, the Tribunal pointed specifically to this particular phrase "causing serious bodily and mental harm," which, according to the ICTY statute, ought to be understood to include inhumane or degrading treatment, including sexual violence and rape. Article 5 of the Tribunal Statute, according to UN Security Council resolution 8080, then specifies rape as one of nine crimes against humanity, including rape,³⁸

Article 5 Crimes against Humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation;
- e) Imprisonment;
- f) Torture;
- g) Rape
- h) Persecution on political, racial and religious grounds;
- i) Other inhuman acts;

³⁶ ICTY, 1993, 13.

³⁷ Ibid., 13.

³⁸ Application of the Convention on the Prevention and Punishment of the Crime of genocide. Bosnia and Herzegovina v. Serbia and Montenegro. 2007.

On April 17, 1993, UN Security Council resolution 820 in paragraph 6 for the first time mentioned the systematic nature of rape utilized during the conflict. In this paragraph for the first time the UN refers to “the massive, organized and systematic detention and rape of women”³⁹ and links it to the violations of international humanitarian law, see below:

Condemns once again all violations of international humanitarian law, including the particular the practice of “ethnic cleansing” and the massive, organized and systematic detention and rape of women, and reaffirms that those who commit or have committed or order or have ordered the commission of such acts will be held individually responsible in respect of such acts;

It repeats the terminology of “systematic detention and rape of women” in paragraph 11 of the introduction of the report – and hence the notion of a systematic and organized fashion that drove the mass rapes during conflict, see below:

The Secretary-General wishes to recall that in resolution 820 (1993) of 17 April 1993, the Security Council condemned once again all violations of international humanitarian law, including in particular, the practice of “ethnic cleaning” and the massive, organized and systematic detention and rape of women, and reaffirmed that those who commit or have committed or order or have ordered the commission of such acts will be held individually responsible in respect of such acts.⁴⁰

The establishment of the connection between ethnic cleansing and rape, the articulation of rhetoric such as “massive”, “organized” and “systematic detention” as a reference point for the systematic utilization of rape here articulated to the Secretary-General clearly sense of urgency and severe violations. It securitized rape. The report also points to the systematic nature of rape administrated, orchestrated and utilized by entities of authority. Many of these rapes “seem to be part of an overall pattern.”⁴¹ This pattern then was described as, for example, to displace residents from their homes, to

³⁹ ICTY, 1993, 4.

⁴⁰ ICTY, 1993.

⁴¹ United Nations Commission on Human Rights 1993, 9.

perpetrate shame and humiliation onto the rape victims and her community. Further the rapes in detention facilities, according to the report, have been often underwritten by “a systematic rape policy” and “a level of organization” that existed in certain parts of the conflict.⁴²

During the Bosnia conflict, more than 20,000⁴³ women were raped, some of those impregnated and held captive in numerous camps spread throughout the region until an abortion was impossible. Such forced impregnation, systematically implemented through these rape camps, emerges as the key tool in ethnic cleansing. Women were raped by Serbian soldiers “to give birth to little Chetniks/Serb soldiers.”⁴⁴ Feminist scholars such as Allen and Askin in 1998 created new terms such as “Genocidal rape,” “ethnorape” or “femicide” in connection with the central objective of forced impregnation/eradication of the victim’s cultural and ethnic identity. While this notion is biologically/genetically flawed (the child will have the genetic mix/build-up of the Bosnian mother and the Serbian father), nevertheless, this illogic fueled the cleansing process, according to Allen.

b) UNITED NATIONS SECURITY COUNCIL'S COMMISSION OF EXPERTS

With resolution 780 of Oct. 6, 1992, the U.N. Security Council established “as a matter of urgency” an impartial commission of Experts to investigate violations of International Humanitarian Law in the former Yugoslavia. Mahmoud Cherif Bassiouni became the chairman of the Commission and the Commission’s Special Rapporteur from 1992 – 1993. In a final report published Dec. 28, 1994, Bassiouni saw a correlation

⁴²United Nations Commission on Human Rights 1993, 9.

⁴³ Ibid., 22.

⁴⁴ Allen, Beverly 1996, 96.

between “paramilitary activity and reports of rape and sexual assault, detention facilities, and mass graves.”⁴⁵

Involvement of paramilitary groups in the commission of grave breaches of the Geneva Conventions and other violations of international humanitarian law is alleged in the vast majority of the reports in which paramilitary groups are mentioned. The most frequently reported violations are the killing of civilians, torture, rape, destruction of property, and looting. 32/ there is also a strong correlation between reports of paramilitary activity and reports of rape and sexual assault, detention facilities, and mass graves. These types of activities (i.e. paramilitary activity and grave breaches of the Geneva Conventions) tended to occur in the same counties 33/ and evidence of localized nature of the activity.⁴⁶

In this final 1994 report, Bassiouni securitizes rape by establishing parallels between sexual assaults and conventional and strategic war objectives. In his report he links sexual assault with mass casualties of war, with “the bombardment of cities, the destruction of mosques and churches”⁴⁷ linked to the method of ethnically “cleansing” territory, to kill or deport Muslim populations from a specific territory

While Bosnian Muslims forces have engaged in practices that constitute “grave breaches” of the Geneva Conventions and other violations of international humanitarian law, they have not engaged in “ethnic cleansing” operations. The vast majority of reports alleging “ethnic cleansing” operations involved Serbian forces who have used means, such as the mass killing of civilians, torture, sexual assault, the bombardment of cities, the destruction of mosques and churches, and other practices to eliminate Muslim and Croat populations that lie within Serb-claimed territory.⁴⁸

In the next excerpt, Bassiouni repeatedly injects the word “terror” in his 1994 report. By setting rape equal to institutionalized terror, he portrays rape as a mechanism for the Serbs to gain territory,

Thus, Serb officials relied on the use of terror, entailing mass killings, torture, rapes, and prison camps to eradicate the non-Serb population. The non-Serbs had

⁴⁵ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 15.

⁴⁶ Ibid., 15.

⁴⁷ Ibid., 15.

⁴⁸ Ibid., 17.

to be sufficiently terrorized to ensure that they would flee the area and never return.⁴⁹

The report asserts the existence of detention facilities for the sole purpose to perpetrate sexual violence. Wordage such as “detention facilities” and its linkage to rape and sexual abuse inherently connect rape to a systematic method of war. By doing so, Bassiouni frames the systematic nature of rape during the Bosnian conflict as a security issue.

Those women and children detained were also subjected to the worst kinds of abuse, including rape and other sexual assaults. There are reports of many detention facilities in existence of the sole purpose of holding women and girls for rape and sexual entertainment. There are numerous allegations of rape at camps wherever women and girls were held. Captors reportedly rape female prisoners in front of other prisoners. Those who resisted, were often reportedly killed or otherwise brutalized, often in the presence of others. There were also reports of the sexual abuse of men, as well as castration and mutilation of sex organs.⁵⁰

The 124-page Annex IX to Bassiouni’s 1994 report has been specifically dedicated to rape and sexual assault during the conflict. The information, collected through field investigation and interviews, accounts for only 1,100 reported case of rape and sexual assault, with 800 names and 1,800 rape victims not identified. However, the report estimates of more than 10,000 rape victims. The following 162 rape camps were named in the report,

There are about 162 detention sites in the former Yugoslavia where people were detained and sexually assaulted:

- a) 88 of those are reportedly run by Serbs;
- b) 35 are run by unknown forces;
- c) 17 are allegedly run by Croats;
- d) 14 are allegedly run by Muslims and Croat forces together;
- e) 8 are reportedly run by Muslims.⁵¹

⁴⁹ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 21.

⁵⁰ Ibid., 50.

⁵¹ Ibid., 71.

The choice of words such as “detention sites” again alludes to the security aspect and systematic nature of rape. According to Bassiouni, the systematic rape and sexual assault campaign during the Bosnia conflict followed five very specific patterns. These included using rape as an intimidation and terror mechanism and as aid in looting and gaining territory.⁵² This last assertion clearly links rape to one of the key objectives of war: to secure and control territory. Such findings securitize rape as an effective and methodological tool of war.

Other objectives of rape, according to the report, included prostitution for the purpose of providing instant sexual gratification for soldiers. The report also stated that some rapes occurred just as a common side effect of general fighting; other times rape was specifically implemented to humiliate community and displace certain segments of the population. Also, according to the report, some male perpetrators said they have been ordered to rape.⁵³ This assertion would underscore the findings that military and political leaders did know about the mass rapes, if not indeed ordered them or at least did not stop them. Scholars have identified the mass rape and forced impregnation of Muslim Bosnian women as “rape on order”, a “standard tactic of war” with a distinct “political purpose” to cleanse the Bosnian population, for example.⁵⁴ Additionally, victims have also often been told they will be raped to “bear children of perpetrator’s ethnicity.” These assertions link these rape cases to forced impregnation as a mechanism of ethnic cleansing. According to the Bassiouni report, soldiers would tell the victims that they have to carry on with the pregnancies until it’s too late to abort them. The report concludes that many of the rape cases display an organized,

⁵² United Nations Security Council Mahmoud Cherif Bassiouni 1994, 3.

⁵³ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 74.

⁵⁴ Allen, Beverly 1996, 95.

Perpetrators tell female victims that they will bear children of the perpetrator's ethnicity, that the perpetrators were ordered to rape and sexually assault them, or that, if the victims ever tell anyone or anyone discovers what has happened, the perpetrators will hunt them down and kill them;⁵⁵

The report also asserts that rapes predominantly occurred in detention camps. For example, out of 1,000 rape cases 600 occurred in these detention facilities. The report asserts that "these patterns strongly suggest that a systematic rape and sexual assault policy exists, but this remains to be proven."

Some of the reported rape and sexual assault cases are clearly the result of individual or small group conduct without evidence of command direction or on overall policy. However, many more cases seem to be part of an overall pattern. These patterns strongly suggest that a systematic rape and sexual assault policy exists, but this remains to be proved. It is clear that some level of organization and group activity is required to carry out many of the alleged rapes and sexual assaults.⁵⁶

Later, Bassiouni, and the Commission's Special Rapporteur on Gathering and Analysis of the Facts from 1992–1993 developed a video database – today known as the Bassiouni Report – that keeps the accounts of people testifying about the Bosnian rape camps, the torture and genocide.⁵⁷ According to the 1994 report, the majority of the rapes happened during the time period March 1992 to November 1992. The report became a testimony of the impact of the atrocities committed during the conflict. The report found, for example, that between 1991 and 1993 the Muslim population, for example, in the region of Prijedor shrank from about 50,000 to only about 8,000.⁵⁸

c) UNITED NATIONS COMMISSION ON HUMAN RIGHTS

⁵⁵ Allen, Beverly 1996, 75.

⁵⁶ Ibid., 75.

⁵⁷ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 6.

⁵⁸ Ibid., 22.

In August 1992 the UN Commission on Human Rights asked for a special rapporteur to be appointed to investigate the allegation of potential human rights violations in Bosnia. Special Rapporteur Tadeusz Mazowiecki will consequently write 17 reports from 1992 to July 1995, when he resigned, outlining an horrific array of atrocities and human rights violations in Bosnia, Croatia, Serbia, Montenegro, and Macedonia. These reports were made available to the Secretary-General, the Security Council and to the International Conference on the Former Yugoslavia.⁵⁹

Mazowiecki first reported Nov. 17, 1992 about “rape as a feature of ethnic cleansing.”⁶⁰ In its fourth report on Feb. 10, the Commission consequently elaborated on the allegations of widespread rape cases and asked for a team of experts to investigate these allegations.⁶¹

On June 30, 1993 the Commission on Human Rights (in its 15th session, regarding item 12 of the provisional agenda) issued a report exclusively dedicated to the issue of rape and abuse of women in the territory of the former Yugoslavia.

Between June 29 and July 1993, a special investigation team consisting of Canadian military personnel, two Canadian military police investigators and a Canadian military lawyer,⁶² was tasked to gather information about the alleged mass rapes. The team consisted of two Canadian military police investigators and a Canadian military lawyer.⁶³

Eventually, most of the information collected by the team came from the established War Crimes Commission of Bosnia and Herzegovina. Its database listed 105

⁵⁹ United Nations Secretary-General 1995.

⁶⁰ Tadeusz Mazowiecki 1995, 22.

⁶¹ Ibid., 22.

⁶² United Nations Security Council Mahmoud Cherif Bassiouni 1994, 77.

⁶³ Ibid., 77.

rape cases and included the names of the alleged perpetrators. However, the report concluded that such a minute “pilot study” was not practicable to gather precise information.”⁶⁴

With its resolution 1993/8 of February 1993, the Commission on Human Rights “strongly condemned the abhorrent practice of rape and abuse of women and children” and set out six demands to stop such abuses.⁶⁵ The resolution introduced for the first time aggressive rhetoric, comparing rape as a “deliberate weapon of war in fulfilling the policy of ethnic cleansing carried out by the Serbian forces.” U.N. General Assembly resolution 47/121 of Dec. 18, 1992 had already classified ethnic cleansing as a form of genocide. Following the June 30, 1993 report, the special rapporteur emphasized on the importance to investigate the allegations about widespread rape of women and children,

The Special Rapporteur continues to place high priority on the question of the rape and abuse of women and children, as well as on the physical and mental rehabilitation of victims.⁶⁶

The Special Rapporteur office was expanded and increased to five staff members at the Zagreb office. The report also cited the need for resources including funds to work with local organizations, government departments, international agencies and a psychologist to attend to the many rape victims.⁶⁷ The report further pointed to the need to create a record of the victims through interviews and testimonies.

In the same report, the commission asserted further that that rape “constitutes an extremely grave violation of international humanitarian law” as outlined by the Geneva

⁶⁴ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 6.

⁶⁵ United Nations Commission on Human Rights 1993, 3.

⁶⁶ Ibid., 3.

⁶⁷ Ibid., 5.

Convention Article 27,⁶⁸ reintegrated that not only the perpetrators need to be held responsible, “urged States members of the United Nations to exert every effort to bring to justice all those individuals directly or indirectly involved in these outrageous international crimes.”⁶⁹

Further, the Special Rapporteur pointed specifically to rape as a weapon for ethnic cleansing and connected the utilization of rape to political and military leadership as follows:

The Special Rapporteur concluded in his report to the Commission on Human Rights at its forty-nine sessions (para. 62) that rape that been used as an instrument of ethnic cleansing in Bosnia and Herzegovina and in Croatia. Furthermore, the Special Rapporteur has stated that he is not aware of any attempts by those in positions of power, either military or political, to stop the rapes (para. 60). Therefore, in accordance with the Special Rapporteur’s recommendation (para. 72), those who committed rape, those who ordered it, or those in positions of authority who failed to prevent it should be held accountable and brought to justice.⁷⁰

d) OTHER UNITED NATIONS ENTITIES AND ACTIONS OF SPEECH

In early 1992, UN workers in Bosnia had informed their superiors about the existence of concentration camps. A memo written by a UN staffer located in a Serbian-controlled territory in Croatia points how a soccer field was converted into a “holding round where Muslim groups are detained while their houses are being ‘searched,’ the men isolated and transported to concentration camps.”⁷¹ The memo identifies the camps in Keraterm, Trnopolje, Omarska and Manjaca as “reported concentration camps.” The characteristics of calling these facilities “concentration camps” associated these camps immediately with the Holocaust and the Nazi regime during World War II. Linking the

⁶⁸ United Nations Commission on Human Rights 1993, 6.

⁶⁹ Ibid., 6.

⁷⁰ Ibid., 6.

⁷¹ Helsinki Watch 1992, 7.

Serbian camps publically to the imagery of Nazi-like atrocities as a speech act creates a sense of urgency, an environment of crisis mode and international outrage. The report also writes of atrocities committed at the concentration camps by Serbian soldiers and of the increasingly deteriorating conditions at the camps, affecting the United Nations peacekeeping mission.

The report also alludes to a growing sense of frustration among UN personnel with the institutions ineffectiveness. "Our frustration arises from our inability to do anything other than write reports and stand by since UNPROFOR has no operational responsibilities across the border."⁷² On Aug. 13, 1992 with Security Council Resolution 771 the U.N. for the first time officially referred to "detention centers" and condemned ethnic cleansing. However, it was not until Dec. 18, 1992 when the U.N. Security Council for the first time officially cited the "massive, organized and systematic detention and rape of women" and asked for the immediate closure of all detention camps.

The Director of the U.N. Division for the Advancement of Women joined the Human Rights Commission in January 1993 to investigate the mass rape allegations. In March 1993, the Commission on the Status of Women requested through resolution 37/3 urging all member states to provide funds for the rehabilitation of the rape victims and all intergovernmental and non-governmental agencies to provide services for these women.

The Committee further states that rape, other violent acts or attacks on women's dignity constitute grave breaches of the Fourth Geneva Convention and the customary humanitarian law. Measures taken to bring to justice those responsible for grave breaches of humanitarian law must therefore include prosecution of rape as well as other violent acts or attacks on the dignity of women.⁷³

⁷² Helsinki Watch 1992, 8.

⁷³ United Nations Commission on Human Rights 1993, 7.

UNICEF also provided humanitarian aid to women and children and psycho-social development program to help traumatized children.⁷⁴ UNICEF reported in its “The State of the World’s Children 1996 Children in War” publication details about rape being used as a “deliberate policy to rape teenage girls and force them to bear ‘the enemy’s’ child”⁷⁵ during the Bosnian conflict. UNESCO in cooperation with the World Health Organization asked in May 1993 for a study to investigate the use of rape as a weapon of war, its causes and consequences.

The Executive Council of UNESCO, meeting at its 141st session from 10 to 28 May 1993, requested that a study be undertaken on “the use of rape as a weapon of war, its cause and consequences.” The study is to be oriented towards the elaboration of a plan, in collaboration with WHO and UNICEF, for the rehabilitation of the women from Bosnia and Herzegovina who were victims of systematic rape and their children.⁷⁶

2. *THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)*

In 2005, Tribunal prosecutor Dirk Ryneveld called the rape and sexual enslavement of Bosniak women in Foca in 1992 “as organized activities within a larger program of ethnic cleansing undertaken across Bosnia in 1992.”⁷⁷ Further, during the trial Ryneveld referred to these rapes in Foca “an organized campaign” and a “policy of ethnic cleansing unleashed by the Bosnian Serb leadership on the non-Serb civilian population.”⁷⁸

According to Tribunal records, the so-called “Ram” or “Brana” Plan, written by high-level Serb Army officers in 1991, was a document that very detailed and specifically outlined the overarching goals of ethnic cleansing, specifically defining women and

⁷⁴ United Nations Commission on Human Rights 1993, 8.

⁷⁵ UNICEF 1996.

⁷⁶ United Nations Commission on Human Rights 1993, 11.

⁷⁷ Hagan, John 2003, 183.

⁷⁸ Ibid., 183.

children as the most effective victims of psychological warfare. In the plan, officials defined targeted communities as a unit or entity “the religious and social structure is most fragile. We refer to the women, especially adolescents and to the children specifically.”⁷⁹ As the plan expressively targeted women and children, such warfare became pragmatic, a systematic tool to advance specific goals (e.g. territorial gains). It matured and became “military policy.”⁸⁰ Daryl Mundis, a U.S. attorney in the Tribunal prosecution of the rape cases of Bosnia women in Foca in 1992, established during the trials a distinct correlation between the rapes throughout Bosnia and ethnic cleansing by Serbian soldiers and officials in the pursuit of a Greater Serbia. “You can certainly draw inferences that there might have been, or that there was, a common purpose or plan.”⁸¹

According to Mundis, rape becomes “a common purpose or plan” as these cases carry similar patterns and similar types of progressions.⁸² Marina Bowder writes that the mass detentions and concentration camps in Bosnia “would not have been possible without the systematic and preplanned support of the ruling elites in Croatia and Serbia, and the organizations behind them.”⁸³ Also during the Foca trial in 2005, prosecutor Dirk Ryneveld was tasked by the court to prove “that the armed conflict against the civilian population was widespread.”⁸⁴ Ryneveld successfully arguing that “rape is one of the constituent ingredients in the widespread or systematic attacking.”⁸⁵ In the verdict, Tribunal Judge Florence Mumba wrote in her three-hundred page judgment that the

⁷⁹ Card, Claudia 2008, 177.

⁸⁰ Allen, Beverly 1996, 56.

⁸¹ Hagan, John 2003, 180.

⁸² Ibid., 181.

⁸³ Bowder, Marina; Jones, Francis R. and Rusmir Mahmutcehajic 2000, 61.

⁸⁴ Hagan, John 2003, 192.

⁸⁵ Ibid., 181.

Bosnian Serb Army was targeting Muslim women “and used rape camps along with expulsion as instruments of terror.”⁸⁶

3. *THE INTERNATIONAL MEDIA*

During the Bosnia conflict, journalists found themselves involuntarily thrust into the forefront of the war, its quickly unraveling events and increasing brutality. They became first account witnesses, uncovering and exposing the Serbian practice of ethnic cleansing in the early beginnings of the conflict such as in May 1992 in Zvornik in eastern Bosnia. Journalists were also the first ones to report about forced deportations and existence of concentration and rape camps such as in Foca near Sarajevo in 1992 and 1993. They also began to initiate the use of the analogy of rape as “a weapon of war all over Bosnia, a way of terrorizing the Muslim population into flight and thus fulfilling the Serb war aim of ethnic cleansing.”⁸⁷

As the conflict escalated, the media emerged as a powerful mechanism to exert pressure on institutions and governments about their policies.⁸⁸ The media fulfilled a basic and critical, yet inherently controversial dual role of disseminating images and information while pushing authorities to act. The 1992 Marshall and Williams ITN television report about the discovery of Serbian concentration camps, for example, had officials and states “caught off-guard and [left] unprepared for what emerged in the media.”⁸⁹ Then UN Under Secretary-General Kofi Annan was quoted, saying that governments and international institutions sometimes overcommitted or inadequately commit themselves because of the exposure through the media. “They have to do

⁸⁶ Hagan, John 2003, 199.

⁸⁷ Rieff, *Slaughterhouse*, 121.

⁸⁸ Paterson, James Gow & Preston, Alison, ed. 1996, 2.

⁸⁹ Paterson, James Gow & Preston, Alison, ed. 1996, 7.

something or face a public relations disaster.”⁹⁰ While UN General Lewis MacKenzie, for example, was quoted on saying in 1993 that “the media was the only major weapons system I had,”⁹¹ news reporting of the rapidly unfolding of events seemed not always convenient for many countries. British Foreign Secretary Douglas Hurd was quoted of saying in September 1993 that the television coverage of the Bosnia conflict “forces foreign policy makers to give one of the current twenty-five crises in the world greater priority.”⁹²

While the horrific images of the ITN television report and pictures of the emaciated Muslim prisoners shown behind barbed wires shocked the world, such reports were crucial in galvanizing an international political will, which up until then was nonexistent.⁹³ The media, likewise, was also used as a public relations mechanisms and a tool of manipulation. Serbian leaders and surprisingly enough also New York Times reporter John Burns later publically asserted – falsely so - that the Muslim prisoner, in fact, was not a Muslim, but Serbian. Later the prisoner was identified as Fikret Alic, a Muslim.⁹⁴

Newly emerging user-friendly and readily available technology in the early 1990s such as handheld Video camcorder became also vital instruments to expose atrocities. Communication scholars in 1996 coined the Yugoslav conflict as the “most recorded and reported of all conflicts.”⁹⁵

⁹⁰ Paterson, James Gow & Preston, Alison, ed. 1996, 86.

⁹¹ Ibid., 173.

⁹² Ibid., 173.

⁹³ Ibid., 89.

⁹⁴ Ibid., 6.

⁹⁵ Paterson, James Gow & Preston, Alison, ed. 1996, 3.

a) SETTING THE STAGE

Newsday journalist Roy Gutman, who won in 1993 the Pulitzer Prize for his coverage of the Bosnia conflict, was the first journalists who reported about the detention camps and the systematic rape of Bosnian women and children.⁹⁶ Gutman and the German freelance photographer Andre Kaiser began in the summer of 1992 to provide actual proof through interviews and photographs about the prisoners and gruesome conditions in these detention camps such in Omarska and Brcko Luka in northern Bosni.

Newsday was at the time only an 800,000 circulation, New York City-based newspaper with a small pool of international reporters. But with its first news coverage about the conflict and its aggressive headline writing, for example, Newsday established immediately a mindset among its readers of urgency. Gutman's first story, published in Aug. 1992, carried the headline THE DEATH CAMPS OF BOSNIA "in two-inch letters."⁹⁷ Such portrayal of the conflict – connected to the imagery of a detention camp - immediately painted a picture of horror that surrounded this conflict. This established a baseline and framework of urgency and public outrage that then became the environment that consistently underscored the Gutman's news articles about the rape camps.

The editorial decision to implement very effective headline writing not only sold papers and solicited readers, but it also the caught world's and political leaders' attention. It put pressure on international political leaders and institutions and organizations to intervene. The story was immediately distributed by the International newswire and consequently published in many other international media outlets. Other Gutman articles effectively carried similarly grim headlines such "Hidden Horror," July 19, 1992;

⁹⁶ Helsinki Watch 1993, 85.

⁹⁷ Gutman 1993, xiii.

“Witness Tells of Serbian Death Camp,” July 19, 1992; “For Muslims, Misery,” July 21, 1992; “Like Auschwitz,” July 21, 1992 and “The Death Camps of Bosnia,” Aug. 2, 1992.

