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# **Sexual Violence as a Weapon in War**

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# Declaration

I, Andrea Hundseid Bruheim, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

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## **Abstract**

The use of rape and sexual violence towards civilian women in war is not a new phenomenon. However, it is not until recently that this has become an issue on the international agenda. This thesis will use Feminist International Relations Theory to look at the cases of sexual violence as a weapon in war in Bosnia-Herzegovina and the Democratic Republic of the Congo and whether or not international efforts made by international organizations have made any difference to stop the deliberate use of sexual violence as a weapon in war.

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## 1 INTRODUCTION

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In 2005, Channel 4 News and the Independent went to a state-run orphanage in Zenica, Bosnia. There, they met, amongst others, 12-year-old Suzanna. She has been left there by her mother who was raped and impregnated during the war more than a decade ago, but even though the war is over, the pain of what happened is still very much visible (Holt and Hughes 2005). This is not a unique story. There are several stories of children that are conceived by rape and undesirable Bosniac women giving birth to children and leaving them in the hospitals and orphanages (*ibid.*, Newsweek 2015, Reuters 2014, Jahn 2005). The wounds of the sexual violence in the Democratic Republic of the Congo (DRC) are also very much visible still. In fear of being stigmatized, many victims choose to not seek the professional help they need after being attacked (ICRC 2016, Albutt et. al. 2017). These violent actions that happened during the armed conflict does not stop impacting the society as soon as a peace-agreement is signed. They keep haunting the societies for many years to come and it is a very important to keep studying this and not let it be just another unfortunate consequence of war.

This thesis will follow the research question *How has the international community developed the discourse of sexual violence against women as a weapon in war, from the 1990s with the violence in Bosnia-Herzegovina, until more recent years with the violence in the Democratic Republic of the Congo? Has there been any changes or are the responses the same?* Following this, a sub-question will be *How has the pursuit of justice for the victims changed from the cases? Have the reactions by the international community made any difference in how sexual violence is handled by the states it happens in?*

Rape and sexual exploitation of civilian women have been a part of war as we know it for as long as the human race has been fighting each other. However, during the 1990's as a result of the violence on the Balkans and the scope of the atrocities, there was a shift in how wartime rape and sexual violence was perceived. From being just another unfortunate side-effect of war, it has become a security issue high on the United Nations' (UN) agenda. This research will look at how this shift happened. One notable shift is that of bringing the offenders to justice. In the case of BiH, a special ad-hoc court was set up, The International Criminal Tribunal of the Former Yugoslavia (ICTY), and in the case of the DRC the cases are dealt with in national courts, with the aid of international organizations.



This study will look at how rape, and sexual violence more generally, in war has happened in the war on the Bosnia-Herzegovina (BiH) as a result of the break-up of Yugoslavia and the civil war in the DRC. I will use feminist international relations (IR) theory to understand whether there has been a shift in the perception of gender and war and why sexual violence against women in war have become a security issue with international concerns. I will explore some of the international efforts made to stop this problem, and see how the international community have reacted to the different cases. It is widely acknowledged that the war in BiH was the first time the international community saw the usage of sexual violence towards women as a strategic and systematic weapon of war. The conflict in the DRC is considered to be the conflict that has seen the most sexual violence in history.

Feminist IR theory attempts to bring gender into the discussion of international relations. An important discussion in Feminist IR theory is that the concept of security is not defined in such terms as “conventional” IR theorists have done – where the importance is focused on national security and power relations – instead it emphasizes on human security, a concept that emerged during the 1990s where the focus is on human suffering and well-being. Furthermore, feminist IR theory look at how women’s lives are affected by war, how power is given to the men and how masculinities (and femininities) are created.

Ethnic tension had been rising high in Yugoslavia long before war broke out. This became very much a part of the war that would break out and it is also very visible in the readings on rape and sexual violence during the war. Bosniacs, the Muslim population of Bosnians, were subject to extreme violence from the Serbs, and a part of the war strategy by the Serbs were to build up tension between the ethnic groups in the new country and they were also very much a part of creating the hatred themselves, and the use of propaganda was widespread. For the population of the DRC, suffering has been a part of life for many decades. Ethnic tension has also been rising high for a very long time, and as in the case of BiH, this has also been noticeable in the use of sexual violence. To understand the scope of the violence, it is important to look at how it has affected the women after they have been assaulted. Included in this is how the society looked at women before the conflict and what role they played in society.

## 2 FEMINIST INTERNATIONAL RELATIONS THEORY

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*“Here is what I’ve learned from taking these women seriously: if we pay sustained attention to each and all of these women seriously: if we pay sustained attention to each and all of these unheadlined women, we will become smarter about this world, smarter than a lot of mainstream “experts.”” (Preface to the Second Edition, Enloe 2014).*

The following chapter will explore Feminist IR theory, how it came to be and how it views power and security. We will see that it takes a bottom-up approach, and focus on studying micro levels of the conflict and how conflict affect the lives of women.

### 2.1 THE START OF A NEW DIRECTION

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To make sense of why wars occur, the academic discipline of International Relations was created at the beginning of the 20th century, and like the practitioners it studies, the discipline has been mostly occupied by men (Tickner 2004:44). International relations have been heavily influenced by rational choice theory and realism, which is, like most conventional IR theories, concerned with finding explanations as to why states are always seeking to maximize its security in the international system (ibid.). This can sometimes leave out of the picture the great human suffering that is happening in the world, especially in situations of war. This is one aspect where feminist IR theory is trying to fill the gaps. During the 1980s a new way of thinking about IR emerged. Instead of focusing on “peopleless states, abstract societies, static ordering principles, or even theories about them (...) begin looking for the many people, places, and activities of everyday international politics. Locate those who make the world go round (...) and cite them” (Sylvester 2002:3). This new theory was Feminist IR theory. For neorealist, security is the highest goal, for neoliberalist institutionalists it is cooperation (ibid.,169). The studying of security is one of the most important aspects of modern IR theory, and it includes national security, international security, global security, and, some argue, peace studies (ibid., 170). Prior to approximately 1980, there were no mentioning of gender in the discussion of IR. “IR (is) a gendered set of discourses”, and “there is a hidden gender to the field” (ibid., 160-1).

Feminist IR differs from the more conventional IR theories in several ways. Some of these differences are tied to methodology, they prefer ethnographic approaches to their studies rather than hypothesis testing (Sylvester 2002:10). Sylvester use the term *relations international* as to describe how feminist IR theorists are more interested in social relations of the international rather than the more abstract and unitary generally seen by IR theorists. This is to say that they are interested in looking at social matters and how they affect women in a positive or negative way (*ibid.*). They want to explore where and how gender and women are located in international relations, and from that come up with theories that can help strike out these sometimes unjust systems. Sylvester acknowledge that men and women are different, that the reason for why women may offer new insight to how the world is governed *is* because they are different from men. Women and men have different “cultures, idea-realms, and social positions” (Sylvester 2002:11) both on the international and national arena.

The world has changed a great deal since the end of WWII, and these new issues that the international system face require new ways to think about the international system. The way we construct knowledge about how states behave in the international system is rooted in the experiences of men, and by that many voices on how to better understand intrastate practices are left out of the equation (Sylvester 2002:161, Tickner 1992:18). This has to change, according to Feminist IR theory.

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## 2.2 WHERE ARE THE WOMEN?

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Women have been hidden actors in the international system for a long time (Grant, 1991:8). There is a notion that gender is irrelevant to IR theory, much due to the gender bias that has been going on unquestioningly in western political and philosophical tradition (*ibid.*, 9). “In the Western tradition men, not women, are the models for political theory” (*ibid.*). One of the major reasons for gender bias in IR theory is because of the focus on men as citizens and political actors (*ibid.*). It is not because the writings use the word “man” but rather the male characteristics that are applied to human behavior without acknowledging that that is the only aspect discussed (*ibid.*,10).

J. Ann Tickner argues in her book “*Gender in International Relations – Feminist Perspectives on Achieving Global Security*” that the individuals that have shaped foreign policy in any country in the world have been men. International politics is to a large extend created and led by men. Soldiers, diplomats, and others involved in international politics are, with the exception of some female heads of state, mostly men (1992). Now her remarks in

relation to this focus mostly on the United States (US) and the politics of the 20<sup>th</sup> century, but it is still an important feature of the feminist IR theory.

It is not only in the United States, but all over the world, that the main belief is that the world of military and foreign policy is best suited for men. Many of the qualities we believe are good for those who are meant to control our military and make decisions on foreign policy are connected to men and masculinity, like strength and power, independence and autonomy (Tickner 1992:3). On the other hand, characteristics like naïve, weak and even unpatriotic are often connected to women's involvement in international affairs (Tickner 1992:3, Delehanty and Steele 2005:529). "The extent to which international politics is such a thoroughly masculinized sphere of activity that women's voices are considered inauthentic" (Tickner 1992:3). The international political system has been controlled by men, mostly elite men, according to Cynthia Enloe, and she asks the question "where are the women?" in her 1989 *Bananas, Beaches and Bases*.

When Enloe introduce us to some of the women in international politics, they are not in the roles of those we usually vision when thinking about international actors. According to Enloe, we have to follow these women, the workers on the plantations, the women fleeing their country, the prostitutes by the bases, the mistresses of the male elite, the female soldiers to the places that are, according to the conventional IR theorists, "'private,'" "domestic," "local," or "trivial.'" (2014:2). In paying attention to these women who possess these roles, not because of their gender but the roles that are usually prescribed to that the female, one can discover new things about the world of international politics (*ibid.*).

"A feminist-informed investigation makes it clear that there are far more women engaged in international politics than the conventional headlines imply. Millions of women are international actors, and most of them are not Shirin Ebadi or Hillary Clinton" (4).

Historically, the ability to do your duty and defend your country in war has been reserved for men (Tickner 2004:43). Leaving the women without the ability to live up to the greatest duty a citizen can have. Some argue that these degradations of the feminine are done for the sake of protecting the women from themselves, that it is in their interests, they are weak and unsuitable for political life, and needs protection from the male warriors (Delehanty and Steele 2005:529).

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## 2.3 POWER, SOVEREIGNTY, AND SECURITY

The following section will look at how feminist theories view the concepts at the center of international relations theory, power, sovereignty, and security. In the classical theories they have been framed in such a way that it is focused on what we connect to masculinity (Tickner 1992:18). For the sake of keeping their nation secure, many governments have had large defense budgets that sometimes takes money from post in the budget that directly benefits the people (*ibid.*). It is widely agreed, among citizens, that the security of the state is extremely important and in many cases, the security of the state ranks higher than the social security of the people (*ibid.*). There are three levels of analysis that realist use to examine national security: (1) the individual, (2) the state and, (3) the international system. These are, according to Tickner, concepts created by realist discourse that all use language based on a western-male centered experience of history when investigated (Tickner 1992:28). Again, a world view according to hegemonic masculinity is favored in looking at security.

Realism depends a state's security on the military security. Following that logic, the only way a state can try to achieve security is by maximizing their military capabilities. Tickner argue that all the way back to the Greeks and Machiavelli, sources that realism heavily rests upon, a socially constructed picture of a masculinity that has been projected onto the behavior of states in the international system (Tickner 1992:37). The male soldier and his possibility to make the greatest sacrifice and die defending his country, or even better, to win a battle, testing his true manliness. In the Greek city states, the most important people were the warriors, women and slaves were not included as citizens, they were simply a "necessity" in the household or the economy. Involving them in any higher positions would surely pollute the higher realm of politics" (*ibid.*,38). This notion of the male, heroic warrior as a definition of citizen continue in the 16<sup>th</sup> century writings of Niccolò Machiavelli.

