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Elisa RIQUIER

Sexual Violence in Armed Conflict Response and Actions undertaken by the Organisations of the United Nations

Women in Tabit in Sudan's North Darfur state. Human Rights Watch says mass rape in the town could amount to crimes against humanity. Photograph: Mohamed Nureldin Abdallah/Reuters

September 2015

Under the supervision of Imad KHILLO

Maître de Conférences de droit public
Directeur-adjoint des Relations Internationales

UNIVERSITE DE GRENOBLE

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Sexual Violence in Armed Conflict Response and Actions undertaken by the Organisations of the United Nations

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Maître de Conférences de droit public
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I would like to thank my dear friends for supporting me doing this work, and a special thank to my partner who has been kind enough to support me persistently and proof read my attempt to depict one of the most horrifying phenomenon of our time. Finally, I would like to thank M. Imad Khillo for accepting to assess my work.

"It's probably more dangerous to be a women rather than a soldier in armed conflict."

Patrick Cammaert, former General Officer Commanding the Eastern Division in the Democratic Republic of Congo (MONUC).

"Rape has become an ugly and defining feature of the conflit"

The Economist

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INTRODUCTION

"*They stopped us at the first tree and ordered us to put down our bags.*

Then they took us to a second tree where they searched us, groped us and stole money and mobile phones.

Then they led us to the third tree, where they raped us," Emily explains calmly.[1]

Emily, a pseudonym for a 38 year-old mother, has been gang-raped in 2014 just a few metres away from the UN Camp in Juba, South Sudan, by Pro-Government military forces from the Dinka community. Seven women were reportedly raped at the same spot that day. Unfortunately, her story is far from being an exception.

As it is written accordingly in a recent article from the newspaper *The Economist,"Rape in war is as old as war itself."* Indeed, 1600 years ago, Saint Augustine called rape in wartime an *"ancient and customary evil"*. For soldiers, rape of women has long been considered as one of the spoils of war. The historian Antony Beevor who has written about rape during the Soviet conquest of Germany in 1945, said that rape has occurred in war since ancient times, often perpetrated by indisciplined soldiers. But he argues that there are also examples in history of rape being used strategically, to humiliate and to terrorise, such as the Moroccan regulares in Spain's civil war.
Sexual violence, and especially rape against women and girls in armed conflicts, comes from common practises broadly used in ancient war times, where rape was mainly used to terrorise the enemy, and when women were considered as a "booty" of war. Already during the Antiquity, Herodotus and Thucydides described rapes of women in conflict as a consequence of defeat in war. Also, Medieval sieges frequently ended in sexual violence and mutilation directed against the defeat defenders, and mass rapes of women coming from the group defeated.

Closer to current conflict settings, the worst case that has been registered in modern warfare regarding sexual violence in conflict would probably have to do with the new form of sexual slavery that is currently implemented in Iraqi Kurdistan by the extremist group Daech, who publicise its actions of sexual violence against women from minority groups, especially Yazidis

[1] http://www.bbc.com/news/world-africa-27765898

Women, in order to destroy their community and to terrorise these groups in the region. The documentary "Yazidis Women. Slaves of the Caliphate", broadcast by the BBC in January 2015, depicted the situation of Yazidis communities in this part of Iraq, where Daech fighters take control of entire areas, kill the men and abduct the women, some of them as old as 5, and transform them as sex slaves for the supporters of the group. Recently, an article released by the New York Times revealed that Daech codified sex slavery in relation with the Quran. A sex trade market has been implemented by the extremist group after abduction of the Yazidis Women:
"The trade in Yazidi women and girls has created a persistent infrastructure, with a network of warehouses where the victims are held, viewing rooms where they are inspected and marketed, and a dedicated fleet of buses used to transport them."[2]*The report released in December 2014 by Human Rights Watch, Iraq: Yezidi women and girls face harrowing sexual violence, came to the conclusion about the "organised nature of sex trade"* [3] *implemented by the extremist group.*

In the article "Military rape" (1997), Roland Littlewood provides an anthropological analysis of rape and other acts of sexual violence in periods of armed conflict. He states that despite the attention to agressive sexuality raised by women's movements for decades, there has long been a little anthropological interest for the "sexuality of war" as he calls it, and claims that if there is a revulsion at actions of this nature, especially in Western societies, there is "*no reason for exculpation through claims that atrocity transcends analysis."* (Littlewood, 1997). Mass rapes and sexual killing of women appear standardised in certain ways in trouble times. Their frequency argues that rape in war time could be a "normal" part of what is to be human. The justification frequently made by the soldiers who rape women has to do with the will to degrade and humiliate them and their community. Sometimes rape remains as a popular rumour, maintaining the climate of fear among civilian populations, preventing them from any attempt of rebellion.[4]

In a social and psychological perspective, sexual violence in war times have long been presented as a usual practise, for reasons related to social and psychological order, or for reasons

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[2] RUKMINI CALLIMACHI, "ISIS Enshrines a theology of rape", New York Times, 13th of August 2015

[3] Ibid

[4]LITTLEWOOD R., *Military Rape*, Anthropology Today, Vol 13. No 2 (April 1997), pp. 7-16.

linked to the philosophy of war itself. [5] Rape in war time is not a question of gender, not a question of chance, but a matter of power and control belonging to men-soldiers. [6]There are two main trends that analysed this phenomenon; first, the argument given by the theory of militarism in its standard view, asserting that collective sexual violence is only the frankest expression of men's power over women. The killing of raped women is part of the process of cultural violence, and rape appears primarily as a question of political power. (Andre Dworkin and Susan Brownmiller, 1975). The transgressive (or lack of restraint) argument, asserts that the unchaining of a generally disallowed biological imperative of absolute desire and destruction, following an increase in individual power over others, results in the widespread of rapes and sexual violence in armed conflicts. Some psychophysiological studies claim that the period after sustained anxiety or exertion is frequently one of significantly decreased anxiety and loss of inhibition. Soldiers themselves view sexual relations as countering battle anxiety (McManners 1994). Moreover, some studies assert that sexual violence is more likely to arise when men act in groups. Men would be less inclined to come to this level of violence as individuals.

If the use of rape and other acts of sexual violence is defined as an old practise, coming from major wars and battles from the ancient times, the nature of warfare faced a major shift after the end of the Cold War. Studies dealing with conflict resolution have shown that these conflicts were mainly characterised by a significant increase in the level of violence, especially against civilians. Women tend to face a heavier impact of conflicts, already discriminated by some social and economic factors already in place during peace times. *" Since the end of the Cold War, changes in modern warfare, including the increased targeting of civilians and the escalating use of sexual violence as an instrument of conflict, have dramatically altered the roles and experiences of women in situations of armed conflicts."*[7] Some groups of women are even more vulnerable than others, such as single women, widows, refugees or Internally Displaced People (IDP), women in situation of disability or indigenous women. The United Nations are slowly acknowledging the specific impact on these categories of women.

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[5] DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

[6] Ibid

[7] RUTHERFORD L., "Women, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmenment and Demobilisation Programs", Queen's Policy Review, Volume 1, No1, Spring 2010

As the Organisations of the United Nations had to deal with horrendous situations of mass rapes and sexual violence during times of conflict, the concept of "conflict-related sexual violence" arose in international law, referring to "*rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilisation and other forms of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is linked, directly or indirectly (temporally, geographically or causally) to a conflict.*"[8] Acts of rapes and sexual violence on a large scale came to the forefront of the international scenery with the creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993, and of the International Criminal Tribunal for Rwanda (ICTR) established in 1994. These ad hoc tribunals were the first international bodies to arbitrate on cases of sexual violence in conflict. The definition of rape and other acts of sexual violence in conflict has evolved according to the jurisprudence of these tribunals, and gradually, the qualification of such acts has been established as crimes of war, genocide and crimes against humanity in the Rome Status of the International Criminal Court (ICC). These steps in the legal qualification allowed the ICC, along with the *ad hoc* International Criminal tribunals, to judge the perpetrators with a strong legal framework, able to condemn individuals of such crimes, which appears as a big step forward in the recognition of rape and other acts of sexual violence as gross violations of human rights and humanitarian rights.

As a result, "*The full recognition by the UN Security Council of the gender-differentiated experiences of and responses to war was a gradual culmination of years of norm and policy development.*" [9] The issue of women in conflicts was addressed for the first time at the level of the United Nations in 1974 through the *Declaration on the Protection of Women and Children in Emergency and Armed Conflict.* Though, the system of the United Nations remained silent after the adoption of this declaration, and the interest for issues linked with women in armed conflicts came back to the agenda of the United Nations during the 1990s. The legal framework addressing issues faced by women worldwide, in times of conflict or in peace, was built gradually to reach in 1995 the establishment of an international convention on women's rights, on the occasion of the UN world conference in Beijing. The Beijing Declaration and Platform for Action, signed by 189 countries, didn't specifically address the issue of sexual violence in armed conflict, but identifies as one of the twelve critical areas of concern the issue of women in armed conflict, and "*highlighted the role of social inequalities and gender roles in contributing to the marginalisation or exclusion of*

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[8] UN Secretary-General report on Conflict-related Sexual-Violence, 23rd of March 2014.

[99] RUTHERFORD L., "Women, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmenment and Demobilisation Programs", Queen's Policy Review, Volume 1, No1, Spring 2010

women from decision-making positions and contributing to gender-based violence in times of conflict."[10]

In 2000, the Security Council of the United Nations adopted the resolution 1325, implementing the agenda "Women, Peace and Security", which constitutes a milestone in the full recognition of the importance to address sexual violence in armed conflict, and increase the participation of women in decision-making and peace processes, in order to address the roots of gender-based violence. Since 2000, six resolutions have been adopted by the Security Council to implement the agenda "Women, Peace and Security". Although, and despite the strong legal framework implemented from the adoption of UNSC resolution 1325, rape and other acts of sexual violence remain an endemic phenomenon in areas of conflict, with an increased level of violence against religious or ethnic minorities in some cases, such as for the cases of abduction of Yezidis women by the extremist group Daech in Iraqi Kurdistan, as examined before.

The NGO committee on the agenda "Women, Peace and Security" has been blowing the whistle for many years about the partial implementation of the Resolution 1325 on the ground, and more specifically at the level of the UN field operations. In October 2015, a Strategic Review at the UN Security Council will be assessing the progress made in the reduction of sexual and gender-based violence in conflict, and of the broader participation of women to decision-making and peace processes. The members of the Security Council, as well as other Members States of the United Nations will come up to propose some recommendations to strengthen the implementation of the agenda "Women, Peace and Security" at the field level. The objective will be to identify the main obstacles to the full implementation of the agenda, which was supposed to be established in the headquarters and within the UN field operations. Some UN agencies, and in particular the United Nations Entity for Gender Equality and Women's Empowerment (UN Women), as well as organisations from the civil society, such as the NGO committee for the agenda "Women, Peace and Security", will also announce some recommendations to strengthen the agenda and identify its weaknesses.

This Strategic Review is timely. The horrendous crimes against women and girls from ethnic groups and minorities by extremists groups such as Daech in Syria and Iraqi Kurdistan, the widespread use of sexual violence in South Sudan by armed groups, or the mass abductions of

[10] Ibid

school girls conducted by the extremist group Boko Haram in Nigeria in 2014, appear as many elements assessing the fact that sexual violence still appears as a threat to international peace and security, as stated in the last report of the Secretary-General on Conflict-related sexual-violence, covering 19 conflict situations; 13 conflict-settings, 5 post-conflict countries and 1additional situation of concern. [11]

According to these different elements of concern, some questions can be raised in order to provide an analysis of the overall issue of conflict-related sexual violence. As a first question, we can wonder *why sexual violence still appears as an endemic phenomenon on the large scale in current conflict settings*, and why is it used broadly by armed groups with an increased level of violence, in particular against civilians. Secondly, we can wonder *how the issue of sexual violence in armed conflict is identified as a problem to solve at the level of the United Nations,* and more precisely *what are the reasons making the international community unable to act efficiently against these crimes, despite the establishment of an strong legal framework to address this issue*.