⁹⁸ The words used “like Auschwitz,” “Death Camps” and “concentration camps” effectively articulated the severity and crisis mode of the situation in Bosnia.

b) REPORTING ABOUT RAPE

The theme of rape, however, and its systematic nature entered only very gradually into Gutman’s news reporting. With his article “Muslims Relate Atrocities,” published in July 21, 1992 Gutman begins to write about the daily rapes in the detention camps.

At night there were rapes. Guards entered with flashlights looking for young women, whom they took away for the night. If anyone resisted, they were killed. Only a few did.⁹⁹

Gutman began in late July 1992 to connect with Bosnian Muslim leaders to find out about the rumors about the systematic rape of Muslim women. In his Aug. 2, 1992 article “Witness’s tale of death and torture,” Gutman just briefly mentions that Muslim prisoners experienced every almost imaginable form of torture and humiliation including the “murder and mutilation of male prisoners and the gang rape of Muslim women.”¹⁰⁰ Another article in Nov. 1992 reported also about rape, but likewise only in a very subdued manner, attesting about the gradual realization,

The women arrived in tears. They had been taken off the buses and stripped naked. The pretty ones had been taken away. No one could see where they went. They could only hear the screams.¹⁰¹

In summer of 1992, Sevk Omerbasic, a distinguished cleric, told Gutman about women being first separated in June 1992 from their husbands (who have been taken to a

⁹⁸ Helsinki Watch 1992, 67.

⁹⁹ Gutman 1993, 41.

¹⁰⁰ Ibid., 51.

¹⁰¹ Ibid., 123.

concentration camp at Brcko, at central Bosnia at the Sava River). Then they separated the women from the daughters, raped the daughters and later release them to reconnect with their mothers in Tuzla, crossing a minefield.

Interviews obtained by Gutman became the first eye witness accounts and evidence of the ordeals. But Gutman not only interviewed the rape victims, his photographer Andree Kaiser also was able to take a group photo after a meeting with the mothers and daughters in the gymnasium in Tuzla, where many victims spend their nights. Kaisers' photos were published in the German popular magazine Stern. The German TV show Mona Lisa broadcasted its interviews with the rape victims in November 1992. What followed was a gain a storm of public outrage by governments, women's rights groups and other organizations.¹⁰²

With the February 1993 article "One by One" – The Ordeal of Women Raped and Beaten in Bosnia Camp" Gutman reports further details about the systematic nature of rape during the Bosnian conflict was unveiled,

They took the women one by one," she said, describing the nightly beatings and rapes. "Not every one very day. They had a timetable. I was taken out four nights. Every night, a different one."¹⁰³

After the publications of these articles, many camps were closed and prisoners were moved across the region to other detention facilities. Gutman reports about the European Community investigation, which found that nearly 20,000 Muslim women were systematically raped.¹⁰⁴ In March 1993, with the article "Going Nowhere: US War Crime Commission Boggled Down in Bosnia Death Camp Probe," Gutman attacks a paralyzed U.N. bureaucracy, writing as follows,

¹⁰² Gutman 1993, xv.

¹⁰³ Ibid., 144.

¹⁰⁴ Gutman 1993, 146.

Five Months after a reluctant UN Security Council announced a formal probe into reports of death camps, mass rape and deportations in Bosnia, the panel intended to prepare the way for a war crimes tribunal is bogged down in confusion.¹⁰⁵

In April 1993, Gutman reported about one of the most notorious rape detention facilities during the Bosnia conflict: Foca in eastern Bosnia. In the article “Three Who Planned Rape and Murder. Leaders Inner Circle set up Rape Camp in Muslim Town” Gutman for the first time used the term: rape camp. Introducing this term and beginning to utilizing it consistently described not only the systematic nature of the mass rapes during the conflict, but links the horrifically violent act of rape with the equally terrorizing image of a camp, a detention facility without escape.

Gutman writes,

But for two months in 1992, between June and August, it [transit facility] functioned as a rape camp, holding 74 people, including about 50 women. Partizan [sports center] was one of dozens of Serb rape camps in Bosnia – some are said to be still in operation – and it was prominently located, next door to the police station.¹⁰⁶

The gripping details of the narrative captures well the systematic nature of these rapes:

Each night they selected 10 or more Muslim women. The men led them at gunpoint to a nearby house and raped them, witnesses and victims said. one 27-year-old women told Newsday she was raped up to six times a night. Another woman was raped in the hall before the eyes of the others held there, witnesses said.¹⁰⁷

In this article, rape is also clearly correlated to the ethnic cleansing that has been orchestrated by the Serbian military.

But a three-month Newsday investigation into ethnic cleansing in Foca suggests that those directing the process were members of Karadzic’s inner circle. They called in paramilitary troops to conquer the town and gave the orders to “cleanse” Foca of all non-

¹⁰⁵ Gutman 1993, 145.

¹⁰⁶ Ibid., 157.

¹⁰⁷ Ibid., 157.

Serbs, broad array of witnesses said. They set up concentration camps and rape camps.¹⁰⁸

The numerous articles of The Guardian journalist Maggie O'Kane in late 1992 about the systematic rape of women also added to the fire storm of international outrage. It was also credited for the European Council to set up a commission to investigate the mass rape claims further.¹⁰⁹

Increasingly, journalists such as Washington Post reporter David Rieff also connected their reporting about the conflict to "genocide" when writing about rape.

Under international law, not all Bosnian Muslims had to be massacred, raped, interned or displaced for the Bosnian Muslim people to have been the victims of genocide. The rape of Bosnian women, the slaughter of Bosnian men and what Goldstone's indictment describes as "the targeting of Bosnian Muslim and Bosnian Croat communities, and in particular their political leaders, intellectuals and professionals" is well documented.¹¹⁰

Further, Rieff also reported about the Serbian obsession with ethnicity and thereby connected the ongoing genocide and ethnic cleansing with the terminology of reproduction and fertility.

Herzegovina, they were obsessed with the fecundity of the Muslims. If we had allowed things to take their course," one of Karadzic's aides once told me in Pale, "the Muslims would have outbred us."¹¹¹

Rieff's reporting of the Tribunal procedures, the prosecution of the atrocities and war crimes through his deliberate usage of specific rhetoric instantly familiarized the public with the horrors of the conflict. In the following excerpt, the reader finds the

¹⁰⁸ Gutman 1993, 159.

¹⁰⁹ Paterson, James Gow & Preston, Alison, ed. 1996, 95.

¹¹⁰ Rieff, 1996, 5.

¹¹¹ Ibid., 5.

newly constructed word of “ethnic cleansing,” and “systematic rape of women” and “new ethnic identity” connected.

This was why, from the start, ethnic cleansing of people and the destruction of mosques and the Catholic churches attended by Croats was the principal Serb war aim. And Karadzic was the architect of this policy, just as Mladic was its executor. As the Trial Chamber judges wrote, “the systematic rape of women... is in some cases intended to transmit a new ethnic identity to the child... The destruction of mosques and Catholic churches is designed to annihilate the centuries’ long presence of the group or groups [in Bosnia].”¹¹²

Gutman also very effectively exposed the political link between rape and the overarching Serbian objectives of the war. Here in his April 1993 article Gutman writes how the mass rapes have been specifically ordered by the Serbian leadership.

According to Bosnian Muslim sources, Ostojic played a critical role in establishing a pattern of abuse of women. Alija Delimustafic, who was Bosnia’s interior minister at the time of the capture of Foca, said he had received direct evidence from wiretaps that proved Ostojic had ordered the raping of women in Foca.¹¹³

Freelance Journalists such as Alexandra Stiglmayer together with journalist George Rodrigue¹¹⁴ began in 1992 to chronicle the despair of women during the Bosnia conflict. After the end of the conflict Stiglmayer met with women’s groups, local doctors, psychiatrists, and Bosnian government officials and connected with rape victims. This resulted in one of the first and most comprehensive accounts and interviews about the mass rapes during the conflict.¹¹⁵ Such accounts again brought increased attention to rape as a systematic weapon of war.

The media coverage of the conflict, however, was also often criticized by scholars and government officials likewise. Former Armed Services Minister Archie Hamilton

¹¹² Rieff, 1996, 6.

¹¹³ Gutman 1993, 161.

¹¹⁴ Stiglmayer 1994, 83.

¹¹⁵ Stiglmayer 1994, 82-169.

criticized the overexposure of media reports in September of 1993 while Foreign Secretary Douglas Hurd lobbied for more coverage. "The tragedy remains a tragedy, even out of the headlines."¹¹⁶ The ebb and flows of international news reporting, in particular television coverage, remained, some scholars argued, arbitrary and often a matter of sensationalism. "Television lights are simply the contemporary version of the will of the gods. There is no justice or virtue in media coverage, only luck."¹¹⁷

c) *IMAGES OF THE UNIMAGINABLE*

Shortly after Gutman filed his first stories in the summer of 1992 about the detention facilities (death camps) in Bosnia, the British television station ITN was able to get access to the camp in Trnopolje. The images of detainees, showing their naked emaciated bodies behind barbed wires, shocked the world.¹¹⁸ This imagery again connected the television viewers with the well-known World War II images of the Nazi regime and Holocaust atrocities.

German freelance photographer Andree Kaiser, who worked with Gutman, also took secretly pictures of a queue of Muslim men standing on a hill in July of 1992, their heads bowing down, waiting to be shorn. The image again sent shock waves through the international community, again relating these images to Nazi concentration camp imagery. Similar, photography of rape victims from Brezovo Polje, northern Bosnia and a group photo of mothers and daughters reunited after the mothers being sent across minefields and the daughters systematically raped and then released, also Brezovo Polje, shocked the world.¹¹⁹

¹¹⁶ Paterson, James Gow & Preston, Alison, ed. 1996, 114.

¹¹⁷ Ibid., 114.

¹¹⁸ Gutman 1993, xiii.

¹¹⁹ Gutman 1993, 52-3.

4. *NON-GOVERNMENTAL ORGANIZATIONS (NGOS) AND TRANSNATIONAL ACTION NETWORKS (TANS)*

When the UN Security Council created the ICTY in early 1993 with resolution 808, the UN received information from the ground from various transnational networks such as the International Committee of the Red Cross and non-governmental organizations. These organizations worked became later first-account witnesses of the systematic use of rape as a weapon of war. These organizations were,

The Secretary-General has also received comments from the International Committee of the Red Cross (ICRC) and from the following non-governmental organizations: Amnesty International, Association Internationale des Jeunes Avocats, Ethnic Minorities Barristers; Association, Federation internationale des femmes des carriers juridiques, International Criminal Police Organization, Jacob Blaustein Institution for the Advancement of Human rights, Lawyers Committee for Human Rights, National Alliance of Women's Organizations (NAWO), and Parliamentarians for Global Actions. Observations have also been received from international meetings and individual experts in relevant fields.¹²⁰

The most active and outspoken group, however, became the Human Rights Watch. The Helsinki Watch, a division of Human Rights Watch, published its first extensive report about the conflict and the human rights violations in August 1992. A second report was published in April 1993. The first report covered two missions to the area of former Yugoslavia on March 19 to April 28 and May 20 to June 19, 1992.¹²¹ The second report was based on three missions to Bosnia between Sept. 26 to Nov. 2, 1992; Jan. 2 – 6, 1993 and February 9-11, 1993.

The first report referred to early findings that suggested the possibility of genocide occurring. It asked for the U.N. Security Council to intervene in accordance of

¹²⁰ ICTY 1993, 5.

¹²¹ Helsinki Watch 1992, vii.

the 1949 Convention on the Prevention and Punishment of the Crime of Genocide.¹²²

The report asserted that the Serb implement ethnic-cleansing very strategically once a territory has been taken over. The report describes such -ethnic cleansing as the “systematic execution, detention, deportation and displacement of non-Serbs.”¹²³ The 1992 report characterizes the following Human Rights violations: Executions of civilians, ethnic cleansing and forcible displacement, mistreatment of prisoners etc. but does not mention systematic rape of women at all. The report confirms the existence of 11 concentration camps, usually soccer stadiums, schools or military barracks.¹²⁴

The 1993 report, on the other hand, dedicated very detailed and separate sections of rape for each of the four geographical areas of Bosnia. Women who were interviewed by the Helsinki Watch team, including officials of hospitals and psychiatric clinics throughout the country, described in first-person accounts how they have been gang raped, “cursed by rapists who stated their intention forcibly to impregnate women”¹²⁵ and how Serb soldiers organized the systematic nature of these rapes. The eyewitness accounts portray in detail how “the Serbian soldiers had list from which they called out women’s names”¹²⁶ and women boarded organized buses to transport them to rape facilities. Helsinki Watch also linked these eyewitness accounts to the question of accountability. The report eludes that Serbian leadership and individuals in authority positions have endorsed “the rape of women in an organized fashion” and “that local commanders must know that their soldiers are raping women.”¹²⁷

¹²² Helsinki Watch 1992, 1.

¹²³ Ibid., 11.

¹²⁴ Ibid., 64.

¹²⁵ Helsinki Watch 1993, 21.

¹²⁶ Ibid., 216.

¹²⁷ Helsinki Watch 1993, 22.

The eyewitness accounts also detail the enormity of these rapes, “that the school hall where the women were forced to sit during the day with their knees pulled up to their chests was packed full of women of all ages.”¹²⁸ The town of Foca in southeastern Bosnia was in a particular named in the report as an area where “rape appears to have been rampant and an accepted mode of behavior for Serbian soldiers.”¹²⁹ Women were often transported to different facilities and repeatedly raped in each of them.¹³⁰

A report published by the human rights organization Amnesty International in January 1993 for the first time alerted the international community about the organized or systematic nature of mass rapes during the conflict.

Although much more information is necessary to complete the picture and information is not available to confirm many of the allegations which have been made, Amnesty International believes that the rape and sexual abuse of women, the great majority of them Muslims, by Serbian forces has occurred in many places in Bosnia-Herzegovina and in some cases has been carried out in an organized or systematic way, with the deliberate detention of women for the purpose of rape and sexual abuse.¹³¹

The report details camps where women are specifically held for the purpose to be raped and sometimes “with the apparent encouragement of their commanders.”¹³² However, the report remains cautious as to whether or not rape has been used by Serbian leaders as a weapon of war.

Most of the interviews and information outlined in the report originate from human rights and women’s groups and journalists. The report detailed the mass rape in June of 1992 of 40 young Muslim women between the ages of 15 and 30 years old in a furniture warehouse by Serbian soldiers in the Caparde in northern Bosnia; other rapes in

¹²⁸ Helsinki Watch 1993, 218.

¹²⁹ Ibid., 242.

¹³⁰ Ibid., 242.

¹³¹ Amnesty International 1993, 4.

¹³² Ibid., 5.

hotels, fire stations. Pointing to these human rights violations and violation of humanitarian law, the report urges the international community including institutions to hold political and military leadership accountable “for the conduct of the forces they command and for bringing perpetrators of abuses to account.”¹³³

Also, the International Committee of the Red Cross, the International federation of Red Cross and the Red Crescent Societies likewise issued its outrage about the systematic use of rape as a weapon of war during the outrage,

ICRC has repeatedly recalled that the civilian population in Bosnia and Herzegovina continues to suffer all types of violations: summary executions, torture, rape, arbitrary detention, forced transfers, harassment, taking of hostages, expropriation, threats and intimidation. All the violations are equally condemned and completely unacceptable. ICRC points out that these violations are committed by all the parties to the conflicts, even if the degree of intensity varies.¹³⁴

However, the International Red Cross pointed out that it “does not possess sufficient elements to confirm the allegation that there is a practice of systematic rape linked to a more global aim”¹³⁵ because it does not have access to all of Bosnia and only a few testimonies have been collected.

5. THE STATE OR STATE-LIKE ENTITIES

When Yugoslavia started to fall apart, different factions within the country had different expectation from external actors. For example, Croatia depended very heavily on Europe and the promise of an EU and NATO membership. The Serbs maintained their close links to Russia and Bosnian Muslim hoped for the U.S. to become more constructively involved.¹³⁶

¹³³ Amnesty International 1993, 5.

¹³⁴ United Nations Commission on Human Rights 1993, 12 and 13.

¹³⁵ Ibid., 13.

¹³⁶ Buzan, Barry and Waever, Ole; 2003, 383.

a) EUROPE, THE EUROPE COMMUNITY/UNION AND THE SECURITIZATION OF RAPE

After the end of the Cold War with the dissolution of the Soviet Union and a rapidly political reshaping of Eastern Europe, the securitization priorities on the European continent shifted. Security demands began to expand beyond the boundaries of the then called European Community (later European Union), beyond the solely militaristic point of view and began to include issues such as immigration, ethnic conflict, organized crime and terrorism.

When the conflict in Bosnia first erupted in April 1992, the European Union (then called the European Community) was initially very willing and eager to engage itself as a self-efficient leader to solve the brewing Yugoslavian crisis. The then former Luxembourg Foreign Minister Jacques Poos and president of the European Community was quoted as saying “The hour of Europe has dawned.”¹³⁷ U.N. Security Council resolutions 752 of May 15, 1992 and 757 of May 30, 1992 already pointed in various paragraphs to the active involvement of the European community to resolve the Bosnian conflict peacefully.¹³⁸ According to some scholars, during the Bosnia conflict external actors such as the European Community were critical to halt the violence. The notion of Bosnia being part of Europe weighed equally heavy in this equation. “Being seen as part of ‘us’ and therefore impossible to let descend into barbarism and cruelty to the degree which the West can accept in Africa.”¹³⁹

However, the reality proved differently. The Helsinki Watch report, published in August 1992, asserts that most European Community states tried to remain uninvolved

¹³⁷ Hendriksen, Dag 2007, 90.

¹³⁸ United Nations Security Council 1992, 1-2.

¹³⁹ Buzan, Barry and Waever, Ole; 2003, 387.

and to distance themselves from the conflict. Most European countries have refused or remained reluctant to take in refugees, for example. While an early European Council monitoring mission, according to the report, documented many of the Human Rights violations in early 1992,¹⁴⁰ the Council officials left Bosnia on May 12, 1992 after a member of the mission was killed.¹⁴¹

Likewise the United Nations leaned very heavily on the European Community to solve the Balkan crisis. In 1992 in the Security Council's resolution 798, for example, the Council underscored the importance of the involvement of the European Council and the European Community to investigate the existence of detention camps and the alleged atrocities, including the "massive, organized and systematic detention and rape of women."¹⁴² Some countries tried to initiate their own legal mechanisms, but remained rather ineffective in doing so. For example, in May 1993, the Bavarian Secretary for Labor, Family and Socialorder filed a criminal claim with the German Attorney General (Generalbundesanwalt) and charged Serbian authorities with genocide and war crimes in the Bosnian war, including mass rapes in accordance with German Law and the Geneva Conventions.¹⁴³

In December 1992, at the end of the Edinburgh European Council summit, the Council wrote in a two-page annex to the "Conclusions of the Presidency – Edinburgh, December 12, 1992, Declaration on the Treatment of Muslim Women in the Former Yugoslavia" – that the "European Council is appalled by the systematic detention and rape of Muslim women" and called these acts "a deliberate strategy to terrorize the

¹⁴⁰ Helsinki Watch 1992, 17.

¹⁴¹ Ibid., 174.

¹⁴² United Nations Security Council 1992.

¹⁴³ Philipp, Christiane E. 1993.

Muslim community”¹⁴⁴ in Bosnia and as a mechanism for ethnic-cleansing. It further demanded in the declaration not only the immediate closure of camps, in particular where women were held, but also ordered the “rapid dispatch of a delegation of all member states, headed by Dame Anne Warburton” to investigate the allegations “and to report urgently to the Foreign Ministers.”¹⁴⁵ The delegation then travelled to Zagreb Dec. 20 – 24, 1992 and January 19 – 21, 1993 and to Bosnia-Herzegovina Jan. 22 – 26, 1993. It released a report, called the Warburton Mission II Report, in February 1993 through the Ministry of Foreign Affairs in Copenhagen.

In the report to the European Community foreign ministers points to a Serb concentration of mass rapes in areas heavily populated by Muslim citizens. Such attacks have been committed by Serb forces to “carve out ethnically homogeneous territory.”¹⁴⁶ The report further, for the first time, accounted for the enormity of these mass rapes. The report estimated the number of rape victims varying from 10,000 to 60,000, but estimated “the number of victims at around 20,000.”¹⁴⁷ The report also pointed for the first time to force impregnations “to make women pregnant and then detain them until pregnancy is far enough advanced to make termination impossible.”¹⁴⁸ Furthermore, the report asserted toward the systematic nature of rape where women were often raped in public to use rape “as a weapon of war to force the population to leave their homes.”¹⁴⁹ The report throughout referred to rape as “an expansionist strategy,” and “serving a strategic purpose in itself.”¹⁵⁰ The report recommended for the EC Commission to “seriously consider

¹⁴⁴ European Council Declaration - Annex D. 2 1992, 2.

¹⁴⁵ Ibid., 2.

¹⁴⁶ Warburton, Anne 1993, 3.

¹⁴⁷ Ibid., 3.

¹⁴⁸ Warburton, Anne 1993, 3.

¹⁴⁹ Ibid., 4.

¹⁵⁰ Ibid., 4.

establishing a presence in the area”¹⁵¹ to help with assisting relief efforts. The mission also encouraged to categorize rape during conflict as “war crimes, irrespective of whether they occur in national or international conflicts.”¹⁵²

In 1994, the European Commission on Human Rights found that a “state has a positive obligation to provide adequate protection for women against gender-based violence and harassment.”¹⁵³

b) THE UNITED STATES AND THE SECURITIZATION OF RAPE

In the beginning of the conflict, then Secretary of State Warren Christopher was quoted in saying that Bosnia was “a humanitarian crisis a long way from home, in the middle of another continent.”¹⁵⁴ In 1995, when a series of critical NATO campaigns would eventually end the Bosnian War, U.S. president Bill Clinton gave a speech where he asserted that “something had to be done”¹⁵⁵ Scholars such as Barry Buzan have long argued that within this three-year time span - between 1992 and 1995 - securitization took place. The U.S. government finally feared the ramifications from a crisis a long way from home – and worried that this conflict “can spread and become a problem in the USA.”¹⁵⁶

Human Rights activists and organizations portrayed the efforts of the United States early in the conflict as “timid and belated”¹⁵⁷ and as “sluggish and inconsistent.”

¹⁵⁸ In 1993 these voices grew increasingly impatient, attacking not only the United States as “unable or unwilling to do more than intermittently and, in many cases, inadequately

¹⁵¹ Warburton, Anne 1993, 5.

¹⁵² Ibid., 8.

¹⁵³ Whiteside v. United Kingdom 1994)

¹⁵⁴ Gutman 1993, xli.

¹⁵⁵ Buzan, Barry and Waever, Ole; 2003, 390.

¹⁵⁶ Buzan, Barry and Waever, Ole; 2003, 390.

¹⁵⁷ Helsinki Watch 1992, 17.

¹⁵⁸ Ibid., 184.

deliver humanitarian assistance; adopt resolutions; and conduct seemingly endless and fruitless negotiations”¹⁵⁹ also European countries, the European Community, NATO and the United Nations.

The relationship between the United States and Bosnia was difficult and inherently one-sided. It was based on high expectations on the Bosnian side, met by political lackluster interest from the U.S. For example, the 1993 Vance-Owen plan (named after the former British foreign secretary David Owen and former U.S. Secretary of State Cyrus Vance) was proposed to bypass the ethnic tensions and to eventually resolve the crisis. The Bosnian rejection of the plan, however, exemplifies the inherent flaw and misinterpretation of the U.S. and Bosnia relationship. The Vance-Owen plan would have divided Bosnia into ten ethnical sections: “three with Serv majority,, two with a Croat majority, three with a Muslim majority, and one mixed Croat-Muslim”¹⁶⁰ area and with Sarajevo remaining its own entity. However, many scholars, believe that the close alignment of the Muslim Bosnians with some key U.S. leaders was the reason why the plan was at the time not accepted by Bosnian leaders. The plan failed “primarily because voices in the United States – in Congress, as much as from the administration – gave the Muslims a motive to ditch the agreement.”¹⁶¹ With the Bosnian conflict emerging on the heels of the first Gulf War, many Bosnian officials and leaders believed at the time that the international community, spearheaded by the U.S., would provide a Desert Storm-like international cooperation.¹⁶²

¹⁵⁹ Helsinki Watch 1993, 1.

¹⁶⁰ Halberstam, David 2001, 198.

¹⁶¹ Buzan, Barry and Waever, Ole; 2003, 383.

¹⁶² Paterson, James Gow & Preston, Alison, ed. 1996, 109.

U.S. leadership never specifically linked rape or the systematic use of rape to U.S. or global security. In a 1993 letter, Human Rights Watch wrote to Cyrus Vance that ethnic-cleansing takes place in Bosnia through “murder, rape, torture, pillage and deportation.”¹⁶³ In a Jan. 27, 1993 letter from Robert A. Bradtke, Acting Assistant Secretary for Legislative Affairs to Senator Arlen Specter, Bradtke referred to rape during war and international legal accountability. He mentioned that the U.S. Department of State believes “the legal basis for prosecuting troops for rape is well established under ... customary international law.”¹⁶⁴

Otherwise, the U.S. government never did specifically point to rape a systematic weapon of war in Bosnia or as a catalyst for the deployment of specific U.S. or NATO military actions during the conflict.

In the early beginnings of the conflict, Bosnia officials were hoping for a Desert Storm-like involvement and intervention of the international community, spearheaded by the U.S. However, later a general disenchantment set in. Ejup Ganic, Izetbegovic’s deputy, was quoted in the Guardian in August 1992, comparing the Kuwait invasion with the Bosnian conflict: “If you are a small country without oil, without strategic resources, the world only sends you messages like “stay brave.”¹⁶⁵

c) INTERNALLY: BOSNIA

With news of rape camps in the heart of Europe shocking the world in late 1992 and early 1993, Bosnian officials tried to take advantage of the political momentum. The

¹⁶³ Helsinki Watch 1993, 407.