For feminist, this is a gendered construction of personality and citizenship. It is neither "a negative, unavoidable characteristics of human nature, nor a desirable possibility" the latter representing Machiavelli, the first realist scholar Morgenthau (Tickner 1992:37). Machiavelli use "fortuna", originally a Roman goddess associated with capriciousness and unpredictability, as a devalued "other" in relation to the citizen-warrior in his writings. A feminine power in men that they have to overcome in order to maintain their autonomy, the unpredictability of fortuna is unforeseeable, but you can prepare against it and overcome through the cultivation of manly virtues (*ibid.*, 39). Whenever women appear in the writings of Machiavelli, it is as dangerous and inferior creature. Being like a woman is the worst thing that could happen to both a man and the state, because women are weak, fearful, indecisive,

and dependent (*ibid.*). This is not to say that Tickner argues that the contemporary writers of realism use the same misogynistic discourse, they still base much of their understanding of the citizenship on the Greeks' and Machiavelli's writings about the citizen-warrior (*ibid.*).

Feminist IR theory suggest that there should be a focus on trying to establish a more global vision of security. If one defines peace as only the absence of military threat, Europe has been very much peaceful since the end of the Second World War. However, the people of the Third World have not been so lucky. 90 percent of the military conflicts of the 1970s and 80s were in the Third World, and they were for the most part intrastate conflict, some of them with the involvement of the major powers who used these wars as a way of playing out their own games. We have traditionally seen security threats as something that is challenging national boundaries, but ever since the end of the decolonialization, especially for countries in the Third World and the previous Soviet states in Eastern Europe, the security threats come from within (Tickner 1992:52). States can then become a security threat too, not a provider of security – steering us towards a place in time characterized by international order and domestic disorder (*ibid.*,53). It is the individual that is in focus, not states. Thereby we have a new definition of security that is less focused on the state and the military. Feminist theories of IR draw from this thinking and try to introduce gender issues or the particular need of women (*ibid.*).

In “Women and war”, Jean Bethke Elshtain (1987) offer a new way to look at conventional war traditions. It explores how different gender roles are ascribed during times of war (maybe also in day to day life?), that men are the strong protectors, while women are the soft and beautiful and not seemed fit to engage in war. Elshtain question these norms by showing how women are in fact involved in war and how men in some cases do not wish to be. She is questioning the starting point so many in the west seem to have on war: that the woman is a notion of peace, and the man a notion of war (4). Elshtain do not claim that her understandings of this are universal, there is a focus on the western, especially the US, in her writings (*ibid.*).

Feminist scholars of IR are closer to critical security studies than they are the more conventional IR theories (Tickner 2004:43). Historically it is not only the decision makers and those involved in the military that have been men, but also the IR theorists. This has changed more today. However, realism continues to be the approach that has had most influence in security studies. The conventional IR theories seek to build a base on testable propositions that can explain the security seeking behavior of states in the international system (Tickner 2004:44). “Feminist seek to develop what they call “practical knowledge” or knowledge

developed out of the everyday practices of peoples' lives. Preferring bottom-up rather than top-down knowledge, feminists believe that theory cannot be separated from political practice" (*ibid.*,45). Different from neorealism, where the major idea is that theory should be separated from norms and political practice (*ibid.*).

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## 2.4 A NEW SECURITY CONCEPT

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During the 1990s there was a shift from security being focused on the state, to the person (Basch 2004:5). This focus on *Human Security* was based on the well-being of the people, economically and politically (*ibid.*). Different from the world wars early in the 20<sup>th</sup> century, that were characterized by great powers fighting across boundaries, the wars and conflict of the latter half of the same century has happened inside, or across the boundaries of the weaker states (Tickner 1992:20). Even if there were involvement by a great power, these conflicts were not fought on the issue of international boundaries, but rather issues within the state such as religion, ethnicity, liberation or identity (*ibid.*). Many places, especially in the South, there has been a shift in the way security by the state is perceived. Because of the militarization many now see the state as the ultimate security threat to civilians, not a protector against outside dangers (*ibid.*). Seeing that there are in our time several new security threats, one must also acknowledge that these require different answers than those given in the past, as offered by especially realism, but also liberalism. Some of these issues, such as environmental issues, relate to all of humanity, not just people living in the South or the North, they threaten the very existence of our planet, and still, according to Tickner (1992) these seem to disappear for the agenda whenever there is a military crisis.

Now, one needs to be aware of the fact that women come from different backgrounds and therefore it will be different what is important for them in defining security. Western middle-class women do not have the same need to include racism, sexism, structural violence etc. in the same way as Third World women have. What they do have in common is that there can be no real security when it builds on the insecurity of others (Tickner 1992: 55). Elimination of structural violence is a very important aspect of security in this thinking.

The behavior of individuals and the domestic policies are both connected to how states act in the international system. Tickner (1992) use family violence as a means to describe this. Family violence is related to the same power structure as we know from the international system, male power dominates on all levels (58). Most conventional IR theorists lays a foundation based on that there are neither men nor women that figure in this world *per se*, but

rather impersonal actors, structures, and system processes, in a system of states, non-state actors and market transactions (Sylvester 2002:161). Still, Sylvester keeps the same outlook as Tickner, that men and their activities are somewhat better and more important than women and their activities.

According to feminist IR-theory, the level of threat an individual feel, or is, is related to their economic, political, social or personal circumstances (Steans 1998:105). Because of this, it is important to take into account “poverty, inequality, militarism, mal-development and the denial of human rights or at least basic needs” that are based on “race, ethnic identity, political status, class and gender” (*ibid.*). Within liberalism, it is common to view the individual as a bearer of rights and by that the fundamental referent of security. In that lies the perception that there cannot be actual global security unless the human rights are fulfilled and viewed as the fundament (*ibid.*). Liberal feminist has argued that there is a need to promote respect for the human rights, not only civil and political rights, but also economic and social rights (*ibid.*,123) Furthermore that the human rights of women are essential in the effort to achieve global security (*ibid.*). As Hillary Clinton famously put it: “Women’s rights are human rights!” (Clinton 1996). Now, it is widely acknowledged that violence against women, both privately and in public, are a violation against human rights. There was a shift in focus on women’s rights after the Fourth UN Convention on Women, held in Beijing in 1995, from women’s needs and roles on issues of development, to women’s human rights (Steans 1998:123). Liberal feminist argues that the relationship the women have with the state is mediated by men, “the ‘people’ of the nation are still perceived to be men” (*ibid.*, 124). Furthermore, liberal feminist argues that the reason why rape and domestic violence many times have been left out of the international agenda is because many governments fear the outcome of giving access to intervene in ‘private’ family life to outside agencies (*ibid.*).

Issues such as environmental degradation and other issues that affect the people and create issues in their lives are considered to “non-masculine”, different from those security issues that relates to war and conflict (Delehanty and Steele 2009:530).

*“Feminist believe that theory cannot be separated from political science” (Tickner 2004:45).*

Feminist IR was introduced in the late 1980s with a purpose to make feminist theory a part of the international relations discipline, in addition to questioning excising IR assumptions and concepts, it has brought to the surface new questions in the discipline such as those about states and citizens (Tickner 2004:45). Different from the more conventional security studies



which has been looking at conflict from a top-down or structural perspective, feminist theory has been taking a bottom-up approach where they seek to analyze the conflict on at the micro level (*ibid.*). Of special interest to feminist IR theorists have been what happens on the ground in conflicts, and more generally how it affects women and civilians, challenging the myth that “wars are fought to protect women, children, and others stereotypically viewed as “vulnerable”” (*ibid.*).

## 2.5 CONSTRUCTING MASCULINITIES (AND FEMININITIES)

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Tickner points to the fact of the matter on how our societies are constructed with masculine and feminine identities. War and power politics are arenas where men are thought naturally be well suited (1992:4). The discipline of western international relations has traditionally been focused on “high” politics of war and Realpolitik and the ideas are mainly based around the experiences of men and socially we are structured in a way that men have a special role to play in these settings, and because of that their voices have more to say (*ibid.*). In relations to the discipline, the roles mainly ascribed to women, are considered irrelevant. These include reproduction, in the household, and the economy even (*ibid.*). Tickner argue that if women would have been included in the field of study of IR, as well as in positions in the world of foreign policy, it would have looked considerably different. Leaving women out of the equation

*“Until gender hierarchies are eliminated, hierarchies that privilege male characteristics and men’s knowledge and experiences, and sustain the kind of attitudes towards women in foreign policy that I have described, I do not believe that the marginalization of women in matters related to international politics is likely to change” (Tickner 1992:5).*

Because of the way the international system is set up to marginalize women, Tickner argues that the arena of international politics has always been gendered. Related to the fact that women have been marginalized and men have been in charged and masculinity has been favorable (*ibid.*).

As mentioned previously, to give his life for his country is the most noble thing a citizen can do, and when the United Nations Women conference decided to include women in peacekeeping operations in the same way as men are, it was based on this notion. Although there has been an increase in the number of women that are soldiers, being a soldier is still to be a man, there are no other social institutions where men and women are more separated (Tickner 1992:39). A soldier is supposed to suppress “female characteristics” such as fear,

vulnerability, and compassion, he is tough, fearless, and repress feelings of fear. In war, boys become men, and combat is the ultimate test of masculinity (*ibid.*). The fast track to becoming a first-class citizen is to be a warrior.

Much of the literature on feminist IR theory discuss masculinity to a quite large extent. In relation to this research this is an even more important aspect. I will come back to this in greater detail later, but for now it is important to establish how masculinity is thought of in relation to the IR theory. Tickner argue that some of the words that we associate with manliness such as courage, power, toughness, independence and power, together with physical strength have throughout history been of the highest value in international politics (1992:6). Pair that with the glorification of the male warrior defending his country and you have a picture of a masculinity that certainly do not fit most men (*ibid.*).

These gender differences are all socially constructed and as a result we have unequal relationships between men and women and these are especially structured in International Relations. Despite them being as connected as they are in International Relations, they are still very much hidden, maybe so, according to Tickner, that that is why it has taken this long to look into it. The field is thoroughly masculinized to the point where the hierarchical gender relations are hard to detect (Tickner 1992:8).

“Giving one’s life for one’s country has been considered the highest form of patriotism, but it is an act from which women have been virtually excluded” (Tickner 1992:28). Whenever, or maybe whether, women have been given roles in national security, it is often in the shape of being the *protected* with little control as to what that protection should consist of (*ibid.*).

Tickner (1992) argues that terms such as toughness, courage, and power and violence, terms we identify as “manly” have historically been more valued in the world of international relations. There has been a celebration of the male soldier defending his country, in some way a glorification of male violence as he is a tough warrior fighting for what is right, a way of characteristics that does not apply to most men (1992:6). So, in the same way as femininities are created, so is masculinities. The difference, however, is that these stereotypes are especially visible in international politics, and the “hegemonic masculinity” is projected on to the behavior of states, and these states are measured on their success according to their power capabilities, independence and how well they can survive (*ibid.*).