The first part of this essay will be addressing in a detailed way the phenomenon of conflict-related sexual violence and the legal provisions within international humanitarian law and international human rights law that address the issue, in order to protect women from sexual violence in conflict. The second part will deal more specifically with the response given by the United Nations to the issue of sexual violence in conflict, through the implementation of the agenda "Women, Peace and Security", established by the resolution 1325 adopted by the Security Council of the United Nations. The reasons for the difficult implementation of this agenda and the gap remaining between the legal framework, and the different institutions created by the agenda, and the weak implementation on the ground will then be analysed.

If sexual violence in armed conflict happens extensively on men and women, this essay will only address the issue of sexual violence against women in conflict.

[11] Report of the Secretary-General on Conflict-related sexual violence, 23rd of March 2015

Part I- The predominance of rape and other acts of sexual violence as a systematic feature in armed conflict

In current conflict settings, it has been observed that all parties to conflict, from government forces to non-state armed groups, have been using mass rape as a systematic strategy, targeting civilian populations in a broad sense, sometimes even according to their ethnic and religious groups. This practise has been reported extensively in Darfur, Sudan in particular.

In a first chapter, the extensive use of rape and other acts of sexual violence as a "weapon of war" in conflict settings will be analysed, especially through the phenomenon observed in current conflicts that consists in mass rape. This practise will be then put into perspective in the study of a case of mass rape in a village in Darfur, as part of a government strategy to threaten the civilian population.

Chapter 1: The use of rape and other acts of sexual violence as a "weapon of war"

I- Acknowledgement of rape and sexual violence against women in conflict as a 'weapon of war"

A) Issue of protection of Civilians in armed conflict

The practise of rape and sexual violence in conflict was widespread in ancient wars, and silence was a common feature associated with this phenomenon. Most of the time, victims of rape and other acts of sexual violence were not willing or not able to denounce their assaillants, by fear of retaliation, or social stigma associated with rape. Sexual violence in conflict has long been a taboo, which makes difficult to establish precise figures of the impact of conflicts on women.

Rape of women and girls happened massively during the two World Wars, but the major shift occurred with the conflict in former Yugoslavia in 1992, and the genocide in Rwanda in 1994, resulting in the creation of the *ad hoc* International Criminal Tribunals. The media allowed to put a strong focus on the sexual atrocities committed during the war in former Yugoslavia during the

conflict in the balkans in 1992, leading to concrete actions from the international community.[12] As a result of these two major conflicts, after the end of the Cold War, the international community started to get the full scale and intensity of the phenomenon of rape in armed conflict. From this moment, sexual violence in conflict was qualified by international organisations such as the United Nations as a "weapon of war".

The conflicts in former Yugoslavia and in Rwanda took the issue of sexual violence in armed conflict on the spotlight, with some common features such as the well-organised and systematic aspects of these phenomena, the large scale of such violences and the instrumentalisation by all parties in conflict, in relation with ethnicity in particular. The horrendous scale of sexual violence in both cases made it impossible for the international community to perceive sexual violence as "collateral damage" in armed conflict anymore.

The consciousness raised by the impact of armed conflict on women and girls came from a broader movement of the interest for the protection of victims of conflict, the vast majority of them being civilians, with the acknowledgement that these populations carry the heavier brunt of the conflict, especially since the Second World War. In current conflict settings, civilians are systematically targeted by armed groups from all parties to conflict, despite the international prohibition to harm non-combattants in conflict.

An increase in the level of violence against civilians is observed in armed conflict, with a particular record for the period going from November 2013 to May 2015, according to the report of the Secretary General on protection of civilians. This report describes the deterioration of existing crises and the emerging of new ones had a devastating effect on civilians in 2014: "Yet shocking levels of brutality and casual disregard for human life and dignity have come to characterise most of today's armed conflicts. Civilians are killed and maimed in targeted or indiscriminate attacks. They are tortured, taken hostage and disappeared, forcibly recruited into armed groups, displaced from their homes, separated from their families and denied access to the most basic necessities. Sexual and gender-based violence is widespread. Direct attacks on schools and hospitals have become common features of many armed conflicts. Humanitarian and health-care workers are deliberately targeted. In many conflicts, the most basic rules of international humanitarian law are routinely

[12] DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

violated with little or no accountability. Impunity remains widespread across conflicts and fuels further violations."[13]

The Secretary-General recalls that civilians caught up in armed conflict are among the most vulnerable, and need to be protected accordingly. A special treatment have to be granted to women and children as the most vulnerable groups among civilian populations, as international humanitarian law prescribes it.

The main consequence of the change in nature of conflict after the end of the Cold War, was characterised by a blurry distinction between civilians and combattants in international and internal conflicts, resulting in a greater impact on civilians. The systematic targeting of civilians appears as an area of concern for the Organisations of the United Nations. Women and girls are usually the most vulnerable groups of the population, as they are already affected by discriminations and poverty, reinforced by the context of conflict. In the book "Women, Armed Conflict and International Law" (2001) , Judith G. Gardam and Michelle J. Jarvis analysed the deliberate killing of civilian women, as well as the disproportionate effect of "*collateral damage*" on women and girls, and the widespread nature of violence, including sexual violence against women during armed conflict.

They came to the general conclusions that first, armed conflict exacerbated the global inequalities already experienced by women, and secondly, armed conflict created new and different types of discrimination against women. In their opinion, the domestic law systems in countries where these discriminations are already in place fail to address with these phenomena. In Burundi for instance, a study conducted by Amnesty International in 2007, shows that discriminatory systems already in place were accentuated by the civil war between 1993 and the Arusha Agreements in 2003.[14] In societies where there is a strong discriminatory system in place, in appears that women and girls, alongside with LGBTI people (Lesbian, Gay, Bisexual, Transgender and Intermediate), are victims of gender-based violence. According to the European Institute for Gender Equality, " '*Gender-based violence*' *and* '*violence against women*' *are terms that are often used interchangeably as most gender-based violence is inflicted by men on women and girls*." [15] The concept of gender-based violence implies an expression of power inequality between men and women. According to the article 3 of the Convention on preventing and combating violence against

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[13] Ibid

[14] *Burundi, Aucune protection contre le viol en temps de guerre comme en temps de paix*, Amnesty International, octobre 2007.

[15] http://eige.europa.eu/gender-based-violence/what-is-gender-based-violence

women and domestic violence, gender−based violence against women *"shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.*"

During times of conflict, the impact of gender-based violence against women and girls is duplicated.[16]

B) Sexual violence as a tactic of humiliation and fear

1) Strategy to humiliate the opponent

In the report "*Lives blown apart: Crimes against women in times of conflict*" published by Amnesty International in December 2004, the civil society organisation explains that "*As a weapon of war, rape is used strategically and tactically to advance specific objectives in many forms of conflict. It is used to conquer, expel or control women and their communities in times of war or internal conflict. As a form of gender-based torture it is used to extract information, punish. intimidate and humiliate. It is a universal weapon employed to strip women of their dignity and destroy their sense of self. It is also used to terrorise and destroy entire communities."*

According to Amnesty International, the rise of internal conflicts after the end of the Cold War, brought the concept of identity and ethnicity as a strategy of war to oppose groups. The context resulting from these strategies appear to be more likely to witness the use of sexual violence as a weapon of war in armed conflict, a way to humiliate the opponents.

Moreover,*"The anarchy and impunity of war goes some way to explaining the violence. The conditions of war are often conducive to rape. Young, ill-trained men, fighting far from home, are freed from social and religious constraints. The costs of rape are lower, the potential rewards higher. And for ill-fed, underpaid combatants, rape can be a kind of payment.*[17]

The use of the concept of ethnicity and identity enable the rise of an extreme violence against civilians, where women appear to be the first victims. The targeting of women coming from specific ethnic or religious groups for violence comes from the will to destroy their sexual integrity and their capacity to procreate. For armed groups, the use of sexual violence against women is a

[16]GARDAM J.G and JARVIS M.J. Women, Armed Conflict and International Law, Kluwer Law International, 2001, 290 p.

[17] "Violence against women. War's overlooked victims. Rape is horrifyingly widespread in conflicts all around the world*"*, *The Economist*, Jan 13th 2011.

way to humiliate the entire community, from the husband to the father of the family, pointing out the inability of men of the group to protect their wives or daughters. As it is described by Amnesty International, *"Women are attacked to destroy their mental and physical integrity. They are attacked publicly to demonstrate the powerless of men to defend the community.",* to destroy the filiation by making women pregnant of their enemies: *"they are attacked as bearers of the next generation - their productive capacity is either destroyed or harnessed through forcible impregnation to carry the child of the enemy."* [18], and finally to destroy the social network of a group.
"Due to their symbolic association with honour and their practical roles as caregivers, women are often raped to humiliate the men with whom they are associated, to weaken traditional family structures and to terrorise the community."[19]

This theory matches with the phenomenon of mass rape and sexual violence in the conflicts in the former Yougoslavia and in Rwanda. According to the report from NOWROJEE B. and published by the organisation Human Rights Watch, *"Shattered lives: Sexual Violence during the Rwandan Genocide and its aftermath" (*1996), the humiliation, pain, and feeling of terror resulting of the sexual assault, has devastating consequences on the victim herself, but also tend to humiliate the group (ethnic, social or religious) where the victim comes from.

2) Sexual violence as an ethnic cleansing strategy, the case of the conflict in the former Yugoslavia

In his last report, the Secretary-General of the United Nations also highlights the increased level of violence against women and girls in current conflict settings, and the use of sexual violence and sexual slavery as an 'ethnic cleansing strategy".

The use of rape and other acts of sexual violence as an ethnic cleansing strategy was already highlighted in the report of the Special Rapporteur Mazowiecki, published in 1993, which had investigated on the mass rapes that occurred in former Yugoslavia. A team of medical experts was sent on the ground from the 12th to the 23rd of January 1993, to assess the scale and the gravity of these crimes through data provided by hospitals, that could prove that women were victims of sexual violence during the times of conflict. In their conclusions, the group of experts asserted that many women and girls were raped during the conflict, and the majority of rapes committed by the Serbian forces were against Muslim women from Bosnia and Herzegovina. The team of experts

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[18] Ibid

[19] Ibid

also highlighted the fact that the government didn't undertake any measure to stop the phenomenon of mass rape committed by the Serbian forces. They also highlighted the fact that Croat, Muslim and Serbian women were detained on the long term and raped multiple times. According to these facts, the Special Rapporteur came to the conclusion that rape and other acts of sexual violence were used as a method of ethnic cleaning during the conflict in former Yugoslavia, used by all parties in conflict but on a larger scale by Serbian forces. [20]

More recently, the use of sexual violence and sexual slavery by the extremists groups Daech against Yazidi women, reveals elements of ethnic cleansing as a strategy adopted by the group to destroy the communities. This fact was highlighted in a report from Amnesty International, asserting that Daech was conducted a "*wave of ethnic cleansing"* against minorities in northern Iraq. [21]

The Security Council, at the moment of the French Presidency and on an initative conducted by the Foreign Affairs Minister of France Laurent Fabius, an Open Debate took place on the 27th of March on the victims of ethnic and religious violence in the Middle East. Vian Dakhil, a member of Iraq's Parliament, said minority communities were being targeted with crimes unprecedented in the history of the world. New reports had shown that more than 420,000 Yezidis had been displaced and were living in camps in the Kurdistan region, Syria and Turkey, and that thousands of girls had been sold into slavery. More than 3,000 Yazidi women have been abducted by the extremist group so far. She continued saying that one girl had been sold for $18, she said, appealing to the Council for support.