¹⁶⁴ Bradtke, Robert A. 1993.

¹⁶⁵ Paterson, James Gow & Preston, Alison, ed. 1996, 109.

Bosnian Government used the international and national media reports and publications of mass rapes as a tool to galvanize and organize support against the Serbs.¹⁶⁶

On August 24, 1993, Bosnian Ambassador to the U.N. Muhamed Sacirbey, pleaded in a speech before the U.N. Security Council with the international community to intervene in the conflict. In his speech Sacirbey emphasis on the gravity and brutality of the atrocities in Bosnia, not seen in Europe since World War II. He used the imagery of “gang rape” to create this sense of unprecedented inhumanity. “Excellencies, Bosnia and Herzegovina is being gang raped,” he tells Council members.¹⁶⁷ “As we know, systematic rape has been one of the weapons of this aggression against the Bosnian women.”¹⁶⁸

In 1993, the Bosnian State Commission on War Crimes investigated and charged several Serbian leaders with war crimes such as in Foca. Since Serbian forces did not provide international journalists with access to Foca, for example, the Commission relied on witness accounts from former detainees to attest for “systematic rape in and around Foca and of the rape camp in the heart of the town.”¹⁶⁹ In March of 1993, Bosnia sued Serbia and Montenegro in the International Court of Justice (ICJ). In the application Bosnia not only alleged the mass killings, but also asserted rape as a method of terror and systematic humiliation as genocide. The application specifically refers to the “systematic rapes of Muslim women, perpetrated as part of genocide against the Muslims in Bosnia.”¹⁷⁰ The court, however, did not issue a judgment until 2007, when it found that it

¹⁶⁶ Maass, Peter 1992.

¹⁶⁷ Stjepan Gabriel Meštrović 1994, xi.

¹⁶⁸ Stjepan Gabriel Meštrović 1994, xi.

¹⁶⁹ Gutman 1993, 160.

¹⁷⁰ Application of the Convention on the Prevention and Punishment of the Crime of genocide (Bosnia and Herzegovina v. Serbia and Montenegro) 2007.

cannot conclusively find that “these atrocities were committed with the specific intent to destroy the protected group”¹⁷¹ to establish genocide.

E. SECURITIZATION THROUGH AUDIENCE DEPLOYMENT OF EXTRAORDINARY MEASURERS

According to the Securitization Theory, an audience is an entity or a body of authoritative and legitimate units (institutions, NGOs, alliance, hegemonic leadership) that not only accept securitization from the securitizing actor or agent, but initiates and deploys actions. During the Bosnia conflict, these measures can be divided in legal actions, resources and commitments.

1. LEGAL ACTIONS THROUGH THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)

In 1993 the United Nations established the International Criminal Tribunal for the former Yugoslavia (ICTY), located in The Hague, Netherlands, tasked to investigate the atrocities committed during the Bosnian conflict. It was the first war crime court of the United Nations established since the tribunals of Nurnberg and Tokyo after World War II.¹⁷² The UN Security Council voted on Feb. 22, 1993 and passed resolution 808 to establish the ICTY “for the prosecution of persons responsible for serious violations of international humanitarian law” in particular as outlined in the Geneva Conventions of Aug. 12, 1949.¹⁷³ Crimes against Humanity were first addressed and named as such during the Nurnberg Trial after World War II and legally acknowledged as such in the Charger and Judgment of the Nurnberg Tribunal. The Geneva Conventions after World

¹⁷¹ Application of the Convention on the Prevention and Punishment of the Crime of genocide (Bosnia and Herzegovina v. Serbia and Montenegro) 2007.

¹⁷² ICTY, 2011.

¹⁷³ ICTY, 1993, 3.

War II became the internationally acknowledged body of law that would protect the victims and prisoners of war. The UN Security Council established various timelines for the Tribunal and mandated to complete the Tribunal's mission as soon as possible. Since 2004, the Tribunal's president and prosecutors were required every six months, according to UN Resolution 1534, to report to the Security Council about its progress.¹⁷⁴ The Tribunal estimated in 2010 to finish four of the 10 still outstanding cases, which are currently being worked on, by 2011. The case of the former Serbian leader Radovan Karadzic, who was captured in early 2011, is expected to complete by end of 2013. All pending appeals are scheduled to be resolved by end of 2014.¹⁷⁵

In an unprecedented court ruling, in the Kvočka et al. case, for example, judges ruled that rape was used as a systematic tool of war and terror and that a "hellish orgy of persecution occurred in the Omarska, Keraterm and Trnopolje camps of northwestern Bosnia."¹⁷⁶ According to some scholars, the fact that the International Crime Tribunal for the former Yugoslavia viewed and convicted rapists was a clear sign of recognition of rape as a "collective security problem."¹⁷⁷

In Feb. 2001, in the first of such convictions, an international tribunal in The Hague sentenced the three Bosnian-Serbs Kunarac, Kovac and Vukovic to long prison terms for sexual violence. The three were charged with detaining women in rape camps in Foca in the summer of 1992. The Tribunal in The Hague not only held Serbian perpetrators accountable for rape as a strategic method of war, but also as a form of torture, which violates the Geneva Convention. During the Tribunal, Kunarac was

¹⁷⁴ ICTY, 2011.

¹⁷⁵ ICTY, 2011.

¹⁷⁶ ICTY, 2011.

¹⁷⁷ Hansen, Lene. 2000, 55.

charged and later convicted “with command responsibility,” which elevated this conviction from the regular soldier to the level of authority. Kunarac was also quoted of saying that “Muslim women would no longer give birth to Muslim babies, but to Serb children.”¹⁷⁸ These statements tie into the argument of the utilizing of rape as a tool of ethnic cleansing in connection with forced impregnation. Forced impregnation, systematically implemented through rape camps, emerges as the key tool in this context. During the Bosnia conflict, more than 20,000 women have been raped,¹⁷⁹ many of those impregnated and held captive in numerous camps spread throughout the region until an abortion was impossible. Women were raped by Serbian soldiers “to give birth to little Chetniks/Serb soldiers.”¹⁸⁰

During the trials regular soldiers and high-ranking officers in supervising and authoritative positions likewise were held accountable. For example, in 2000 General Blasic, Colonel of the Croatian Defence was sentenced to 45 years in prison for crimes against humanity, including rape.

Since the implementation of the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993, the Tribunal charged 78 people with sexual violence. Out of these 78 people, 28 have been convicted as of mid 2011 of perpetrating sexual violence as defined in the tribunal’s Article 7(1). In total the Tribunal has charged more than 160 people with crimes.¹⁸¹

¹⁷⁸ Hagan, John 2003, 190.

¹⁷⁹ United Nations Commission on Human Rights 1993.

¹⁸⁰ Allen, Beverly 1996, 96.

¹⁸¹ ICTY, 2011.

2. *COMMITMENTS:*

In its report of June 30, 1993 to the U.N. Secretary-General about the Rape and abuse of women in the territory of the former Yugoslavia, the U.N. Commission on Human Rights pointed to seven responses of the United Nations:

- Negotiations to end the conflict in Bosnia
- The appointment of a special rapporteur for sexual violence during the war
- The establishment of a Commission of Experts for sexual violence
- Actions of the Commission on the Status of Women
- Actions of the Elimination of Discrimination against Women
- Actions of the U.N. Children's Fund, the U.N. High Commissioner for Refugees, the U.N. Education, Scientific and Cultural Organization and the World Health Organization.

3. *RESOURCES:*

The following other resources were also initiated because of the reported systematic nature of rape during the conflict:

- The Great Britain-based Marie Stopes International was contracted to establish psycho-social services for women in Bosnia. This program is predominately European Community funded.
- The Danish Refugee Council was expanding its services in Bosnia for women.
- The Soros foundation and the Jerrahi Women of California also provided social services for women.

- UNHCR signed an agreement with “Centre for Anti-War Action” for traumatized refugee children.¹⁸²

F. CONCLUSION

As this case study indicated, international institutions, international legal mechanisms such as the International Criminal Tribunal of the Former Yugoslavia, the international media as well as states such as European Community and the United States have from successfully articulated the securitization of rape as a systematic weapon during the Bosnian conflict. Further, through the implementation of very specific legal measures, judgments, convictions and rulings within the international law, the international community as a whole as very effectively deployment extraordinary measures never deployed before to punish in particular Serbian rape perpetrators. Also with deployment of resources through the United Nations, non-governmental organizations and transnational networks securitization of rape as a systematic weapon of war took place. Securitization as prescribed through the Securitization Theory occurred and was successful.

According to these findings, the actor and audience matrix concludes as follows:

Table 2. ACTOR AND AUDIENCE MATRIX BOSNIA II

Actors	The State incl. Political Opposition	Intl. Institutions	NGOs / TANS / Civil Society	National and Intl. Media
Audience				

¹⁸² United Nations Commission on Human Rights 1993, 11.

Speech Act	✓	✓	✓	✓
Other Rhetorical Measures (e.g. Imagery)				✓
Commitments	✓	✓	✓	
Legal Measures		✓		
Resources		✓	✓	

Yet, securitization's effectiveness and overarching significance in regard to systematic rape during the Bosnian War is questionable. The Bosnian conflict remains an example of the failure of international institutions and the indecisiveness of international cooperation in a new post-Cold War security environment. During the conflict well-meant agreements have come and gone, have been signed and broken. For example, according to a 1993 Amnesty International report on May 22, 1992 leaders of the four parties in Bosnia-Herzegovina signed an agreement – brokered by the International Red

Cross - to adhere and follow Article 3 of the Geneva Conventions of 1949.¹⁸³ In June 1992, forty Muslim women ages 15 to 30 years for days were “systematically raped by Serbian forces in the town of Caparde in northern Bosnia.”¹⁸⁴

¹⁸³ Amnesty International 1993, 3.

¹⁸⁴ Amnesty International 1993, 10.

CHAPTER V

SECURITIZATION OF RAPE - THE APPLICATION: CASE STUDY II RWANDA

A. INTRODUCTION

Similar to Bosnia, but different in its fiercely chaotic, less systematic and yet rampant brutal execution, hundreds of thousands of Tutsi women, girls and children were raped during the 1994 genocide in Rwanda. It is estimated that nearly every surviving woman and girl in Rwanda in 1994 was raped or sexually assaulted. “Rape was merely a prelude to death.”¹ These mass rapes were utilized as a mechanism of genocide – with the specific objective and intent to eradicate Tutsis as an ethnic group. Such genocidal rape is defined by scholars such as Christopher Mullins as “a systematically organized military tactic of terror and genocide” that not only terrorizes the population, but aims to create the spoilage of identity through the birth of mixed ethnic children. Further, Mullins writes that genocidal rape “elevates assaults to a tactic of terrorism.”² Such genocidal intent through the mechanism of rape was not unique for Rwanda, but was uniquely recognized as such because of Rwanda. The Tribunal of Rwanda became the first international legal entity that charged and convicted people for utilizing rape as a mechanism and tool of genocide.

During the Rwandan conflict, systematic rape was used to realize and advance specific strategic and political goals. Sexual violence against Tutsi women was orchestrated through the Hutu government to explicitly perpetrate genocide, for example, to gain territory. The Hutu government’s objectives also included very specific socio-

¹ Weitsman, Patricia A. 2008, 573.

² Mullins, Christopher W. 2009, 722.

political gains such as the dismantling of the societal fabric of Tutsi communities. Radio propaganda before the 1994 genocide targeted specifically Tutsi women. Tutsi women, for example, were believed within Rwandan culture to be more beautiful and therefore often were depicted by Hutu extremists as arrogant and “devious and completely devoted to the interests of their fathers and brothers.”³ Hutu extremists’ propaganda saw Tutsi women as “seductress spies, who believed they were far too good for Hutu men.”⁴ also These assertions transformed Tutsi women into political targets and connected gender to issues of national security and Hutus’ objective to preserve their power.

Similar to Bosnia, systematic sexual violence in Rwanda was used as the facilitator of terror. However, the systematic rape as implemented during the genocide in Rwanda differentiates itself from the mass rapes in Bosnia through its far reaching cultural implications. In Rwanda, the orders of rape “made by the leadership during the genocide not only increased the level of harm and shame done to the victims, their families and communities,”⁵ but it was also a method to entice the Hutu killers to “greater and more atrocious levels of violence.”⁶ Sexual violence, including public rapes and forced display of public nudity – inflicting tremendous shame on the victim according to Rwandan culture - was used to humiliate and “add socio-cultural insult to physical injury for the victim and the ethnic group itself.”⁷

Psychologically, sexual violence began to systematically erode and eventually destroy inter-communal fabrics in Rwanda. “Not only is the population itself eliminated,

³ Des Forges, Alison 1999, 163.

⁴ Weitsman, Patricia A. 2008, 573.

⁵ Mullins, Christopher W. 2009, 731.

⁶ Ibid., 731.

⁷ Ibid., 731.

but the final memories of the people's existence are tarnished.”⁸ In particular in Rwanda the derogation and identity spoilage of rape victims caused them to be shunned by their community including their husbands, as they are often considered unfit as potential wives. Rape victims in Rwanda are usually being ostracized by their family, their community and immediate environment. As such they remain unmarried. In Rwandan culture evaluates women “as mothers and wives, so to be unmarried is to lose one's status in society.”⁹ In Rwandan, marriage remains a critical source of material and social security and thus rape victims often find themselves without resources to survive and “live the rest of their lives in highly marginal social positions (e.g. begging, prostitution etc.)

Additionally, in Rwandan society, rape carries an even more severe and intrinsically social stigma, compared to other African cultures. Many Rwandan rape victims were infected with HIV/AIDS and thus become “unwanted in Rwandan society.” Amnesty International reported in a special 35-page report in April 2004 that 70 percent of all rape survivors during the genocide are HIV/AIDS infected.¹⁰ In traditional societies such as Rwanda, raped women also additionally lost their husbands. According to traditional law they don't have the right to inherit their husband's property.¹¹ Rape during wartime then functions as an “accidental” enforcer of these social norms, closely tied to economic security. It “destroys interpersonal relationships in the community and shatters a woman's sense of identity and security.”¹²

⁸ Mullins, Christopher W. 2009, 732.

⁹ Human Rights Watch/Africa and Women's Rights Project 1996.

¹⁰ Amnesty International 2004.

¹¹ McDougall, Gay J., Special Rapporteur 2000, 36.

¹² Bijleveld, Catrien. Morssinkhof, Aafke and Smeuler, Alette. 2009, 213.

Some scholars deem such consequences as a function of genocide since they assist in the “elimination of a population, physically and socially.”¹³

B. THE CONFLICT

In spring of 1994 hundreds of thousands of people of one ethnic group in Rwanda, a tiny Central-African country of the size of Maryland or Wales, were systematically butchered, stoned, or hacked to death - mostly by farm tools, machetes, clubs and hoes, with the international community looking on. By summer 1994, during what some scholars today call “the twentieth century’s fastest genocide,”¹⁴ nearly one million Tutsi Rwandans, one-tenth of the Rwandan population, had been massacred. With astounding pace, Rwanda saw its “rivers swollen by bloated bodies, the dead pile on top of one another inside churches.”¹⁵

The conflict in the former Belgian colony centered on the nearly more than a century-old tensions between the two ethnic groups: the minority Tutsi and the ruling Hutu. For decades, hostility between Tutsis, who once were in power, and Hutus in Rwanda sporadically surfaced and were usually violently suppressed. The minority Tutsis were the economic and political elite in the country until 1961, when majority Hutus took over the Rwandan leadership after the country’s independence. In 1990, the Tutsi-ruled Rwandan Patriotic Front (RPF) initiated attacks on the Hutu government from neighboring Uganda. According to court documents, since 1990 the Hutu had systematically orchestrated genocidal attacks of its Tutsi population. Such systematic strategy included the “preparation of lists of people to be eliminated.”¹⁶ According to

¹³ Mullins, Christopher W. 2009, 722.

¹⁴ Straus, Scott 2006, 41.

¹⁵ Sebarenzi, Joseph with Laura Ann Mullane 2009, 2.

¹⁶ Ntaganzwa Indictment 1998.

court documents, these lists were frequently updated and eventually systematically used, for example, at roadblocks during the 1994 genocide to identify potential targets.¹⁷ In 1991, a military commission report set up by then President Juvenal Habyarimana, defined the state's enemy to security as "Tutsis from inside or outside the country" and "anyone providing any kind of assistance to the main enemy."¹⁸ The reason for the "defeat of the enemy" (the killing of Tutsis) was the Tutsis "diversion of national opinion from the ethnic problem to the socio-economic problem between the rich and the poor."¹⁹

In early 1994, the brewing ethnic undercurrents escalated into a civil war and genocide after Rwandan President Juvenal Habyarimana's airplane was shot down April 6. After the president's assassination, a power vacuum emerged and Hutu hardliners took advantage of the fragile political situation. Attacks on Tutsis began immediately the next day at a rapid pace, ordered by the quickly formed interim government²⁰ and fueled by government-sponsored radio propaganda that urged Hutus to attack Tutsis to avenge the killing of the president.²¹ Local mayors and community leaders followed the government's orders to execute Tutsis. The Rwandan military and Hutu militias, called *Interhamwe*, first began to systematically kill moderate Tutsi officials and political opponents of the Hutu government. The victims of the early "systematic assassinations"²² included Rwandans Prime Minister. The subsequent massacre of hundreds of thousands of Tutsis followed.

¹⁷ Ntaganzwa Indictment 1998.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Kuperman, Alan J. 2000, 96.

²² Ntaganzwa Indictment 1998.

Many Tutsis fled their homes and villages and sought refuge in churches or other large assembly halls. The killers followed them, turning churches, stadiums, hospitals and schools first into deceiving safe havens and holding cells, then into “slaughterhouses.”²³ Within 14 days the majority of the country’s Tutsis were either attacked, maimed, injured or killed. By April 12, most of Rwanda’s Tutsis were murdered. By the end of the conflict the country had lost nearly three-quarters of its entire Tutsi population.²⁴ In July 1994, the RPF militia took over the government, and remains in power today.

C. THE CASE STUDY

Similar to the Bosnian case study, I am proposing that the securitizing actors during the Rwandan conflict need to be divided into external and internal securitizing actors. These actors either securitized or significantly influenced securitization from the outside (externally) or inside (internally) the referent object, which in this case study is Tutsi women.

As external actors of securitizing rape as a systematic tool of war during the Rwandan conflict, I am examining the involvement of International Institutions, (this includes entities of the United Nations including the Security Council, the UN Higher Commissioner of Refugees and other UN entities including the International Criminal Tribunals of Rwanda.), NGOs and Transnational Networks (this includes the Red Cross, Human Rights Watch, Amnesty International and other non-governmental and transnational actors), the International Media and the state (the United States and African states including confederations on the African continent). These states and/or state-like

²³ Weitsman, Patricia A. 2008, 572.

²⁴ Kuperman, Alan J. 2000, 101.

entities have acted from the outside to effectively influence the securitization of rape as a weapon of war.

As internal actors, I will examine the involvement of the state or entities that resembled something functionally similar to what is commonly understood as the state. In the case of Rwanda, these actors also include the Tutsi-ruled Rwandan Patriotic Front (RPF) and other political oppositions groups). Internal actors also include National/Local Media, which includes accounts and reports collected by representatives of the national and local media.

Again, similar to the Bosnia case study, I am examining how these actors securitized rape as a systematic tool of war through the securitization mechanism/method of the speech act (someone says the word “security,” speaking of rape) and through other rhetorical measures/images. While focusing on the speech act from the actors’ perspective, I again will then outline how securitization has been implemented by the audience through the deployment of commitments, legal measurers and resources. In the conclusion of the chapter, the following actor/audience matrix will again summarize the different mechanisms/methods and deployed measurers. This part of the case study is therefore divided into “*Speaking of Rape*” and in the later part “*Securitization through Audience Deployment of Extraordinary Measurers.*” This is important to point out, because, the International tribunals, for example, “speak of rape” as a security issue in their initial statutes, but deploy measurers only later in this case study through the actual convictions and various rulings.

Table 3. ACTOR AND AUDIENCE MATRIX RWANDA I

Actors	The State incl. Political Opposition	Intl. Institutions	NGOs / TANs / Civil Society	National and Intl. Media
Audience				
Speech Act				
Other Rhetorical Measures (e.g. Imagery)				
Commitments				
Legal Measures				
Resources				

D. SPEAKING OF RAPE: SECURITIZATION THROUGH THE SPEECH ACT

1. *INTERNATIONAL INSTITUTIONS*

With resolution 955 the UN Security Council established the International Criminal Tribunal for Rwanda (“ICTR”) on November 8, 1994. Located in Arusha, Tanzania, the Tribunal was tasked with prosecuting people who during the genocide have committed crimes against humanity, genocide or other violation of international humanitarian law between Jan. 1, 1994 to Dec. 31, 1994.²⁵ The international community backed the Tribunal’s operation with an initial pledge of \$7 million in May 1995, flowing in from twenty countries.²⁶ The tribunal, however, struggled with the chaotic domestic conditions in Rwanda, including its collapsed legal institutions. By early 1997, the Tribunal had only issued 14 indictments in regard to 21 individuals.²⁷ By April 2000, this number increased to 50 individuals,²⁸ yet these indictments included court cases of many high-profile state officials such as former minister Pauline Nyiramashuko and mayor Jean-Paul Akayesu.

U.N. Security Council Resolution 955, which created the ICTR, asserts, similar to the Bosnian conflict, that the genocide in Rwanda was a threat to international peace and security.

Determining that this situation continues to constitute a threat to international peace and security,²⁹

²⁵ International Criminal Tribunal for Rwanda 1996.

²⁶ Ibid., 14.

²⁷ (International Criminal Tribunal Rwanda 1997, 7.

²⁸ Coomaraswamy, Radhika., *Special Rapporteur Violence against Women* 2000, 15.

²⁹ United Nations Security Council 1994, 1.

Connecting the Rwandan conflict to international peace and security links the atrocities committed during the conflict, including mass rapes and sexual violence, to the concept of regional and international security.

Similar to the Yugoslavian Tribunal, the ICTR's statute in Article 3 specifically lists rape as a crime against humanity and as a part of systematic warfare during the conflict,

Article 3

Crimes against Humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against civilian population on national, political, ethnic, racial or religious grounds:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation;
- e) Imprisonment;
- f) Torture;
- g) Rape
- h) Persecution on political, racial and religious grounds;
- i) Other inhuman acts;³⁰

In the statute's Article 4 it specifies rape as a punishable violation of Article 3 of the Geneva Conventions for the Protection of War Victims:

Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;³¹

Similar to the Bosnia tribunal, the ICTR was ordered to provide annual progress reports to the U.N.'s Secretary-General. These reports over time have become testimonies of the Tribunal's gradual realization of the immensity and systematic utilization of rape during the genocide. Different to the Bosnia conflict, accounts about mass rapes and the

³⁰ International Criminal Tribunal for Rwanda 1996, 4.

³¹ Ibid., 5.

systematic rape of Tutsi women during the 1994 Rwandan genocide only surfaced gradually.

While many non-governmental organizations such as the Human Rights Watch, due to their consistent presence on the ground from the onset were able to report the ghastly details of the rampant rapes, international institutions were slow in grasping the immensity of sexual violence during the genocide. In July 1994 a cable by the U.S. State Department is summarizing a report by UN Commission on Human Rights UN Special Rapporteur Rene Degni-Segui to other U.S. governmental agencies, asserting only about “horrible atrocities, massacres, torture, political assassinations, war crimes and mass exodus.”³² The cable does not reference rape or its systematic nature at all. It was not until two years later in 1996 when Degni-Segui in his annual UN Commission on Human Rights Report on the Situation of Human Rights in Rwanda began to address the massive scale of rape during the conflict. In the report he estimated that between 250,000 to 500,000 Rwandan women and girls were raped. “Rape was the rule and its absence the exception,” he writes.³³ Degni-Segui further, for the first time, elaborated on the coordinated and organized function and utilization of rape during the genocide. “Rape was systematic and was used as a weapon” by the Hutu perpetrators.³⁴

In March of 1994, in the wake of the mass rapes in Bosnia and ironically on the advent of the looming Rwandan massacres, the U.N. High Commissioner for Human Rights appointed a special rapporteur on violence against women. In 1997, this very first Rapporteur, Radhika Coomaraswamy, visited Rwanda from Sept. 27 to Nov. 1 as part of a fact finding field research commission, investigating the systematic rape of women

³² U.N. Special Rapporteur on Rwanda Rene Degni-Segui 1994.

³³ Brouwer, de Anne-Marie 2005, 11.

³⁴ Ibid., 11.

during the genocide. Coomaraswamy interviewed rape survivors and witnesses, visited the local U.N. Human Rights field operation and attended court sessions of the International Criminal Tribunal of Rwanda from Sept. 23 to 25, 1997, including the infamous watershed trial of Mayor Akayesu.