Studies have shown that many men actually do not wish to fight or live up to the standard of the citizen-warrior or the created masculinity within the military. Tickner (1992)

identify a study from the Second World War that show that only 15 per cent of the soldiers fired their weapons, even when directly threatened by enemy soldiers.

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## 2.6 DIFFERENTIATING BETWEEN SEX AND GENDER

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Historically, the base of the unequal relationship between men and women have been based on biology, the *sex*. But *gender* is based on the socially constructed differences between men and women, the masculine and feminine. The characteristics that are given on how you should behave according to your *sex* (Tickner 1994:7, Grant 1991:8, Delehanty and Steele 2009:528). These have, and will, vary over time, place, and cultures, however in most cultures it is the man that is superior to the woman (*ibid.*). The term gender itself is a socially constructed term. It changes over time and

And where does she find them? At the bases as prostitutes for the brave soldiers, as wives of diplomats. Another place in which we find the women, are amongst the victims of sexual violence, across nearly all time and all cultures, these have been seen as merely an unfortunate aspect of war, collateral damage. But this has come to change, and that is one of the aspects that will be brought up later in this paper.

### 3 WARTIME RAPE

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Having established the perimeters for the theory that will be used for this research, the section that follows will look at what is wartime rape and try to give some insight as to why it happens.

The use of sexual violence in war comes in many shapes and forms. It ranges from women and girls being victims of rape and sexual violence, to be sexual slaves for male fighters, or being a “bush-wife”, one who carry out domestic duties during the day and provide sexual services during the night (Holzner 2011:42). There are several reasons for why girls and women are raped during a conflict situation, and it includes, of course the act of humiliation and to demonstrate power, but also forcefully making women pregnant as a tool of ethnic cleansing, or infect them with HIV in order to physically weaken the enemy (*ibid.*). It is not relating to the subject per se, but it is still an important observation that during the presence of UN peacekeepers and humanitarian aid personnel, there is an increase in the number of trafficked women and children for sexual exploitation (*ibid.*).

Seifert claim that it is a myth that rape is a cause of an uncontrollable male drive that is constrained by culture that is unfortunate but also unavoidable. This myth belongs to the theory that male nature is a “pressure-cooker”, and because of that, men are not in charge of the body they inhabit (1994:55). They are victims too, of their own body and mind. What is convenient about this theory, is that it takes a way the individual responsibility that any person committing such crimes have. However, there are studies that put this theory to stark contest. These studies show that “rape is not an aggressive manifestation of sexuality, but rather a sexual manifestation of aggression” (*ibid.*). The rapist does not act on sexual urges, but rather he uses sexuality as a way to show his aggression and dominance over the woman. To rape someone is to attack the most intimate and the dignity of the human being. It can be sidelined to torture. It goes deeper than just physical pain. What she is left with is a feeling of degradation, that she is not the decider of her own body, a loss of dignity and an attack on her identity (*ibid.*). As will be further discussed in the cases, wartime rape has been used

historically to humiliate the enemy. Not even when she is raped a woman does not have the right to own her pain, it is the husband or the father, whoever is in charge of the woman, who is the target (Heit 2009:364).

In relation to gang-rape, there is a strong incentive to establish masculinity within the group, and it carry with it what can be described as rituals, there is an order in which the act it's supposed to be carried out, based on the status the men have within the group (Seifert 1994:56). Seifert present a two-folded way to look at how prominence rape is in different societies. The societies that have few cases of rape are societies where the male supremacy is so set that acts of rape might not be believed to be rape but simply just a right men have or societies of matriarchy, where women have such high status and honored status. Societies with high incidences of rape are often characterized by having an unstoppable male power, women have lower status than men, or a society where ideas of masculinity and femininity, and a hierarchy between them, have a stronghold. Basically all western societies belong to the latter category (Seifert 1994:57).

Organized rape has been a basic part of warfare for many centuries, yet it has not been a part of the classic discussion on war which has been more intended on describing the 'regular' warfare where one army goes against another for the sake of conquest of defend a territory (Diken and Lausten 2005:111). This has changed in the last 30 years, where one can see a shift to more focus on 'asymmetrical' warfare. This includes guerilla tactics, terrorism and hostage taking, and other aspects related to identity, including war rape (*ibid.*). "War rape is perhaps the clearest example of an asymmetric strategy. In war rape, the enemy soldier attacks a civilian (not a combatant), a woman (not another enemy soldier), and only indirectly with the aim of holding or taking territory" (Diken and Lausten 2005:111). War rape can also be connected to ethnic cleansing, like in the example of BiH. Connected to the issue of war rape is many aspects usually overlooked in war literature, such as the body, gender, religion and the psyche (*ibid.*, 112). In this article, the writers argue that you cannot view war rape as 'simply' the terrible acts caused by male soldiers' sexual frustration that is only a side effect of war, but that rape is a weapon in war (*ibid.*). In this article, the definition of ethnic cleansing used is "an act intended to render an area ethnically homogeneous by removing members of a given group through the use of concentration camps, torture, sexual violence, mass killings, forced deportation, destruction of private and cultural property, pillage and theft, and the blocking of humanitarian aid (*ibid.*,113).

For some victims of rape, the trauma that follows can be worse than the bodily harm done to them (Diken and Lausten 2005:113). Her body has been used by someone else, it has

been marked and ruined. Family members, friends, and members of the community can come to exclude them, and so the victim suffers twice (*ibid.*). This will be brought up later when discussing the case studies. The trauma inflicted by rape is both of the bodily and the mental state. The way we view the bodily interior, at least in western culture, is the most holy part of our body. “The vagina is a gateway inside, the gate to the woman’s soul by which act of entry property in her body is claimed” (Diken and Lausten 2005:120). So, through rape you attack the very most holy part of a woman, and turn it into an abject (*ibid.*,121). Shame is directly linked to the concept of sin.

There seems to be a perception on women as the seducer of men, by the way they are dressed, how they are flirting, smiling etc. Men just cannot help but to fall for it, their desire is so basic and instinct. Then comes the biology part. Men are the active part of the sexual act by the nature of their sexual organ that penetrate the passive part, the woman (Diken and Lausten 2005:122). By that logic then, it is the woman’s attitude to the sexual act that decides whether it was sex or violence and it is this that leads to a vulnerable position for the victim, she can be accused of being a liar by voices saying that it was her fault for seducing him and then accusing him of raping her (*ibid.*). “Abjection has a destructive impact because it cannot be verbalized” (*ibid.*, 124).

During times of war individuals are to some extent ‘set free’ to do things that are not allowed under normal circumstances. Acts like rape, robbery and killings continue to be against the law, only the law is “lifted/suspended” (Diken and Lausten 2005:124). “There can be a brotherhood in guilt, but never a sisterhood in shame” (*ibid.*).

What may seem as barbaric and primitive war actions are actually very much complicated, and arguably more so than conventional warfare (Diken and Lausten 2005:126). What is evident in “postmodern” warfare is that asymmetry is of importance and gender, the body and the psychic can be, and is, used to inflict trauma (*ibid.*). The widespread violence inflicted upon women by men is related to the social condition of the women, and goes across time and culture. When one talk about this violence then, it is equally important to look not only at the violence that happens, but to explore the social, economic, and political disadvantage women have versus men (Websdale and Chesney-Lind 1998:55-56).

Enloe (2004) points to the horrors of wartime rape and how the victims of it becomes just another faceless victim of what wars bring. Rape “becomes just an indistinguishable part of the poisonous wartime stew called “lootpillagelandrape” (108). She goes on to list three conditions that have militarized rape: (1) “recreational rape” is what happens when men have not been sufficiently supplied with prostitution, i.e. cannot have access to sex in a “normal

way”, (2) “national security rape” and, (3) “systematic mass rape” (*ibid.*, 111). Enloe argues that in military organization it is believed that a sufficient access to prostitution for soldiers will keep them from engaging in rape. This is evident in “comfort women” policy held by the Japanese in the 1930s and 40s.

Some of the male soldiers interviewed on the topic of wartime rape in the DRC express that the reasons for why they committed the rapes are specifically tied to their inability to live up to a certain standard of heterosexual manhood. Being a soldier (read: a man) and live up to those standards create frustration, anxiety, negotiation and an underlying incitement to sexual violence (Baaz and Stern 2009:497). Throughout history, it has been seen as an inevitable feature of war that signifies the triumph of the winning side by capturing and scarring the women of the other, losing side. It plays out two roles at the same time; you are rewarding the soldier who defeated the enemy, and you humiliate the losers (Baaz and Stern 2009:498). There has been claims made that during times of war, the normal rules and norms one must follow in society are cast aside and replaced with rules of wartime, easily leading to actions such as rape happening. This supports the argument made that men’s (hetero)sexuality is a strong driving force that is unleashed during wartime and this results in them conducting rapes. Within this explanation there are different understandings. Some will say that all men are potential rapists, and blame their biology, however, there are social restraints in our societies that hinder men from freeing this male “natural bestial sexual behavior” that are removed in times of war (Baaz and Stern 2009:498). Others use a “spiral of violence” to explain the frequency of rape in war. In being in the midst of constant violence, people lose touch of what is right and wrong, you witness, suffer from and inflict so much pain that it is easier to “morally disengage” yourself from those you do harm to. Adding to that, there might be a feeling of you seeing yourself as a victim and you justify you doing morally unjust, violent actions because you yourself deserve to seek revenge. This process of blaming others instead of yourself for your actions and distance yourself from your victims is called *Othering* (*ibid.*).

However, most scholars who research the concept of rape, and by that also wartime rape, explain the actions as aggressive violent actions, not on biology and a natural sex-drive. These aggressive and violent actions build on sexist discourses that exist in society more generally. These sexist discourses become even more harmful and persistent in a climate of violent conflict where masculine violence is even more inherent (Baaz and Stern 2009:499). The military is not a place in which where men can fulfill their natural potential as men, but rather a place in which you are taught to be masculine (*ibid.*). This is not exclusive to men,

women are also taught this violent masculinity in order to become killing machines willing and able to die in protecting their state (*ibid.*). In militarization different heterosexual violent masculinities are created that, as mentioned above, does not fit into the image many of the involved men have of themselves, or their experiences (*ibid.*). Again, we see on the other side the *woman*, someone who needs to be protected. The peaceful one, the one who give life. Another aspect of this creation on militarized masculinities is how this feminine is set to be the counterpart, something to get rid of inside yourself in order to become a true soldier. This is where one finds the evidence for why also women use sexual violence in war. The citizen-soldier is something that is constructed through production of a heterosexual male violent masculinity, and this is as mentioned above not something that is only created in men (Baaz and Stern 2009:499). This argument then, follows well with the discourse in Feminist IR theory that claims that masculine identities are created in our societies.

Why does war sometimes increase the opportunity for sexual violence? One reason Elisabeth Woods (2006) point to, is the weakening of social controls on young men when they go out of their communities to engage in war. One theory presented by evolutionary psychologist Randy Thornhill and Craig Palmer, said that men are born with a “genetically transmitted propensity for rape” based on the idea that this would increase the chances of reproduction for men with lower chances of reproducing would have a chance at that by raping females (322). However, this does not explain why some men in the DRC have raped girls as young as 6 months.