C) Monitoring and reporting of rape and sexual violence in conflict : from a "weapon of war" to a "tactic of terror"

If the monitoring and reporting of rape and other acts of sexual violence have improved since the end of the Cold War, "*the scale of the crime has become more horrifyingly apparent."* According to the article "Violence against women. War's overlooked victims" published in the Economist in January 2011, conflict that occurred during the 20th century, sometimes inside the main wars, such as the invasion of Germany by the Soviet Army during WWII for instance,

[20] Mazowiecki report 1993

[21] "Ethnic cleansing of historic scale; the Islamic State systematic targeting of minorities in northern Iraq", Amnesty International, 2014, London.

show horrendous rates of rape. If the invasion of Germany left out between 100,000 and 2 millions women raped by the Soviet forces, the genocide in Rwanda in 1994 left some 500,000 raped women across the country, with thousands of abandoned babies on the aftermath of the conflict. *"Rape has become an ugly and defining feature of the conflict."* [22]

Although, and despite the constant demand from major donors to get relevant figures, it is still difficult to get precise data concerning the rates of rape and sexual violence in conflict areas, due to the lack of registration institutions in some countries, and also because of the social stigma associated with rape in many countries, stoping survivors from sexual violence to ask for legal, medical or psychological support. Furthermore, and in a more confronting matter, many women die from their wound or are killed by their assaillants. It is so difficult to gather precise data on rape and sexual violence, especially in areas where the access is restricted due to the ongoing violence of the conflict.

For instance, in the case of the Democratic Republic of Congo, in October 2011, Roger Meece, the head of the United Nations in Congo, told the UN Security Council that 15,000 women had been raped throughout the country in 2009. The UN Population Fund estimated 17,500 victims for the same period. The IRC (International Rescue Committee) says it treated 40,000 survivors in the eastern province of South Kivu alone between 2003 and 2008. According to Hillary Margolis, head of the ICR's programme on sexual violence in North Kivu, these numbers and the bare minimums. In DRC, a study conducted by the Harvard Humanitarian initiative and Oxfam showed that 60% of the victims of sexual violence were gang-raped. [23]

In the last report of the Secretary-General on Conflict related sexual violence, covering the period going from January to December 2014, the term used by the Secretary-General of the United Nations to describe rape and other acts of sexual violence in conflict was no longer as a weapon of war, but as a "*tactic of terror*". Although, this was not the first time that this term was used to describe such crimes. The Judges from the ICTY claimed that rape was used by members of the Bosnian Serb armed forces as an instrument of terror. The term "*tactic of terror*" has been used on many occasions in the last months by Zainab Bangura, Special Representative of the Secretary-General on sexual violence in armed conflict, to denounce the horrendous crimes perpetrated by the extremists groups such as Daech and Boko Haram against women and girls.

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[22] "Violence against women. War's overlooked victims. Rape is horrifyingly widespread in conflicts all around the world", *The Economist*, Jan 13th 2011.

[23] Ibid

Ms. Bangura recently returned from the Middle East where she met with female survivors of sexual violence committed by ISIL extremists. In an interview with the *UN News Centre*, she recounted grim tales of brutality and detailed new patterns of child and forced marriage to fighters as well as sexual slavery.

From information Ms. Bangura received during her visit, and from reports that came in, ISIL allegedly issued a "regulation" setting out the prices to be paid for Yazidi and Christian women and girls, the amounts varying according to age. The promise of sexual access to women and girls has been used in ISIL propaganda materials as part of its recruitment strategy and an estimated 1,500 civilians may have been forced into sexual slavery.[24]

II- Case study of Mass rape in Darfur

On the occasion of a briefing to the Security Council on 14th of December 2014, the International Criminal Court Prosecutor, Fatou Bensouda, stated that "*given this Council's lack of foresight on what should happen in Darfur, I am left with no choice but to hibernate activities in Darfur.*" Earlier in the briefing she noted that "*the recent allegations of rape of approximately 200 women and girls in Tabit should shock this Council into action."*

According to the last Secretary-General report, *"Conflict-related sexual violence, including rape, attempted rape, abduction for the purposes of sexual exploitation, indecent assault, sexual humiliation and serious injuries or killings following rape, remains a dominant feature of the conflict in Darfur."*[25]

A) Background of the crisis in Darfur, Sudan

The crisis in Darfour was raised in the international media in February 2003, but started before this momentum.[26] Darfur, a region of Western Sudan, has been the scene of terrible violence

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[24] http://www.un.org/apps/news/story.asp?NewsID=51202#.VfkGJSQQnos

[25] Report SG on Conflict related sexual violence, 23rd of March 2015

[26] Marchal Roland, « Le conflit au Darfour, point aveugle des négociations Nord-Sud au Soudan. », Politique africaine 3/2004 (N° 95) , p. 125-146

and displacement of more than 2 million of people since 2003 . The United States have qualified the situation in Darfur as a "genocide". At this time, the conflict in Darfur has been described by the United Nations as "*the world's worst humanitarian crisis"*.

In 2002, the population of Darfur was estimated at about six millions, eighty percent of the population living in rural areas.[27] Despite of the blurred media coverage of the conflict, there were no religious differences between the parties in conflict, the population in Darfur being mainly Muslim. However, the population in Darfur comes from a wide diversity of ethnic and linguistic groups. Since the independence of Sudan in 1956, a succession of civil wars and political instability has shattered the country.[28] The conflict in Darfur appears as the continuum of these internal crises, that can be partly explained by the "*deeply rooted regional, political and economic inequalities that have persisted throughout Sudan's colonial and post-colonial history. These inequalities are exemplified by the political, economic, and cultural hegemony of a small group of Arabic-speaking Sudanese elites who have held power and systematically marginalised the non-Arab and non-Muslim groups in the country's peripheries."*(Sikanga, 2009).

The conflict in Darfur was mainly triggered by a competition over ressources, in an area where people are vulnerable to climate change and natural disasters. During the 1980s and the 1990s, the decline in food production resulted in a large scale famine in the area. One of the major pattern of the conflict in Darfur appeared in the opposition between pastoralists and sedentary farmers due to environmental pressure and changing land ownership patterns.[29]

With the conflict between the North and South Sudan and the political instability of its neighbouring countries, in particular Chad and Libya as background events, the conflict in Darfur itself was triggered in April 2003, when the rebels groups, namely MPLS and JEM, attacked al-Fashir airport, destroyed the military equipment and overwhelmed the Sudanese army. Because the government of Khartoum was unable to organise a military counter-offensive due to the deployment of its forces in the South of Sudan, they chose to involve "*the exploitation of ethnic differences and the arming of particular ethnic groups and turning them against others."* The creation of the group of the Janjawid appeared as a result of this tactic. With the Sudanese army, this groups started a massive campaign of violence of non-Arab communities, resulting in the killing of more that

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[27] SIKAINGA A., " 'The World's Worst Humanitarian Crisis': Understanding the Darfur Conflict", Origins, vol. 2 issue 5- February 2009.

[28] Ibid

[29] Ibid

300,000 people and the displacement of 2 million others. In the resolution 1556 adopted by the Security Council of the United Nations on the 30th of July 2004, tasks were assigned to the United Nations Mission in Sudan (UNMIS) in order to stop the violence in Darfur.[30] The Darfur Peace Agreement (DPA) was signed in 2006 but only by one rebel group, the others rejected the peace processes. The Sudanese government also used the agreement as a tactic to delay its implementation, while showing sincerity to the international community.

B) Events in Tabit, North Darfur in November 2014

In October 2014, the International NGO Human Right Watch reported that on the North-east of El Fasher, in North Darfour's town of Tabit, 221 women and girls have been raped by Sudanese forces in an organised attack. The organisation managed to collect information on these mass rapes, and published a 48-pages report *"Mass Rape in Darfur: Sudanese Army Attacks Against Civilians in Tabit,"*. They reported that the Sudanese forces carried out a series of attacks against the civilian population in the village of Tabit, including mass rape of women and girls, and the arbitrary detention, beating and ill-treatment of scores of people. The attack was launched on 30th of October and lasted for 36 hours. Despite the access restrictions imposed by the Sudanese government in the village, Human Rights Watch managed to interview some of the women who have been abused.

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) tried to have access to the area, but the Sudanese government allowed the access only one time, on the 9th of November 2014. The investigations and interviews were conducted under the monitoring of the Sudanese forces, who conducted their own investigation on the allegations in parallel to the one conducted by the UNAMID. The Special Prosecutor for Darfur reported to the Office of the high Commissioner for Human Rights in December that the *"the allegations could not be substantiated."*[31]

The horrific events that took place in the village of Tabit shows that sexual violence in armed conflict can be used either way by non-state armed groups as well as government forces. In this case, the mass rape were perpetrated by the Sudanese government as a method of intimidation on the population in Darfur, despite the presence of a UN Mission on the ground, that was unable to prevent and respond to these horrendous crimes. It shows also that the Sudanese government does not respect its commitment regarding the respect of humanitarian and human rights law.

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[30] http://www.un.org/fr/peacekeeping/missions/past/unmis/background.shtml

[31] Report of the Secretary-General on Conflict-related sexual violence, 23rd of March 2015

Chapter II- The slow process of legal criminalisation of conflict-related sexual violence

The legal status of rape and other acts of sexual violence in conflict as it it defined in international criminal law, focusing on the evolution of its legal definition through the Geneva Conventions and their Additional Protocols, the Statutes of the *ad hoc* International Criminal Tribunals form the former Yugoslavia and for Rwanda, and their respective jurisprudence through the analysis of few cases, that shaped the legal definition of rape in international criminal law. The contribution provided by the establishment of the International Criminal Court will also be analysed.

I- Building of a legal framework in international humanitarian law: Contributions from the Geneva Conventions (1949) and Additional Protocols (1977)

Facing the intensity of violence against civilians in armed conflict, and the large scale on which sexual violence was perpetrated, the international community through the action of the organisations of the United Nations, started to build a legal framework in order to punish the crimes of sexual violence, but also to prevent these kind of atrocities, and to put an end to the system of impunity that allowed crimes of sexual violence in conflict.[32]

As it has been shown previously, sexual violence appears as a common feature, and as a frequently used "weapon of war" in armed conflict. Treaties of international humanitarian law outlaw sexual violence in times of armed conflict, and such crimes gained the status of customary international law. The term "international criminal law" refers to core crimes of genocide, crimes against humanity and war crimes, as specified in the statutes of the international war crimes tribunals and courts; the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL) and the International Criminal Court (ICC). Currently, only the ICTY, the ICTR and the ICC are still in use, the Special Court for Sierra Leone ended up its function in December 2013, after the

[32]DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

judgements of the former president of Liberia Charles Taylor and the eight former leaders of militia from Sierra Leone.

In an international armed conflict , women are among the persons protected by the Fourth Geneva Convention relative to the protection of civilian persons in time of war. Under these conditions, they benefit from all the provisions which state the basic principle of humane treatment, including respect of life and physical and moral integrity, particularly forbidding coercion, corporal punishment, torture, collective penalties, reprisals, pillage and the taking of hostages. Furthermore, in the event of infractions committed in relation to the conflict, women have the right to trial by an independent and impartial court established by l aw respecting the generally recognised principles of judicial procedure.[33]

The criminalisation of rape and other acts of sexual violence in times of conflict at the international level is fairly recent. The four Geneva Conventions of 1949 and their two Additional Protocols of 1977 define rape and other acts of sexual violence as a crime of war, for international war as well as non-international war.

In the case of sexual violence in armed conflict, there is a need to establish a careful distinction between the criminality of the single act on the one hand, and the context in which it is embedded so as to transform it into a crime under international law. Indeed, as it is explained in the article "*Genuine consent to sexual violence under international criminal law*" (2007), Wolgang Schomburg and Ines Peterson explain that it cannot be assumed that any sexual contact occurring in circonstances of genocide, crimes against humanity or war crimes on its face constitute a crime.