UNICEF reported in its “The State of the World’s Children 1996 “Children in War” publication details about rape during the 1994 genocide in Rwanda “has been systematically used as a weapon of ethnic cleansing to destroy community ties.” The report continued to shock the international community, reporting that every surviving teenage girl has been raped; many of those left pregnant, which later caused them to be shunned and excluded by their families and or community.³⁵

A 1998 report to the General Assembly about the Tribunal mentioned the investigations of sex crimes and the collection of 85 witness statements. The report, however, is very careful to point out that this number “does not exclude the probability of a larger number of victims.”³⁶ The 1998 report to the U.N. alludes to a restructuring of the Office of the Prosecutor and the establishment of two particular investigative teams, solely focusing on sexual violence and the role of the media as a tool to instigate mass rapes.³⁷ The 1999 and Fourth Annual report already found - after an investigation in December 1998 into 360 rape cases in seven Rwandan prefectures - that sex crimes were perpetrated on a large-scale solely against Tutsi women. This report also, for the first time, asserts that these crimes were “planned, systematic and generalized”³⁸ and actively orchestrated by the Rwandan local and national leadership, see below:

³⁵ UNICEF 1996.

³⁶ International Criminal Tribunal of Rwanda 1998, 9.

³⁷ Ibid., 8.

³⁸ Ibid., 3.

During the survey conducted in seven prefectures of Rwanda, the team on sexual assaults interviewed 360 women on complaints of rape. Based on information gathered, the Prosecutor believes that sexual crimes were planned, systematic and generalized and that they were committed with the active participation of the soldiers, the Interahamwe and government and administrative authorities at both local and national levels.

The 1999 report also states that the perpetrators that committed sex crimes came from nearly all socio-economic backgrounds, including “the army, the government, the clergy and the media.”³⁹ In 2000, the number of witness statements only increased from the initial 85 to 113.⁴⁰ In 2002, the annual report refers to more than 800 potential witnesses and 625 witness statements, with particular attentions given to rape and sexual violence. The report also points to the decentralization of the investigative sexual assault team “but a central core of investigators continues to ensure the coordination and the supervision of operations in this very sensitive and complex domain.”⁴¹ The 2003 report stands out as it increasingly refers to people in leadership and authority, who have committed “in particularly grave crimes, including rape and other sexual assault.”⁴²

2. *THE INTERNATIONAL MEDIA*

Differently from the excessive international media coverage of the Balkan conflict, the lack of advanced television technology in central Africa stifled efforts to internationally disseminate the unfolding daily horrors of the Rwandan genocide. Because of the lack of satellite dishes in the Great Lakes region, for example, real-time television images and information about the escalating events – differently from the Bosnian conflict - only in fragments emerged. Information and images surfaced at a

³⁹ International Criminal Tribunal for Rwanda 1999, 13.

⁴⁰ International Criminal Tribunal of Rwanda Annual Report 2000, 19.

⁴¹ International Criminal Tribunal of Rwanda 2002, 12.

⁴² *Ibid.*, 14.

much slower pace and “not night after night, relentlessly, Sarajevo style.”⁴³ U.S. leading newspapers such as the Washington Post and The New York Times, often in very graphic details, did report about the atrocities in Rwanda, but the news coverage of the fastest genocide of the 20th century was rather moderate and sporadic compared, for example, with the coverage of the 1994 election South African President Nelson Mandela. While in May 1994 nearly 2,500 journalists ascended on South Africa to report about Mandela’s historic election and its political implications, in Rwanda during the height of the killings April to June 1994 the number of reporters on the ground “never exceeded 15.”⁴⁴ In the first UN report of the International Criminal Tribunal for Rwanda in 1996 the report points to the sensitivity of sexual violence and sex crimes during the genocide. According to this very first report, the secretariat of the tribunal (a four-person entity) was created in particular to advise the prosecution “in such specialized fields as gender-related crimes relations with the media”⁴⁵

However, regardless of technical and cultural obstacles, journalists similar to international institutions only slowly grasped the gravity and extend of mass rapes in Rwanda. In 1996 a New York Times article quoted the Human Rights Watch report about the mass rapes of “hundreds of thousands of women were also being raped or forced into sexual servitude.”⁴⁶ International news coverage from 1994 through 1997 did not mention mass rapes or its systematic nature. CNN and Reuters in their July 18, 1997 coverage of

⁴³ Paterson, James Gow & Preston, Alison, ed. 1996, 82.

⁴⁴ Power, Samantha 2002, 375.

⁴⁵ International Criminal Tribunal for Rwanda 1996, 8.

⁴⁶ The New York Times 1996.

the arrests of Pauline Nyiramasuhuko and nine other Rwandan officials in Kenya did not mention the charge of rape at all.⁴⁷

Increasingly, however, the international news media understood the gravity and far-reaching consequences of rape utilized during the genocide as a systematic tool of war. For example, The Guardian article of Dec. 4, 2001 by Reporter Chris McGreal is just one example of many that increasingly reported about the mass rapes and their aftermaths. Calling rape “a weapon of genocide as brutal as the machete,” and pointing to “tens of thousands of women were gang-raped” and many left behind with “a hidden killer”⁴⁸ – namely HIV and AIDS, international news coverage connected sexual violence to regional security concerns.

However, it was not until investigative reporter Peter Landesman, a contributing writer for The New York Times Magazine, emerged as one of the few journalists, who provided a comprehensive and in-depth analysis about systematic rape as a weapon of war during the Rwandan genocide. His 2002 New York Times Magazine article “A Woman’s Work” of Sept. 15 and the follow-up article of September 21, 2002 published in the Toronto Star “The Minister of Rape” about former Rwandan Minister for Women Development Pauline Nyiramasuhuko touches not only on the systematic methods of sexual violence during the genocide, but also its historical dimensions and security implications. The article, its horrific details and eye witness accounts, sent shockwaves through the world. It still today remains the only detailed account of Nyiramasuhuko’s professional and personal background. It was not only the horrific details of the genocide itself and Nyiramasuhuko instrumental role in it that captivated readers worldwide, but

⁴⁷ CNN 1997.

⁴⁸ McGreal, Chris 2001.

the concept of women in power initiating rape as a tool of war seemed incomprehensible. Landesman had unique access not only to Nyiramasuhuko's family members, but also tribunal judges, prosecutors and defense attorneys.

According to Landesman, former Prime Minister Jean Kambanda in his confession names Nyiramasuhuko as one of five government members instrumental in creating "the blueprint of the genocide," establishing clearly the link between Nyiramasuhuko and strategic implementation of the genocide. The Landesman's Sept. 15 article specifically addresses the systematic nature of rape, initiated and executed through Nyiramasuhuko. The news article describes for the reader in detail how then 48-year-old Nyiramasuhuko lured hundreds of Tutsis into the Butare stadium with her announcement that the Red Cross would have food available. The article also points to eyewitness accounts, who recall Nyiramasuhuko telling the Interahamwe men that the women in the stadium need to be raped first before being killed.⁴⁹ The news article further describes the systematic procedures, initiated and/or supervised by Nyiramasuhuko of the rapes of Tutsi women. The graphic depictions ("women being dragged into the forests") and then the mass killings with Nyiramasuhuko watching on "in silence" made the article a unique testimony of the unique horror of systematic rape during war.

The article also points to one of the first United Nations reports that indicate at least 250,000 rape victims during the genocide and details the horrific methods including the public humiliation and effect on communities. It's also a comprehensive account of the societal ramifications of rape as a weapon of war. In Rwandan society, for example, a woman who has been raped will be chastised and consequently isolated by her family and

⁴⁹ Landesman, Peter 2002, 1.

community. “One of the most insidious legacies of rapes is the stigma – and the inevitable isolation.” The news article reports of about 5,000 children born of these systematic rapes. These children are now often referred to as “Children of Shame” “gifts of the Enemy” or “Little Interahamwe.”

The report also points to the increasing AIDS crisis in Rwandan aggravated by the 1994 mass rapes. The news article reports about an interview in 2002 with Paul Kagame, quoting him saying “We knew that the government was bringing AIDS patients out of the hospitals specifically to form battalions of rapists.”

Landesman quotes Silvana Arbia, the ICTR’s acting chief of prosecutions confirming the utilizing of AIDS as a tool of warfare against Tutsi women. “H.I.V. infection is murder. Sexual aggression is as much an act of genocide as murder is.” Landesman also quoted a tribunal prosecutor to recite the accounts that led by mere accident to the discovered that rape was used during the Rwandan genocide as a systematic weapon of war. Former Rwandan mayor Akayesu became the first official charged and eventually convicted of initiating these mass rapes. The news article and the interview with Arbia, a tribunal prosecutor, connects these mass rapes to security. “The offense against an individual woman becomes an offense against the family, which becomes an offense against the country, and so, by deduction, against humanity.”

3. NON-GOVERNMENTAL ORGANIZATIONS AND TRANSNATIONAL ACTION NETWORKS (TANS)

Non-governmental organizations and Transnational Networks emerged as first account witnesses and on-the-ground news sources, reporting of the unfolding terror. An Amnesty International report in 1995, while concise and eliminating many details, reports

first about “thousands of women who were reaped by the former government’s militia and soldiers”⁵⁰ and other potential rape survivors being too embarrassed to “describe their ordeals.”⁵¹

It was, however, the African division of the Human Rights Watch, an international non-profit organization that reports frequently on global human rights violations, which emerged as the first international organization that provided a first in-depth account about sexual violence during the Rwandan genocide. Workers of The Human Rights Watch were also one of the few eyewitnesses of the ghastly exodus unraveling in April 1994.

The report, published in September 1996 by the group’s Women’s Rights Project and titled “*Shattered Lives, Sexual Violence During the Rwandan Genocide*” became a unique testimony of the victims of the Rwandan mass rapes, sexual violence and sex slavery. Up until then mass rapes in Rwanda were not mentioned at all or rape only described as insular incidents and as a typical side product of war. The report also addressed the initial judicial and law enforcement shortcomings in regard to sexual violence. For example, the report asserts that police inspectors in Rwanda initially did not investigate accounts of alleged rapes.⁵² An array of interviews with rape survivors was conducted by the organization March and April 1996, affirming the pervasive extent and strategic nature of sexual violence and rape during the genocide. The report stated that, according to some observers, “almost every women and adolescent girl who survived the genocide was raped.”⁵³ The report quoted staff at local clinics such as Dr.

⁵⁰ Amnesty International 1995, 11.

⁵¹ Ibid., 9.

⁵² Human Rights Watch/Africa and Women’s Rights Project 1996, 4.

⁵³ Ibid., 7.

Odette Nyiramilimo in the LeBon Samaritan Clinic in Kigali “following the genocide two rape cases a day were coming into the clinic.”⁵⁴

Rwandan women were “subjected to sexual violence on a massive scale, perpetrated by members of the infamous Hutu militia groups known as the *Interahamwe*, by other civilians, and by soldiers of the Rwandan Armed Forces (*Forces Armées Rwandaises*, FAR), including the Presidential Guard,”⁵⁵ the report reads. Further the report addresses how a top-down authoritarian structure in place underscored the systematic function of sexual violence during the conflict, directing or encouraging “both the killings and sexual violence to further their political goal: the destruction of the Tutsi as a group.”⁵⁶ The report specifically defines rape during the Rwandan genocide as a weapon of war that saw in the nexus of gender and “ethnicity, religion, social class or political affiliation”⁵⁷ an effective tool to eradicate Tutsi women specifically and the Tutsi community and ethnic group in general. The rape of Tutsi women amass not only became an effective form of brutal individual torture, but a method, similar to during the Bosnian conflict as “an assault upon the community”⁵⁸ and mechanism to dehumanize and degrade a community as a whole. Propaganda, disseminated through radio and newspapers, already in the early 1990s, targeted Tutsi women’s sexuality specifically and often depicted Tutsi women as a threat to national security e.g. as spies of the enemy.

The report for the first time not only detailed the horrific assaults raped and tortured Tutsi women endured, but also pointed to the wide-reaching socio-economic consequences of systematic sexual violence during the genocide. The report, for example,

⁵⁴ Human Rights Watch/Africa and Women's Rights Project 1996, 7.

⁵⁵ *Ibid.*, 1.

⁵⁶ Human Rights Watch/Africa and Women's Rights Project 1996, 1.

⁵⁷ *Ibid.*, 2.

⁵⁸ *Ibid.*, 2.

points to the social isolation of rape victims since Rwandan culture ostracizes rape victims. Such social isolation often leads to economic difficulties since rape victims have usually trouble finding men to marry and in Rwandan culture marriage remains inherently linked to economic survival of women.

The report also addresses the health consequences such as HIV infections and health issues that would hinder the reproductive ability of the victims. It also addresses the issues of pregnancies resulting from these massive rapes and the consequences from what in Rwandan culture is often referred to as “pregnancies of the war,” “children of hate” or “enfants mauvais souvenir” (Children of bad memories).⁵⁹ It is estimated that between 2,000 and 5,000 children have been born out of the 1994 rapes.⁶⁰ Sometimes these children are being either abandoned or some mothers even committed “infanticide.” The report concludes with the overarching assertions with more than 70 percent of Rwandans today being women, these women need to gain equal rights and “without empowering Rwandan women, the overwhelming majority of the population, to rebuild their lives, the political and social transformation necessary to rebuild the country cannot succeed.”⁶¹

The organization also criticized the Tribunal for doing little in regard to gender-based violence during the conflict and also the international community to rather spend billions on refugees than money for Rwanda in general.

One of the board members of Human Rights Watch was Alison Des Forges, a Yale-educated professor of history and an African history scholar, who spent most of her life in Rwanda. Almost immediately after the shot down of the president’s airplane April

⁵⁹ Human Rights Watch/Africa and Women's Rights Project 1996, 3.

⁶⁰ Ibid., 3.

⁶¹ Ibid., 4.

6, Alison Des Forges was contacted by human rights friends from Kigali. Her writing and reports would soon become one of the most detailed and in-depth accounts of the atrocities.

Her 1999 Human Rights Watch account of the genocide “Leave None to Tell the Story” reports in horrific details about the rapes and sexual violence against Tutsi women. Des Forges described, for example, how Hutu military officials and presidential guards used barriers erected around key cities and towns as temporary detention center to select, pick and choose in particular women for rape or future services. These checkpoints often became crossroads between life and death. Soldiers on patrol or at these barriers checked people’s ethnicity. They weighed how valuable a woman was and how she could pay for her life. Then “the guards as a group or the leader among them decided whether the person was to be killed on the spot, raped, kept for service or future execution, or perhaps released.”⁶²

DesForges reported with ghastly details the horror and barbaric brutality of sexual violence against women. Militia and the military raped indiscriminately, DesForges writes, including a two-year-old child.⁶³ The rapes were fueled by local and national media propaganda and underwritten by local authority. In Taba, for example, women and girls were “raped at the communal office with the knowledge of the burgomaster.”⁶⁴ The burgomaster of the town, Jean-Paul Akayesu, was later charged and in 1998 convicted with genocide and rape. The verdict was the first international court ruling that acknowledged and classified rape as a form of genocide.

⁶² Des Forges, Alison 1999, 163.

⁶³ Ibid., 163.

⁶⁴ Ibid., 163.

Women were often forced to bury their husbands before being raped and mutilated, then ordered to “walk naked like a group of cattle some then miles to Kabgayi.”⁶⁵ DesForges writes about a nun “battered to death with a hammer,”⁶⁶ militia soldiers ravaging through hospitals and universities. She reports about the discovery of a mass grave found with about 600 bodies, “most of these victims were students, a significant part of the national intellectual elite in training at the university.”⁶⁷

4. *THE STATE: AFRICA*

One of the first and only reports by an African state or regional entity that addressed systematic rape during the Rwandan genocide was a report issued by the African Union and the Organization of African Unity’s International Panel of Eminent Personalities in 2000. The report asserted that the mass rapes of Tutsi women and children “was part of their [Hutu’s] carefully organized programme”⁶⁸ and that Tutsi women were specifically raped, sexually mutilated and tortured as a mean to hurt and eventually eliminate their reproductive abilities. “Tutsi women had to be eradicated to prevent the birth of a new generation of children.”⁶⁹ This conclusion ties into the notion of using rape as an effective tool to perpetrate genocide. In regard to the number rapes, the report notes that “we can be certain that almost all females who survived the genocide were direct victims of rape or other sexual violence, or were profoundly affected by it.”⁷⁰ The report continuous on with depicting the systematic nature of how rape was utilized

⁶⁵ Des Forges, Alison 1999, 164.

⁶⁶ Ibid., 190.

⁶⁷ Ibid., 373.

⁶⁸ Africa Union 2000, 145.

⁶⁹ Ibid., 145.

⁷⁰ Ibid., 149.

“as an instrument of war by the genocidaires to destroy women’s psyches, isolate them from their family or community ties.”⁷¹

The report, however, not only drew attention to the scope of mass rapes during the genocide, but also elaborated on the far reaching post-genocide consequences of sexual violence as a tool of war. By connecting mass rapes to the future economic and social development of the country, the report establishes clear parallels between rape as a tool of war and its cost for the Rwandan society – and the international community as a whole. After the genocide, about 70 percent of all Rwandans were women and half of all households after the genocide were headed by widowed women.⁷² The report asserts that the future of Rwandan women – which includes the recovery of war rape survivors – were critical and key to the country’s prosperity and reconstruction. According to domestic Rwandan law, a widow was not permitted to inherit her husband’s properties.⁷³ Consequently this put additional economic strain on women – and the female-dominated society and economy as a whole. In 2000, the law changed and allowed the inheritance of property by women.

African Rights, a human rights organization based on the African continent, in a 1995 study called “Not so Innocent: When Women become Killers” asserted about the influx of female perpetrators – teachers, nuns, peasants, mothers - in particular also guilty of perpetrating gender-based violence. The report continues that “what some Hutu women did to some Tutsi women” remains a human puzzle that “seems not to have been common in other comparable situations.”⁷⁴ At the time of the publication of the report,

⁷¹ Africa Union 2000, 148.

⁷² Africa Union 2000, 146.

⁷³ Ibid., 147.

⁷⁴ Ibid., 151.

1,200 women were in prison – representing about three percent of the total prisoners – for charges of genocide.⁷⁵

5. *THE STATE: THE UNITED STATES*

According to a cable message from May 199, the U.S. State Department was concerned about the regional security as the Rwandan conflict unfolded. According to this excerpt, the department worried about the spreading of the violence to neighboring states:

5. AS VICE PRESIDENT GORE HAS INDICATED, WE ARE INTERESTED IN EXPLORING THE POSSIBILITY OF USING AN EXPANDED FORCE TO CREATE ONE OR MORE SECURE ZONES IN RWANDA ALONG THE BORDER FOR THE PROTECTION OF REFUGEES AND DISPLACED PERSONS IN MOST IMMEDIATE DANGER AND FOR THE DELIVERY OF HUMANITARIAN RELIEF TO THEM. SUCH A MISSION COULD NOT ONLY PROVIDE SECURITY FOR SUCH SAFE ZONES AND THE DISTRIBUTION OF HUMANITARIAN ASSISTANCE BUT COULD ALSO PROVIDE AN ENVIRONMENT CONDUCTIVE TO REFUGEE REPATRIATION AND COULD SERVE IN A PREVENTIVE CAPACITY TO DETER THE SPREAD OF VIOLENCE TO NEIGHBORING COUNTRIES.

Figure 1. Cable Message U.S. Department of State - Under Secretary of State for Political Affairs Peter Tarnoff 1994.

In general, the United States took great pains to bypass declaring what happened in Rwanda as genocide. As this memorandum showed, officials laid out the legal ramifications for the U.S. to call the events “genocide.” Here is an excerpt drafted by officials such as Assistant Secretary of State for African Affairs George E. Moose Secretary of State Warren Christopher May 21, 1994,

⁷⁵ Africa Union 2000, 151.

Although lacking in legal consequences, a clear statement that the USG believes that acts of genocide have occurred could increase pressure for USG activism in response to the crisis in Rwanda. We believe, however, that we should send a clear signal that the United States believes that acts of genocide have occurred in Rwanda. If we do not seize the opportunity presented by fora such as the UNHRC to use the genocide label to condemn events in Rwanda, our credibility will be undermined with human rights groups and the general public, who may question how much evidence we can legitimately require before coming to a policy conclusion.

Figure 2. Action Memorandum from Assistant Secretary of State for African Affairs George E. Moose 1994.

The 1994 U.S. Department of State Country Report on Human Rights Practice in Rwanda mentions “innumerable related human rights abuses, including torture, mutilation, and rape.”⁷⁶ Under “C. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment” only with one sentences about rapes. “FAR soldiers and militiamen frequently raped women; there are reports of rape by RPF soldiers as well.”⁷⁷ Under Discrimination Based on Race, Sex, Religion, the report asserts that militia groups and soldiers “engaged in rape on a massive scale from April through July. They targeted women, especially Tutsi women, for indiscriminate violence.”⁷⁸ Rape and its systematic nature during the conflict, however, was not addressed in any of the documents or records within the U.S. government.

The Clinton administration after the 1994 genocide faced an onslaught of criticism for not only for not sending U.S. troops to avoid the massacre, but “demanded the withdrawal of UN peacekeepers from Rwanda and then refused to authorize the

⁷⁶ U.S. Department of State 1994, 2.

⁷⁷ Ibid., 3.

⁷⁸ Ibid., 9.

deployment of UN reinforcements.”⁷⁹ Different from Bosnia, Rwanda was also abandoned by congressional leadership. U.S. Senator and then republican minority leader Bob Dole was quoted April 10, 1994 after all U.S. citizens were evacuated, “I don’t think we have any national interest there. The Americans are out, and as far as I am concerned, in Rwanda, that ought to be the end of it.”⁸⁰

The U.S. reaction and inaction does not explain itself accurately without Somalia. During his first months in office, Bill Clinton spoke publically about the notion of “assertive administration and the need to come to the assistance of people in need.”⁸¹ Then came Somalia. In October 1993, U.S. troops were deployed to back UN forces against Somali militia fighters. During the operation, two U.S. Black Hawk helicopters were shot down, eighteen U.S. soldiers were killed and 73 wounded. Bodies of some of the dead U.S. soldiers were dragged through the streets of Mogadishu and mutilated. Madeline Albright wrote in her memories Somalia was a test for the UN to “carry out a peace operation involving the use of force against an adversary determined to sabotage that operation.”⁸² The U.N. failed this test, according to Albright.

The emerging so-called “Somalia “syndrome” is critical in analyzing the complacent behavior of the U.S. and the U.N./ International community in regard to Rwanda. The Somalia experience marred and thrust a pro-humanitarian and pro-UN peacekeeping Clinton’s foreign policy into reverse. Clinton issued Presidential Decision Directive - 25 that made it nearly impossible for U.S. forces to ever again effectively and rapidly get involved – or entangled - in a humanitarian crisis. “We were

⁷⁹ Power, Samantha 2002, 335.

⁸⁰ CBS 1994.

⁸¹ Adelman, Howard and Suhrke, Astri 1999, 224

⁸² Albright, Madeline. 2003, 146.

determined not have another Somalia,” Albright wrote.⁸³ According to the directive, a crisis needed, among other objectives, a clear statement of U.S. interests, the go-ahead from Congress, a specific date of withdrawal of U.S. troops before the U.S. would yet again get involved in a humanitarian crisis.⁸⁴ Similar, the UN Security Council issued new guidelines in spring of 1994 that “before starting a mission the council should consider “whether reasonable guarantees can be obtained from the principal parties or factions regarding the safety and security of UN personnel” to avoid conflicts “like those in Rwanda where there were no security guarantees no cooperation between the parties and no readily achievable mandates.”⁸⁵ The International community stood firmly against yet another Somalia.

In 1998 when President Clinton visited Rwanda, expressing his regret when he addressed Rwandan leadership: “All over the world there were people like me sitting in offices, day after day after day, who did not fully appreciate the depth and the speed with which you were being engulfed by this unimaginable terror.”⁸⁶ Hillary Clinton visited the Tribunal in early 1997, according to Tribunal documents⁸⁷ and talked in her 2003 memories briefly about the rape as a weapon of war during the genocide. Otherwise the U.S. government remained rather mute on the subject of systematic rape as a weapon of war.

6. INTERNAL ACTORS - THE STATE: RWANDA

Prior to the 1994 genocide, Hutu Rwandans were indoctrinated with anti-Tutsi propaganda through local newspapers. In particular the newspaper *Kangura* (translated

⁸³ Albright, Madeline. 2003, 147.

⁸⁴ Adelman, Howard and Suhrke, Astri 1999, 224.

⁸⁵ Albright, Madeline. 2003, 152.

⁸⁶ Bennet, James 1998.

⁸⁷ International Criminal Tribunal Rwanda 1997, 3.

“Wake-up) contrary to its mere 10,000 circulation was able to spread anti-Tutsi propaganda, in particular targeting Tutsi women as enemies of the Hutu-led state. The nexus of Tutsi femininity and national security of the Hutu Rwandans introduces – in its perversity – the elevation of Tutsi women as a security issue. Propaganda through the media including newspapers and radio promoted sexual violence against Tutsi women. The Anti-Tutsi propaganda dates back to 1990 when, for example, the paper published the “The Ten Commandments of the Hutu.” Four of these commandments are portraying Tutsi women as traitors or concubines. “Every Hutu should know that a Tutsi woman, wherever she is, works for the interest of her Tutsi ethnic group”⁸⁸ and “only when no Tutsi women were left could Hutu men be safe from their wicked wives.”⁸⁹ According to these commandments, Tutsi women represented a “secret, sexual weapon that Tutsi leaders used cynically to seduce and weaken Hutu men.”⁹⁰ In another issue, the paper accused Tutsi women for contributing to the unemployment of Hutu women as Tutsi women dominate employment in Rwandan’s public and private sector.⁹¹

According to Rwandan law, rape perpetrated during the genocide “were the highest category of crime” punished by a death sentence. The Peter Landesman The New York Times Magazine article of September 2002 quoted Rwandan prosecutor general Gerald Gahima saying that rape in Rwandan society was “worse than death” because it not only affects the rape victim but stigmatized her entire family and immediate community.