The use of rape and other sexual crimes only became the topic of discussion after the conflict in the former Yugoslavia, but that is not to say that this is the first time it has been used as a deliberate and systematic weapon of war. Historically, war rape has occurred not only because it was a way of inflicting violence on the other part of the conflict, but also as a reward for the victorious soldier (Seifert 1996:36).



## 4 METHODS

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The use of rape and sexual violence in wars is not a new phenomenon. Yet, it is not until recently that this has gained attention on a large scale. Why is this? How come that an issue that has such an enormous impact on reconciliation and justice processes after the war has ended not gained the importance it deserves? Why has it been so that the enormous suffering of probably millions of women during war has not been at the central stage of what happens during armed conflict, but hidden behind military and male suffering? I wish to explore how it came to the point where we are now, where sexual violence in conflict is discussed in the United Nations Security Council and even has its own UN office. The main research question is: *How has the international community developed the discourse of sexual violence against women as a weapon in war, from the 1990s with the violence in Bosnia-Herzegovina, until more recent years with the violence in the Democratic Republic of Congo? Has there been any changes or are the responses the same?* Following this, a sub-question will be *How has the pursuit of justice for the victims changed from the cases? Have the reactions by the international community made any difference in how sexual violence is handled by the states it happens in?*

It will follow these hypotheses: (1) From the war in Bosnia-Herzegovina to the ongoing conflict in the Kivu areas in the Democratic Republic of the Congo, the way the United Nations Security Council talk about sexual violence as a real security issue, has changed. (2) More international organizations are working on stopping, and making awareness of issues of, the use of sexual violence as a weapon in war now than during the war in Bosnia-Herzegovina. (3) The use of sexual violence in the Bosnia-Herzegovina was a part of a larger scheme set out by the top military leaders, in the conflict in the Democratic Republic of the Congo it is more randomly used. (4) It is generally difficult for civilians being victims of sexual violence to seek justice, no matter where or when it happens.

The term “international community” in this respect talks to unilateral organizations where states come together to solve world issues. The main organizations used for this research is the UN, especially the UN Security Council, the G8, the European Union and African Union.

This study will use Feminist International Relations Theory to explore these questions posed here. Furthermore, it will explore the development in how international governmental organizations (IGOs) look at the use of sexual violence as a weapon in war by comparing the conflicts in Bosnia-Herzegovina in the 1990s and the Democratic Republic of the Congo in the 2010s.

Using feminist IR theory to study the case of sexual violence towards civilian women is useful in several ways. Feminist IR theory look at the individual and how the individual can be victimized in conflict, and especially how roles that fall on women in conflict many times goes unnoticed, because it is not “important” enough. This can be said about sexual violence and rape as a weapon in war as well. Up until not many years ago, rape was considered “just another unfortunate side effect of war” and was not believed to be a security issue. However, as we shall see in this research, that has changed in later years. Explaining this development is difficult using theories that does not take into account that wars are much more than a clear cut winner and looser and has to be measured in other ways than who lost more tanks and soldiers.

Studying sexual violence in war in light of feminist IR theory is useful for several reasons. As previously discussed, feminist IR theory focus more on micro aspects of war and security, and especially how these affect women. Using sexual violence as a weapon in war is not an issue that mainstream IR theorists would bother to engage in. On top of this, many main stream IR theorists also struggle to explain intra-state conflict, which is the premises this study is based on. Both the war in Bosnia-Herzegovina and the Democratic Republic of the Congo were (are) intra-state conflicts that lacked many of the traits one used to define war. This trend of *new wars* brings new challenges to the study of war and security.

Civilian suffering, and by that females that are not part of the war, is of great significance for feminist IR theory. It says that one cannot achieve true peace without taking into acknowledge the female aspects of the war and that is what this study is all about. The case BiH was selected because that is the first conflict where rape was recognized as a deliberate and organized form of weapon by the international community, and by that the start of the change in discourse on international security. The case of the DRC was selected because of the enormous scale of the use of sexual violence. It would be preferable to believe

that the case of BiH and the following international outcry would stop these events from happening on a similar scale again, however, some have argued that raping civilian women is happening on a larger scale than ever before in armed conflict in the DRC. I have chosen to restrict the time period for the conflict in Bosnia-Herzegovina from 1992-1995. On the case of the Democratic Republic of the Congo, the Second Congo War started in 1998 and was officially ended in 2003 with a peace agreement, and foreign military pulled out of the DRC. However, in 2004 tensions sparked in North and South Kivu and what has been known since as the *Kivu Conflict* started.

These cases are interesting to study and compare because one would assume that because of the efforts made by the international community in recent years to stop the sexual violence from happening on large scales during armed conflict, it is still a big problem. But has it changed at all? Are the efforts made just fancy words that does not contribute to anything or has there been an actual change? Several studies have been done on the effect of war related sexual violence, and detailed studies have been made on both cases. But what is different about this study and what I will try to find out, is the relation of the two cases and how the response to them differ.

Woods (2006) points to some interesting challenges related to defining and writing about wartime rape on different cases. One example is the variation of definition of rape. Because what is rape actually? Is it only forcible vaginal penetration by a penis or does the term rape also include forcible anal penetration with other objects (Woods 2006:318)? As we have seen in the case of the DRC, rape is not considered to be rape if it is between a husband and a wife. Another issue is the stigma and shame related to this type of violence that keeps victims from reporting what has been done to them (Woods 2006,318). Because of these issues, the number of victims reported may not be accurate. However, if one follows this set of thinking, one can at least be sure that the numbers reported are not too high. This also propose a challenge to this study, as two different countries/areas will be compared and I am completely aware of the different social norms and policies that live inside the victims of the diverse communities these crimes happened in. However, this will not be a research that focus on how many victims there has been in the different cases, the numbers presented here are merely to describe the case. The main question this research will look into, is how the responses by the international community has been different for the two cases, with the United Nations being the main actor in the international community here.

In the following chapter, the international efforts made to stop sexual violence during armed conflict will be discussed. A large portion of the efforts presented here will be UN SC

resolutions. Because a large part of the analysis relies on UN documents, it is also useful to use numbers reported by the UN. Furthermore, and this is specially related to the case of the DRC, the only people on the ground that can report numbers and that are in contact with the victims are NGOs and other groups set up to help the victims. These are established and well-known organizations that enjoy much trust across the spectrum of academics.

The use of UN Security Council resolutions will be of great importance to the study. This is because, when the UN was established, the Security Council was established as one of six main organs of the UN. The Security Council has the “primary responsibility for maintaining international peace and security” (UN 2018 c). The Security Council is the only UN body that has, under the charter, the power to make decisions that the member states are forced to implement (*ibid.*). This speaks of the importance of the product of Security Council meeting, namely their *Resolutions*. Some of the UN Security Council resolutions are not very different from each other, the purpose of including them is not necessarily that they each bring something new to the agenda, but rather to underline the fact that the more resolutions on the subject, the more importance it holds.

## 5 APPLYING THE THEORY

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The following chapter will look at how the previously described theory of feminist IR makes sense of the change that has happened in the international community on how violence towards civilian women in war.

### 5.1 THE INTERNATIONAL

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The next section will follow the narrative from feminist IR theory that security is not just a matter of borders, weapons and survival of the state, but that the security and well-being of the individual should also be included in the discussion of security. You cannot leave the national out of the equation of how to achieve international security, and within that aspect of the national lies the requirement of not just the absence of war and military violence. Efforts made by the UN and other international organizations and communities in early 2000s and onwards have shown that this narrative is also gathering importance on the international agenda.

The most notable resolutions passed by the UN Security Council on the issue of women and their position in war and security, and especially connected to the issue of sexual violence are 1325, 1820, 1888, 1889, 1960, 2106, and 2122. Another notable international effort is by the G8 with the United Kingdom in the lead, who during their 2013 summit laid out a 15-point declaration on *Preventing Sexual Violence in Conflict*. Now these are not related to any of the cases that will be discussed in the following section, but the goal here is to see whether or not the efforts made by the international community to protect potential victims of sexual violence during a conflict situation is making any difference on the local level.

On October 31<sup>st</sup> 2000, the UN SC adopted resolution 1325, On Women Peace and Security. It confirms that women have an important role in preventing and resolving conflict, as well as “peace negotiations, peace building, peacekeeping, humanitarian response and post-conflict reconstruction”. In addition to urging all actors to include women in all aspects of promoting and maintaining peace, it also stress the importance of incorporating “gender perspectives in all United Nations peace and security efforts”. Furthermore, it places gender based violence, “particularly rape and other forms of sexual abuse”, in conflict on the agenda, urging all parts of the conflict to take measures to keep this from happening (UN 2000). What is especially notable with this resolution, is that it is the first time in UN history that the SC has devoted an entire session to discuss women’s experiences in conflict and post-conflict (Cohn et al 2004:130). The resolution came to be much because of the solid work put in by several NGOs.

The Security Council resolution 1325, express that there is a concern regarding the fact that civilians, particularly women and children, are the ones bearing the creates burden from the war. Adding to this the fact that they are increasingly being targeted by combatants, affect the possibility to durable peace and reconciliation (UN 2000). They stress the need for international law that protect women and girls during and after conflict, and the importance of including gender perspectives on peace negotiations for several reasons, but most notably for the purpose of this paper, “the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction” (ibid., 3).

Furthermore, it

*“calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict (...) emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible from amnesty provisions” (p. 3).*

The United Nations Security Council Resolution 1820 says that the usage of sexual violence as a weapon in war can intensify the conflict situation and have consequences for the international peace and security, and by that logic that preventing it is also a step towards maintaining international peace and security. It demands all parties of conflict to immediately stop the use of sexual violence towards civilians. That rape and other forms of sexual violence can be labeled as a war crime, a crime against humanity, or genocide. There should not be any amnesty for those who have committed acts of sexual violence in peace agreements. The idea

of a working groups whose task is to work with the Special Committee on Peacekeeping Operations to develop a training program of all peacekeeping and humanitarian personnel employed by the UN to help them be better prepared for preventing, recognize and respond to sexual, or other violence, against civilians. Adding to that, the need to keep implementing and strengthening the zero tolerance policy of sexual exploitation and abuse in UN peacekeeping operations. Suggest that one way in which countries that provide troops and police for UN operations can help work towards the overarching goal is to deploy a higher percentage of women peacekeepers of police (UN 2008).

In United Nations Security Council Resolution 1888 they continue to stress the matter that the perpetrators have to be brought to justice (UN 2009 a). Set the perimeters for the establishment of a Special Representative on the issue. United Nations Security Council Resolution 1889 does not say much different than resolution 1888, only stronger language. In SC resolution, it is *demande*d that all parties of conflict immediately stop using this violence (UN 2009 b). There is now an office in the United Nations working specifically on this, *Office of the Special Representative of the Secretary General for Sexual Violence in Conflict* (SRSG-SVC), established in 2009 as a part of the implementation of UN SC resolution 1888. The office has eight priority countries: BiH, Central African Republic, Colombia, Cote d'Ivoire, DRC, Liberia, South Sudan and Sudan.