First, the four Geneva Conventions and their Additional Protocols gave some provisions regarding the status of women in armed conflict. The article 27 the of Fourth Geneva Convention claims that women will be protected from any forms of "slur of their honour", and in particular against rape, forced prostitution, and molestation. As well, the article 76 of the First Additional Protocol set that women will be protected in particular against rape, forced prostitution and any forms of molestation. Despite these provisions on protection of women, the article 3 that is common in all the Geneva Conventions, did prohibe attacks against life and physical integrity, but didn't say anything on the special needs of women. [34]

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[33] https://www.icrc.org/eng/resources/documents/article/other/57jmfj.htm

[34] Ibid

The Geneva Conventions refers to rape and other acts of sexual violence as "crimes", classified as war crimes, crimes against humanity and genocide. Under international criminal law, these crimes are considered to be the most serious crimes of international concern. The defining features of these crimes have been established after the end of the Second World War; crimes of war are associated with an armed conflict against a hostile party, crimes against humanity have to be committed as part of a widespread or systematic attack against a civilian population, and genocide is defined as an act directed against a protected group.[35] Rape was first explicitly formulated as a crime against humanity after WWII in Control Council Law No. 10, as part of the Nuremberg military tribunals (article II paragraph 1c).

II- Consolidation of the legal framework through the creation of international criminal instances

A) Contributions from the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda

1) Statutes of the *ad hoc* tribunals

The International Criminal Tribunal for the former Yugoslavia (ICTY) established by the United Nations Security Council in its resolution 827 of 25 May 1993, and the International Criminal Tribunal for Rwanda established by the UN Security Council by its resolution 955 of 8 November 1994, came up with the objective to prosecute persons responsible for flagrant violations of international humanitarian law. The aim of the Security Council was to *"put an end to such violations and to contribute to the restauration and maintenance of peace, and the establishment of the ad hoc tribunals undoubtedly represents a major step in that direction. Moreover, it sends a clear signal to the perpetrators and to the victims that such conduct will not be tolerated."*[36]

[35] SCHOMBURG W. and PETERSON I., *Consent to sexual violence under International Criminal Law,* The American Journal of International Law, Vol. 101, No.1 (Jan., 2007), pp 121-140.

[36] ICRC Ressources center: https://www.icrc.org/fr/resource-centre

The tribunals have a mandate defined in time and space, to try crimes of genocide, of war, and crimes against humanity in a retroactive way. They are meant to disappear at the end of the completion of their tasks.[37]

The ICTY has jurisdiction over the following crimes: 1. grave breaches of the Geneva Conventions of 1949; 2. violations of the laws or customs of war; 3. genocide; and 4. crimes against humanity. The ICTY was established by the United Nations in response to mass atrocities that took place in Croatia and Bosnia and Herzegovina. Reports depicted horrendous crimes, in which thousands of civilians were being killed and wounded, tortured and sexually abused in detention camps and hundreds of thousands expelled from their homes, caused outrage across the world and spurred the UN Security Council to act.[38] The Mazowiecki report published on the 10th of February was the first one to establish the massive use of sexual violence during the conflicts in former Yugoslavia.

The ICTY was the first war crimes court created by the UN and the first international war crimes tribunal since the Nuremberg and Tokyo tribunals. It was established by the Security Council in accordance with Chapter VII of the UN Charter. Situated in The Hague, the Netherlands, the ICTY has charged over 160 persons. Those indicted by the ICTY include heads of state, prime ministers, army chiefs-of-staff, interior ministers and many other high- and mid-level political, military and police leaders from various parties to the Yugoslav conflicts. Its indictments address crimes committed from 1991 to 2001 against members of various ethnic groups in Croatia, Bosnia and Herzegovina, Serbia, Kosovo and the Former Yugoslav Republic of Macedonia.[39]

The ICTR has jurisdiction over 1. genocide; 2. crimes against humanity; and 3. violations of Article 3 common to the 1949 Geneva Conventions and of Additional Protocol II. The United Nations Security Council established the International Criminal Tribunal for Rwanda to *"prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and neighbouring States, between 1 January 1994 and 31*

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[37] VIE PUBLIQUE. Que sont les tribunaux pénaux internationaux ?. In VIE PUBLIQUE. *Au cœur du débat public* [en ligne]. 2012. Disponible sur : <http://www.vie-publique.fr/decouverte-institutions/justice/justice-internationale/justice-internationale/que-sont-tribunaux-penaux-internationaux.html>. [Page consultée le 21 août 2014]

[38] http://www.icty.org/sections/AbouttheICTY

[39] Ibid

December 1994"[40]. The Tribunal is located in Arusha, Tanzania, and has offices in Kigali, Rwanda. Its Appeals Chamber is located in The Hague, Netherlands. Since 1995, the Tribunal has indicted 93 individuals whom it considered responsible for serious violations of international humanitarian law committed in Rwanda in 1994, including high-ranking military and government officials, politicians, businessmen, as well as religious, militia, and media leaders.[41]

When they began their work, the *ad hoc* tribunals encountered a lack of definition of sexual violence under international treaty and customary law.[42] The ICTR and ICTY have made unprecedented efforts to clarify the prohibition of sexual violence and to punish violations.[43] The Statute of these two *ad hoc* tribunals defined crimes of sexual violence as crimes against humanity and war crimes. More specifically, the Statute of the ICTY incriminates rape as crime against humanity (article 5g). The Statute of the ICTR also defines rape as crime against humanity, if committed *"as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds"* (article 3g of the Statute of the ICTR). The ICTR contributed to the legal framework of the criminalisation of sexual violence in conflict by adding to the violations listed in the article 3 of the Geneva Conventions and of the Second Additional Protocol the following provisions: *"committing outrages upon personal dignity, in particular inhuman or degrading treatments , rape, forced prostitution and molestation."* The article 4 of the statute of the ICTR gives specific provisions on sexual crimes, but still linked to the legal concept of "*outrages upon personal dignity"*.

Also, the *ad hoc* tribunals have come to endorse a refined definition of rape that includes non consent as an element of the crime.[44] Consent should merely be considered as an affirmative defence, genuine consent being impossible in the context of genocide, armed conflict, or a widespread or systematic attack against a civilian population. Rape should be viewed in the same way ad other violations of international criminal law, such as torture and enslavement, as to which the prosecution is not required to prove non consent.

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[40] RESOLUTION 955 (1994), Security Council, 3453e session, 8th of November 1994

[41] http://www.unictr.org/en/tribunal

[42] SCHOMBURG W. and PETERSON I., *Consent to sexual violence under International Criminal Law,* The American Journal of International Law, Vol. 101, No.1 (Jan., 2007), pp 121-140.

[43] Ibid

[44] Ibid

Under domestic law, the victim's non consent is usually considered to be the "nub" of crimes of sexual violence. references to national laws in this context may prove misleading. For a definition of sexual violence as a crime under international law, the issue of consent plays the same role as under domestic law. overall circonstances of these crimes mus be taken into account.
In the cases presented to the *ad hoc* tribunals, they frequently had to take on situations in which individuals were publicly exposed to acts of sexual violence. Many victims suffered from multiple attacks, sometimes over a prolonged period of time.

2) Jurisprudence of the ICTY and the ICTR

One of the main tasks of the *ad hoc* tribunals was to try acts of sexual violence during the conflicts in former Yugoslavia and in Rwanda, and the legal precedents (jurisprudence) of the *ad hoc* tribunals provided a fundamental effort in the process of criminalisation of crimes of sexual violence in conflict at an international level, thanks to the innovative interpretation of those crimes.

Case Prosecutor v. Akayesu

The judgement given by the Trial Chamber I of the International Criminal Tribunal for Rwanda followed the indictment and trial of Jean-Paul Ayayesu, "a *Rwandan citizen who was bourgmestre of Taba commune, Prefecture of Gitarama, in Rwanda, at the time the crimes alleged in the indictment were perpetrated."*[45]

According to the summary of the judgement, the Trial Chamber found that under international criminal law, the offence of rape comprises the following elements: "[46]*the sexual penetration, however slight, either of the vagina or anus of the victim by the penis of the perpetrator, or any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator, where such penetration is effected by coercion or force or threat of force against the victim or a third person."*

The tribunal established that in these circonstances, rape and other acts of sexual violence in that case constituted an act of genocide.

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[45] ICTR, Prosecutor v. Jean-Paul Akayesu (Trial Judgement), ICTR-96-4-T, 2 September 1998

[46] Ibid

Case Prosecutor v. Furundžija

This judgement is the third to be rendered after trial by the International Criminal Tribunal for the former Yugoslavia (ICTY), and marks the sixth time that sentences have been handed down.

As elements of context, Anto Furundžija was detained by SFOR on 18 December 1997. An amended indictment, issued on 2 June 1998, alleged that the accused was the local commander of a special unit of the military police of the Croatian Defence Council (HVO) known as the "Jokers". In this capacity he and another soldier interrogated Witness A. During the questioning, Witness A had a knife rubbed against her inner thigh and lower stomach by the other soldier, who threatened to put his knife inside her vagina if she refused to tell the truth. The amended indictment further alleged that Furundžija continued to interrogate Witness A and Victim B while they were beaten on the feet with a baton by the other soldier and further, that Furundžija stood by, failing to intervene in any way, while Witness A was forced to have oral and vaginal sexual intercourse with the other soldier.[47]

This case provided many elements in the legal recognition of rape as crime of war. First, for Article 3 of the Statute (Violations of the laws or customs of war) to apply, the existence of an armed conflict had to be established. The Trial Chamber II found that, at the material time, a state of armed conflict existed in central Bosnia and Herzegovina between the HVO and the Army of Bosnia and Herzegovina. Furthermore, the Trial Chamber found a connection between this armed conflict and the acts underlying the charges against the accused.[48]

The definition of rape has been refined by the jurisprudence of the two ad hoc tribunals, and this definition is now used broadly in the field of International Criminal Law. In the case Prosecutor vs. Furundžija, the ICTY established that rape required "*the use of force, of threat or constraint by a third person*" [49] In this case, the Chamber decided to broaden the definition of rape given by the Trial Chamber I of the ICTR in the case Akayesu and followed by the ICTY Ćelebići judgement,[50]

Having found that it is indisputable that rape and other serious sexual assaults in situations of armed conflict entail criminal liability of the perpetrators, the Trial Chamber upheld the finding

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[47]ICTY, Prosecutor v. Anto Furundžija, IT-95-17/1-T, Judgement, 10th of December 1998

[48] http://www.icty.org/sid/7609

[49] Ibid

[50] ICTY, Prosecutor v. Anto Furundžija, IT-95-17/1-T, Judgement, 10th of December 1998

in the recent judgement in the Ćelebići case that, in certain circumstances, rape may amount to torture under international law.

This case is also relevant because it allowed to establish that rape and other forms of sexual violence entail individual criminal responsibility under criminal law., which is a legal principle that is widely established in international criminal and customary law nowadays.

The case prosecutor v. Anto Furundžica established the following elements that constitute a crime of rape:

1- sexual penetration

- of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator
- of the mouth of the victim by the penis of the perpetrator

2- by coercion or force of that of force against the victim or a third person

"the prohibition (of sexual violence under criminal international law) embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of correction, threat of force or intimidation in a way that is degrading and humiliating for the victim's dignity."[51]

Case Prosecutor v. Kunarac

The Kunarac case shows that sexual violence is not always obvious. In this case the Chamber I of the ICTY had to established the guilt of the accused by establishing the circonstances around the consent of the victim. Indeed, one of the accused argued that he had presumed the victim's consent because she had actively sought sexual contact with him. ICTY resolved this question by concentrating on whether the victim had been able to give genuine consent to the contact under the circonstances of the case. As a result, the tribunal established that the narrow focus on physical force and bodily harm alone is not sufficient.[52]In this case, the other relevant element in the perspective of the tribunal was that the victim and the accused were from different ethnic groups.[53]

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[51] Ibid

[52] Ibid

[53]ICTY, Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23-T & IT-96-23/1-t, Judgement, 22th of February 2001

B) Contributions from the International Criminal Court (ICC)

The implementation of the International Criminal Court (ICC) in 1998 with the adoption of the Rome Statute appeared as another step in the criminalisation of sexual violence in armed conflict. The ICC has the legal competence to try genocide, war crimes and crimes against humanity. According to this competence, crimes of sexual violence were for the first time qualified as crimes of war and crimes against humanity, depending on the cases. The jurisprudence of the ICTY and of the ICTR was codified and developed in the Rome Statute of the ICC.[54]

The Rome Statute of the ICC lists rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence of comparable gravity as a crime against humanity and as a war crime in international and non-international armed conflicts. [55]

The Rome Statute defining the competency of the ICC provides significant new elements allowing the criminalisation of crimes of sexual violence. Indeed, the definition of crimes against humanity according to the Rome Statute (article 7 paragraph 1g) allows to distance the former definition of sexual violence as the fact of "*committing outrages upon personal dignity*" , as mentioned in the Geneva Conventions. The Rome Statute of the ICC gives a broader definition of sexual violence in conflict, that is no longer linked only to outrages upon personal dignity:

"any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(...)

Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity."[56]

'Forced pregnancy' means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of

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[54] BIASON L. and VLACHOVD M. (edited), *Women in an Insecure World. Violence against Women. Facts, Figures and Analysis,* Geneva Center for the Democratic Control of Armed Forces (DCAF). Geneva, September 2005.

[55]SCHOMBURG W. and PETERSON I., *Consent to sexual violence under International Criminal Law,* The American Journal of International Law, Vol. 101, No.1 (Jan., 2007), pp 121-140.

[56]Rome Statute of the International Criminal Court, 17th of July, 1998

international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

The article 8 paragraphe b xxii of the Rome Statute of the ICC defines crimes of war as :

"The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilisation, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;"

Article 8 paragraphe e vi:

"Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts: (...)

Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilisation, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions."

Thanks to the efforts implemented in regards to the criminalisation of sexual violence in international law, prohibitions included in the Rome Statute gradually appeared relevant in customary law. As a consequence, the prohibition of rape and other acts of sexual violence appears as a customary rule, in international as well as in non-international conflicts. [57]

Some of these rules were also transferred into International humanitarian law; forced sterilisation, sexual violence and especially rape, sexual slavery, forced prostitution and forced pregnancy. These crimes are forbidden in international armed conflicts as well as in non-international armed conflicts.[58]

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[57] DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

[58] Ibid

PART II: The actions of the United Nations to prevent and respond to the issue of conflict-related sexual violence

Chapter I: The Security Council agenda 'Women, Peace and Security"

The awareness mouvement of the 1990s, that took place around the large scale phenomenon of sexual violence in conflict, as part from the broader recognition of the impact of conflict on civilians in new kinds of conflicts emerging after the end of the Cold War, resulted in the creation of a complex legal framework and a new set of institutions within the UN system dealing with the issue of women in armed conflict within the United Nations. This framework appears as a long-run process that started in the 1970s, and was firmly established by the adoption of the resolution 1325 in 2000 by the United Nations Security Council, that implemented the agenda "Women, Peace and Security". This resolution was completed by six other resolutions adopted by the Council, and a particular focus on the prevention and response to sexual violence in conflict was made in the UNSC resolution 1820 adopted in 2008. These thematic resolutions impulsed the political element necessary to prevent and respond to sexual violence in armed conflict.

The process that led toward the adoption of this resolution and the impact of the agenda "Women, Peace and Security" will be first analysed, along with the consequences experiences by the UN institutions. The limits of this agenda to prevent and respond to sexual violence in armed conflict will then be approached.

I- Building of the 'Women, Peace and Security' agenda and impact on the institutions of the United Nations

Thanks to the growing focus of the international community on the impact of conflict on civilians and the burden carried out by women and girls in particular, as well as the use of mass rapes by all parties in conflict, the Organisations of the United Nations seized the issue of the sexual violence against women and girls in armed conflict, that was appearing as a threat to international peace and security. Although, the process that led to the implementation of a legal framework

dealing with the protection of women and girls in armed conflicts, resulted from a long-run reflection and awareness on the topic within the United Nations.

A) Sexual violence as a burning matter of international peace and security

The legal framework on the issue of the protection of women in armed conflict evolved in two directions; the international law of human rights that applies in normal circumstances as *lex generalis,* and the international humanitarian law enforced in exceptional circonstances *(lex specialis)* such as state of war, international armed conflict and non-international armed conflict.[59]

These two forms of law dont exclude each other; during an armed conflict (international or non-international), the rules of international law of human rights always need to be enforced, and on top of these rules, the ones coming from international humanitarian law have to be applied as well. That is to say that even in war times, human rights have to be respected. The actions led by international organisations aim to the same goal. The international law of human rights provides some rules specifically addressing the needs of women as a vulnerable category, even in times of peace. As it has been said earlier, in many societies, women are victims of gender-based violence, violence directly or indirectly linked to their gender, that encompasses discriminations, domestic violence and other forms of sexual exploitation. International human rights law protects women from these forms of violence in times of peace, but the provisions also need to be respected in times of war. The legal framework acknowledging the protection of women and their specific needs was developed as a consequence of historic factors, such as feminist movements that became very active after the Second World War advocating for change, and the creation of the United Nations, and the increased participation of civil society organisation to the international agenda.[60]

The creation of the Commission on the Status of Women (CSW) also appears as a testimony of this change. Created by the resolution 11 (II) adopted by the Economic and Social Council of the United Nations (ECOSOC) on the 21st of June 1946, the CSW is the main intergovernmental institution within the system of the United Nations, that promotes gender equality and the

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[59]DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

[60] Ibid

empowerment of women. The CSW also has a strong influence in the promotion of women's rights and in the implementation of international human rights law on the protection of women.[61]
Later, during the 1960s, in the context of decolonisation and the rise of the movement of the Third-World movement, issues linked to the condition of women arose in the process, resulting in an increase volume of rules in international law.

The first international document dealing specifically with the protection of women and girls in armed conflict was the General Assembly Declaration on the Protection of women and Children in Emergency and Armed conflict in 1974. The Declaration states the "*need to provide special protection for women and children belonging to the civilian population*". It claims also that "*All the necessary steps shall be taken to ensure the prohibition of measures such as persecution, torture, punitive measure, degrading treatments and violence, particularly against that part of the civilian population that consists in women and children.*" [62] Despite the recognition of the impact of conflict on specific parts of the civilian population that consist in women and children, there is no specific provision on the protection of women and girls against sexual violence in armed conflict in this declaration. Furthermore, this declaration was followed by inaction from the United Nations, that conducted to a drop of interest for such issues.

However, and despite for lack of interest from the international community for issues linked to gender-based and sexual violence against women, twenty years after its creation, the Commission on the Status of Women put together the first legal document at the international level on the status of women; the Convention of the United Nations on the Elimination of All Forms of Discriminations Against Women (CEDAW), adopted in 1979 by the General Assembly of the United Nations. This document defines discrimination against women as "*...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*"[63]

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[61] http://www.unwomen.org/fr/csw

[62] Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974

[63] Article 1 of the CEDAW

This Convention set up an agenda for national action plans in order to end all discriminations against women,[64] but didn't provide any specific aspect on the protection of women in times of conflict.

The CEDAW was preceded by other conventions related to the status of women, such as the Convention on the Political Rights of Women (1953), the Convention on the Nationality of Married Woman (1957), and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962). Unfortunately, these international tools didn't have a strong impact at the moment of their adoption[65]

In parallel to the elaboration of these legal instruments, four World Conferences on Women organised by the Commission on the Status of Women occurred in this period; the first one took place in Mexico in 1975, and was followed by the Second World Conference in 1980 in Copenhagen, and the Third one in Nairobi. In 1995, the Fourth World Conference on Women that took place in Beijing, resulted in the Beijing Declaration and Platform for Action, signed by 189 countries.[66] The Beijing Declaration highlights twelve critical areas, and among them the issue of violence against women (fourth area of concern). As a fifth area of concern, the Beijing Declaration also recognises the *"effects of armed or other kinds of conflict on women, including those living under foreign occupation"*[67]. Although, the Declaration doesn't contain any provision on sexual violence against women more specifically, which appears as a proof of the lack of acknowledgement of this issue even at the time of the adoption of this document. The issue of sexual violence is therefore examined in the section concerning "Women and Health" of the Beijing Declaration:

"Adolescent girls are both biologically and psychosocially more vulnerable than boys to sexual abuse, violence and prostitution, and to the consequences of unprotected and premature sexual relations."[68] (Paragraph 93)

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[64] http://www.un.org/womenwatch/daw/cedaw/

[65]DETESEANU D-A, *La protection des femmes en temps de conflit armé*, dans *La protection des personnes vulnérables en temps de conflit armé*, Bruylant Bruxelles, Collection Magna Carta, Bruxelles, 2010, 326 p.

[66] RUTHERFORD L., W*omen, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmament and Demobilisation Programs*, Queen's Policy Review, Vol.1, No.1, Spring 2010, 28 p.

[67] Beijing Declaration and Plateform for Action, 1995

[68] Paragraph 93 Beijing Declaration and Plateform for Action, 1995

"Sexual and gender-based violence, including physical and psychological abuse, trafficking in women and girls, and other forms of abuse and sexual exploitation place girls and women at high risk of physical and mental trauma, disease and unwanted pregnancy. Such situations often deter women from using health and other services."[69] (Paragraph 99)

In Paragraph 112, it is asserted that *"Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms."* Violence is described to encompass physical, sexual and psychological elements;

"The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."[70]. Moreover, *"Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement."* (Paragraph 18)

In this definition, situations of violence against women in times of armed conflict included:

"Other acts of violence against women include violation of the human rights of women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy." (paragraph 114)

In this declaration, a direct link is established between discriminations and gender-based violence perpetrated in times of peace and in times of war, and the social impact resulting from the occurence of these phenomena as well as the "fear of violence", that limits the access of women to ressources and basic activities.[71]

In the article *"Women, Peace and Security: Examining the Impact of Resolution 1325 on UN Disarmament and Demobilisation Programs"*, Lauren Rutherford noticed that despite the fact that the Beijing Declaration and Platform for Action identified women and armed conflict as an area of

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[69] Paragraph 99 Beijing Declaration and Plateform for Action, 1995

[70] Paragraph 112 Beijing Declaration and Plateform for Action, 1995

[71] Paragraph 117 Beijing Declaration and Plateform for Action

critical concern. formulating recommendation to local government and international organisations to strengthen the protection of women in these kind of situations, the Demobilisation and Reintegration Programs are not mentioned in the declaration, which appears as a weakness of the document regarding its concrete applications.

Daniela-Anja Detesneanu explains in her article *"La protection des femmes en temps de conflit armé"* , that the renewed interest for the issue of women in armed conflict that in the period consecutive to the conflict in former Yugoslavia and the genocide in Rwanda, allowed the preparation of a legal framework at the level of the Security Council of the United Nations, as sexual violence in armed conflict was then considered as a matter of international peace and security. The greater documentation of systematic sexual violence during conflicts that occurred during the 1990s and the stronger emphasis on international human rights law participated to the general recognition of violence against women as a violation of human rights.[72]

Some major steps were undertaken during the 1990s in the process of the creation of the legal framework criminalising violence against women in armed conflict. As it has been said previously, the recognition of rape and other acts of sexual violence as crimes against humanity, when committed as part of a widespread and systematic attack against a civilian population in 1998 thanks to the ICTR was a major advance in this field. In 1999, the adoption of the Optional Protocol to the 1979 *Convention on the Elimination of All Forms of Discriminations Against Women* by the General Assembly, also contributed to the legal framework in a significant manner. The Windhoek Declaration and the Namibia Plan of Action adopted in May 2000, that focused on norms and policy developments on women and conflict allowed the UN Department of Peacekeeping Operations to organise a review panel on the issue of "*Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations"*, that completed a review of gender issues in peacekeeping operations and established concrete recommendations in this regard.[73]

All these efforts at the level of the United Nations, as well as the 23rd special session of the GA called "Women 2000: gender equality, development and peace for the 21st century" allowed the creation of a momentum for the recognition of sexual violence in armed conflict within the UN system, that culminated with the adoption of the resolution 1325 by the Security Council of the United Nations in October 2000.[74]

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[72] RUTHERFORD L., W*omen, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmament and Demobilisation Programs*, Queen's Policy Review, Vol.1, No.1, Spring 2010, 28 p.