⁸⁸ Human Rights Watch/Africa and Women's Rights Project 1996, 5.

⁸⁹ Africa Union 2000, 145.

⁹⁰ Ibid., 145.

⁹¹ Human Rights Watch/Africa and Women's Rights Project 1996, 6.

In August 1996, the Rwandan government passed a law that established specific local courts to prosecute and try cases of genocide. However, Rwandan prosecutors, who were usually young and inexperienced, hesitated to bring rape and sexual violence charges before these local courts. By end of Nov. 1997, there was not a single sexual violence case brought before local judges, according to the special Rapporteur Radhika Coomaraswamy, who visited Rwanda end of 1997.⁹²

By mid1998 more than 135,000 people were imprisoned for charges of genocide or related crimes.⁹³ While local judicial authorities in Rwanda had aimed to try 5,000 people during 1998⁹⁴, for example, these goals were never accomplished. In 1998 later the courts announced that it had tried 864⁹⁵, which is a fraction of its earlier objective.

To alleviate the tremendous amount of case loads, Rwanda in 2001 began to establish local community courts, called Gacaca tribunals to expedite the court procedures. By 2001, nearly 120,000 prisoners⁹⁶ filled local jails and overwhelmed the local judicial system, which had completely collapsed after the genocide. The objectives of the Gacaca local community court system was not to establish guilt or innocence, but “to sanction the violation of rules that are shared by the community with the sole objective of reconciliation.”⁹⁷ Originating from the Kinyarwanda word “grass,” meaning a meeting place for the community, the idea of the Gacaca courts stem from what Rwandan President Paul Kagame terms an “African solution to African problems.”⁹⁸ The first Gacaca court trials began in 2005, but most of the concerns of legal scholars and

⁹² Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 15.

⁹³ Des Forges, Alison 1999, 578.

⁹⁴ Des Forges, Alison 1999, 580.

⁹⁵ Ibid., 580.

⁹⁶ Gendercide Watch.org 2001.

⁹⁷ Africa Union 2000, 184.

⁹⁸ Human Rights Watch 2011, 8.

other judicial experts such as the risk of bias, local corruption and inaccurate application of the law, “turned out to be well-founded.”⁹⁹

In 2011, the Human Rights Watch reported that the gacaca court system, also referred to as mass community-based justice¹⁰⁰ failed to provide “fair trial rights of the accused”¹⁰¹ and “to provide equal justice to all victims of serious crimes” during the 1994 genocide.¹⁰² In May 2008, genocide-related rape cases were also transferred to the Gacaca court system. But rape survivors feared the exposure to the community and the Human Rights Watch asserts that the transfer of rape case to the Gacaca system help the government to control the narrative of the mass rapes during the genocide. It forcefully pushed “to end this chapter of its history.”¹⁰³

7. INTERNAL ACTORS: THE NATIONAL/LOCAL MEDIA

In Rwanda, media propaganda in particular, through radio and newspaper publications, was instrumental in fueling the genocidal rape campaign against Tutsi women. The newspaper Kangara, for example, targeted the sexuality of Tutsi women, portraying them as “sexual weapons that would be used by the Tutsi to weaken and ultimately destroy the Hutu men.”¹⁰⁴ The newspapers were distributed throughout the countryside, read to illiterate Hutus, and the messages underscored with sexually explicit cartoons.¹⁰⁵ Examples of such cartoons includes a December 1993 depiction of Tutsi

⁹⁹ Human Rights Watch 2011, 10.

¹⁰⁰ Ibid., 10.

¹⁰¹ Ibid., 11.

¹⁰² Ibid., 12.

¹⁰³ Ibid., 12.

¹⁰⁴ Brouwer, de Anne-Marie 2005, 12.

¹⁰⁵ Brouwer, de Anne-Marie 2005, 12.

women having sex with Belgian UN peacekeepers of the UN Assistance Mission for Rwanda (UNAMIR), which at the time were considered RPF supporters.¹⁰⁶

E. SECURITIZATION THROUGH AUDIENCE DEPLOYMENT OF EXTRAORDINARY MEASURERS

Deployed measurers during, after or intrinsically triggered by the Rwanda conflict, can be divided into legal actions, resources and commitments.

1. *LEGAL ACTIONS: THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR)*

Similar to the tribunal for the former Yugoslavia, the prosecution and judges of the ICTR assumed an authoritative legal function that focused almost immediately on the “highest ringleaders and organizers of the atrocities”¹⁰⁷ rather than the thousands of perpetrators. By doing so, it was able to establish many historical firsts within the field of sexual and gender-based violence within the overarching framework of international law. The ICTR, for one, became the first international law entity that had successfully convicted a head of state of genocide. The Tribunal in 1998 found former Rwandan prime minister of the 1994 interim government (after the airplane crash of President Habyarimana), Jean Kambanda, “guilty of genocide, and public and direct incitement to commit genocide.”¹⁰⁸ The tribunal charged and found Kambanda guilty of six counts of genocide, conspiracy to commit genocide, direct and public incitement to commit

¹⁰⁶ Brouwer, de Anne-Marie 2005, 13.

¹⁰⁷ Helena Cobban 2007, 47.

¹⁰⁸ International Criminal Tribunal of Rwanda 1998, 3.

genocide, complicity in genocide and crimes against humanity.¹⁰⁹ Kambanda is currently imprisoned in Mali, serving a life sentence.¹¹⁰

While Kambanda judgment created a legal baseline of establishing accountability under International Law for genocide during the conflict, the case against Jean-Paul Akayesu, a former mayor, set yet another historical precedence. Initially, the case against Akayesu in January 1997 consisted of 12 charges including genocide, crimes against humanity and violations of the Geneva Conventions article three.¹¹¹ Later in June 1997, the prosecution, in an unorthodox move, however, added to the initial indictments the charge of rape “as a constituent element of the crimes of genocide.”¹¹² Allison Des Forges, board member of Human Rights Watch, commented in 1999 that “a coalition of non-governmental organizations drew the attention of the tribunal staff to the importance of prosecuting these crimes as a category of genocide.”¹¹³ And “only after the judges invited the prosecution to consider investigating gender crimes”¹¹⁴ were these charged amended.

With this extraordinary inclusion, an international war crime tribunal for the first time disengaged rape and sexual violence from the conventional legal terminology of Crimes against Humanity. It considered it separately punishable within the parameters of International Law. Further, with this inclusion the Tribunal specified that sexual violence was utilized as a mechanism of genocide during the Rwandan conflict. It acknowledged

¹⁰⁹ United Nations/Michael P. Scharf 1994.

¹¹⁰ The Prosecutor v. Jean Kambanda Judgment of the Trial Chamber 1998.

¹¹¹ International Criminal Tribunal Rwanda 1997, 8.

¹¹² International Criminal Tribunal of Rwanda 1998, 9.

¹¹³ Des Forges, Alison 1999, 573.

¹¹⁴ Nowrojee, Binaifer 2003, 6.

rape as a key component of the genocide. Acts of sexual violence “were consistent with the specific intent of destroying that groups [Tutsi],”¹¹⁵ the Tribunal found.

During the 1994 genocide, Akayesu was mayor of the town of Taba and became instrumental in ordering and supervising the systematic rape and slaughter of Tutsi women. With the Akayesu case, the tribunal ruled that rape constituted “genocide in the same way as any other act as long as [it was] committed with the specific intent to destroy, in whole or in part, a particular group”¹¹⁶ Akayesu was found guilty of instigating genocide and rape through public speeches, for example.¹¹⁷ The Tribunal established this link between rape and genocide since rape, in most cases, was specifically targeting Tutsi women and utilized as “an integral part of the physical and psychological destruction of Tutsi women, their families and communities.”¹¹⁸

The Tribunal established a correlation between rape and genocide and also set a precedent in acknowledging the systematic nature of rape perpetrated during the Rwandan genocide,

The Trial Chamber held that rape, which it defined as “a physical invasion of a sexual nature committed on a person under circumstances which are coercive,” and sexual assault constitute acts of genocide insofar as they were committed with the intent to destroy, in whole or in part, a targeted group, as such. It found that sexual assault formed an integral part of the process of destroying the Tutsi ethnic group and that the rape was systematic and had been perpetrated against Tutsi women only, manifesting the specific intent required for those acts to constitute genocide.¹¹⁹

¹¹⁵ International Criminal Tribunal of Rwanda 1998, 5.

¹¹⁶ United Nations/Michael P. Scharf 1994.

¹¹⁷ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 2000, 15.

¹¹⁸ Ibid., 16.

¹¹⁹ International Criminal Tribunal for Rwanda 1999, 6.

On Sept. 2, 1998, Akayesu was found guilty of nine counts, including rape and other inhumane acts.¹²⁰ Currently, Akayesu is serving a life prison sentence in Mali.¹²¹

The ICTR continued with its unique focus on high-ranking Rwandan political officials, business and community leaders, charging Laurent Semanza, Alfred Musema (director of a tea factory), Omar Serushago with crimes against humanity – and also later rape.¹²² The Tribunal also uniquely indicted for the first time journalists, for example, radio broadcaster Georges Ruggiu, who worked for Radio et Television Libre des Mille Collines (RTLM) in Kigali “for using propaganda to perpetuate ethnic and gender stereotypes”¹²³ to commit genocide. The owners of RTLM Ferdinand Nahimana and Jean-Bosco Barayagwiza also were both convicted in 2003 genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and crimes against humanity. Also the founder and director of the Rwandan newspaper Kangura, Hassan Ngeze, was likewise convicted of similar charges.¹²⁴

The 1996 indictment of Mayor Ntaganzwa also includes also charges against Rwandan officials and authorities such as Ladislas Ntaganzwa, Pauline Nyiramusuhuko (minister), Andre Rwamakuba (minister), Prefect representatives Sylvain Kanyabashi, and mayors Elie Ndayambaje and the son of minister Nyiramusuhuko Arsene Shalom Ntahobali as authorities that “organized, ordered and participated” in the genocidal plan of the interim Rwandan government in April 1994.¹²⁵ The same indictment also, in its introductory chapter, cites in paragraph 5.18 the sexual assaults and rapes again Tutsi

¹²⁰ International Criminal Tribunal of Rwanda 1998, 9.

¹²¹ The Prosecutor v. Jean-Paul Akayesu Judgment of the Trial Chamber 1998.

¹²² (Coomaraswamy, Radhika., Special Rapporteur Violence against Women 2000, 15.

¹²³ Ibid., 15.

¹²⁴ The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze - Judgment of the Trial Chamber 2003.

¹²⁵ Ntaganzwa Indictment 1998.

women and girls.”¹²⁶ The killings included in early April the former Queen of Rwanda, an important historical figure of the Tutsi community.¹²⁷ In the same indictment Arsene Shalom Ntahobali was named for using roadblocks as mechanisms to systematically identify Tutsis. He was also specifically named in the indictment as participating “in the kidnapping and raping of Tutsi women.”¹²⁸ Paragraph 6.54 of the indictment refers to rapes and sexual assaults as “widely and notoriously committed throughout Rwanda.”¹²⁹

The capture and indictment of Pauline Nyiramasuhuko in 1997 turned into yet another international law cornerstone. In Sept. 1997, the former Rwandan Minister for Women Development Pauline Nyiramasuhuko pleaded not guilty on charges including genocide, conspiracy to commit genocide and crime against humanity. Some refer to Nyiramasuhuko as “the star of genocide narratives”¹³⁰ of the Rwandan conflict mainly because she was the first and only women charged with aiding the systematic rape of women during the conflict.

According to the 1999 amendment of the initial indictment, the minister and her son Shalom personally erected and manned roadblocks at their home in Butare to find, identify and capture Tutsis. Nyiramasuhuko was named in the indictment to have abducted Tutsi refugees with the help of militia men to be later executed.¹³¹ During these abductions, the victims were often sexually assaulted before being forced “into vehicles and taking them to their deaths.”¹³² The roadblocks were specifically utilized by her son and with the Interahamwe soldiers “to abduct, rape and kill members of the Tutsi

¹²⁶ Ntaganzwa Indictment 1998.

¹²⁷ Ntaganzwa Indictment 1998.

¹²⁸ Ibid., 1998.

¹²⁹ Ibid., 1998.

¹³⁰ Laura Sjoberg & Caron E. Gentry 2007, 160.

¹³¹ Prosecutor v. Pauline Nyiramasuhuko & Shalom Ntahobali 1999, 32.

¹³² Ibid., 33.

population.”¹³³ The Butare province alone later on accounted for “more than 90,000 rape survivors.”¹³⁴ Nyiramasuhuko was also charged in her position of authority as a minister with not taking measures to stop the various massacres. She was accused of refusing to intervene, but actually being instrumental in planning, preparing and executing “a common scheme strategy or plan” to commit these atrocities.¹³⁵ The indictment continuous on with specifically pointing to her involvement in committing these atrocities “personally, by persons they assisted or by their subordinates and with their knowledge or consent.”¹³⁶ The judgment alleges that Nyiramasuhuko has agreed to the government’s plan to eradicate Tutsis and attended meeting during which the systematic killing of Tutsis was discussed.

Nyiramasuhuko and her son Shalom Ntahobali were indicted on charges of using specifically rape as “a widespread and systematic attack against a civilian population”¹³⁷ Both were additionally charged with being responsible “for outrages upon personal dignity in particular humiliating and degrading treatment, rape and indecent assault.”¹³⁸

On June 24, 2011 – fourteen years after her first capture and indictment -, the judges found Nyiramasuhuko along with her son and four other former state officials (a prefecture official; a lieutenant colonel, and two mayors) guilty. This made Nyiramasuhuko the first woman (and minister of department tasked to aid the development of women) to be convicted of assisting the systematic rape of women. The 2011 judgment pointed to rape and “the outrages upon personal dignity” charges “each

¹³³ International Criminal Tribunal for Rwanda 2011, 6.

¹³⁴ Weitsman, Patricia A. 2008, 573.

¹³⁵ Prosecutor v. Pauline Nyiramasuhuko & Shalom Ntahobali 1999, 38.

¹³⁶ Ibid., 38.

¹³⁷ Ibid., 43.

¹³⁸ Ibid., 46.

accused is charged with both direct and superior responsibility.”¹³⁹ The prosecution of this particular case was the longest case for the Tribunal, producing “more than 125,000 transcript pages.”¹⁴⁰

The 2011 judgment reads that many of the crimes committed, including rapes and murder often in churches, hospitals, and government offices were “among the worst encountered by this Chamber; it paints a clear picture of unfathomable depravity and sadism.”¹⁴¹ Differently, however, from the Akayesu case, the prosecution in its final 2011 judgment, however, asserted that it “has not taken the rapes into account when assessing genocide and has not entered a conviction for genocide¹⁴² based on its link to rape.” In paragraph 26 of the judgment, however, the prosecution accounts rape as “a crime against humanity and outrages upon personal dignity as a war crime.”¹⁴³ The tribunal establishes further Nyiramasuhuko’s “superior responsibility over *Interahamwe* who committed rapes” in Butare.¹⁴⁴ The tribunal found that between the end of April and mid June 1994 that Nyiramasuhuko and her son along with soldiers abducted hundreds of Tutsis, which “were physically assaulted, raped, abducted, and taken away to various places in Butare, where they were killed.”¹⁴⁵ The prosecution clearly found that Nyiramasuhuko “ordered the killings” and the rapes and that Nyiramasuhuko “aided and abetted rapes and is responsible as a superior for rapes committed.”¹⁴⁶ In the final verdict, Nyiramasuhuko

¹³⁹ International Criminal Tribunal for Rwanda 2011, 2.

¹⁴⁰ International Criminal Tribunal for Rwanda 2011, 2.

¹⁴¹ *Ibid.*, 7.

¹⁴² *Ibid.*, 8.

¹⁴³ International Criminal Tribunal for Rwanda 2011, 8.

¹⁴⁴ *Ibid.*, 8.

¹⁴⁵ *Ibid.*, 8.

¹⁴⁶ *Ibid.*, 8.

was found guilty of seven of 11 counts, including of rape as a Crime against Humanity¹⁴⁷ and convicted to life in prison. As of January 2012, the case was still on appeal.

In April 2005, tribunal convicted Mikaeli Muhimana of rape, among other charges, and sentences to prison for life. The Tribunal's 2005 report asserts that this conviction "made a significant contribution to the Tribunal's jurisprudence on rape."¹⁴⁸ Emmanuel Rukundo, military chaplain and a priest in the community, was also found guilty of genocide, murder, extermination and rape of a young Tutsi women on February 27, 2009.¹⁴⁹

The case database 1998 to 2010 of the ICTR lists 16 perpetrator charged and/or convicted of rape during the genocide. The list includes Akayesu, but does not include the 2011 judgment of Pauline Nyiramasuhuko. These are the names:

AKAYESU, JEAN PAUL (2)
BAGOSORA, THEONESTE (4)
BIKINDI, SIMON (2)
BISENGIMANA, PAUL (2)
GACUMBITSI, SYLVESTRE (3)
KABILIGI, GRATIEN (4)
KAJELIJELI, JUVENAL (4)
KAMUHANDA, JEAN DE DIEU (2)
MUHIMANA, MIKAELI (3)
MUSEMA, ALFRED (4)
MUVUNYI, THARCISSE (1)
NIYITEGEKA, ELIEZER (2)
NSENGIYUMVA, ANATOLE (4)
NTABAKUZE, ALOYS (4)
RENZAHU, THARCISSE (2)
SEMANZA, LAURENT (4)¹⁵⁰

Figure 3. ICTR case database 1998 to 2010, listing 16 perpetrators charged and/or convicted of rape during the genocide. Prosecutor v. Tharcisse Renzaho 2009, 202.

¹⁴⁷ International Criminal Tribunal for Rwanda 2011, 11.

¹⁴⁸ International Criminal Tribunal for Rwanda 2005, 7.

¹⁴⁹ International Criminal Tribunal of Rwanda 2009, 9.

¹⁵⁰ International Criminal Tribunal of Rwanda 1998-2010.

In the case *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-3 1-T, for example, Renzaho, the prefect of Kigali, was charged with several counts of genocide including murder and rape.¹⁵¹ In the case the prosecution asserted that rapes of Tutsi women and girls took place by police, soldiers, administrative officials, all “under Renzaho’s control.”¹⁵² Renzaho was also cited of calling Tutsi women “food for the militiamen.”¹⁵³ The 255-page judgment and sentence document of the Renzaho case in 2000 uniquely contained a separate 84-page section solely focusing on “rape and sexual violence, April – July 1994.”¹⁵⁴

According to this part of the judgment, the prosecutors found that most rapes followed a distinct pattern, which including abducting women, holding them captive and abusing them for days, weeks or even months.¹⁵⁵ The tribunal concluded that “these rapes were committed with genocidal intent” because they targeting specifically Tutsi women.¹⁵⁶ In August 2009 Renzaho was found guilty of “encouraging the sexual abuse of women.” He was found guilty of genocide and rape as a crime against humanity.¹⁵⁷ He was also found guilty of crimes against humanity in connection with the rapes. The tribunal further explained its reasoning, asserting that the tribunal had to prove that these crimes were of “a widespread or systematic attack” nature.¹⁵⁸

During the *Renzah* case the tribunal judges concluded that Renzaho’s radio messages on May 10, 1994 for example

¹⁵¹ Prosecutor v. Tharcisse Renzaho 2009, 177.

¹⁵² Ibid., 177

¹⁵³ Prosecutor v. Tharcisse Renzaho 2009, 178.

¹⁵⁴ Ibid., 177-91.

¹⁵⁵ Ibid., 188.

¹⁵⁶ Ibid., 202.

¹⁵⁷ Ibid., 2009.

¹⁵⁸ Ibid., 203.

"It is therefore necessary that directives adopted in this regard are complied with. It is for this reason that we have decided to arrest all those who rape and want to commit criminal acts so as to punish them."¹⁵⁹

were, in fact, propaganda or statements made under false pretenses. Since Rwanda was "under intense international security"¹⁶⁰ by May 1994, the tribunal saw these messages not of evidence of Renzaho innocence or attempts to provoke peace, but rather "motivated by a need to restore the government's public image."¹⁶¹

2. *OTHER MEASURES:*

In 1996, the Rwandan Ministry of Health together with international organization such as the UN's World Health Organization and \$295,000 from the Italian government initiated a study about the effect of rape during the genocide.¹⁶²

The project aimed to:

- a) To improve the access of women victims to medical services;
- b) To create national networks of women victims of violence;
- c) To increase the technical capacity of the health personnel;
- d) To encourage women to make use of the health services available to them;
- e) To raise funds in support of women victims of violence;
- f) To increase the availability of medical equipment and medication, especially for women victims of violence.¹⁶³

The tribunal increasingly made efforts to educate its staff about sexual violence. It, for example, held a special workshop about sexual violence march 23 – 26, 1996 and after the workshop established a special team on sexual violence.¹⁶⁴ In October 1997 the tribunal organized a special workshop about sexual aggression in Arusha in conjunction

¹⁵⁹Prosecutor v. Tharcisse Renzaho 2009..

¹⁶⁰ Ibid., 52-3.

¹⁶¹ Prosecutor v. Tharcisse Renzaho 2009, 52-3.

¹⁶² Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 18.

¹⁶³ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 8.

¹⁶⁴ International Criminal Tribunal Rwanda 1997, 14.

with the tribunal of the former Yugoslavia.¹⁶⁵ A Group on Gender Issues was created in 1997 to “provide advisory services in questions related to gender issues” including sexual violence to the Tribunal.¹⁶⁶ The tribunal implemented a special independent monitor on Gender-related crimes. A newly appointed deputy prosecutor in 1997 held two workshops “with international experts to sensitize the OTP [office of the Tribunal Prosecution] staff on the issue of sexual violence.”¹⁶⁷ The prosecutor also initiated the establishment of a special “Sexual Assault Team” to prepare rape victims for testimony.

Since the genocide left many Rwandan women widowed and as the head of the household, the Rwandan government with assistance from the UN Development Project built 100 new homes for genocide survivors.¹⁶⁸

Because of the excessive trauma rape survivors were exposed, the Special Rapporteur Radhika Coomaraswamy in 1998 initiated UN programs to help the “psychological and social rehabilitation” of these victims.¹⁶⁹ The Special Rapporteur also announced that the WHO along with Rwanda’s Ministry of Health would run a National Trauma Centre in Kigali, which was initially established in 1995. The trauma center would be staffed with national and international personnel.¹⁷⁰ After the visit of the Rapporteur in 1997, Coomaraswamy, engage in discussion to force activities of UNDP and HRFOR (Human Rights Field Operation in Rwanda) in Rwanda including the UN Development Fund for Women (UNIFEM) in cooperation of the Rwandan Ministry of gender, Women and Social Affairs.¹⁷¹ Coomaraswamy also initiated a gender perspective

¹⁶⁵ International Criminal Tribunal of Rwanda 1998, 10.

¹⁶⁶ Ibid., 13.

¹⁶⁷ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 11.

¹⁶⁸ Ibid., 17.

¹⁶⁹ Ibid., 18.

¹⁷⁰ Ibid., 18.

¹⁷¹ Ibid., 22.

of the UN Development Program (UNDP) and the establishment of a UNDP justice program including providing free legal aid for victims and perpetrators, to “train prosecutors and sensitize judges on the human rights of women.”¹⁷²

Likewise, she supported a newly appointed Regional Adviser for Refugee Women at the Office of the UN High Commissioner for Refugees (UNHCR).¹⁷³

Additionally, the utilization of rape as a systematic weapon during the Rwanda genocide triggered an increased interest in the issue of reparations, including the compensation for victims according to humanitarian international law. These reparation mechanisms have been revised in light of the influx of systematic rape during conflict and the horrific scope of its brutality such as in Rwanda. According to a 2000 U.N. Commission of Human Rights report, revised principles and guidelines in 1998 and 1999 have brought “much – needed clarity and consistency to the issue of the rights of victims to reparation, including for sexual violence committed during armed conflict.”¹⁷⁴ These revisions for the first time took in consideration how gender affects specific violations and its consequences that are then subject to reparations including “the gender-related obstacles that women and girls face in seeking redress.”¹⁷⁵ A 2000 UN report asserted that these revisions included language of experts about the right to reparations for victims of gross human rights violations and humanitarian law, of fundamental freedoms and the question of impunity of perpetrators of human rights violations.¹⁷⁶

¹⁷² Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 24.

¹⁷³ Ibid., 24.

¹⁷⁴ McDougall, Gay J., Special Rapporteur 2000, 17.

¹⁷⁵ Ibid., 17.

¹⁷⁶ Ibid., 33.

The 1999 U.N. report of the Tribunal for the first mentioned the establishment of one particular investigative team that is exclusively in charge of sexual offences.¹⁷⁷ The report also points for the first time to the establishment of a “Unit for gender issues and Assistance to Victims” to protect and support victims and witnesses of sexual violence offences during the genocide.¹⁷⁸ In 1999 and 2000, the Tribunal’s Victims and Witnesses Support Unit recommended the establishment of counseling to ensure physical and in particular psychological rehabilitation of rape victims.¹⁷⁹ In 2000, the tribunal’s Victims and Gender Support Unit also started to provide services to victims of sexual violence. The unit provides services by counselors not only to witnesses, but primarily victims of the widespread sexual attacks. Also a legal guidebook, according to the report, published would help victims and witnesses to learn about their rights during court procedures.¹⁸⁰ The booklet was eventually published in 2001 in the languages of Kinyarwanda, French and English.

The 2000 U.N. Human Rights Commission report pointed to the ongoing sexual violence during war and asked for “a more concerted action by the international community in general, and particular the United Nations, governments and non-governmental actors.