The first Special Representative was Margot Wallström of Sweden who established the office in 2010, and the post is now held by Zainab Hawa Bangura of Sierra Leone. The office has six priorities which are: to assist national authorities on strengthening criminal accountability of those involved in doing the crimes and end impunity on these cases; to protect and empower the civilians who are potential victims of sexual violence, particular the women and girls, assist governments in developing and implementing strategies to combat sexual violence in a way that produce political ownership, increase the recognition of rape as a tactic and consequence of war, both on the national and international level, leading the UN Action Against Sexual Violence in Conflict whose purpose is to advocate the issue on the wider UN agenda, and finally to emphasize greater national ownership (UN 2017a). Another thing the SRSG-SVC is working on is to include provisions for conflict related sexual violence in ceasefire and peace agreements. This is because there is a concern that if it is left unaddressed, the use of sexual violence as a way of fighting outside the boundaries of the agreement and by that undermine the importance of the agreement. Few peace agreements signed today include this (*ibid.*).

United Nations Security Council Resolution 1960 continue to stress the fact that there is still widespread use of violence against women and children regardless of the fact that the Council has continued to urge for all parties of conflict to terminate these actions. This is something that keeps coming up in all these resolutions (UN 2010).

In United Nations Security Council resolution 2106 it is once again, addressing much of the same as in the previous resolutions. Introduce the option to apply “targeted sanctions” to those who continue to those who turn to use sexual violence in conflict situations. Acknowledge that the UN peacekeeping personnel have a role in preventing sexual violence and that they should continue to be trained on noticing gender based violence. It stresses the importance of having sufficient health services to the victims of sexual violence, including sexual and reproductive health, psychological, legal and livelihood support. Adding to this that there is a link between the use of sexual violence in conflict and the spread of HIV infection. That the disproportionate burden of HIV and AIDS is carried by women and children and that this is a persistent obstacle and challenge to gender equality (UN 2013 a). United Nations Security Council Resolution 2122 does not mention sexual violence specifically, but discuss the human rights violations civilian women experience, both during and post-conflict (UN 2013 b).

That was a run-through of seven UN SC Resolutions on Women, Peace and Security that have all been passed after the war in BiH. These all have in common that they acknowledge that the use of sexual violence towards civilians in armed conflict is a threat to international peace and security, that there is a need to step away from the belief that the use of sexual violence in armed conflict is a cultural phenomenon that is inevitable consequence of war and because of that a lesser crime. This is a quite strong message from the UN and lays the foundation for a very different outlook on the use of sexual violence from the war in BiH, when it was known to be an issue but not much was done by the international community to do anything about it, and the later armed conflict in the DRC where the violence is still happening at a large scale to this day. The rapes in BiH happened at a time when there were no specific efforts made by the world around to stop it. This international outcry started only after the people around the world learned of the great suffering many civilian women went through related to sexual violence in the war.

Some of the key initiatives by the UN to address conflict related sexual violence include a collaboration between UN Women and the Department of Peacekeeping Operations have developed training modules to prepare for work on preventing and addressing conflict-related sexual violence. They are set up in order to teach peacekeeping troops what to do in



situations where they see there is a danger of civilians being at risk of or are subjected to sexual violence. They are also taught how to respond to these dangers in line with their mission's mandate and rules of engagement (UN 2017 b). In addition to this, a curriculum on how to investigate and preventing sexual and gender-based violence by police was developed in 2011 (*ibid.*)

During the 39<sup>th</sup> G8 summit in 2013, a 15-point declaration on *Preventing Sexual Violence in Conflict* was put together. This declaration acknowledges that there have been many positive efforts in “recent years” by both national, international and intergovernmental organizations “to prevent and respond to sexual violence in armed conflict” – however, this has not put a firm stop to this occurring in situations of conflict. The G8 acknowledges that the use of sexual violence in conflict in some cases are systematic and widespread. They further go on to say that it is the parties of the conflict that has the responsibility to make sure that this do not happen, and to take “all feasible steps to ensure the protection of civilians”, however, the G8 also has a role to play in the sense that they should promote UN Security Council resolutions on Women, Peace and Security and Children and Armed Conflict. They state that sexual violence is one of the greatest violations of humanitarian law and international human rights. Adding to this, they confirm that preventing this then, is not just about upholding human rights, but international security. They reject the notion that one should think of sexual violence as a “cultural phenomenon” or that it is just an “inevitable consequence of war”. They acknowledge that the widespread and systematic use of sexual violence on a civilian population in conflict can constitute a crime against humanity as well as genocide. Furthermore, they see that there have been steps in the right direction as to holding the perpetrators accountable, but that it is an issue related to the fact that during and post-conflict there is a weakening of the justice system, and that leads to some not being prosecuted. It discusses the promoting and protection of women's and children's human rights as a way of ending all forms of sexual violence in conflict, but also those of men and boys who are victims of it. Furthermore, the importance of including men and boys in the conversation on what needs to be done to eliminate gender-based violence and how to promote equality between men and women. Rape and other forms of sexual violence in war is a breach of the Geneva Conventions and their first Protocol and states are obligated to make sure those responsible for these actions are brought to trial and not given a safe haven (G8 2013).

In this 2013 declaration, the G8 committed themselves to develop an International Protocol on the Investigation and Documentation of rape and sexual violence in conflict. This

was released in 2016. All these factors brought out by the G8 are evidence to how the use of sexual violence in conflict has become a securitized issue.

The following section will look at and compare the two cases of this research, the war in BiH and the DRC, on how the sexual violence and rape towards the civilian women happened. First, there will be a short presentation of the conflict, and in order to understand how it has affected the victims, the women's role in society will be discussed together with the consequences this have had for the ones affected by it. Then the international efforts specifically relating to the cases will be presented and finally how, or if, the perpetrators have been brought to justice.

The war in BiH during the 1990s was perhaps not very different from other conflicts, but it was the first where outsiders from all around the world could sit in front of their TV and follow the happenings of the war live. Reports of horrific acts could be read in the newspapers and books and reports were written and published for everyone to read. When war broke out in the DRC some years later, a conflict that is still ongoing, many of the international efforts and resolutions were still not in motion, but as it continued to unfold, they started to come out.

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## 5.2 BOSNIA HERZEGOVINA

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### 5.2.1 CONFLICT OVERVIEW

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As a result of the break-up of the Socialist Federal Republic of Yugoslavia, war broke out in Bosnia and Hercegovina, a former Yugoslavian state, in 1992 (Holzner 2011:43, Stiglmayer 1994). Bosniacs (Muslim Bosnians) were attacked by Serbs and Croat forces who wanted to establish mono-ethnic territories (Holzner 2011:43, Stiglmayer 1994). To be able to create these territories free of Bosniacs, they used tactics of ethnic cleansing by killing, evictions, and destruction of villages. There were several rape camps set up, where women and children were being kept against their will, and there is also reports of men being held in different camps where they were sexually assaulted and castrated (Holzner 2011:43).

While working on creating these mono-ethnic territories, the Serbs destroyed the houses and cultural sites of Bosniacs, leaving nothing to return home to (Stiglmayer 1994:19). The UN Security Council use the term "ethnic cleansing" in their resolution 819 (April 1993), after the International Court of Justice earlier that month had ordered the Government of the Federal Republic of Yugoslavia to uphold their responsibilities as signatures of the Convention on the Prevention and Punishment of the Crime of Genocide (UN SC 1993).

The case of the war in Bosnia is very interesting, in the level of hate that is behind the violent actions. Radio Television Belgrade, under the control of the Milosevic regime, was used as a tool for propaganda against the Bosniacs by telling stories of “dangerous Muslim fundamentalists” and accused “Muslim extremists” for firing their weapons against their own population (Stiglmayer 1994:20). Because of this, and adding to that the already very high tension between the groups prior to the war, many Serbs believed that they were fighting the dangerous Bosniacs. The ones responsible for the most heinous crimes were special forces within the Serbian army, as well as paramilitary groups from Belgrade that consisted of ultranationalists, criminals, the unemployed, and sociopaths. They were allowed to do basically anything they wanted towards the Bosniacs and Croats they met along their way, as long as the result was the banishment of the Bosniacs and Croats. Serbs who tried to help them were subject to similar fates, prison camp or death (Stiglmayer 1994:20). Propaganda from different Serbian news outlets tell the story of terrible Bosnian Muslims who deserve what is coming for them (*ibid.*,21).

Approximately 100,000 people were killed, while 1.8 million people were displaced (Holzner 2011:43). The conflict ended after NATO got involved in 1995 and the Dayton agreement was signed.

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### 5.2.2 EXPERIENCES OF WARTIME RAPE

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After WWII, the patriarchal Muslim community in Yugoslavia was under much heat from the communist leadership, who sought to “unveil” the Muslim women, liberate them from the religion that was holding them back (Zalihic-Kaurin 1994:171). However, in some of the exclusively Muslim areas of BiH, the view on women and their role did not change much. After the death of Tito, the communist leader, Muslim values on women and how they should behave sprung up again, and in some remote, Muslim villages it continued to be very much present. Most notable in reference to this case, is the importance among Bosniac women on dignity and honor. Even though they are not stuck in the old ways in the sense that they now drank alcohol and had relationships prior to marriage, there was still a tradition that the mother in law hung the bloody sheet after the wedding night on display for the village, and bringing children to the world without being married to the father was also considered shameful (Zalihic-Kaurin 1994:172-173). For decades before the breakup of Yugoslavia, the gender relationship was of a manner where the honor of the family was seen through the women, and they were generally just seen as wives and mothers (Snyder et al., 2006:187). Given these cultural aspects the violence during the war becomes so much more violent.

The sexual violence towards women during the war in BiH has been characterized as ethnic cleansing (Skjelsbæk 2006:374). Women were raped repeatedly so that they would become pregnant, and when they had become pregnant, they were held captive for so long that when they were released, abortion was no longer an option (Sharlach 2010:97). There is evidence to prove that the Bosnian-Serb soldiers were acting on official orders on ethnic cleansing with the rapes. Sharlach sets out three indicators that the rapes were systematic and planned: (1) rapes carried out in areas that were not in connection with each other had similar characteristics such as forcing family members kept in the same camp to preform incest on each other, (2) the rapes took place in different parts of Bosnia at the same time and in connection with the fighting, and finally (3) that the official detention centers were the scene of the crimes (*ibid.*).

The Serbs set up rape camps, concentration camps, and brothels where the rapes happened, as well as in the women's houses as they were invaded by Serbs (Skjelsbæk 2006:374). These camps and brothels were set up in local high schools, workers barracks and other public places where members of Bosnian Serb forces would walk in, choose from the women and girls caught there, and rape them. Some were gang raped, repeatedly over days and weeks (Wood 2006:312). Reports have established that these violent actions were committed by all parties of the conflict, however the majority were carried out by the Serbs (Skjelsbæk 2006:374). It is difficult to establish how many women were victims of rape during the war in BiH, but numbers reported by different sources estimate somewhere between 20-50,000 (*ibid.*, 398). Numbers from 1996 show that since the conflict started in BiH, 60 000 women in the area had been victims of rape (Seifert 1996:36).

In 1994 an investigation carried out under the authority of the UN Security Council stated that there were several distinct patterns of the sexual violence that happened. Rapes were carried out by individuals or groups in the aftermath of looting, in order to intimidate the targeted group. There were also situations where, after the takeover of a village, women would be raped in public by enemy soldier Women were also held in detention centers for especially two reasons; (1) for the purpose of forced impregnation; and (2) for the purpose of providing sex (Wood 2006:312).