[73] Ibid

[74] Ibid

B) The adoption of the resolutions 1325 (2000) and 1820 (2008) and the creation of the agenda "Women, Peace and Security"

1) Resolution 1325 (2000)

" *UNSCR 1325 is a landmark international legal framework that addresses not only the inordinate impact of war on women, but also the pivotal role women should and do play in conflict management, conflict resolution and sustainable peace."*[75]

The resolution 1325 appears as a milestone in the legal framework dealing with the issue of sexual violence in armed conflict. Adopted on the 31st of October 2000, the two main objectives of the resolution was to prevent and respond to gender-based and sexual violence in conflict settings and post-conflict situations, and to increase the participation of women to peace building efforts. Described as a "*watershed political development*" by Lauren Rutherford in her essay, resolution 1325 created a framework of accountability at the highest levels of decision-making, and committed the system of the United Nations to include a gender perspective in all Security Council resolutions, mission mandates and reports. [76] UNSC 1325 recognise the need to address gender perspective in peace building process, integrate more broadly women in these processes and fight against conflict-related sexual violence (CRSV). This resolution launched the agenda "Women, Peace and Security" and was followed by six other Security Council resolutions since 2000.

In resolution 1325 (2000), the Security Council permitted the individualisation of the problematic of rights of women who face situations of conflict, from the wider issue of protection of civilians, by developing in a more detailed manner the specific provisions on women that were made in resolution 1265 (1999) on protection of civilians.[77] The Security Council had already proceeded to the specification of similar issues regarding the situation of protection of civilians, through the focus of the Security Council on the situation of children in armed conflict thanks to the resolution 1261 adopted in 1999.

The resolution 1325 recognised the heavier impact of armed conflict on women and children:

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[75] http://www.usip.org/gender_peacebuilding/about_UNSCR_1325

[76]RUTHERFORD L., W*omen, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmament and Demobilisation Programs*, Queen's Policy Review, Vol.1, No.1, Spring 2010, 28 p.

[77]TACHOU-SIPOWO A-G, Le Conseil de Sécurité et les femmes en temps de conflit armé: entre renforcement de la protection humanitaire et implication dans la consolidation de la paix.

"Expressing concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and recognising the consequent impact this has on durable peace and reconciliation,"[78]

Moreover, the importance of the participation of women in peace processes is presented as a condition for durable peace and security: "Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,"[79]

The major innovation undertaken by the resolution is to go further than protection for women; they are presented as the solution to their own suffering by their participation in peace processes, and women's contributions need to be valued in this regard.[80] The measures recommended by the Security Council are as follow:

- greater representation of women to each level of decision making in institutions and national , regional and international mechanisms for prevention, management and resolution of conflict;
- increased participation of women to decision-making regarding conflict resolution and peace processes;
- increased number of women among representatives and Special Envoys in charge of good offices missions representing the Secretary-General of the UN and proposal of a list of women to this effect;
- Greater role and contribution of women in UN field operations as military observers, members of the civilian police, human rights specialists and members of humanitarian operations.
- Creation of a gender equality approach in peacekeeping operations.[81]

Other important elements of the resolution appear in the resolution 1325, such as the primary responsibility of States to act on such violations of international human rights law and

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[78] RESOLUTION 1325 (2000), Security Council, 4213e session, le 31 octobre 2000

[79] Ibid

[80]TACHOU-SIPOWO A-G, Le Conseil de Sécurité et les femmes en temps de conflit armé: entre renforcement de la protection humanitaire et implication dans la consolidation de la paix.

[81] Ibid

international humanitarian law, recalling that amnesty cannot be tolerated for such crimes. Also, the resolution proposed to mainstream gender-specificity in disarmament, demobilisation and reinsertion programs, as a concrete action to implement on the ground.

2) Resolution 1820 (2008)

The resolution 1820 (2008) on Women, Peace and Security is the last one to have been adopted by the Security Council so far, regarding this specific agenda. In line with the UNSC resolution 1325 (2000), the following resolutions were adopted with the objectives to acknowledge the importance of the participation of women and the inclusion of a gender perspective in peace operations and negotiations, to increase the number of women in peacekeeping operations, and to improve the protection of women and girls in conflict settings, in particular concerning rape and other acts of sexual violence.

This resolution insists more deeply than the previous ones on crimes of rape and sexual violence in conflicts, taking into account the increase of violence against women since the 2000s in most conflict settings, and especially in Africa. The major conflicts at this time, that were at the core of the agenda of the Security Council, were the sceneries of horrific crimes of sexual violence against women and girls, especially in the Democratic Republic of Congo, Uganda, Central African Republic, Sierra Leone, Liberia and Sudan/Darfur. The resolution 1820 acknowledged the general and systematic aspects of such crimes, that can prevent the re establishment of long-lasting peace, and call on to the implementation of some measures to fight against them. The added value of this resolution appears in the fact that the Security Council announces that actions can be undertaken on the short and long term.

On the short term perspective, the Council detains the mandate to condemn sexual violence in armed conflict and call for their immediate suspension. The Council is also able to take specific sanction measures against parties in conflicts. On the long-term, the Security Council is able to promote activities to prevent and respond to sexual violence, that usually belong to the intervention of the Secretary-General or to specific agencies, as well as protection activities in cooperation with the States. These protection measures can be concrete.

At the operation management level, for instance, the Security Council has the possibility to take appropriate disciplinary measures for the military. The Council can also implement plans of

sensitisation of soldiers to the criminal dimension of sexual violence perpetrated on civilian populations in conflict:

"Demands that all parties to armed conflict immediately take appropriate measures to protect civilians, including women and girls, from all forms of sexual violence, which could include, inter alia, enforcing appropriate military disciplinary measures and upholding the principle of command responsibility, training troops on the categorical prohibition of all forms of sexual violence against civilians, debunking myths that fuel sexual violence, vetting armed and security forces to take into account past actions of rape and other forms of sexual violence, and evacuation of women and children under imminent threat of sexual violence to safety; and requests the Secretary-General, where appropriate, to encourage dialogue to address this issue in the context of broader discussions of conflict resolution between appropriate UN officials and the parties to the conflict, taking into account, inter alia, the views expressed by women of affected local communities;"[82] (Paragraph 3)

On the level of direct protection of women and girls, the Council is also able to implement specific measures of protection, such as the evacuation of women and girls threaten by rape and sexual violence, or the protection of women girls in refugee camps: *"Requests the Secretary-General and relevant United Nations agencies, inter alia, through consultation with women and women-led organizations as appropriate, to develop effective mechanisms for providing protection from violence, including in particular sexual violence, to women and girls in and around UN managed refugee and internally displaced persons camps, as well as in all disarmament, demobilization, and reintegration processes, and in justice and security sector reform efforts assisted by the United Nations;"*[83] (Paragraph 10)

Moreover, the Council advocates firmly in all the thematic resolutions on Women, Peace and Security on the necessity for States to insure the provision of medical support to women victims of sexual violence:

"Urges all parties concerned, including Member States, United Nations entities and financial institutions, to support the development and strengthening of the capacities of national institutions,

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[82] RESOLUTION 1820 (2008), Security Council, 5916e session, le 19 juin 2008

[83] Ibid

in particular of judicial and health systems, and of local civil society networks in order to provide sustainable assistance to victims of sexual violence in armed conflict and post-conflict situations;" (Paragraph 13)

Also, criminal sanctions of such crimes from the International Criminal Court or *ad hoc* criminal tribunals also appears as a long-term measures that the Council is entitled to take.

II- Impact of the "Women, Peace and Security" agenda on the system of the United Nations

The 'Women, Peace and Security" agenda impacted on UN bodies through the efforts to mainstream gender perspectives in all the resolutions from the Security Council, but also through all the policies and programs implemented by any UN Agencies, Funds and Programs. The overall goal of this strategy was to achieve a sustainable gender equality already within the UN system. Moreover, this agenda allowed the creation of official and non-official organs that deal with the issues raised by the agenda.

A) Integration of the "Women, Peace and Security" agenda in UN headquarters institutions

The thematic resolutions adopted by the Security Council since 2000 on the agenda "Women, Peace and Security" were supposed to have direct consequences on the UN system by mainstreaming gender perspective at all level of decision-making, especially within the Secretariat of the United Nations in New York, in the UN regional offices.

The objectives of the "Women, Peace and Security" agenda had to be carried out by specific institutions. As a result, the Office Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC) has been appointed pursuant to resolution 1888 (2009) to advocate on sexual violence in armed conflict, and to chair the network UN Action against Sexual Violence in Conflict. Margot Wallström (Sweden) was appointed first Special Representative by the Secretary-General and took office in April 2010. She was replaced by Zainab Hawa Bangura in September 2012 (Sierra Leone), who is still in fonction.

Among the six priorities established by the Office, most of them are address directly sexual violence in conflict, such as the need to end impunity for sexual violence in conflict by assisting national authorities to strengthen criminal accountability, responsiveness to survivors and judicial capacity, and the protection and empowerment of civilians who face sexual violence in conflict, in particular, women and girls who are targeted disproportionately by this crime.[84]

Currently, the Office led by Zainab Bangura works in eight priority countries; Bosnia and Herzegovina; Central African Republic (CAR); Colombia; Cote d'Ivoire; Democratic Republic of Congo (DRC); Liberia; South Sudan and Sudan. The Office of the Special Representative is also engaged on this issue in Asia and the Pacific (in Cambodia for residual cases from the Khmer Rouge period) and the Middle East (Syria).

Unlike the Security Council agenda on Children and Armed Conflict, the agenda "Women, Peace and Security" does not encompass a Working Group, composed by Security Council members. In the case of the agenda on children, the Working Group has the mandate to prepare the resolutions on this topic and to add provisions on sanction committee. As a result, a Group of Friends has been informally initiated at the headquarters level in New York, and is currently chaired by Canada.

In parallel, civil society organisations gathered in 2000 to advocate for the adoption of a resolution dealing with women's issues in context of conflict. The Member Organisations part of this network are international NGOs such as Amnesty International, Oxfam International, and Human Rights Watch, these organisations holding on the objective to coordinate their actions to be more efficient in the field of advocacy on such issues. Also, some NGO focusing on women's rights such as Women's International League for Peace and Freedom, Femmes Africa Solidarité, Madre, and Women's Action for new Directions are part of the network. Some civil society organisations working more specifically on refugee issues such as Refugees International and the Women's Refugee Commission are also part of this network.

The network counts 13 Member Organisations, and since the adoption by the Security Council of resolution 1325 (2000), the NGO Working Group based in New York works specifically on the implementation of resolution 1325 and the following resolutions addressing this issue. [85]
The main purpose of this working group is to "*serve as a bridge between women's human rights defenders working in conflict-affected situations and policy-makers at U.N. Headquarters.*"[86]

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[84] http://www.un.org/sexualviolenceinconflict/about-us/about-the-office/

[85] http://www.womenpeacesecurity.org/about/

[86] Ibid

Working in direct collaboration with UN institutions, Member States and civil society organisations, the NGO Working Group prepares each month, on the occasion of the new presidency of the Security Council, a Monthly Action Plan (MAP), intended to provide some advice to members of the Security Council according to the working plan provided by the presidency at the beginning of each month. For instance, the Monthly Action Plan published in August 2015 at the beginning of Nigeria's presidency provided some recommendations on the situations in the Central African region, CAR, Haiti, Lebanon, and Liberia essentially. It also recommended to increase the efforts in the field of conflict prevention to include *"gender-sensitive and combine short-term and long-term approaches that address the root causes of conflict."*[87]

Each recommendation that focuses on a specific country or region is linked to an event addressing the conflict, such as a report from a UN mission, the renewal of a UN mission mandate and so on. For instance, in the case of the Central African Republic, the Council was expected to receive a report on the UN Multidimensional Integrated Stabilisation Mission in the CAR (MINUSCA). In the case, the working group recommend the Security Council to insist that MINUSCA support to facilitate the protection of civilians, including through gender0sensitive humanitarian assistance. [88] The working group also insist on the fact that the Council must carry on its efforts on the issue of "*accountability for atrocities committed by all armed groups and security forces operating in the country and reinforce efforts to ensure justice systems*", as the wide impunity in the whole country appears as a major obstacle for women and girls to be protected against abuses.