The commission made the following recommendations:

- For states to enact specific national legislation to provide universal jurisdiction for violations of systematic rape.

¹⁷⁷ International Criminal Tribunal for Rwanda 1999, 12.

¹⁷⁸ International Criminal Tribunal for Rwanda 1999, 19.

¹⁷⁹ Ibid., 17.

¹⁸⁰ International Criminal Tribunal of Rwanda Annual Report 2000, 14-5.

- Regulations and training materials that explain the explicit prohibition of sexual violence during conflict
- Steps to ensure that humanitarian law violations are being prosecuted through the local and municipal legal system
- Elimination of gender bias in legal law
- Protections and support for victims and witnesses of sexual violence
- Integration of gender perspective in the investigations and prosecutions of the International Criminal Court
- U.N. High Commissioner for Human Rights through its field missions needs to document and report on sexual violence during conflict. This includes the cooperation with non-governmental agencies to dispel anti-women propaganda campaigns and to provide post-trauma services.
- The prosecution of perpetrators and compensation for victims of sexual violence need to be part of peace treaties, conflict resolution and reconciliation efforts.
- The international community including the United Nations need to prosecute perpetrators of sexual violence
- Involvement of women in the peace negotiations and peace-building process¹⁸¹

Further, in 2001, five Rwandan NGOs were selected to provide counseling and other services for victims of sexual violence during the genocide. In 2001, a sexual assault investigator was added to each investigative team of the tribunal.¹⁸² The 2001 U.N. report asserts that since the Akayesu conviction, “investigations of sexual violence have been expanded.” The paragraph that followed this assertion, however, hints on the

¹⁸¹ McDougall, Gay J., Special Rapporteur 2000, 19-22.

¹⁸² International Criminal Tribunal for Rwanda 2001, 17.

fragility and limitations of such an expansion. It reads that the Sexual Assault Team “was decentralized. However, a core unit is still in place to provide coordination and supervision, as this is a highly sensitive and complex domain.”¹⁸³

In June of 2003 the Tribunal’s Registrar’s Office hired a Gender Adviser to provide more physical and psychological helps for rape and sexual violence victims.¹⁸⁴ However, the 2003 report also alludes to problems that required to “improve access to medical care as well as psychological and legal counseling for victims.”¹⁸⁵ In 2002 the UN Tribunal annual report asserts that “following the advice of the Office of Legal Affairs in New York” the Support Programme for Witnesses which is led by the Tribunal’s Gender Issues and Assistance to Victims Unit “has been refined.” The program now, according to the 2002 report, provides now “legal, psychological and medical” help to witnesses.¹⁸⁶

In June 2003, the hiring of a Gender Adviser at the Tribunal’s Office of the Registrar should help to create policy guidelines that provide “a more conducive environment for the effective participation of victims and witnesses”¹⁸⁷ sexual violence. The same report, published in 2004, also mentions for the first time HIV/AIDS when it reports about the hiring of three medical experts including a gynecologist, a psychologist “to improve access to and monitoring of medical support for victims and witnesses, including in relations to the management of HIV/AIDS.”¹⁸⁸ The following report published, in 2005, states for the first time an actual number of HIV/AIDS infected

¹⁸³ International Criminal Tribunal for Rwanda 2001, 17.

¹⁸⁴ International Criminal Tribunal for Rwanda 2003, 15.

¹⁸⁵ (International Criminal Tribunal for Rwanda 2003, 16.

¹⁸⁶ (International Criminal Tribunal of Rwanda 2002, 14.

¹⁸⁷ (International Criminal Tribunal for Rwanda 2004, 15.

¹⁸⁸ Ibid., 15-6.

patients have only reported as being 39. The report also mentions nutritional supplements for HIV/AIDS patients.¹⁸⁹ The 2007 annual report points to the continued support to help rape victims with their physical and psychological rehabilitation.¹⁹⁰

3. RESOURCES AND COMMITMENTS:

The following other resources were also initiated because of the reported systematic nature of rape during the conflict:

- Clinic of Hope in Kigali, a medical centre for counseling and medical care for female victims of violence. One stop-shop including legal advice and help.
- AVEGA supporting women survivors of the genocide including health services and trauma counseling¹⁹¹ A myriad of other non-governmental organization after the genocide help rape survivors to create self-help groups. Non-governmental organizations and international donors have recognized the potential of such groups. The U.N. High Commissioner for Refugees Rwandan Women's Initiative has started to cooperate with these groups "empowering women politically and economically and reconstructing Rwandan society."¹⁹²
- SEVOTA organization that helps widows and orphans of the genocide¹⁹³ ad Women's Network for Rural Development and PROFEMMES, an overarching organization of 35 Rwandan women's associations to create among all ethnicities a "culture of peace."¹⁹⁴

¹⁸⁹ International Criminal Tribunal for Rwanda 2001, 15.

¹⁹⁰ (International Criminal Tribunal of Rwanda 2007, 17.

¹⁹¹ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 25.

¹⁹² Africa Union 2000, 152

¹⁹³ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 25.

¹⁹⁴ Ibid., 26.

The Rapporteur asked after her 1997 Rwanda visit the UN and international community “to take some radical measures to ensure the effective functions of the ICTR”¹⁹⁵ including special training of lawyers and Rwandan inter-ministerial task force about sexual violence.¹⁹⁶

F. CONCLUSION

According to these findings, the actor and audience matrix concludes as follows:

Table 4. ACTOR AND AUDIENCE MATRIX RWANDA II

Actors	The State incl. Political Opposition	Intl. Institutions	NGOs / TANS / Civil Society	National and Intl. Media
Audience				
Speech Act	✓	✓	✓	✓
Other Rhetorical Measures (e.g. Imagery)				
Commitments		✓	✓	

¹⁹⁵ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 27.

¹⁹⁶ Ibid., 29.

Legal Measures		✓		
Resources		✓	✓	

If one compares Rwanda with the war in Bosnia, both conflicts are similar in their horrific utilization of rape as a systematic tool of warfare, yet different in its ultimate execution. Rwanda was the fastest genocide in recorded recent human history while Bosnia was describes by some as “the slaughter took place as if in slow motion” and with the United Nations looking on.¹⁹⁷ Likewise, the parallels are significant, yet different. The International Criminal Tribunal of Yugoslavia became the first internationally recognized entity to charge officials with rape as a crime against humanity. Rwanda and its tribunal, however, continued where the Yugoslavian Tribunal had left off in making its initial mark. In its unprecedented Akayesu ruling, it connected rape to genocide and therefore, even further securitized the systematic utilization of rape during conflict.

As this case study showed, international institutions primarily through legal rulings by the International Criminal Tribunal of Rwanda were instrumental in securitizing rape as a systematic weapon of war. Also other measures initiated or enforced by the newly appointed Special Rapporteur of Violence Against Women, for example, have underscored the securitization of rape in the 1990s. Additionally, the

¹⁹⁷ Rieff 1995, 120.

consistent presence of human rights advocacy groups such as the Human Rights Watch and in particular the late board member Allison DeForges have immensely contributed to the securitization of rape. Yet, how successful in their effectiveness these measurers, resources and commitments were remains questionable.

CHAPTER VI

ANALYSIS/CONCLUSION: RAPE - A MATTER OF HUMANITY

Bosnia gave the world the imagery of rape camps in the heart of Europe; Rwanda the imagery of machetes and banana stems transformed into instruments of rape, sexual torture and genocide in the heart of Africa. The imagery of massacred rape victims piled up, the corpses of dead young women and young girls “laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried,” according to former UN commander Romeo Dallaire’s testimony.¹

Both conflicts provided atrocious accounts unseen and unheard - unread and “unlistened” to before. Narratives about the most brutal and most primitive weaponry of terror, rape as an ancient method of war re-discovered and re-utilized anew at the advent of the 21st century. Yet, amid the most unimaginable, the anguish and the suffering of hundreds of thousands of women, girls and children during both conflicts, something else happened. The suffering mattered. It was a shift, an un-licensing, an undoing of a status quo, endorsed for centuries. An unraveling of the unspoken; a new look at the customs, rules and the once so well-established narrative of war. This shift began to reevaluate the intersection of women and war, rape and security. It reexamined how the global community saw, valued, judged, upheld, safeguarded and protected human life and human dignity – and fundamental human rights. It sparked a shift that regarded a new subset of war and a new generation of human terror intolerable.

During both conflicts rape as a weapon of war became more than an inconvenient and unfortunate incident, more than an opportunistic byproduct of conflict, a silent and

¹ Nowrojee, Binaifer 2003, 4

accepted systematic tool of warfare, more than a violation of international law. It became a violation of a collective global conscience, a shock to a set of values and to a political consciousness, which could no longer accept the unacceptable.

According to the prescribed processes of Buzan and Waever's Securitization Theory, as these two case studies indicate, rape was effectively securitized during both conflicts. Bosnia and Rwanda represent effective markers and pivotal turning points, which not only caused securitization – but initiated, aggravated and even demanded continuous securitization afterward. Both conflicts have left their marks. They tested a legal status quo and challenging a well-established institutionalized complacency in regard to wartime rape. They questioned set and accepted assumptions and norms about wartime rape, expanded international legal parameters – and pushed against a hitherto permissible and complacent security environment that had previously surrounded the subject of rape. Both conflicts established precedents unseen before about the intersection of sexual violence and conflict.

Securitization in the case studies Bosnia and Rwanda was primarily established through the speech act, by rhetorically connecting rape to security, through “speaking” of rape as a security matter – and/or as a matter that had or established specific security implications. Through speaking of rape as a concept within the realm of security, rape adopted specific threat components. Rape was made visible as a threat to not only a community as an insular entity, but to a regional and global environment. It attached itself rhetorically to strategic objectives of war: to the survival and the extermination of a specific ethnical group, to the systematic tainting of identity, the political and social dismantling and destruction of a community, the forced expulsion of a population for the

specific strategic objective to gain territory and political power. Rape developed a very specific security character with real implications and consequences. It became successfully securitized.

This chapter elaborates and underscores this successful securitization and its ramifications. It also explores why and how Securitization Theory and its application to rape as a weapon of war need to adjust some of its prescribed processes to accommodate the specific security character of rape. This chapter examines why, for example, de-securitization or the return of rape to the political realm or sphere (“it again can be dealt with the regular way”) is not a desirable or even a viable option in case of wartime rape. It explores why an issue such as rape needs to remain securitized and how international institutions – and the continuing rise of norms - are instrumental and critical in this process. This section underscores the argument for *permanent securitization* through articulating the problems and setbacks that still today taint, haunt and thwart the prosecution of wartime rape. Such examples include the lack of data, the lack of adequate data collection and an increasingly apparent explicit or implicit judicial reluctance (politically or socially underwritten) of key actors to prosecute wartime rape. It also takes a look at future and lasting security implications and repercussions, resulting from rape utilized during war. Such security-specific consequences include children born out of wartime rape, HIV/AIDS infections and a look at the rise of a new generation of war, which has increasingly licensed wartime rape as a convenient, effective and cheap new weaponry of choice.

A. SUCCESSFUL SECURITIZATION

During and after the conflicts of Bosnia and Rwanda, rape adopted specific security dynamics. Reports about the systematic utilization of rape as a strategic weapon of war in Bosnia and Rwanda – with specific strategic objectives - thrust rape into the forefront of foreign policy and security discourse. News reports about rape camps in the former Yugoslavia and later the subtle emergence of reports about mass rapes in Rwanda not only triggered a global emotional outrage, but it institutionalized a response to rape during war. Non-governmental organizations such as the Human Rights Watch, women's groups and transnational networks such as Amnesty International began to push United Nations to act. The institutionalized response attached security implications to mass rape. Rape was no longer seen as an unfettered by-product of war, but a method of warfare, an intolerable violation of international law. And by doing so, it developed a specific security character. It took on a nature that diverged and transcended beyond the conventional and the previously established – the political. It became securitized. The application of Securitization Theory can explain this process – how wartime rape began to matter so differently compared to decades and centuries before.

As indicated in the case studies of Bosnia and Rwanda, rape was successfully securitized throughout both conflicts because a) rape was presented by various actors such as international institutions, governments and the international media as an existential threat; b) an audience (such as international institutions and its international court systems e.g. criminal tribunals) deemed such threat as credible and c) the audience deployed extraordinary measures to address and curb these threats.

Different from decades and centuries ago, the increasingly globalized media and virtually communicating, networking and organizing non-governmental groups on the ground in Bosnia and Rwanda were critical for presenting rape to a securitization audience such as international institutions and foreign governments as a credible threat. Securitization theorists such as Barry Buzan call such security endorsement and underwriting a *securitization move*.

The speech act, a specific rhetorical make-up of the narrative surrounding mass rape and the articulation of the urgency of action, became the underpinning of the securitization move. The speech act is facilitating of the securitization move. In both case studies the speech act becomes the rhetorical vessel that “speaks” of mass rapes as a security issue. It becomes the actual articulation of a security concern, the redefining of a political issue. It evolved into a security issue, a supra-political concept that surpasses the conventional political. It becomes a matter of security. The security move becomes the representation of an issue as a security concern to a credible securitization audience (e.g. the United Nations). For example, in April 1993, during the Bosnian conflict the U.N. Security Council with resolution 820 for the first time referred to “the massive, organized and systematic detention and rape of women”² and linked mass rapes to the violations of international human rights violations and the violation of humanitarian law.

³ Terminology such as “massive,” “organized” and “systematic” created a sense of urgency. In 1993, the establishment of the International Criminal Tribunal of the Former Yugoslavia included rape as a crime against humanity and called these human rights

² ICTY, http://www.icty.org/x/file/Legal%20Library/Statute/statute_re808_1993_en.pdf 1993, 4.

³ Ibid., 4.

violations in Bosnia “a threat to international peace and security.”⁴ Mahmoud Cherif Bassiouni, chairman of the UN Commission for Human Rights and the Commission’s Special Rapporteur, in a final report in 1994 linked mass rape to ethnic cleansing and to specific war objectives such as gaining and controlling territory.⁵ Connecting specific terminology and selective language such as “detention sites” and “camps” to sexual violence emerge as pivotal rhetorical pointers, which underwrite this sense of urgency, outrage and threat. Similar in Rwanda, U.N. Security Council Resolution 955 created the ad hoc International Criminal Tribunal of Rwanda. The Tribunal’s statute, similar to the ICTY, also immediately established that the atrocities committed during the conflict represented a threat to international peace and security.⁶

As pointed out in the case studies, rape was elevated – through the securitization move – from a regular occurrence to a security issue. The discourse about wartime rape - because of the systematic nature and strategic utilization of mass rapes in Bosnia and then in Rwanda – created a crisis environment and a sense of existential urgency. The speech act as a tool and identifying instrument was critical in recognizing these various rhetorical markers, which provided the underpinning for Securitization Theory. The speech act indicated a crisis mode. By rhetorically connecting these mass rapes specifically to security, by “uttering” the word security – or something that similarly resembles the notion of security – actors such as international institutions, the media, non-governmental organizations and governments articulated the need for action. A sense of urgency was created. Rape became a security threat. And something needed to be done to curtail this brewing and growing security crisis.

⁴ ICTY, http://www.icty.org/x/file/Legal%20Library/Statute/statute_re808_1993_en.pdf 1993, 4.

⁵ United Nations Security Council Mahmoud Cherif Bassiouni 1994, 73.

⁶ United Nations Security Council 1994, 1.

The speech act not only remained a rhetorical, passive mechanism, but had very real, tangible and active implications. The securitization move underwritten by the speech act moved rape from the political to the security sphere. The speech act, as indicated in both case studies, was functional, effective – and as such consequential. International key actors such as international institutions and governments “spoke” of rape – and linked rape to security – and brought it to the attention of an audience. As a result of the speech act, for example, the U.N. Security Council acted and passed consequential resolutions. The sheer fact for the U.N. Security Council to establish in 1993 the Yugoslavian and then in 1994 the Rwandan criminal tribunals, and to immediately incorporate rape and sexual violence as an intricate part of both tribunal’s statutes, is significant and fundamentally telling. It represents securitization. The U.N. Security Council through the establishment of the international tribunals of Bosnia and Rwanda and their statutes has specifically acknowledged that the atrocities during both conflicts, including mass rapes, have presented “a threat to national and international peace and security.”⁷ Rape as a weapon of war was securitized. This moved the traditional view and interpretation of war rape immediately to a different level – and into the realm of securitization.

The move from the political to the domain of security, then endorsed the third stage and the most effective and active level of securitization: the deployment of extraordinary measures. Buzan describes these measures as so severe and so different from anything previously deployed; a sheer violations of established rules, norms and ordinary regulations. They become the driving force of securitizations. In the cases of Bosnia and Rwanda, these measures included an array of extraordinary, unique and

⁷ United Nations Security Council 1994, 1 and United Nations Security Council Resolution 752 United Nations Security Council 1992, 1.

consequential actions. Most significantly, however, they included very specific legal measures deployed through international law. The International Criminal Tribunals of the former Yugoslavia and then Rwanda – the first international war crime courts established since the Nurnberg trials after World War II - expanded the existing judicial parameters of international law. They deployed extraordinary measures unseen and unheard before.

The judges of the International Tribunal of the Former Yugoslavia, for example, for the first time in the history of war crime tribunals, charged and convicted war rapists for crimes against humanity - and issued long prison sentences. For the first time in history, wartime rape did not just receive meaningless lip service, but it was treated as a war crime. It became a human rights violation, which was prosecuted and did no longer enjoy impunity. Rape became a violation of international law with severe legal ramifications in the international court of law.

While the judges of the Yugoslavian tribunal convicted officials and soldiers for the first time of rape, the judges of the International Criminal Tribunal of Rwanda expanded the newly carved out international legal terrain even further. They issued the first convictions of rape as a distinct feature and mechanism of genocide. Former Rwandan officials, ministers and town mayors were not only convicted of rape, but held accountable in an international court of law for utilizing rape as a weapon of genocide. The Rwandan International Criminal Tribunal deemed incidents of the systematic mass rapes during the 1994 conflict as a systematic tool and weapon of genocide, setting a legal precedent, up until then unparalleled in international law. Mass rape was for the first time in history linked to genocide, the systematic mass extinction of one group of people.

Mass rape was recognized as an instrument of systematic mass murder – and legally articulated and penalized as such.

However, the conflicts of Bosnia and Rwanda not only as insular events caused this shift of recognizing mass rape as a war crime – but both conflicts became distinct markers that moved international institutions forward toward a consistent securitization of rape. Institutions such as the U.N. Security Council invoked specific measures that continued to securitize mass wartime rape beyond these two specific conflicts. For example, in 1998, the Rome Statute, which was signed by 120 states, not only established the International Criminal Court (ICC), but continued to securitize wartime rape. Mirroring the Bosnian and Rwandan examples, the Statute's section 3 defines rape and sexual violence specifically as a war crime and crime against humanity that could resemble acts of genocide. Additionally, the United Nations took on additional measures to advance the securitization of rape. In 2000, the U.N. Security Council passed with resolution 1325 for the first time in its history an U.N. document that articulated the link between systematic sexual violence and war and addressed the inherent international responsibility to protect women and children from systematic rape during warfare. "It was a demand for establishing women as equal voices in making decisions pertaining to peace, security, and ultimately power."⁸ It also emphasized the implementation of critical mechanisms to increase women's "role in decision-making with regard to conflict prevention and resolution."⁹

The Bosnian and Rwandan convictions also set a precedent for the international legal system to bring war rapists of other conflicts to justice. International indictments

⁸ Kuehnast, Kathleen, de Jonge Oudraat, Chantal, and Helga Hernes, ed. 2011, 21.

⁹ United Nations Security Council 2000, 1.

and arrest warrants gained traction. The International Criminal Court, for example, investigated the 2002-2003 armed conflict in the Central African Republic (CAR) and issued an arrest warrant for Jean-Pierre Bemba Gombo, former Congolese vice-president. Gombo, who was known to utilize sexual violence as a method to terrorize local population, was charged with numerous counts of murder and rape. In early 2012 this trial, which is curiously watched by the international activists and organizations, was still ongoing at the ICC.

Another high profile ICC action included the indictment and issuance of the arrest warrant for Sudan President Omar Hassan Ahmad al-Bashir. Al-Bashir has become the first sitting head-of-state, indicted by an international criminal court. According to the arrest warrant, the ICC charged Al-Bashir with several counts of crimes against humanity, including the rape of “thousands of civilian women.”¹⁰ In a historical move in 2010, additional counts of genocide – in connection with rape - were added. Similar to the Rwanda ruling, the ICC linked rape to genocide. ICC judges not only specifically defined genocide as the killing or causing serious bodily or mental harm, but also found evidence in Darfur for genocide to function “by deliberately inflicting on each target group conditions of life calculated to bring about the group’s physical destruction.” Citing various witness accounts, the ICC concluded that rape was mechanism of genocide, attained through the systematic intent to taint identity and erase a specific ethnicity. “After they abused us, they told us now we would have Arab babies and if they could find any Fur woman, they would rape them again to change the colour of their children”¹¹ one ICC witness statement read.

¹⁰ International Criminal Court 2009, 6.

¹¹ International Criminal Court 2010, 10.

The prosecutor's application for the arrest warrant for Al-Bashir details the notion of genocidal intent by utilizing mass rape in Sudan. The application calls the mass rapes of women and young children in Darfur as "an integral part of the pattern of destruction that the Government of the Sudan is inflicting upon the target groups in Darfur."¹² The ICC in particular built on the legal legacy of the previous ad hoc tribunals of the former Yugoslavia and Rwanda. It specifically, for example, cited the International Criminal Tribunal of Rwanda and the historic 1998 Akayesu verdict, which for the first time connected genocide to mass rape. "As described by the ICTR in the Akayesu, they use rape to kill the will, the spirit, and life itself,"¹³ the application reads.

Additionally to a growing institutionalized international legal footprint, the United Nations similarly made progress toward a more rigorous and defined structural framework for wartime rape. This again represents a move toward securitization of rape. In 2009, the U.N. Security Council passed resolution 1820 with which it tried to flesh out the rather timid parameters of resolution 1325 and to remove some of 1325's limitations and weaknesses. Some of these limitations included the Security Council's rather ambivalent commitment to a more pointedly articulation of the link between mass rape and security. For example, resolution 1820 specifically points to the notion that the systematic nature of rape "may impede the restoration of international peace and security"¹⁴ and suggests that measures against systematic sexual violence will aid international peace and security. The resolution expands the character of resolution 1325, pointing to a more forceful role and a more active involvement of the Security Council in regard to wartime rape. It, for example, uniquely emphasizes a growing sense of

¹² International Criminal Court 2010, 5.

¹³ Ibid., 5.

¹⁴ United Nations Security Council 2009, 2.

international responsibility. Differently from 1325, it specifically asks for the “the Council’s readiness when considering situations on its agenda to, where necessary, adopt appropriate steps to address widespread or systematic sexual violence.”¹⁵

Institutions began to increasingly cooperate with women’s group, non-governmental organizations and local non-profit groups on the ground to integrate a gender perspective into peace and conflict resolution processes. In Rwanda since the 1994 genocide, for example, an array of women-specific non-profit groups and non-governmental organizations such as AVEGA and the Rwanda Women’s Network became a driving force in the effort to rebuild the country. AVEGA, which was founded in January 1995 by 50 genocide widows, has emerged in the meantime as the country’s largest non-governmental organization for genocide victims including thousands of children and orphans, aiding thousands of child-headed households.¹⁶ The organization is focusing on the psychological and social rebuilding of women and their communities, to provide legal aid and assistance for female genocide survivors, in particular rape survivors. AVEGA also still today is providing housing and maintaining an array of economic programs for genocide widows to provide an economic base and generate income. These programs, for example, include myriad livestock and other agricultural and initiatives.¹⁷

In other countries that have suffered and are still suffering from systematically instituted mass rapes such as the Democratic Republic of Congo, Liberia and East Timor, local women’s groups also cooperate very closely with “the UN gender Advisor and

¹⁵ 1820 Strategy Session International Women's Tribune Centre 2009.

¹⁶ AVEGA 2007.

¹⁷ Ibid.

Gender Affairs units within UN peacekeeping missions”¹⁸ to promote the inclusion of women into the daily decision making processes, for women’s voices to be heard and to for gender perspectives to be addressed.

International institutions such as the United Nations and a growing international judicial framework including the International Criminal Court, the European Court of Justice and European Court of Human Rights and have become instrumental in the securitization of wartime rape – and in the process to keep rape securitized. In particular in a post-Cold War environment, in which ideological fault lines have eroded and paralyzed the effectiveness of the United Nations, these institutions have seen a renewed impetus and political legitimacy. An array of critical non-state actors – non-governmental organizations such as Human Rights Watch and transnational networks such as Amnesty International - has pushed the United Nations to reclaim its global authority. The presence of non-governmental and transnational organizations, an increasingly globalized media and digital social networking have made rape visible – and forced the continued recognition of rape as a war crime and a severe violation of humanitarian law. International institutions such as the United Nations, an expanding international court system and the consistent rise of norms - and subsequently its increasing global recognition as such - has become critical cornerstone in the process of keeping rape as a weapon of war securitized.