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### 5.2.3 BRINGING JUSTICE TO THE VICTIMS

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The European Community, now European Union, set down an investigating committee in the spring of 1993 to look into the issue of rape as a weapon in the war in BiH,

and they concluded that the sexual torture and rape that these women went through is to be considered systematic and an important aspect of the war strategy of the Serbs (Seifert 1996:36).

The International Crime Tribunal for the former Yugoslavia (ICTY) was established by the UN in 1993 in order to bring to justice those who took part in genocide, war crimes, and crimes against humanity during the conflicts on the Balkan during the 1990s. It was the first international war crimes tribunal set up since those of Nuremberg and Tokyo post WWII, as well as the first war crimes court created by the UN. Since its establishment, the ICTY has charged more than 160 individuals. These include heads of state, prime ministers, high- and mid-level politicians, high ranking military personnel as well as military and police leaders (ICTY a 2017).

On March 24<sup>th</sup> 2016, the leader of the Bosnian Serbs during the war, Radovan Karadžić, was sentenced to 40 years of prison, guilty of the Srebrenica genocide (The Guardian 2016). By early 2011, almost 30 individuals had been convicted of crimes of sexual violence including sexual assault and rape. More than 70 individuals had been charged (ICTY 2017 b). The cases carried out in the ICTY speaks a lot about the changing discourse in the international community on sexual violence in war. The first case in history to speak of sexual violence in an international war crimes trial was that against Duško Tadić. He was a local board president of the Bosnian Serb Democratic Party in Kozarac, northwestern BiH. He was sentenced to 20 years in prison. He was found guilty of cruel treatment and crime against humanity for the role he played in the Omarska Camp, set up in northwestern BiH after the Serbs took over the area of Prijedor. Thousands of Muslims and Croats were detained in the camp, and among other incidents he was involved in, one stands out as particularly horrific: “one of the detainees was forced to (...) bite of the testicles of another detainee” (ICTY 2017 b).

Another milestone reached by the ICTY is acknowledging rape as a form of torture. This happened during the trial of four former members of the Bosnian armed forces, Hazim Delić, Zdravko Mucić, Esad Landžo, and Zejnil Delalić (ICTY 2017 b).

Brammertz sheds a light to the UN Security Council on the fact that events that took place in Yugoslavia that are considered facts everywhere else in the world are not even allowed to be taught in the countries where it happened (Associated Press 2017). He has for several years warned the SC of what he views as “denial of crimes and glorification of convicted war criminals” (*ibid.*). “There must be a shared agreement on the recent past”.

Interviewed in 2011, Brammertz outed concern for the problems the region is having on reconciliation, and also his concern on the local governments not agreeing on verdicts passed by the tribunal, saying they are anti-Serb, anti-Bosnian or anti-Croat, and not accepting that crimes have been committed (UN News Centre 2011). He points to a poll conducted in Serbia just weeks before his arrest, where 40 per cent of the respondents consider Ratko Mladic a hero, and 50 per cent responding that they are against his arrest. This was in 2011, after Mladic had been on the run for 16 years, some claiming that this was only possible because he was protected by the Serbian officials (*ibid.*, Reuters 2011). Ratko Mladic was finally sentenced on November 22nd to life imprisonment for acts of genocide and "(...)crimes committed (that) rank among the most heinous known to humankind" (ICTY 2017c). The verdict against Mladic also mentions the use of detention camps and sexual violence (*ibid.*).

## 5.3 THE DEMOCRATIC REPUBLIC OF THE CONGO

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### 5.3.1 CONFLICT OVERVIEW

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Every year, the Norwegian Refugee Council release a report of the most neglected displacement crisis' in the world. The DRC is number two on the list (NRC 2017). The report is released every year, and the DRC has been a part of the top ten list for several years. In 2016, the DRC was number 178 out of 188 on the UN Human Development Index (UNDP 2016). The population of the country is not foreign to suffering, and conflict continue to range across the nation.

The people of the DRC have had long experience with oppression and conflict. The colonial regime that was put on the Congolese were extremely brutal, but the suffering did not end when the colonial rule did. Joseph-Désiré Mobutu kept a 32-yearlong military dictatorship on the country, and when it was overthrown in 1997, many hoped that that would be the start of a new and better time for the country. But it did not go so well. Suddenly, the country was in the middle of what would come to be known as the deadliest conflict since the Second World War, it has even been referred to as the “first world war of Africa”, due to the fact that many neighboring states were also involved in the fighting, as well as several militia groups (Baaz and Stern 2009:500, Meger 2010:125). The country’s location so close to several other wars and conflicts on the continent have also intensified the situation. In many cases, militia groups are supported by foreign governments, one of the reasons for this lie in the fact that DRC have vast natural resources, located in the eastern provinces of the DRC, the hot spot of the conflict. Militia groups from the outside have come in to extract mineral resources and local groups have been set up to defend their territory.

The UN Security Council established the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) in November 1999, after the DRC, Angola, Namibia, Uganda, Rwanda and Zimbabwe signed a ceasefire agreement in July that same year. MONUC’s mission was to oversee the ceasefire (UN 2018 a). In July 2010, MONUC was replaced by the United Nations Organization Stabilization in the DR Congo (MONUSCO), following the “new phase reached in the country” (UN 2018 b). After being renewed several times, the UN Security Council extended MONUSCO’s mandate until March 31<sup>st</sup> 2018 om March 31<sup>st</sup> 2017 (*ibid.*).

There are many factors that counted in on the intensity and length of the conflict, other than the political situation. Among them a great competition for the enormous natural resources from both groups within and outside, a gradually collapse of the state functions and the severe poverty. In 2008, the International Rescue Committee estimated that 5.4 million people had been killed (Baaz and Stern 2009:500). Although there were, as mentioned above, several militia groups present in the conflict that did horrible crimes, one cannot deny the wrongdoings of the State Army Forces, *Forces Armées de la République Démocratique du Congo* (FARDC), who were largely responsible for the violent climate and were very much harassing the civil population as well as clashing with the militia groups (*ibid.*).

Wartime rape in the DRC was conducted by both rebel and government forces (Baaz and Stern 2009:495). The extra-national militia group *Forces Democratiques de la Liberation*

*du Rwanda* (FDLR) has established themselves in the eastern regions of the DRC where they are heavily involved in illegal mining are considered by some NGOs to be most responsible for civilian suffering in the area (Meger 2010:125). The national police forces are also involved in the sexual violence, as are basically all the other armed groups involved in the fighting, even MONUSCO soldiers have been found to be involved (Meger 2010:126).

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### 5.3.2 EXPERIENCES OF WARTIME RAPE

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In South Kivu, one of the main provinces where the violence happened, women hold a generally lower status than men. This leaves the women more vulnerable to being exposed to gender-based violence during armed conflict, and this has also been used as an excuse by the abusers (Ohambe 2005:25). Some scholars have suggested that the gender based sexual violence in the DRC is tied to the broader social structure in the country. These gender-based violent actions can seem to have been more “normalized” as the conflict have unraveled, but that is not to say that the conflict created the sexual and gender-based violence (Freedman 2011:171).

Gender inequalities are visible across all levels of Congolese society, the social, economic, and cultural life. Women are more poor than men, they have less access to education, families often find it a better choice to invest their money in boys’ education and let the girls stay home and help around the house, one in two adult women is illiterate compared to one in five adult men (*ibid.*, 172). Women are also very much left out of political decision-making processes. After the 2006 general election, only 42 of 500 seats at the National Assembly were occupied by women. This lack of women in public office is cross all levels of the political stage (*ibid.*, Ohambe et al 2005:26).

In general, the system in the DRC is often rigged against women. Some economic actions such as opening a bank account and get credit requires women to have their husbands’ permission. Women are also usually not allowed to inherit their husbands or fathers, and in generally the husbands are in charge of the money, even though it is often the women who earn them (Ohambe et al 2005:27). Among some ethnic groups, the women are considered to be the property of the clan, and several male family members have the right to have sexual relations with her, as long as the *husband* is in the know (*ibid.*).

In a study conducted in the Panzi Hospital in 2006 on survivors on sexual violence, they found that approximately 90 per cent of the victims were either illiterate or had only attended primary school (Bartels et al 2010:38). Six per cent of the victims told that their husbands had left them after they had become victims of rape, and that husbands leaving was



more common in the cases that resulted in pregnancy, or where gang rapes had happened (*ibid.*). Survivors tell stories of how the social stigma they experience can be harder to deal with than the rape itself (Albutt et al 2017). The women that have been victims of rape are regularly seen as immoral and the rejection from the family and community can threaten the possibility for healing (*ibid.*). Some of the victims who have spoken out about their assaults say that they wish the soldiers would have killed them instead “to get rid of this shame” (Human Rights Watch 2014).

Many of the soldiers explained the acts of rape as an action to give into a need. Different from their wives at home, whom they were concerned would be unfaithful in order to earn money the husband could not provide, the reasons for their unfaithfulness was simply biological. The natural urges of a man are simply so strong that it is inevitable that a man take a woman by force if he is denied sex for a prolonged time. They also explained the rapes in many instances to be blamed on the poverty of the society. In Congolese culture, it is the norm that the man brings home the money for the wife in order for her to take care of the family. If he is unable to do so, the woman does not owe him the same level of submission, and thereby can refuse him sex (Baaz and Stern 2009:507-9). Accordingly, the issue of rape is not to blame on the man, but society, for not giving him the opportunity to go out and have these “needs” fulfilled without having to force himself upon someone. Given that logic then, makes the soldier a victim as well.

The constructed sense of masculinity is also present with the female soldiers interviewed by Baaz and Stern (2009). They also adhere to the logic that men have sexual desires that need to be fulfilled, they even defended the actions based on that same logic as mentioned above. Note that the women in the army did not testify that rape within the army was a big problem, but there were quite a lot of instances of sexual harassment (*ibid.*, 509).

The rapes mentioned above are categorized as “normal” rapes – they are connected to lust. However, the soldiers interviewed also had another category for rapes, namely “evil” rapes. The reason why a rape is set in this category and not the former, is because of the brutality, and because the intentions behind the acts are different. This includes brutal acts of sexual violence such as mutilation and also killing of the victims. The motivation can be to humiliate and dishonor the victims, it is not lust that is the main driver in these cases (Baaz and Stern 2009:511).

It is apparent in the testimonies of the soldiers, however, that they believe that rape is wrong, and that being in a situation of conflict does not make it right. Still, some of the accounts on what happened carry a sense of there being not only a right for the woman to say

no, but also a right for the soldier to expect a yes (Baaz and Stern 2009:513). It is evident in the stories that the soldiers tell in these interviews that “lust” rapes are more generally accepted than the “evil” rapes, but that they are both morally wrong. The “evil” rapes are connected to another set of thoughts than the military masculinity, it is seen as abnormal, and by that a deviant masculinity (*ibid.*). Note also that these interviews are conducted on members of the State Army, and although they are responsible for most of the sexual violence, the other groups also carried out actions like these. They might have different reasons and discourses completely, as they have different interests and positions in the conflict (*ibid.*,514).