The practice of the Monthly Action Plan allows a better representation of the civil society inside the Security Council itself. Indeed, these tools provide an expertise trusted by Member States. It can be said that such an initiative from the civil society contributes to a stronger efficiency of the Security Council in the way women, peace and security issues are approached.

Another innovative initiative implemented at the level of the UN system was the creation of the inter-agency initiative 'United Nations Action against Sexual Violence in Conflict", to create awareness about sexual violence in armed conflicts and post-conflict situations and, ultimately, to

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[87] Monthly Action Plan, Women, Peace and Security, August 2015

[88] Ibid

put an end to it.[89] UN Action gathers the work of twelve UN entities and promote coordination and accountability on these issues among the UN system.

B) *Integration of gender perspectives within peacekeeping and peacebuilding operations: Women and girls in Disarmament, Demobilisation and Reintegration programs in post-conflict settings*

After 2000, peace operations led by the UN in conflict settings tried to integrate a gender-perspective in order to fit in the agenda "Women, Peace and Security". This effort involved the integration of a gender perspective in many aspects of the peace operations. The integration of women and girls in Disarmament, Demobilisation and Reintegration Programs (DDR programs) in post -conflict settings appear as a key issue to prevent sexual violence in armed conflict.

As peace-building tools, DDR programs are usually formulated as soon as the peace negotiations start. In the journal article *"The importance of a gender perspective to successful disarmament, demobilisation and reintegration processes*" Vanessa Farr describes them as a "*package of logical, sequential steps forming a* 'continuum that is itself parti of the entire peace process'.". Although, DDR processes remain emergency instruments, implemented in situations where the violence is usually very volatile, as it can be observe in main conflicts in Africa, such as the conflict in the DRC for instance. In most cases, the objective of DDR processes is more to proceed to a quick intervention rather than a lately restoration of peace. The disarmament phase itself appears as a first step to turn combattants back into civilians,[90] which can be a very complicated task knowing that more than 50% of combattants in worldwide conflicts settings are under 18, and thus benefit from special measures in accordance to their status of children.

In the essay examined previously, Lauren Rutherford explains that before the resolution 1325 (2000), women were essentially seen as victims of sexual violence, and excluded from the Disarmament and Demobilisation parts of the programs, only included in the Reintegration side. Indeed, women are usually perceived as innocent and caregivers when DDR programmes are designed. Although, a study conducted in 2010 in the Democratic Republic of Congo, where sexual violence is substantially higher than that reported in other conflicts settings, shows in the eastern regions of Congo, where 2 in 5 women and 1 in 4 men reported to have been victims of sexual

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[89]Report of the Secretary-General pursuant to resolution 1820, 15th of July, 2009.

[90]FARR V., The importance of a gender perspective to successful disarmament, demobilisation and reintegration processes, 2003.

violence, women were the sole perpetrators of this kind of violence in 41% of the assaults against women.[91] In the sample of people interviewed in the study, 74% of women and 65% of men victims of sexual violence said that their assault was related to the conflict.

This study was conducted in March 2010, where 998 people (405 men and 593 women) aged 18 or older in 19 territories of the east part of the DRC, participated in one to one interviews. The majority of them were married and Christians, farmers or herders. 1 in 5 of these people served as combattants at least once in their lifetime, men and women. Among them, 42% of women and 31% of men experienced interpersonal violence. 40% of the women interviewed reported having been the victims of sexual violence. Rape was presented as the most common form of sexual violence, but women reported also molestation, sexual slavery and being forced to undress. If male victims of sexual violence were assaulted by other men in 91% of cases, for women, 41% of perpetrators were other women.

In the case of children soldiers, if the girl soldiers are less acknowledged and noticed than their male counterparts, they still count for between one tenth and one third of all child soldiers.[92] Also, when girls among child soldiers are mentioned, it is usually related to sexual and gender-based violence, and "t*his picture fails to take into consideration the reality, in as much girls are also involved in many activities relating to fighting*." (Costache, 2010). Girls complete as many tasks as boys child soldiers, such as fighting or mining for diamonds as reported in the conflict in Sierra leone, but are usually also in charge of other duties for armed groups such as spying, cooking, cleaning, and performing sexual services. [93]

These figures prove that women take part to the conflict in an active way more often than it seems. They can also be both victims and perpetrators of sexual violence in armed conflict. Then, the inclusion of combattants women in the demobilisation and disarmament phases of DDR programs seem essential.

In DDR programs, the disarmament phase consists in reducing the number of small arms and light weapons (SALW) in circulation. Some research works proved that their is a clear evidence of gender differences in attitude to SALW, showing that women own and use SALW in smaller number than men. This element means that a gender perspective should be taken into account in

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[91]MEHLADO L., *Rates of Sexual Violence are High in Democratic Republic of the Congo, International Perspectives on Sexual and Reproductive Health*, Vol. 36, No 4, (December 2010), p. 210.

[92]FOX, M-J., *Girls Soldiers: Human Security and Gendered Insecurity, Security Dialogue*, 2004, vol. 35 (4), pp. 465-479.

[93] Ibid

DDR processes, and that women should be a priority target in sensitisation campaigns because they know the negative side of small arms. Disarmament knowledge and practical support should be directed at women.[94]

As an example, a pilot project aimed at increasing women's role in the "Weapons for Development Programme (1998-2002)" was implemented in the Albanian districts of Gramsh, Elbasan and Dider by the United Nations Development Programme (UNDP) and the United Nations Development Fund for Women (UNIFEM), entity previous to the creation of UN Women. In interviews conducted with women beneficiary from the training, most of them reported some positive outcomes, asserting that they understood disarmament from a more comprehensive perspective, and feeling empowered within their communities to deal with these issues. According to Vanessa Farr, some experiences indicate that when women are assisted to become experts in areas that are not traditionally associated with women's peace building, their social and political position will be likely to be improved. More so, it gives them a tool to be able to deal with the authorities.

The Security Council resolution 1325 (2000) appears as the best way to achieve the full participation of women in the Multi-Country Demobilisation and Reintegration Programs (MDRP) as it sets out a practical agenda for this process. [95] Resolution 1325 was already calling for the integration of women and girls in DDR processes. The entire focus of this document is on women caught up in war, and for the first time an explicit recommendation was made that all actors in negotiations to end armed conflict should not only recognise the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction. The resolution suggested that "*all those involved in the planning for disarmament, demobilisation and reintegration (should) consider the different needs of female and male ex-combattants and… take into account the needs of their dependants"* as an urgent means to improve and broaden the impact of DDR programs. [96] Resolution 1325 recognises also women's visibility in national and regional instruments, and in bilateral and multilateral organisations. The document calls on for gender awareness in all aspects of peacekeeping initiatives, especially DDR, and urges for the active participation of women in disarmament exercises.

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[94] Ibid

[95]FARR V., The importance of a gender perspective to successful disarmament, demobilisation and reintegration processes, 2003.

[96] Ibid

The importance of the involvement of women in DDR programs was also highlighted in the recommendations made in 2002 by the United Nations Study on Disarmament and Non-Proliferation Education, study conducted by a group of Governmental experts appointed by the Secretary-General. DDR planners understand that including women in peace-building work is essential not only to successful social change but also to promote women's fuller involvement in other aspects of a post-conflict society. As Vanessa Farr explained it in the article…. "i*t is increasingly understood that women need and deserve inclusion in DDR processes, it is recognised that women have a great deal to contribute to the planning and execution of weapons collection and reintegration programmes if they are properly educated and trained, and it is acknowledge that such initiatives do not work unless the participation of women is accepted and their knowledge drawn from."*

Along with the primary care-giver image that is usually attributed to women, it needs to be acknowledge that women are still the primary educators or their families, and more broadly of their communities, and they hold an essential role in helping to create the conditions for the cessation of violence in armed conflict. They are also perceived as an essential ressource in the reintegration and rehabilitation of child soldiers as their primary caregivers.

"Social transformation after war requires more than the disbanding of militarised structures: it also means harnessing women's capacity as peace-builders through training them as agents of disarmament and supporters of reintegration." (Farr, 2003)

Chapter II- The persistent inefficiency of the agenda to fight against sexual violence and to protect victims

Since the adoption of resolution 1325 (2000) that launched the 'Women, Peace and Security" agenda and despite the many attempts of the UN system to integrate a gender perspective in documents and programmes implemented, especially in the field of peace operations as it has been analysed earlier, the international community has been active in flagging the continuous

inefficiency of the agenda on the ground. The increased level of brutality against civilians in armed conflict and the burden brunt by women and girls doesn't seems to end, and fifteen years after the launch of the "Women, Peace and Security" agenda, sexual violence in conflict is still a rampant and widespread feature of every current conflict settings.

First, the reasons behind the difficult implementation of the "Women, Peace and Security" agenda in the field will be analysed. Then, the solutions proposed to this lack of efficiency will be reviewed, with a focus on the Strategic Review that will be taking place in October 2015 at the United Nations headquarters in New York, on the occasion of the fifteenth anniversary of resolution 1325.

I- The difficult implementation of the "Women, Peace and Security" agenda and the persisting occurence of sexual violence in armed conflict

A) The "soft law" predominance within the legal framework

As seen previously, the international community, alarmed by the scale and systematic aspect of the phenomenon of sexual violence in armed conflict, acted by build a strong legal framework dressing the specific needs of women in conflict situations. Composed by new rules in international human rights law and international humanitarian law, as well as UN documents such as the resolution 1325 and following, and in some extend, documents such as the Beijing Declaration and Platform for Action, this legal framework has been fed consistently by the international ad hoc tribunals, the ICC and main organs of the United Nations, namely the General Assembly, the ECOSOC, and the Security Council more recently. Rape and sexual violence appear as one of the core aspect in this framework, as the most common threat against women in war time.

Although, UN field missions as well as grass-roots organisations and civil society working in conflict settings report that the spread of sexual violence is still a defining feature of armed conflict, in situations where impunity is predominant. Such facts seem to attest of the failure of the international legal framework to address the issue of rape and other acts of sexual violence in armed conflict. Coming back to its very nature, the defining characteristic of international law remains its non-binding aspects for parties. As a result, international public law is often defined as a "soft law". Then, principles edited by international instances such as the Security Council for instance, are not applied by parties if not created under the Chapter VII of the Charter of the United Nations. The thematic resolutions adopted by the Security Council in the field of "Women, Peace and Security" are not endorsed under the Chapter VII, and their actual effects as a result is very limited. There is no obligation for parties in conflict, government forces and non-state armed groups to respect

international human rights and humanitarian rules if no military action is undertaken by the Security Council to force them to do so. As a result, the efficiency of the Security Council to protect women in situation of armed conflict remains mitigated.[97]

In the case of the ICC and the international ad hoc criminal tribunals, the effect is different as they have the mandate to prosecute individuals for crimes that they qualify as genocide, crimes of war and crimes against humanity. Then, the Security Council of the UN should perhaps leave the international criminal organisations to deal with crimes of sexual violence, while focusing on situations where the Chapter VII can be used.