B. WHAT LIES AHEAD: DE-SECURITIZATION AND THE FUTURE OF THE SECURITIZATION OF RAPE

The application of Securitization Theory - while successful in its execution in the case studies of Bosnia and Rwanda – needs to adapt to the unique security character of

¹⁸ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 84.

rape. Otherwise the successful securitization of rape will regress into the political realm. Such reversal and de-securitizations will have significant detrimental effects. For example, the prosecution of wartime rape will lose its capacity as a deterrence mechanism. Mass rape will once again become an unfortunate, yet permissible, common and opportunistic part of war – without consequences. Rape as a war crime will lose its judicial and institutionalized traction, its effect as a deterrence – and become once again mute. Securitization Theory, therefore, needs to adjust some of its prescribed processes to accommodate and adapt the specific security character of rape. In particular, the aspect of de-securitization needs to be revisited, revised and adjusted. De-securitization – reverting a threat or a security issue to the political realm – is not a viable option for wartime rape. The consequences of the failure of not keeping rape securitized are already visible and evident, for example, in the growing reluctance of the Rwandan tribunal and local judges to prosecute rape cases.

A constant ambiguity, hesitance and caution within international institutions such as the United Nations remained evident in the 1990s. For example, the fact that the U.N. Population Fund instead of the U.N. Security Council was tasked to investigate in 1999 the reported mass rapes in Kosovo underscores the persistent ambiguity with which international institutions struggled. De-securitization would once again remove rape from the aspect of security¹⁹ and only perpetuate such consistent struggle. The Kosovo case underscored the initially conflicting attitude and ambiguous relationship of international institutions and sexual violence and the nexus of rape as a domestic/individual concern or national/collective security issue.²⁰

¹⁹ Coomaraswamy, Radhika, Special Rapporteur 1999.

²⁰ Hansen, Lene 2001, 56.

According to Buzan, after extraordinary measures have been successfully deployed (targeting and curtailing the threat), de-securitization takes place. Such de-securitization, according to Buzan, would return rape to the political realm or sphere of regular politics (“it again can be dealt with the regular way”). De-securitization would reverse securitization. It would revert an issue to its previous state because the threat has been successfully curtailed or even eradicated. This concluding step and circular process of securitization, however, is not a desirable option in the case of wartime rape. De-securitization, according to Buzan, is the removal of an issue from the security agenda. The threat has been defused, an issue appropriately – and successfully – addressed. Such diffusion, however, is not a viable option when it comes to wartime rape. The de-securitization of rape would diminish the strides and progress accomplished in the process of securitizing mass rape. Rape as a weapon of war has adopted a specific security character because of its simplistic and yet very effective nature. With the rise of a new generation of war – conflict fought across tribal and ethnical fault lines fueled by warlord rivalry over resources and regional dominance – rape has displayed a unique security character. Rape cannot be de-securitized – reverted into the political realm - because of its persistent “attractiveness” as a cheap and effective weapon. Even an inadvertent de-securitization of rape – the “falling-off” of the global radar - will have devastating consequences. Even today, for example, the persistent lack of data, inadequate data collection and an increasing explicit and/or implicit judicial fatigue and reluctance of key actors - politically and socially/culturally underwritten - to prosecute wartime rape are indicators of why rape needs to remain securitized. And international

institutions – and the continuing rise of norms – are and will remain critical components in this securitization process.

C. WHAT LIES AHEAD: THE NUMBER PROBLEM

The prosecution of wartime rape even today is significantly hampered, for example, by the lack of data, the lack of inadequate methods to collect data and its insufficient analysis. Consequently, the ramifications of such lack of data or the lack of reliable data and inadequate data analyses have still today remained under-researched and under-documented.

The contradiction between “a strikingly low conviction rate for rape or sexual violence offences, but relatively strong and repeated recognition of rape as a widespread and instrumental component of the genocide” (Buss 147) in Rwanda underscores this predicament. A European Commission working paper published in December 2011 in regard to Bosnia’s application for EU membership, mentions that “the prosecution of war crime cases involving sexual violence remains low.”²¹

While in the 1990s, international media exhaustively delved into the coverage of rape camps and sexual violence during the Bosnia conflict, news reports of systematic sexual violence as a form of ethnic cleansing during the 1994 Rwandan genocide surfaced only gradually, if not reluctantly. Likewise, the initial lack of academic research and the sporadic anecdotal accounts and narratives of mass rapes in Rwanda were reflective of this rather timid public awakening to the scope and scale of sexual violence in Rwanda. Some scholars have only marginally addressed, if not completely bypassed, the argument of rape as a systematic tool of war. Scott Straus, for example, in his 2006 survey admits that he did not focus on sexual violence during his interviews with

²¹ European Commission Staff 2011, 14.

Rwandan genocide perpetrators. In fact, he concludes in his research that “very few Rwandan men in fact confessed to raping women – an offense that, under Rwandan law, could carry the death penalty.”²² While the U.N., non-governmental organizations and international judicial bodies acknowledged sexual violence as a critical component of the Rwandan genocide machinery, Scott’s survey disregards it. “Almost all said that they did not witness rapes; they mostly said that the rule was to kill women, not rape them. A few said that they had heard that women were raped.”²³

The burgeoning field of conflict and sexual violence struggles with the consistent lack of quantitative research. Robust and reliable data is critical in this effort since, for example, some of the challenges with tracing sexual violence during the 1994 Rwandan genocide centered specifically on the non-existence or the unreliability of data. As recently as 2009, scholars have discovered only one extensive victim survey as an attempt to estimate the extent of sexual violence and rape during that time. This survey was spearheaded by the Rwandan Ministry for the Family and the Promotion of Women and published in 1995. The report found “only” 15,700 rape victims. Scholars, however, almost immediately challenged these assumptions since the data was extrapolated and based on estimated reports of 5,000 “war babies” born out of genocide-related rape. “A much higher number of raped women were killed after being raped and so never delivered a child,”²⁴ argued scholars afterward. Further, to infer the number of rape victims from census numbers of the Tutsi population was also fundamentally flawed

²² Straus, Scott 2006, 162.

²³ Ibid., 162)

²⁴ Bijleveld, Catrien. Morssinkhof, Aafke and Smeuler, Alette. 2009, 215.

since in general “the (Hutu-led) - government systematically tried to underestimate the number of Tutsis.”²⁵

In 2002, the Rwandan Ministry for Local Government reported that nearly 1.1 million people died as a result of the genocide. Initially, scholars and experts estimated about 250,000 rapes during the Rwandan genocide. This number is also based on so-called “rape babies,” but according to the Human Rights Watch, was inferred from 2,000 to 5,000 pregnancies caused by rape during the genocide. The non-profit group estimated 100 rapes per pregnancy and it concluded that approximately 250,000 rapes²⁶ occurred during the conflict. However, by referring to the 1991 Rwandan census, Straus in his 2006 survey insists that only 163,738 Tutsi women over the age of 14 lived in Rwanda during the genocide. Straus further argues that women under the age of 14 were raped and others multiple times, but since women were killed just as quickly as men, Straus states that the rape estimate of 250,000 rapes was probably too high. “The extent of this sexual violence is unclear and may never be fully revealed” but “what can be said with certainty is that sexual violence was common and was an important dimension of the genocide.”²⁷

A 2009 statistical analysis concluded that, in all surviving women, “between 12,625 and 166,660 women have been raped at least once.”²⁸ Most recently, new efforts to collect and infer from more reliable and accurate data have estimated 360,000 rape victims, who survived or were killed during the Rwandan genocide.²⁹ The “dearth of information” and lack of data during the chaos contributed to the ambiguous and

²⁵ Bijleveld, Catrien. Morssinkhof, Aafke and Smeuler, Alette. 2009, 217.

²⁶ Straus, Scott 2006, 52.

²⁷ Ibid., 52.

²⁸ Bijleveld, Catrien. Morssinkhof, Aafke and Smeuler, Alette. 2009, 218.

²⁹ Ibid., 219.

fragmented data collection. “Attention was directed more at the number of deaths than at surviving victims of rape. Registration of the number of rape victims probably had no priority.”³⁰

During a June 2009 colloquium in The Hague about sexual violence, scholars and experts addressed how best to develop methods to better quantify and evidentiary underscore wartime rape as a crime against humanity. The underreporting of rape and sexual violence needs to be addresses through a variety of measures on the evidence collection level and analysis, they concluded. For example, evidence needs to be interpreted and analyzed in an unbiased and impartial way.³¹ Xabier Agirre Aranburu found that in order for institutions and international legal systems to recognize sexual violence a such, judges, investigators and professionals in the field need to be trained how to identify appropriate evidence. Operational adjustments need to be implemented including guidance “how to look actively for the relevant evidence and interact emphatically with victims and witnesses.”³²

D. WHAT LIES AHEAD: A MATTER OF JUSTICE

Not all justice is equal. Nor is it fair. And justice surrounding the nexus of sexual violence and war unfortunately has seen both, the absence of fairness and equality, underwritten by a judicial reluctance and the lack of political will to continue to prosecute wartime rape. The prosecution of rape and sexual violence often faces a higher bar of evidentiary standards during national and international prosecution. For example, the lax prosecution of wartime rape by the Rwandan Tribunal has been called by some experts “shameful” and grossly inadequate. The Tribunal’s prosecutor’s office was also very

³⁰ Straus, Scott 2006, 220.

³¹ Aranburu, Xabier Agirre 2010, 627.

³² Ibid., 627.

heavily criticized because often times rape cases were measured by a different set of standards. Often these cases, for example, had to meet “a higher evidentiary standard.”³³ Evidence of such judicial inequality comes, for example, from numerous anecdotes experienced firsthand by tribunal judges, expert witnesses and officials such as Xabier Agirre Aranburu. Aranburu was an analyst of the Tribunal for the former Yugoslavia from 1997 to 2004 and today is a senior analyst at the International Criminal Court. Aranburu recalled witnessing during the 1990s how other judges and prosecutors refused “to deal with allegations of sexual violence, neglecting the relevant evidence, or setting higher standards of evidence.”³⁴

Aranburu recalled being stopped from drafting an indictment that included a reference to sexual violence in the 1990s by senior attorneys because “there was not sufficient evidence” to do so.³⁵ One of these attorneys then told Aranburu that rape and sexual violence cases were “very annoying and difficult to prove.”³⁶ Aranburu saw the problem about sexual violence prosecution hinging on a) the absence of sensitivity and awareness about the problem, usually at the part of senior male officers and b) sexual violence and rape is still considered in many countries a taboo topic.³⁷

Likewise, Kenyan Binaifer Nowrojee, a lifelong Human Rights advocate who authored the 1996 Human Rights Watch report “Shattered Lives” about mass rapes during the Rwandan genocide and expert witness for the ICTR, consistently criticized the Rwandan Tribunal for unduly delaying justice for mass rape survivors. In a 2003 working paper, which was later published for the UN Research Institute for Social Development,

³³ Aranburu, Xabier Agirre 2010, 611.

³⁴ Ibid., 611.

³⁵ Ibid., 611.

³⁶ Ibid., 611.

³⁷ Ibid., 612.

Nowrojee refers to rape cases tried by the Rwandan Tribunal as “squandered opportunities” and called the prosecution of rape cases by the Tribunal as “dismal.”³⁸ Nowrojee cites a lack of political will at the Tribunal’s prosecutor’s office.³⁹ As of May 2004, the tenth anniversary of the Rwandan genocide, the ICTR accounted for only 18 convictions.⁴⁰ While during the Rwandan genocide an estimated 250,000 to 500,000 women were raped, only a small portion of those convictions included rape. Nowrojee questioned specifically a disproportioned number of defendants, who were acquitted because the prosecution was not able to provide evidence and prove rape beyond reasonable doubt. Additionally, according to Nowrojee’s findings, the prosecution never appealed any of the rape case acquittals. “How can this be?”⁴¹ Nowrojee asked.

While 2000 Human Rights Commission report cites numerous narratives of rape cases, the report also reads that the first indictment of sexual violence at the ICTR did not come until 1997 “only after heavy international pressure from women’s groups.”⁴² The Special Rapporteur Radhika Coomaraswamy in 2000 raised concerns about the lack of cases that underscored the “discrepancy between the reality that women faced during the genocide and the present lack of prominence – some might say invisibility of sexual violence cases before both the international and national courts.”⁴³ The Special Rapporteur also questioned that only very few individuals by 1997 had been charged of sexual violence despite of all the legal mechanisms put in place earlier through the

³⁸ Nowrojee, Binaifer 2003, 2.

³⁹ Ibid., 2.

⁴⁰ Ibid., 5.

⁴¹ Ibid., 6.

⁴² Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 9.

⁴³ Ibid., 9.

Tribunal of the former Yugoslavia.”Why had the creative jurisprudence developed at the ICTY in The Hague not left its mark at the ICTR?”⁴⁴

Other critics warn not to see the unique and unprecedented rulings of both ad hoc tribunals – the rape convictions and the legal expansion of rape as a tool of genocide – as watershed convictions, which spur other such rulings, but to contrary: as an initial appeasement of women’s groups and human rights organization, which brought on judicial complacency. Nowrojee called the groundbreaking Akayesu conviction of the Rwandan tribunal, for example, “an exception, an anomaly.”⁴⁵ Quoting Rwandan rape survivors, Nowrojee not only cited the failure of the Rwandan tribunal to bring justice, but also how it actually aggravates the “tendency to exacerbate”⁴⁶ the suffering of rape survivors. Such prolonged and continued suffering originates from a two-fold failure of the tribunal, according to Nowrojee. The tribunal a) did not create a body of record (through convictions) that reflected the actual scope and scale of rape as a weapon of genocide during the conflict and b) it did not ensure the proper and appropriate treatment of rape survivors and witnesses, including protecting these survivors from the societal stigma.⁴⁷ To have one’s voice heard, to matter and to create meaning from horror is a longing often displayed by survivors of genocide, most prominently by Holocaust and Nazi concentration camp survivors.⁴⁸

Other aspects also play into how survivors as the individual and a nation as a collective body are able to heal and rebuild after genocide and mass rape. Historical accuracy – the truthful interpretation of historical events such as the systematic rape of

⁴⁴ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 11.

⁴⁵ Nowrojee, Binaifer 2003, 6.

⁴⁶ Ibid., 7.

⁴⁷ Ibid., 7.

⁴⁸ Ibid., 8.

women and children during the Rwandan genocide – is a mechanism for rape survivors to create meaning. Nowrojee concludes, however, that the accurate narrative of the genocide and mass rape and its record are at risk to be compromised. “If the current trend continues, when the doors of the ICTAR close, the judgments from this court will not tell the full story of what happened.”⁴⁹ To elaborate on such prospect of failure further, Nowrojee additionally argues that the absence of rape convictions will not only downplay the effect of mass rape during the conflict, but, in fact, “will deny that these crimes occurred” and full and fair justice “remains unattainable.”⁵⁰

To date, the Tribunal has produced 900,000 pages of transcripts, audio and video recordings of more than 6,000 trial days and more than 10,000 decisions. It also, according to the current ICTR president, Judge Khalida Rachid Khan, has heard “more than 26,000 hours of testimony from more than 3,200 witnesses.”⁵¹ Throughout the tribunal struggled almost from the beginning with structural and operational problems and challenges.

The tribunal had almost immediately difficulty to staff its prosecutor office. By August 1996, staff members only accounted for only half a dozen people.⁵² The Special Rapporteur of Violence Against Women Radhika Coomaraswamy in 1998 reported that many of the prosecutors were young and inexperienced, in particular regarding sexual violence cases.⁵³ The trials were held in Arusha, Tanzania, but the prosecution’s office

⁴⁹ Nowrojee, Binaifer 2003, 9.

⁵⁰ Ibid., 9.

⁵¹ Khan 2011

⁵² International Criminal Tribunal Rwanda 1994, 6.

⁵³ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 11.

was in Kigali. Security concerns were also cited as key reasons why so few women testified in rape cases.⁵⁴

The ICTR already in its early stages had to fend off a “serious leadership crisis, low morale and marked ineffectiveness,” according to report by the United Nations Office of Internal Oversight Services in February 1997.⁵⁵ Human Rights Watch board member and Rwanda expert Allison DesForges wrote in 1999 that “when the office of the Prosecutor began its work in Rwanda, its staff encountered an atmosphere of general hostility to the U.N.”⁵⁶ Likewise, the original plan for more transparency of the trial procedures e.g. “to bring televised [tribunal] hearing to local communities”⁵⁷ has never been materialized.

Already in 1998, for example, the Tribunal only had direct access to two telephone lines and email.⁵⁸ In her 1998 report special UN rapporteur Radhika Coomaraswamy pointed to the shortfall of resources at the UN Office of the High Commissioner for Human Rights for Rwandan staff.⁵⁹ In the early days of the Tribunal, additionally not only the sheer lack of resources, but the lack of well-trained staff contributed to the “spotty investigations”⁶⁰ of sexual violence cases. Some also called attention to potential misappropriation of funds and resources. Already in fall 1996, the tribunal was investigated because of allegations of “serious operational and financial deficiencies.”⁶¹

During her 1998 visit, the rapporteur also mentioned her disappointment about “the lack of a concerted United nations strategy and/or program to deal with violence against women in Rwanda,” noting the absence of any program by any UN agency or

⁵⁴ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 11-3.

⁵⁵ Ibid., 14.

⁵⁶ DesForges, Alison 1999, 573.

⁵⁷ Ibid., 574.

⁵⁸ Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 14.

⁵⁹ Ibid., 1998, 23.

⁶⁰ Nowrojee, Binaifer 2003, 10-11.

⁶¹ International Criminal Tribunal for Rwanda 1996, 18.

operation active in Rwanda.⁶² The lack of leadership coupled with personal bias and judicial reluctance to take rape seriously strained the efforts and effectiveness of the Rwandan tribunal. Nowrojee asserts in her 2003 paper, for example, that mostly during the four-year term of prosecutor Carla Del Ponte most “damage to gender justice was done.”⁶³ According to Nowrojee, the number of sexual violence charges dropped during this period significantly, for example, in 1999-2000 from 100 percent to 35 percent in 2001/2002.⁶⁴ Also during Del Ponte’s term, the Tribunal’s sexual violence investigative team was dismantled.

These numbers, for example, compare glaringly different to the 2002 tribunal held in Sierra Leona. There most indictments include sexual violence charges.⁶⁵ However, not only political will but also the lack of consistent and accurate crime investigation hampered efforts of the Tribunal to charge and convict rape perpetrators.⁶⁶ The tribunal procedures were marred by “prioritizing scheduling over justice,” Nowrojee wrote. The Tribunal perpetuated an environment conducive to and supportive of an attitude that “continued silence and impunity surrounding these rapes.”⁶⁷

The distant location of the Tribunal in neighboring Tanzania added to the silencing of the narrative of the Rwandan genocide and mass rape. It portrayed a “sense of alienation from the ICT and its irrelevance to the ordinary Rwandan.”⁶⁸ Additionally, the usually male defense attorneys and prosecutors perpetuated a condescending and disrespectful environment during the rape trials. Many rape victims have been

⁶² Coomaraswamy, Radhika., *Special Rapporteur Violence against Women* 1998, 22.

⁶³ Nowrojee, Binaifer 2003, 11.

⁶⁴ *Ibid.*, 12.

⁶⁵ *Ibid.*, 13.

⁶⁶ *Ibid.*, 13.

⁶⁷ *Ibid.*, 18.

⁶⁸ *Ibid.*, 21.

“harangued and harassed on the stand by defense counsel without intervention by the prosecution.”⁶⁹ In October 2001, for example, judges reportedly “burst out laughing” while a rape survivor was cross-examined.⁷⁰ Nowrojee asked in her 2003 conclusion whether these initial and watershed rulings are just “for some more lofty, albeit important, cause of “international justice” rather than for the survivors of war and genocide.”⁷¹

The Rwandan tribunal also struggled with capturing fugitives due to lacking cooperation of “third party states to help apprehend these men.”⁷² Prosecutors in particular blamed Kenya and the Democratic Republic of Congo to have done little to apprehend fugitives known to be within their territory. They concluded that these countries need to “intensify cooperation and render all necessary assistance to the ICTR in connection with efforts to bring” all indicted perpetrators to justice.⁷³ Also the sheer volume of case and a general case overload added to the reluctance of other states to accept cases referred by the Tribunal. No other country but the national courts of Rwanda has indicated a desire to receive more of these cases.”⁷⁴

Rape or sexual violence seem to have disappeared from the tribunal’s agenda in later Tribunal reports to the U.N. References to rape were completely missing in the annual Tribunal UN reports of 2006, 2008 or 2009. The tribunal’s support programs, which were originally designed to help rape victims, also appear to have suffered financial challenges. In 2010 and 2011, the report mentioned the depletion of the Trust Fund for

⁶⁹ Nowrojee, Binaifer 2003, 23.

⁷⁰ Ibid., 24.

⁷¹ Ibid., 25.

⁷² United Nations/Michael P. Scharf 1994.

⁷³ United Nations Security Council 2008, 10.

⁷⁴ Ibid., 10.

the Support Programme for Witnesses. Another problem still today includes providing safe conditions for people who have been eventually by the Tribunal acquitted as they have to remain in safe houses in Tanzania due to security concern.

Also, Khan criticized the UNICTR Clinic for Victims and Witnesses for the Rwandan genocide. Khan said the clinic did not provide sufficient help, medication and other resources for genocide victims and witnesses who suffer from HIV/AIDS.⁷⁵ The clinic grew from its first year with 200 patients to more than 1,000 in 2011.⁷⁶ A contribution in 2011 from Spain at the time helped to continue with the programs including a clinic for the witnesses to help with the physical and psychological problems of rape victims, “in particular for those living with HIV/AIDS.”⁷⁷ Without immediate funds, the 2011 report reads “the clinic will be forced to halt the provision of its services.”⁷⁸

Most recently in a Dec. 2011 report to the U.N. Security Council, Judge Khan asked for an extension of the appointments of the tribunal’s judges, which would normally end June 2012. Some of the problems Khan elaborated included even today the retention of experience staff since many have left their posts for “more stable employment.”⁷⁹

Also the implementation in Rwanda of the Gacaca court system, genocide trials held in the community to ease the caseload for national and international courts, continuous to receive stiff criticism from international organizations. Human Rights Watch reported in 2011 that the gacaca court system failed to provide “fair trial rights of the accused.”⁸⁰ In particular the referral of rape cases to these community courts remains questionable and

⁷⁵ Khan 2011.

⁷⁶ Ibid.

⁷⁷ International Criminal Tribunal of Rwanda 2010, 16.

⁷⁸ Ibid., 15.

⁷⁹ Khan 2011.

⁸⁰ Human Rights Watch 2011, 11.

counterproductive.⁸¹ The genocide widow organization AVEGA, for example, provided most recently in 2009 legal aid services to genocide survivors in 37 Gacaca cases. It included aid for 13 rape survivors during the genocide.⁸²

Similar to the Rwandan tribunal, the International Criminal Tribunal of the former Yugoslavia also had to cope with the lack of resources, including dwindling financial support needed to continue with bringing war criminal and war rapists to justice. In the 2008 report to the Security Council, Judge Fausto Pocar, president of the ICTY, saw the effects once “political and financial support from international actors dries up,”⁸³ for example, in the diverting of court cases to national court systems. By 2008, for example, the ICTY began to funnel war crimes prosecution to national courts in Bosnia and Herzegovina. How these national courts conduct and how effectively they manage these cases is still questionable. According to a 2008 report, an assessment about the “quality and effectiveness” of these local proceedings was still outstanding.

Additionally, regional cooperation to apprehend fugitive war criminals remains an almost unsurpassable challenge. For example, Radovan Stankovic, who was convicted in 2007 by a Bosnian court and sentenced to 20 years in prison for rape, torture and enslavement of women and underage girls, escaped the Foca prison a few months after sentencing. Still today, in 2012, Radovan remains at large and Judge Pocar had already in 2008 questioned “the lack of progress made by the relevant authorities in apprehending Stankovic and in prosecuting those who assisted in his escape at all levels.”⁸⁴ Judge Pocar also pointed to the still at-large war criminals Karadzic, Mladic, Zupljanin and Hadzic

⁸¹ Human Rights Watch 2011, 12.

⁸² AVEGA 2009.

⁸³ United Nations Security Council 2008, 4.

⁸⁴ Ibid., 4.

and accused Serbia of not giving “adequate and diligent assistance in serving a summons for a key witness”⁸⁵ for an ongoing trial in 2008.

The large number of cases still to be tried creates an immense burden on local courts. During the 2008 meeting, Judge Pocar asserted that national courts in Bosnia face “thousands of war crime cases.”⁸⁶ In 2008, Chief Prosecutor of ICTY Serge Brammertz also articulated his concern regarding the protection and intimidation of witnesses, the lack of international funding for the ICTY, the lack of regional support to gain access to archives and documents and the overall waning international support to capture and transfer war crime fugitives.⁸⁷ In December 2011, Brammertz asked neighboring countries to accelerate efforts to apprehend war criminals such as Stankovic and criticized the war crime prosecution on state level such as in Bosnia was being “too slow.”⁸⁸

Additionally, often other obstacles surface in addition to the lack of resources and training and the reluctance of regional and international cooperation. For example with the Rwandan Tribunal, a differing and often conflicting definitions and interpretations of what justice really means created unexpected tensions. The International community, for example, often saw justice for rape survivors through the conviction of the perpetrators, while often for rape survivors the meaning of justice often extended beyond the apprehension and conviction of the perpetrator. Often justice includes the life and

⁸⁵ United Nations Security Council 2008, 5.

⁸⁶ Ibid., 4.

⁸⁷ United Nations Security Council 2008, 8.