The life of a FARDC soldier can be tough. There is a struggle in providing them with equipment, food and support, as well as the soldiers not getting paid on time, if they are paid at all. This leads to there being a particular violent environment within the forces and the soldiers use the local populations as means to stay alive (Baaz and Stern 2009:501). As a result of this, they have very low loyalty towards their higher ranking leaders, because they see them as the reason for why they are in the situation that they are. A soldier interviewed by Baaz and Stern (2009) claims that “there are no bad soldiers. It is our leaders/superiors who are bad” (501). That is not to say that these higher ranking officers have much higher salaries, but their position and status give them leverage to be able to engage in other ways to earn money, both legal and illegal activities (*ibid.*, 502). The police and the military both have very low levels of trust among the civilian population (*ibid.*).

The (hetero)sexual male fighter is a returning character in the FARDC soldiers’ testimonies on the ideal masculinity that can explain the sexual violence. There are sexual needs that naturally occur for males that are natural and given, which again are the role of the women to fulfill. If the women had any other role to play in the army, it was in the “feminized” areas such as health, cooking and cleaning (Baaz and Stern 2009:505). However, that is not to say that the soldier did not find it fitting to have women present. The brave, masculine soldiers needed to have sexual relief in order to continue to be just that, and not be distracted by their “natural” sexual urges (Baaz and Stern 2009:506). This is also then, tied to the point made by Enloe in her book *Beaches, Bananas and Bases*. The sexual violence towards women in the DRC is much connected to the general gender relations in the society as a whole (Baaz and Stern 2013).

Establishing exactly how many have been victims of sexual violence in the DRC is hard, as speaking out about being a victim of sexual violence is considered to be taboo and very much connected to dishonor and shame. Therefore, many will choose to be silent about

what has happened to them do to fear of what will happen if you are open about it. It is however, very much established that the FARDC were responsible for most of the sexual violence that occurred (Baaz and Stern 2009:496). The soldiers interviewed follow two intertwined discourses of rape. The first is one where rape is a sexual action, driven by lust, the other one in which the rape is explained as an action of rage and anger, no sexual desire (*ibid.*, 497). This is also tied to their justification of the act. Some rapes are viewed as “ok” because they are somewhat more morally defensible, and ethically and socially acceptable, and because of this they are “not *really* rapes in their eyes”. Then there are rapes that are simply just evil, and not acceptable, but they still see them as somewhat “understandable” (*ibid.*).

Some of the rapes in the DRC were particularly violent. Women were shot in their vaginas and girls as young as *six* months were raped to death (Meger 2010:127). A study done in the province South Kivu revealed that most of the rapes were gang rapes, averagely there were 4.5 rapists per victim, but the numbers of attackers ranged from 1-20. 79 per cent of the women interviewed for the study had been raped by at least two attackers (Ohambe et al 2005:33).

The extent to which HIV/AIDS have spread in the areas because of the rapes can be hard to determine, but it is estimated that 60 per cent of the combatants in the DRC were HIV-positive, and it is also known that HIV/AIDS is easier transmitted during forced sexual intercourse because of tears and scratches to the vagina or other genitals (Ohambe et al 2005:40).

Another long term problem facing the women who fell victims of the rapes is a medical condition called *fistula*. This condition is not only of a medical concern; it also greatly affects the social life of the women. This lies in the description of the condition: when items such as sticks and guns, are implanted into the women’s vagina and tears down the wall that separates the vagina and rectum, leaving the women unable to control their feces, causing them to be rejected by their communities. The medical condition can be restored, however, but many factors keep the women from receiving the help they need (Meger 2010:126). Testimonies reveal that women were raped with several different objects, such as bottles, utensils covered in chili pepper and bananas (Ohambe et al 2005:34).

Numbers show that hundreds of thousands of women and girls have been raped since the conflict broke out in 1998 (Meger 2010:119). The scope of the violence is enormous. In June 2008, more than 2,200 rapes were reported in the province Nord Kivu, and the situation in South Kivu is no better. Between 2005 and October 2007 32,000 cases were reported in the

province. Cultural restrictions keep women from reporting the incidents, and so it is believed that this number is less than half of all the incidents that actually happened (*ibid.*, 126). Some claim that the systematic use of rape in the conflict of the DRC is worse and happening on a larger scale than has ever happened in a conflict before, and that it has been a central weapon used on civilians in the war (Meger 2010:119).

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### 5.3.3 BRINGING JUSTICE TO THE VICTIMS

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In the DRC, the justice system is set up in such a way that the military courts have jurisdiction over all criminal acts committed by members of the national armed forces, members of other armed groups involved in the conflict are treated by the legal system as civilians (Human Rights Watch 2005:22). Around the time of the 2002 peace agreement, old-fashioned laws and a lack of recognizing the seriousness of the nature of the crimes led to both the military and civilian courts not being very active in prosecuting the criminals.

A decade later, the situation is different. With the assistance of the UN, Congolese military prosecutors have opened several cases of judicial investigations on cases of sexual violence and rape. However, they have a long way to go in ending the cycles of impunity for the high ranking perpetrators. Between approximately 2004-2014 the government had a policy of integrating former armed group leaders into the national army, and giving the group leaders, including some who are alleged war criminals, senior positions as a reward (Human Rights Watch 2014).

The UN launched a comprehensive strategy to combat sexual violence in the DRC in April 2009, this is meant to provide services and resources to combat conflict-related sexual violence in the eastern parts of the country. In November that same year, the Congolese government launched a national strategy on gender-based violence, “the “National Strategy on Combating Gender-Based Violence”, that fully implements the UN strategy of April that same year (UN 2017 c, Freedman 2011:173).

The Special Representative of the Secretary General called the DRC “the rape capital of the world” in April 2010. In March 2015, the Secretary General submitted a report on Sexual Violence to the Security Council. It describes how, despite measures taken by the government in 2014 to decrease the gender-based sexual violence, rapes on women by armed militia groups increased in the same year. It was reported by the United Nations Population Found (UNFPA) that they had recorded 11,769 cases of sexual and gender-based violence in the provinces North Kivu, South Kivu, Orientale, Katanga and Maniema. Out of these cases,

39 per cent of these are directly connected to the conflicts in the area and were conducted by armed individuals (UN 2017 a).

The UN reported 698 cases of conflict related sexual violence in the same time period, where 201 of the cases were confirmed to have been carried out by members of the FAR, 157 by national police, and national intelligence agency two of the cases. Investigations have shown that rape was used by the armed forces as a way of revenging those in the Hunde population, as they were believed to support the Alliance des patriotes pour un Congo libre et souverain in Masisi territory, whom the military carried out operations against (UN 2017 a). Estimates made by the UN show that 69 per cent of the confirmed cases of conflict related sexual violence are committed by armed groups. The perpetrators are from Several of the militia groups involved in the conflict. Reports started coming in in February 2014 that rape, sexual slavery and forced pregnancy was used as a tactic to humiliate members of certain ethnic groups on both sides. Those who are internally displaced are especially vulnerable to conflict-related sexual violence like this related to ethnicity (*ibid.*).

The DRC government has since 2014 made efforts to deal with the bad culture of sexual violence in the military, and launched the “armed forces plan against sexual violence”. Military tribunals were set up and convicted individuals of sexual violence crimes. Several members of the armed forces, the national police and armed groups were amongst the people charged for sexual violence. As a part of MONUSCO, there were seven legal clinics set up in the DRC. The aim was to create a space where victims of sexual violence could go for medical, psychosocial and legal support – which resulted in 60 per cent of the clients chose to take the case into the legal system (UN 2017 a). In 2014, the DRC government took steps to work against these points laid out by the UN. President Joseph Kabila appointed Jeannine Mabuda Lioko Mudiayi as Presidential Adviser on Sexual Violence and Child Recruitment in the DRC (UN 2014a). This appointment is celebrated by the SRSg-SVC.

A Sexual Violence Unit have also been established in the DRC as a part of the MONUSCO. It was set up in relation to the 2009 Comprehensive Strategy on Combating Sexual Violence in the DRC set up by the government in 2008. The Sexual Violence Unit have several roles and functions, such as working together with both the government and UN agencies, and to work with prevention, protection and response to sexual violence across the DRC (UN 2017 b).

Early 2014, the UN and the AU reached a milestone agreement on preventing and the response to the use of sexual violence in conflict (UN 2014b). One key aspect of this agreement was to end impunity for the perpetrators. Impunity is a large hindrance for there to

be an actual reconciliation process and for the victims to feel as though they have gained justice.

On the 26<sup>th</sup> July 2017, Congolese warlord Ntabo Ntaberi Sheka surrendered to MONUSCO (Human Rights Watch 2017). A warrant for his arrest was issued in 2011, but he remained at large for more than six years. The arrest warrant was based on crimes against humanity of mass rape. Investigations carried out by Human Rights Watch have discovered that Sheka's armed group was supported by Congolese army officials. On top of this, Sheka ran for government office and held public rallies after the warrant had been issued without there being efforts made by the police to arrest him (*ibid.*).

The DRC has signed the African Charter on Human and People's rights, where the elimination of discrimination against women is established in article 18 as well as the protection of women and children's rights. Furthermore, article 5 in the same charter says that people should be free from all forms of exploitation and degradation. Being bound by several human rights charters and declarations, the DRC is responsible to take action against, and to punish those who commit acts of sexual violence. This is true both when the perpetrators are state actors, such as members of the national army, as well as those that are members of other non-state actors. In addition to this, sexual violence is criminalized under international humanitarian law. All actors involved in the conflict is bound to this. The Geneva Conventions and their protocols set the rules for this. Common article 3 of the Geneva Conventions was marked a breakthrough when it first arrived as it was the first time non-international armed conflicts was covered in international law (ICRC 2010).

The Committee on the Elimination of Discrimination Against Women (CEDAW) published their "concluding observations on the sixth and seventh periodic reports of the Democratic Republic of the Congo" in July 2013, where their express *extreme concerns* about the use of sexual violence as a weapon in war both by the national armed forces (FARDC) and other armed groups in the eastern part of the country. The use of language is important here, in this report they describe rape and sexual violence as a weapon in war. Furthermore, the inability by the state to prioritize the protection of civilians and the reluctance some key State officials show in acknowledging the extent of the sexual violence carried out against women in the conflict-affected areas (CEDAW 2013). The CEDAW is also *extremely concerned* on the legal system where the perpetrators are supposed to be brought to justice. Operational military courts lack funding, and the numbers of prosecutions on members of the armed forces by the military courts is low. Investigations made by MONUSCO and other UN agencies on acts of sexual violence committed by the national army, are not systematically

followed up by military prosecutors. Adding to this, the enforcement of court decisions is limited, and compensations for victims of sexual violence done by State agents is often not paid out (*ibid*). Persons suspected of human rights violations are not effectively vetted to be removed from their official positions in the security forces. Processes like these should be in place.

To help deal with these issues, the CEDAW urges the State to fight impunity for sexual violence in conflict areas by completing ‘effective and independent investigations’ and to prosecute the perpetrators, including those with the command responsibility. Also, to ensure the protection of civilians, especially women against sexual violence, there should be gender-sensitive training and adoption of codes of conduct both for the police and military training. Psychologists and health-care professionals should also be provided with training on how to deal with the issues professionally. For there to be access to justice for all women victim of sexual violence, the state needs to provide proper funding for military jurisdictions and ensure that the justice system is receptive of victims of sexual violence and increase the number of female judges and professionals in the courts that are experts on sexual violence. Another is to start working on an adoption of a specialized court to deal exclusively to try individuals responsible for war crimes, genocide and crimes against humanity (CEDAW 2013).

The latest UN Security Council meeting where the situation in DRC was discussed was on December 8<sup>th</sup> 2017, resulting in Resolution 2398 (2017), where the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region was discussed. The language of this resolution is somewhat different from some of the other resolutions discussed in this paper on the gravity of the sexual violence it is only mentioned two times in the report, both times very briefly (UN 2017 d)

In December 2017, a DRC military court sentenced eleven men to life in prison guilty of crimes against humanity for raping 40 girls and murdering two men in the period 2013-2016 (Physicians for Human Rights 2017). It was a break-through case, as one of the defendants, Frederic Batumike, was a regional lawmaker, member of the South Kivu provincial assembly. According to the court, Batumike led a militia group that carried out the attacks under the guidance of a traditional occult leader. This occult leader instructed the men that they would be protected in fights against FARDC by raping young virgins and collecting their hymnal blood (*ibid.*).

This is evidence that the DRC has lived up to the pledges from the UN and other agencies who have for several years begged the DRC to stop the cycle of impunity that

protects high-ranking people and let the violence continue. However, it is important to take into account here, that this specific trial came to be much because of the pressure and work from NGOs such as PHR. The case was originally rejected by civilian courts, and PHR made the appeal, together with national and international partners, for it to be brought into a military court (Physicians for Human Rights 2017). Another positive step taken by the court, was the decision to let victims and witnesses testify in a manner that shielded their identities, taking steps to ensure protection for victims who go to trial with their cases, another point made by the UN (*ibid.*). As shown, this verdict lives up to the demands set out by the UN in several reports and documents. It is of course worth noticing that this case was against a militia group, and the violence carried out by the FARDC is still not tried in court. The government of the DRC seems to define security in a more general and old-fashioned way, where ‘secure’ speaks to the absence of armed groups and weapons, but not of the well-being of their citizens.

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## 6 CHANGING AWARENESS

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Many contemporary, western feminist would argue that gender is important in the definition of any war, following feminist IR theory that, as shown, inhabits aspects of masculinity that affects “the persistence and longevity of war as a social institution” (Sylvester 2011:120). There is a masculine framework consisting of “hyper-masculine politics of force”, that has less to do with men being the participants and more about a buy-in on the idea that you can seek power through war and violence within this framework (*ibid.*). Women can, and are, still be a part of it. For a long time, when studying contemporary war, the gender aspect was often left out by researchers. The reason for this is much because of the way war is defined. It is defined in such a way, implicitly rather than explicitly, as violent action undertaken mostly by men, and when women are involved, they carry the role of the victim, affected, but not able to influence the “politics of war making” (*ibid.*, 121).

It has been argued that violent conflict has changed a lot in the post-cold war era, especially civil war. This is supposedly visible in several ways, but the most dramatic shift is in the “pattern of violence” as well as the “goals, the methods of warfare and how they are financed (Newman 2004:174). This argument has been questioned by some scholars, that is not to say that they do not agree with some of the aspects of the new war thesis. According to Newman, the main ideas of the thesis are that new wars are intrastate rather than interstate, ethnicity and religion are more central issues than politics, civilian casualties are increasing and displacement of humans are happening in large scale, civilians are targeted, and that there is a breakdown of public authority and combatants and civilians are more difficult to separate because the distinction between public and private combatants are whisked away (*ibid.*,175). Estimates show that during the armed conflicts of the 1990s, 9 out of 10 of the victims were civilians (Hynes 2004:436).

A thoroughly study conducted by researchers at Uppsala University and the International Peace Research Institute in Oslo looked at armed conflict from 1946-2001. They found that since the end of the cold war (1989) there has been totally 115 armed conflicts across the globe (Gleditsch et al 2002:616). Out of the 34 conflicts that were active in 28 countries in 2001, only one, India and Pakistan over Kashmir, was an interstate conflict (*ibid.*). The cases studied in this research falls into the category of intrastate war, the armed conflict in the DRC have been very much affected by the involvement of foreign individuals but also governments from neighboring states. The war in BiH was also an intrastate conflict, it was later involvement from other states in order to bring an end to the war, but the war was not defined in the same way by foreign involvement like the armed conflict in the DRC have been.

New wars do not necessarily mean that what happens during the war is something that has not happened before, but rather that there is now a new focus on these issues. Great civilian suffering has been a part of warfare for many decades, even centuries, including wartime rape.

In 1992, the UN Security Council wrote on the issue rape in the BiH war for the first time. Resolution 798 talk about the “organized and systematic detention and rape of women” (UN 1992). The first time ‘sexual violence’ was mentioned in a UN Security Council resolution regarding the DRC was in March 2003 (UN 2003). Here, the use of sexual violence is described as a “tool of warfare” (*ibid.*). What is different with most of the resolutions on the war in the DRC though, is that they came after resolution 1820, so one can read them in light of what is expressed here. The use of sexual and gender based violence in conflict can be a threat to international peace and security. What this shows us, is that there has, in fact, been an increase in the importance in ending sexual and gender based violence during war and what it means for security.

One aspect worthy of noting is the importance the case of sexual violence in the DRC is that the UN was very involved in the process and both the General Assembly and the Secretary General got frequent updates on the situation as it unfolded. On top of this, resolutions passed by the Security Council gave great importance to the topic.

It is not only the UN that has been involved on the issue. The G8 countries, with the United Kingdom in the lead, have also had sexual violence during armed conflict high on their agenda. These efforts were all made after the end of the war on the Balkans, and during the conflict in the DRC, and not made in direct reference to any case, but the case of the DRC have been ongoing in many of the instances so arguably, one can say that they are the inspiration.

One way in which the cases are similar to each other is that the victims are mostly civilians. That is not to say that it did not occur within the military, but for the most part, civilians were the victims. In BiH, sexual violence was used by soldiers to undermine the enemy and humiliating it by serving themselves to what was considered “theirs”. Rapes to humiliate and prove a point to bystanders also occurred in the DRC.

It is clear from looking at the case of the DRC that the efforts made by the international community has not had much impact on the individual soldier and his views on rape as a weapon in war. The testimonies made by the soldiers as presented here does not show any concern by the soldiers that they need to follow UN guidelines. The UN are responsible for the UN peace keepers, and the efforts made to stop them from being involved in crimes of sexual violence can arguably be more effective. There will not be much change

on the local level until local governments and groups are involved in the effort to stop the crimes from happening. The local can, together with the international as presented earlier, change the perception amongst soldiers on the use of sexual violence towards the civilian population. But this is impossible to achieve unless the government stop the cycle of impunity towards the perpetrators, which has not happened to a very large degree in the DRC. However, as we have seen, there has been positive developments on this matter too. The sentencing of the regional lawmaker Frederic Batumike show that the government of the DRC is interested in living up to the standards set on them by the UN Security Council and other offices, to end the impunity for those who carry out the violent acts of sexual violence on civilian women during armed conflict.

On the topic of bringing justice to the victims, the cases are quite different. In the aftermath of the war in BiH, an ad-hoc tribunal was set up, and is still active, in sentencing the perpetrators for their crimes. In the case of the DRC, this task has been left to the national courts, the justice system in the DRC is as mentioned earlier set up in such a way that military courts are responsible for crimes done by members of the military and other cases are conducted in civilian courts. The government is, however, in many cases unable, or unwilling, to bring some of the perpetrators to justice as they have political agendas, and the heavy burden of corruption the courts work under are stopping the justice system from working optionally (Human Rights Watch 2014).

Because of this, one can argue that the case of BiH had greater success in bringing the offenders to justice, because it was not any nation in particular who was responsible for making sure that it happened. It has been too simple for politics to play a role in the process of justice in the cases against some of the perpetrators in the DRC, or rather, the lack of bringing them to the courts at all.

Regarding the international discourse and how international organizations have responded and reacted to the use of sexual violence and especially rape as a weapon in war, it is more visible in the case of the DRC than BiH how, despite several actions taken by especially the UN, that this is not doing much to for the local women how live in the midst of the conflict.

One can, after looking at the personal testimonies of the predators in the Congo conflict conclude that even though the discourse has changed in the international system from early 1990s to the 2000s, the structure of the military masculinities in this case presented, did not. It is evident that there is still much work to be done on the field of feminism for it to reach the situations that actually happen out in the world, far away from the academic

institutions where the texts on international relations theory are written. For there to be an actual change in the mindset of those involved in carrying these violent actions, greater action has to be taken by the local governments to bring the perpetrators to justice.

The collective decisions made by international non-governmental and intergovernmental organizations have shown to make a big difference in how sexual violence in war is perceived on the international level. Since the war in BiH we have seen that a special representative on the matter has been established in the UN and they are working close with local governments, such as the DRC, to end the use of sexual violence in war. The government of the DRC have, because of relentless pressure from the UN Security Council, taken great steps to end impunity.

## 7 CONCLUSION

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This research has looked at the development in the approach to gender-based sexual violence towards women in armed conflict through the research question *How has the international community developed the discourse of sexual violence against women as a weapon in war, from the 1990s with the violence in Bosnia-Herzegovina, until more recent years with the violence in the Democratic Republic of the Congo? Has there been any changes or are the responses the same?* Following this, a sub-question will be *How has the pursuit of justice for the victims changed from the cases? Have the reactions by the international community made any difference in how sexual violence is handled by the states it happens in?*

What we have seen, is that feminist IR theory has definitely had impacts on how the UN and other international organizations now view women's issues as global issues that are a threat to international peace and security. This is evident in the cases presented here, from the G8 to resolutions from the UN SC on the use of sexual violence as a weapon in war. This research has used the cases of BiH and the DRC as case studies to show if there have been any changes in the discourse relating to the two.

The case of rape as a weapon in war is widely known to first be properly research as a result of the war in BiH. Some scholars claim that the use of sexual violence has never been as widespread as it has been in the armed conflict in the DRC. This makes these cases relevant to study. We have seen that the aftermath in dealing with the issue of sexual violence in conflict has been different in BiH and the DRC. In BiH, an international tribunal was set up to bring those responsible for the crimes to justice, while in the DRC it has proven to be more reluctant to charge and sentence those responsible. We have seen that there has been some willingness lately to end the impunity for those responsible, and that many years of pushing from the UN and other organizations have been successful.

The international efforts by the UN, with seven SC resolutions have been used as examples together with a joint declaration by the G8 group. The cases have been presented on the same terms, first a general presentation of the conflicts, then the social norms present in both cases that make the violence an even greater pain for the victim as the pain is not limited to the violence that was done to them, but also how those around them react to it. Then it was presented how the perpetrators have been, or not been, brought to justice and international efforts made on the specific cases.

However, little has changed on the ground for those in danger of falling victims for the use of sexual violence during armed conflict. The international outcry that happened after the war in BiH, did little for the women living in the eastern parts of the DRC. They continue to be victims of a cycle of violence that seems unstoppable as long as the existing gender-roles ascribed to men and women remain in the majority of societies around the world.

In many ways, the conflict in BiH changed the discourse within the international system from an almost non-existing focus on the use of sexual violence in war, to there now being several UN security council resolutions on the matter, as well as an office within the UN working solemnly on this subject.

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