⁸⁸ Balkan Investigative Reporting Network BIRN 2011.

survival long after the rape. It includes real and tangible goals and objectives such as health concerns, housing and school fees for their children.⁸⁹

Other obstacles for full justice often include an ethical dilemma to decipher who is the victim and the perpetrator after genocide and mass rape and how to reconcile both in an effort to rebuild society and heal. Many humanitarian groups are struggling with their humanitarian mission and the political reality surrounding them in the field. For example, shortly after the genocide in Rwanda Medecins Sans Frontieres found itself aiding former Hutu rebel leaders and members in refugee camps in eastern Congo with food. MSF's withdrawal from the eastern part of the Congo in fact was driven by the notion that its humanitarian help actually could turn into "a technical function in the service of evil."⁹⁰

E. WHAT LIES AHEAD: CHILDREN OF BAD MEMORIES AND HIV/AIDS

The damage and the implications of mass rapes for a community and a country as a whole go beyond the obvious and the tangible. They go beyond the immediate psychological and physical effects on women. They run deep, not only affecting the very fabric of a society and community, but suggest a profound fragmentation of the nation state. A society, whose population consists of a majority of people having survived mass torture through sexual violence, will struggle with recovery, rebuilding and healing.. Such fragmentation has security implications. Mass rape and its lingering societal implications carries specific social and political consequences that inflict and affect a country and its society for generations. For example, the effects and lasting security implications of forced impregnations as practiced during the Bosnian war and HIV/AIDS

⁸⁹ Dax, Sabrina 2008.

⁹⁰ Terry, Fiona 2002, 2.

infections most prominently evident as a result of the mass rapes in Rwanda remain dramatically under-researched and under-documented.

Scholars and sexual violence experts see a multitude of challenges laying ahead for the effort to a) interpreting rape as a security issue and b) reducing and curtailing sexual violence and rape as a systematic weapon of war. This includes the still widely neglected and under-researched studies of the “plight and status of war children,”⁹¹ including its wide-ranging societal implications – and security dimension. And Bosnia and Rwanda are prime examples of this struggle and the political and social legacy of mass rape.

In Rwanda, an estimated 10,000 children were born out of the 1994 mass rapes.⁹² These children were often derogatorily referred to as “Little Interahamwes” or “children of bad memories” and consequently marginalized not only by their communities, but also their immediate families. In 2010, however, the Rwandan government initiated a critical step forward toward full integration of these children, who are now young adults. As recently as in 2010, the government made allocations from its genocide victim’s fund available for these war children.⁹³ This government action is significant because it expands the definition of genocide victims to these children born out of rape. By doing so, it publically not only acknowledges them, but also recognizes them as victims of the genocide. It expands the eligibility for government funding to help these now young adults with paying for school fees, for example. This recognition and classicization is also significant because it underscores the overarching argument that a society cannot recover, heal and rebuild unless all of its citizens are provided with equal rights. And it

⁹¹ International Peace Research Institute Oslo 2010, 4.

⁹² Weitsman, Patricia A. 2008, 574.

⁹³ Hirschauer, Sabine 2011.

cannot grow and mature as a society and become a stable, fully-functioning government unless all of its citizenry have access to equal rights and opportunities.

Rape and in particular forced impregnation as utilized during the Bosnian war were linked to the construction of identity through government policies and/or explicit or implicitly articulated by the society as a whole. In her 2008 article, Patricia A. Weitsman places the intersection of identity and rape at the heart of her discussion of how “governments construct and manipulate identity”⁹⁴ through policies about rape and sexual violence during war. To expand on this argument, such identity construction through policy has security implication. According to Weitsman, aspects such as ethnical purity and the spoilage of identity are pivotal when centering on children born as a result of rape. These imposed policies – these identity assumptions-⁹⁵ then have disenfranchised these children. The images that have been attached to the “children of war” resembled inherent violations of their human rights, according to Weitsman.

To expand on this argument then, such human rights violations and the marginalization of thousands of children born out of mass rape carries specific security implications. It affects and fractures a country’s ability to rebuild from genocide and ethnical conflict. It hinders a nation state to recover from genocide if a portion of its population is forced to disproportionately carrying the burden of a previous conflict. It affects a society’s ability to rebuild if a portion of its population continues to be marginalized. Weitsman’s argument of these children’s disenfranchisement affects not only villages and communities as the most immediate and intimate security nucleus, but

⁹⁴ Weitsman, Patricia A. 2008, 562

⁹⁵ Ibid., 563.

the country's security capacity in general. It makes a country vulnerable to new ethnic conflicts, ethnic tensions and rivalries.

While the social implications and consequences of forced pregnancies are evident, its illogical underpinning and rational unveils further complexity. It indicates women's two-fold marginalization as survivors of mass rape. Women are not only faced with being stigmatized by their family and community as tainted and impure women, but further marginalized and rendered invisible as the mother of a child born from mass rape. The logic of utilizing forced impregnation as a tool of ethnic cleansing is intrinsically flawed because the child would carry the ethnic gen of both – the Bosnian mother and the Serbian father. Forced impregnation though, most prominently implemented through Bosnian rape camps, was seen by many scholars as a key mechanism of ethnic cleansing. Women were raped by Serbian soldiers "to give birth to little Chetniks/Serb soldiers."⁹⁶ Terminology such as "Genocidal rape," "ethnorape" or "femicide" in connection with the central objective of forced impregnation/eradication of the victim's ethnic identity surfaced.

Weitsman argued that in order for rape to function as an effective weapon of ethnic cleansing, forced impregnation was seen as exclusively "paternally derived."⁹⁷ This means, for example, the Bosnian mother, the rape survivor, was rendered invisible. Her genetic contribution to the child was considered insignificant. If forced impregnation and forced maternity, according to the Serbian rational, was implemented to create Serbian offspring, such notion eliminated the Bosnian mother and made her absent. It would make her, the woman, nonexistent or existent only as a vessel to produce Serbian

⁹⁶ Allen, Beverly 1996, 96.

⁹⁷ Weitsman, Patricia A. 2008, 565.

children. The society's sole focus and the exclusive connection to the Serbian father, additionally marginalizes the mothers (the rape survivors). It renders the mother again invisible. The mother's biological significance and genetic influence – on the child's ethnic footprint - becomes irrelevant. Its identity is solely connected to the Serbian father. It de-humanizes the Bosnian mother and rape survivor and reduces her to a mechanical instrument of war.

Additionally, in Rwanda the socio-political underpinning of mass rapes during the genocide originated from two structural prerequisites: a) the depiction of Tutsi women as sexual objects “requiring subjugation” and b) Rwandan patriarchal society.⁹⁸ Rape in Rwanda more so than in Bosnia elevated itself to an effective mechanism and weapon of war because “patriarchal societies in which a woman's standing derives from her relationship to the men in her family, her brothers, father, husband, and sons.”⁹⁹ In countries such as Rwanda, according to Weitsman, a woman's security and survival as a fully recognized member of this society depends on her purity, of her being spared of rape. Rape survivors are often shamed into the periphery of society. They are being marginalized and become societal outcasts. Expanding on this argument, a society in which rape survivors – similar to the children born out of mass rape - are being marginalized remains politically fragile and vulnerable to conflict.

Another challenge arises from the similarly under-researched and under-documented security implications of HIV/AIDS infection of rape survivors and its ties to social stigmatization as a security factor. Often HIV/AIDS infected rape survivors become social outcasts in their community not only because of experienced sexual

⁹⁸ Weitsman, Patricia A. 2008, 576.

⁹⁹ Ibid., 564.

violence and the “impurity” aspect attached to it, but also due to the stigma surrounding HIV/AIDS. According to Rwandan President Paul Kagame, during the 1994 genocide people infected with AIDS were discharged from hospitals “specifically to form battalions of rapists.”¹⁰⁰ The AIDS death rate according to low estimates by the World Health Organization 1990 to 2007 data peaked drastically from about 6,000 Aids deaths in 1990 to about a post-genocide 22,000 in 1997. Only in 2007 did the number of death again regain pre-genocide/1990 levels.¹⁰¹ Already in 1998, Special Rapporteur Commaraswamy raised her concerns about data available about HIV infected rape survivors and the lack of funding to treat women with HIV symptoms.¹⁰² The Rapporteur reported about the lack of statistics existing “on the medical conditions of women victims of violence after the genocide.”¹⁰³ According to the most recent (2009) report by the World Health Organization and UNAIDS, the estimated number of adults and children living with HIV dropped from an average of 190,000 people in 2001 to 150,000 in 2007.¹⁰⁴

In Rwanda the Kigali-based non-governmental organization AVEGA has emerged as the country’s leading women’s organization still today in 2012 providing key services to genocide survivors. Founded in 1995, the organization continues to offer vital mental health screening and aid, trauma counseling, HIV/AIDS health services, testing, care and education for genocide survivors including war children. Additionally, AVEGA continues to offer legal support for genocide rape victims and consistently implements project financed through the FARG, Rwanda’s Assistance Fund for Genocide Survivors.

¹⁰⁰ Landesman, Peter 2002.

¹⁰¹ UNAIDS/WHO Working Group on Global HIC/AIDS and STI Surveillance 2008, 5.

¹⁰² Coomaraswamy, Radhika., Special Rapporteur Violence against Women 1998, 19.

¹⁰³ Ibid., 9.

¹⁰⁴ UNAIDS/WHO Working Group on Global HIC/AIDS and STI Surveillance 2008, 4.

Most recently this fund was extended to assist children born out of the mass rapes during the genocide.

According to the in 2011 most recently made available report, AVEGA provided 2,726 trauma counseling sessions to 4,382 individuals in 2009. Such trauma counseling is consistent with AVEGA's objective to "improve the social integration of genocide survivors affected by trauma into society."¹⁰⁵ This also includes 128 people who voluntarily were screened for HIV/AIDS. This 2009 report cites testimonies of genocide rape victims, who have, for example, gained access to antiretroviral (ARV) drugs to contain the HIV infection,

Without the psychological services from which I regularly benefited, I am certain that the ARVS which I took could not have had a positive effect on my life. The counselling showed me that I am still alive and that I am capable of confronting my problems rather than being ruled by them.

The rape which I suffered during the genocide resulted in me being very traumatised; I was almost dead; I was living in fear of being HIV positive and with the guilt of betraying my husband...However after some counselling sessions, I took the initiative to get tested for HIV and the results were negative. After this I was born again and once again felt happy to be alive; I felt strong enough to work again and gained a sense of inner peace.¹⁰⁶

The importance of trauma counseling is also articulated in the report as "one of the leading ways in which victims of the genocide can reintegrate into society."¹⁰⁷ In 2009 AVEGA also reported 49 group sessions with a total of 286 HIV positive clients supported. The stigma attached to HIV/AIDS remains a severe obstacle for people to agree to get tested - and to eventually halt the high number of HIV/AIDS infections. According to the 2008 AVEGA report 4,274 "members and beneficiaries [genocide

¹⁰⁵ AVEGA 2009

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

survivors] were encouraged to voluntarily get tested for HIV.”¹⁰⁸ AVEGA supports the WHO endorsed concept of Voluntary Counseling and Testing (VCT) for HIV/AIDS, also by offering access to HIV/AIDS testing to people in rural communities through visits of a mobile testing unit. In 2009, five trips testing 83 people, of which three tested HIV positive. According to the report, they received “follow up medical and psychological treatment.” HIV infected women also received ARV drugs and were “able to return to work and are able to function like any other.”¹⁰⁹ AVEGA also provided follow-up tests to gauge the effectiveness of ARV treatments.

F. WHAT LIES AHEAD: MAINSTREAMING GENDER

During and after the conflicts of Bosnia and Rwanda, rape as a systematic dynamic of war was successfully securitized. However, such successful securitization also introduces various dualities that require and demand further attention and discourse. For example, not every conflict is riddled with mass rapes. Not every conflict utilizes and displays sexual violence as a staple of war. Rape not always becomes a systematic institutionalized strategy to de-humanize, terrorize and eradicate one’s enemy. Rape is not always the (convenient and cheap) weapon of choice. The conflicts in Palestine, El Salvador and Sri Lanka¹¹⁰ exemplify such lack of sexual violence. For example, by examining the Sri Lankan Liberation Tigers of Tamil Eelam and citing the absence of sexual violence during the Israel and Palestinian conflict, Elisabeth Jean Wood argued in 2009 that rape and sexual violence is not inevitably linked to conflict. In fact, if, for example, rape would be effectively discouraged – and consequently punished - by authorities and deemed and tangibly rationalized as counter-productive, sexual violence

¹⁰⁸ AVEGA 2009.

¹⁰⁹ Ibid.

¹¹⁰ Aranburu, Xabier Agirre 2010, 613.

would remain a rarity rather than common practice.¹¹¹ The conflicts of Palestine, El Salvador and Sri Lanka attest for the absence of rape during war. Military hierarchy and established rules – and the adherence to both during these conflicts – rendered the utilization of sexual violence ineffective.¹¹²

Likewise, the focus on the mainstreaming of gender in international relations – if not directed and applied appropriately - allows for ambiguities and implies rather unintended and negative ramifications. The concept of gender equality within the overarching framework of international relations and global peace and conflict resolution, also referred to as gender mainstreaming, has most prominently after the conflicts in Bosnia and Rwanda in the mid 1990s gained global traction. The U.N. sponsored Fourth World Conference on Women in Beijing in 1995 was the first official international body, which introduced the term “mainstreaming gender” to a larger global audience. It appeared in conference’s Declaration and Platform for Action in paragraph 79:

In addressing unequal access to and inadequate educational opportunities, Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective into all policies and programmes, so that, before decisions are taken, an analysis is made of the effects on women and men, respectively.¹¹³

Following the conference, the United Nations embarked in 1997 very specifically on an inter-departmental policy overhaul. More broadly, however, it sparked a philosophical re-thinking within the vast apparatus of the U. N. to include gender equality and to consistently implement “a strategy for making women’s as well as men’s concerns and experiences an integral dimension of design, implementation, monitoring and

¹¹¹ Wood, Elisabeth Jean 2009, 140.

¹¹² Ibid., 141-2.

¹¹³ United Nations Fourth World Conference on Women 1995.

evaluation of all policies and programs.”¹¹⁴ The mainstreaming of gender equates to the introduction of gender and gender equality as a consistent and permanent component of, for example, global peace making and keeping efforts and conflict resolutions. According to a 2001 U.N. report, the U.N. Department for Disarmament Affairs, for example, began to explore the “linkages and synergies between gender and disarmament”¹¹⁵ in regard to small arms, landmines and weapons of mass destruction. It began to include specific job descriptions for gender units within peacekeeping missions such as in Kosovo and East Timor.¹¹⁶

Throughout the 2000s, U.N. entities including, for example, Trade and Development, International Labour Organizations (ILO), the U.N. Environmental Programme, World Bank and the Department of Political Affairs employed various gender action plans and “gender-sensitive guidelines”¹¹⁷ to emphasize its gender focus. In December 2009, the U.N.’s Department of Political Affairs and the UNIFEM agreed to a united effort “to mainstream a gender perspective into peace negotiations.”¹¹⁸ The U.N. Development Group’s strategic plans for 2010 through 2014 include “gender responsive budgeting.”¹¹⁹ The U.N. Department of Peacekeeping Operations calls specifically for a gender focus in policies applied to conflict and post-conflict zones and an increased number of women in peacekeeping missions.¹²⁰ The U.N. requires quarterly reports “on progress and challenges to the implementation of mandates on women, peace and

¹¹⁴ United Nations Economic and Social Council 2010, 3.

¹¹⁵ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women 2001, 3.

¹¹⁶ *Ibid.*, 3.

¹¹⁷ United Nations Economic and Social Council 2010, 5.

¹¹⁸ *Ibid.*, 7.

¹¹⁹ *Ibid.*, 7.

¹²⁰ *Ibid.*, 8.

security”¹²¹ and various U.N. country teams and U.N. entities such as the UNFPA, UNICEF and UNDP along with national women’s groups and non-governmental organizations cooperate to “ensure prevention and response to gender-based violence in humanitarian contexts.”¹²² Most significantly for the nexus of global security and gender, however, the U.N. Security Council resolutions 1325 and 1820 have established the most far-reaching and critical milestones. Both resolutions have provided the intersection of gender, women, conflict and security with visibility and connected sexual violence and rape to a new set of international norms.

The concept of mainstreaming gender - the act of introducing gender as an inherent part of everyday policy making, international institution building, conflict resolution, human rights implementations and other actions and issues - has increasingly been endorsed not only by international institutions, but translated into action on the ground by non-governmental organizations and transnational networks.¹²³ However, rigorous gender inclusion such as demanded during the 1995 Beijing World Conference on Women and later implemented by the United Nations to reflect “a gender perspective reflected in all our policies and programs,”¹²⁴ also introduces a complexity - and carries its own set of unintended repercussions. Such complexity stems, for example, from the inherent obscurity that surrounds gender and equality in the first place. The term gender norms and its implication, for example, as they represent a set of behaviors and rules about gender, remains questionable because “they consist of two parts, ‘gender’ and

¹²¹ United Nations Economic and Social Council 2010, 9.

¹²² *Ibid.*, 14.

¹²³ *Ibid.*, 13.

¹²⁴ United Nations 1995, 4.

‘equality,’ that are each highly contested”¹²⁵ in itself. Such complexity also originates from the interpretation of mainstreaming gender itself as the “dominant language of bureaucratic politics through which policymakers worldwide understand women and men and engage with the politics of the global.”¹²⁶ Some feminist scholars, for example, argue that mainstreaming gender within international politics and global security studies can be counterproductive. It “may end up reinforcing dominant gender identities and international power relations.”¹²⁷

U.N. Security Council resolutions 1325 and 1820, which have successfully securitized rape as a systematic tool of war, have been, for example, heavily criticized by some feminist scholars for merely attaching the word women to issues without providing concrete mechanisms to measure impact and effectiveness. Many pushed for the reality of war and peace – and rape as a systematic weapon of war - to move beyond the adopted “adding women and stirring”¹²⁸ concept. The inclusion of more women to peacekeeping missions, for examples, bypasses the integration of more women when it comes to “the disproportionate impact of peacekeeping and peace building operations.” Women are “expected to civilize peacekeeping missions and operations through their mere presence.”¹²⁹ Feminist scholars also warn that these resolutions achieve quite the opposite: they bypass women’s rights and women-specific projects and “re-invite masculine prominence.”¹³⁰ These scholars contend that mainstreaming gender realizes just the opposite: it underscores gender inequality and endorses a pervasive gender bias.

¹²⁵ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 77.

¹²⁶ Ibid., 16.

¹²⁷ Ibid., 16.

¹²⁸ Wibben, Annick T.R. 2011, 23.

¹²⁹ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 83.

¹³⁰ Ibid., 80.

Specifically linked to wartime rape, it supports a masculine agenda and the perspective of those who see wartime rape as an inherently gender-centered issue. It pushes the issue of sexual violence and rape during conflict into the public arena, but, by doing so, it actually underscores the male dominated structures it tries to dismantle. “Women and girls remain passive victims protected by male soldiers, militarized states, or their male representatives on the U.N. Security Council.”¹³¹ To expand and elaborate on this argument, mainstreaming gender then within the context of the securitization of rape likewise introduces and perpetuates such gendered complexity. It propagates the socially constructed argument of feminine vulnerability and victimhood. The causality of rape then reverts back to an inherent gender bias – to women as rape victims by default – due to a constructed or perceived inherent biological predisposition - due to one’s gender. It becomes once again the “protection racket where the protected loses all autonomy and is dependent on the protector who defines the threat and response to it.”¹³² Rape in war then transforms itself once again into an unsurpassable status quo and an innate given, a condition one – government, institutions, the global community - cannot overcome.

The complexity not only comes from this inherent vulnerability – forcing and trapping women in this aura of insidious defenselessness – it also perpetuated a gendered hierarchy. It enables once again the perception of masculine dominance and underscores the male role of the protector. It perpetuated a gender bias that once again renders women helpless and inherently submissive to a gendered power structure. Such structure privileges masculinity. It views women as “objects of protection and men as the power

¹³¹ Tickner, J. Ann and Sjöberg, Laura ed. al. 2011, 84.

¹³² Wibben, Annick T.R. 2011, 22.

holders.”¹³³ It displays an inferior versus superior undercurrent and an innate hierarchy that sees women once again mute, weak and powerless - unless safeguarded by men. It aggravates once again the intersection of power and men, the sole provider of security for women. It accentuates the argument of gendered inequality and in an almost perverted reversal justifies the disproportioned exposure of women to rape in war - due to gender. It becomes an irreconcilable position for the advocates of gender or power neutrality and gender equality. These complexities then render mainstreaming gender ineffective because it only becomes universal lip service to appease women’s advocacy for equality. It becomes an accepted, conventional part of policymaking and “within bureaucracies without challenging political and economic structures.”¹³⁴ Mainstreaming gender then runs afoul with its initial objective. It empowers one while it marginalizes another.¹³⁵ It endorses a gendered power structure while relegating and abandoning its original intent for equality.

Only if rape and sexual violence remains securitized, if “all acts of sexual violence are investigated and redressed effectively. Only then can the world hope for a future in which sexual violence is not used as a weapon of war,” ¹³⁶ said Special Women Violence UN rapporteur Gay McDougall in 2000. However, the increased involvement of the U.N. Security Council securitizing sexual violence as seen in 2009 remains a hopeful sign for de-gendering rape as a weapon of war.

¹³³ Tickner, J. Ann and Sjoberg, Laura ed. al. 2011, 86.

¹³⁴ Ibid., 87.

¹³⁵ Ibid., 90-1.

¹³⁶ McDougall, Gay J., Special Rapporteur 2000, 22.

G. CONCLUSION: ALL IS FAIR IN WAR?

Throughout history rape has been utilized as a systematic weapon of war, but was never recognized as such. By applying and expanding on the theoretical parameters of the Copenhagen School's Securitization Theory with the case studies of the Bosnian war (1992-1995) and the Rwandan genocide (1994), this dissertation indicated that rape was successfully *securitized* in the 1990s during both conflicts – and afterward. Securitization Theory as a model and indicator of an effective shifting of rape from an apolitical or political perspective into the security realm was appropriate. Bosnia initiated the first convictions of rape as a crime against humanity. Bosnia and Rwanda became effective markers and pivotal watershed moments for the continued securitization of rape. It moved the assumptions of wartime rape from the natural to the strategic, from the individual to the collective, the insular/singular and incidental to the national, regional and international. This dissertation discussed the wide-ranging implications of such successful theory application, but also how securitization needed to adjust its prescribed processes to adapt to the specific security character of wartime rape. It effectively articulated why the intersection of rape and security must remain visible in light of the emergence of a new generation of wars and why international institutions – and the continuing rise of norms - are instrumental and critical in this process.

As this dissertation has set out to explore the legacies of institutionalized sexual violence during the Bosnians and Rwandan conflicts transformed wartime rape – and its global recognition. It turned rape into a matter of security – it securitized it. By applying Barry Buzan and Ole Waever's Securitization Theory to the case studies of Bosnia and Rwanda, this dissertation finds that the Securitization Theory as a model and indicator

effectively shifted rape from an apolitical or political perspective into the security realm. For example, the tribunal of the former Yugoslavia became the first international court, convicting war criminals for rape. The Tribunal of Rwanda for the first time interpreted rape as a weapon of genocide and convicted war criminals accordingly. By identifying specific rhetorical key markers utilized by specific actors such as institutions; non-governmental organizations; states; and the international media, this dissertation systematically analyzed the narrative of rape and found evidence of successful securitization during both conflicts – and beyond. Through the *speech act*, the theory's key identifying mechanism, this dissertation traces these markers throughout the interplay of this multitude of actors (institutions; non-governmental organizations; states; media). In 1998, the Rome Statute defined rape as a war crime that could be interpreted as genocide. In 2000 and in 2009 the U.N. Security Council passed the watershed resolutions 1325 and 1820, respectively, for the first time underscoring the inherent link between systematic rape, war and global security.

With the successful securitization of rape, however, certain inconsistencies and caveats arise – because of the distinct and unique security character of rape. Successful securitization does not imply social change. Securitization of rape and the global recognition of rape as a security issue do not entail the eradication of sexual violence during conflict. The inconsistencies and caveats of such successful securitization, the incentives and disincentives for the continued securitization of rape – and the criticism of the Securitization model and its application to rape - come from a rather subtle and complex place. These inconsistencies - persistent shades of grey - include the gradual reluctance to prosecute rapes as currently seen in Rwanda and the growing criticism of

feminist scholars, who question the power structures and application surrounding mainstreaming of gender.

This dissertation confirms Securitization Theory as a successful and effective model. But it cannot leave such successful securitization without criticism. And such criticism and shortcomings, as previously elaborated, are specifically targeting the unique security character of rape. Rape needs to remain securitized due to its specific security character. The *permanent securitization* of rape is imperative because the consequences of not keeping rape securitized are already evident. The increasingly judicial reluctance in Rwanda to continue to prosecute rape cases underscores the fragility of rape as a security issue. International institutions such as the United Nations and powerful in-country non-governmental organization such as Human Rights Watch, women advocacy groups such as Rwanda's AVEGA and transnational networks such as Amnesty International and global media, for example, are critical building blocks in the processes to keep wartime rape securitized.

Likewise, if mainstreaming gender continues to leave existing power structures in place and rather underscores than abolishes gender stereotypes and biases, the process itself is flawed and must be re-examined. Mainstreaming gender cannot remain an appeasing and complacent mechanism implemented by international institutions to emphasize and safeguard a status quo. Mainstreaming gender needs to question and challenge existing power structures. The concept of "adding women and stirring" in the 21st century is outdated. Mainstreaming gender needs to develop the tenacity to breakdown conventional masculine constructs and replace them with power equality and gender impartiality.

The long arc of humanity has seen tremendous inroads in terms of the securitization of rape. It has made wartime rape effectively visible and created a framework of universal judicial accountability. However, it also has seen and already noticed its fragility. Therefore, securitization of rape requires – demands and deserves - permanency.

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