1) Protection of women and differentiated treatment in the Geneva Conventions and their Additional Protocols

Regarding the rules of international humanitarian law in more detail, the article 27 (2) of the fourth Geneva Convention has been written in a very vague way in addressing the need to protect women against sexual violence, which has been criticised in many occasions by civil society organisations. The article asserts the fact that women will be protected against any attempt to their honour, and especially against rape, forced prostitution and molestation. The article doesn't specify on what rape encompasses, and the concept of honour of women can be relevant to certain types of society and not to others. Moreover, the general trend among the legal provisions on the protection of women in the Geneva Conventions and in their Additional Protocols, associates in most cases women with maternity. In the Geneva Conventions and the two Additional Protocols, it is specified that preferential treatments are granted to pregnant women, women who are breastfeeding and women 'having dependant infant". In an international armed conflict, these women benefit from an additional protection. The Protocol I specifies that "p*regnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority*" (Art. 76, para 2). In the same paragraph, the Protocol I states also that "mothers having dependant infant" will benefit from the same preferential treatment in times of international conflict. The Protocol I specifies also that "In an international armed conflict, this category of women benefits from special protection. Protocol I stipulates that "*maternity cases and pregnant women, who refrain from any act of hostility, shall enjoy the same general protection as that accorded to the sick and wounded*" (Art. 8).

[97]TACHOU-SIPOWO A-G, Le Conseil de Sécurité et les femmes en temps de conflit armé: entre renforcement de la protection humanitaire et implication dans la consolidation de la paix.

The fourth Geneva Convention states also that in certain circumstances, nursing mothers and mothers of young children, in the event of an international armed conflict , will benefit from other forms of differentiated treatment. Like other categories of the civilian population whose relative weakness renders them incapable of strengthening the military potential of their country, *"expectant mothers and mothers of children under seven may be placed in hospital and safety zones"* (Art. 14, C. IV).

In 1994, the Human Rights Commission appointed Radhika Coomaraswamy to assess the state of the protection of women. Her report indicated the need to reexamine the humanitarian law conventions, and to include stronger provisions on the protection of women against sexual violence in times of war.[98]

2) The lack of political leadership regarding the implementation of resolution 1325 (2000)

Despite the efforts undertaken by the United Nations on a broader scale to seize issues linked to the condition of women, especially with the Beijing Declaration and Platform for Action, the international community never adopted any significant instrument on the large scale problem of sexual violence in conflict. Moreover, the reports, declarations and action plans are not legal tools, and dont have any binding dimension, they only allow to attract the attention of the international community on this issue. [99]

Apart from the legal aspect of the "Women, Peace and Security' agenda, civil society organisations pointed out from the adoption of resolution 1325 (2000) on the lack of political leadership on this agenda, that is especially obvious at the Security Council. Some Member States such as Canada for instance are very active in the advocacy for protection of women and girls in conflict, being currently the head of the Group of Friends for Women, Peace and Security at the UN in New York. None of the Permanent Members of the Council have been a strong avocate for the agenda over the years, contributing to the lack of efficiency in preventing and responding to sexual violence in conflict at operation level.

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[98] Report of the Special Rapporteur on violence against women,its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45

[99]TACHOU-SIPOWO A-G, Le Conseil de Sécurité et les femmes en temps de conflit armé: entre renforcement de la protection humanitaire et implication dans la consolidation de la paix.

The Commission for the Status of Women, that could appear as the most relevant organisation to promote the protection of women from sexual violence in armed conflict also failed doing so. The Political Declaration adopted by the CSW59, which was on the occasion of the twentieth anniversary of the Beijing Declaration and Platform for Action, didn't mention violence against women in the final version of the text. In the paragraph 5 of the political declaration, the Member States "*Express concern that progress has been slow and uneven and that major gaps and obstacles remain in the implementation of the 12 critical areas of concern of the Platform for Action, and recognize that twenty years after the Fourth World Conference on Women, no country has achieved equality for women and girls, that significant levels of inequality between women and men persist, and that some women and girls experience increased vulnerability and marginalization due to multiple and intersecting forms of discrimination;"*

One of twelve critical area mentioned above concerns the gender-based violence against women and sexual violence, but these last terms are not specifically used in the declaration. The CSW gathers 45 Member States of the United Nations; 13 African States, 11 States from Asia, 9 from Latin America and the Caribbean, 8 Western European Countries and other States, and 4 from Eastern Europe. The large number of countries taking part to the negotiations process make agreements on advancement of women's rights hard to achieve, even for the simple mention of "human rights of women and girls" throughout the text. Civil society organisations claimed their disappointment consecutive to the publication of the text. According to the European Women's Lobby, "*The political declaration is not an ambitious, serious and forward-looking commitment and raises severe concerns for women's organisations.".* According to this organisation, "*the political declaration falls short in reaffirming key langage for women's human rights, which have been expressed and reconfirmed over the years, especially during the review of the Beijing Platform for Action in 2000, 2005 and 2010.*".[100] The European Women's Lobby was also concerned by the lack of strong langage on ending all forms of violence against women and girls.

Also, many civil society organisations working on women's issues advocate for the participation of NGOs to the negotiation of the political declaration of the CSW. The European Women's lobby wrote that "the way the political declaration was negotiated and adopted raises issues of democracy, transparency and accountability." Overall, women's and feminist organisations ask for a better inclusion and recognition in the work of the CSW. In the same trend, the organisation Womankind, an NGO based in the UK, asserted that "*at a time where a progressive*

[100] http://www.womenlobby.org/spip.php?article7148&lang=fr

global vision is required to address the huge gender equality gap worldwide, this Political Declaration represents a bland reaffirmation of existing commitments that fails to match the level of ambition in the BPfA – and threatens a major step backwards."[101]

B) Resolution 1325's weak impact on United Nations peacekeeping operations and peace building missions at the field level

The weak implementation of resolution 1325 is also the most sensitive one, attesting of the failure of the UN organisations to protect civilians in armed conflicts. Despite the recognition from the system of the UN of the need to protect women from sexual violence and to include them in peace processes as a way to implement a sustainable peace in post-conflict settings, obstacles to the full implementation of the 'Women, Peace and Security" agenda come from different levels, and first from the UN system itself.

According to Lauren Rutherford, "*Most recent follow-up report from the SG WPS 2009 states that progress in implementation is still limited and armed conflict continue to have a devastating impact on women and girls: physical and sexual violence, economic and political disempowerement, restriction of gender-oriented health and social servies during conflict, systematic use of sexual violence with an alarming rate."*[102]

According to the NGO Working Group on Women, Peace and Security, the two primary reasons behind the lack of impact of resolution 1325 on UN missions come from the inconsistency of application and delayed implementation. The inconsistency comes from the SC resolutions already, some of them include provisions on Women, Peace and Security but not all of them. For instance, the resolution 1577 (2004) extending the mandate of the UN Operation in Burundi (ONUB) doesn't include references on gender issues. Though, many reports published by international NGOs report on the high rates of rape and sexual violence in the country, in times of war and in times of peace, and the widespread impunity in the country when it comes to such crimes. [103]

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[101] http://www.womankind.org.uk/2015/03/csw-59-political-declaration-a-step-backwards/

[102] RUTHERFORD L., Women, Peace and Security. Examining the Impact of Resolution 1325 on UN Disarmament and Demobilisation Programs, Queen's Policy Review, Vol.1, No.1, Spring 2010, 28 p.

[103] *Burundi. Aucune protection contre le viol en temps de guerre comme en temps de paix*, Amnesty International, 9 octobre 2009.

Significant efforts were implemented in the mandate of the ONUB to include gender-sensitive provisions, which had a certain success on the ground. Although, sexual and gender0based violence remains an endemic issue in the country, more so since the outbreak of violence since May 2005 in the country. The current events in Burundi appear as a pessimistic testimony of the inability of the UN to get a long-term impact on the ground, when it comes to the reconstruction of peace and security.

In the case of UNAMID, the reasons for failure came mainly from a lack of consultations with local communities, and the inability to take into account copying strategies that were already in place in Sudan to prevent and respond to sexual violence.

II- Finding new ways to improve the efficiency of the agenda and put and end to sexual violence in armed conflict

A) The upcoming Strategic Review in October

The inefficiency of the "Women, Peace and Security" agenda, instrument fully created by the UN system to put an end to the phenomenon of sexual violence in conflict, needs to be addressed and improved in order to find concrete solutions to this issue.

In October 2015, a High-Level Review will be organised in the occasion of the 15th anniversary of UNSC resolution 1325 and will take the form of an Open Debate at the Security Council, where Member States will be able to express their views on the implementation of the agenda. Organised on the initiative of Spain who will be the President of the SC in October, the point of this event will be to propose concrete and applicable recommendations that can be implemented on the ground, but also to strengthen national action plans.

<u>Global Study</u>

In preparation of this important event, a Global Study has been commissioned by the Secretary-General. The mandate of this study is detailed in resolution 2122 (2013). In this resolution, the Security Council *"Invites the Secretary-General, in preparation for the High-level Review to commission a global study on the implementation of resolution 1325 (2000), highlighting good practice examples, implementation gaps and challenges, as well as emerging trends and priorities for action, and further invites the Secretary- General to submit, within his annual report*

to the Security Council in 2015, on the results of this study and to make this available to all Member States of the United Nations;" [104]

Led by Radhika Coomarasmy, former Special Representative of the Secretary-General on Children and Armed Conflict and former Special Rapporteur on Violence against Women, in collaboration with UN Women, this project will be highlighting examples of good practices, implementation gaps and challenges, and priorities for action, in order to provide the Member States with guidelines and recommendations proposals. The purpose of the Global Study is to assess the deficiency in the implementation of resolution 1325 and to come up with innovative perspectives to make it more efficient. The study will also build on the findings of the two high-level studies on women, peace and security undertaken in 2002, and lessons learned from the tenth anniversary of resolution 1325 in 2010.[105] Civil society organisations and research institutes contributed actively to the Global Study. One of the focus areas of the Study concerns the protection and promotion of women's rights in conflict,

The Global Review has been launched at the UN headquarters in New York by Ireland and the United Arab Emirates. The Ambassadors of Ireland and of the United Arab Emirates co-hosted the launch, which brought together the diplomatic representatives of the five countries that presided over the Security Council when the seven major resolutions were passed – Namibia (1325), United States of America (1820, 1888 and 1960), Viet Nam (1889), United Kingdom (2106) and Azerbaijan (2122).

United Arab Emirates Ambassador Lana Nusseibeh said her country's decision to place the Women Peace and Security agenda at the forefront of its priorities at the UN "*stems from a strong conviction that women can be agents of their own progress, not victims. The UAE believes that the inclusion and active participation of women in all aspects of society is fundamental to a more peaceful and stable world order.*"[106]

B) The use of global campaigns to prevent and respond to sexual violence

The international community has been deeply concerned by the state of sexual violence in conflicts in the recent years, and apart from the actions ongoing within the Security Council itself,

[104] Paragraph 16, RESOLUTION 2122 (2013), Security Council 7044e meeting, 18th of October 2013

[105] http://www.unwomen.org/fr/news/in-focus/women-peace-security/1325-review-and-global-study

[106] Ibid

different organisations of the United Nations have been launching global campaigns in order to mobilise people broadly on the issue of sexual and gender-based violence against women.

Apart from the major campaign *HeforShe* launch by UN Women in September 2014, with a speech given by goodwill Ambassador Emma Watson at the General Assembly of the UN, some other global campaigns have been fuelled by the UN system in order to raise awareness on this issue. The campaign launched by the Secretary-General *Stop Rape Now,* implemented by the inter-agency initiative UN Action against Sexual Violence in Conflict.

Another initiative that took place at the United Nations was the proposal for implementation of an International Day to end sexual violence in armed conflict. This initiative was led by Argentina, and project of resolution has been adopted by the General Assembly on 19th of June 2015. The President of the General Assembly Sam Kutesa stated on this occasion that "*Together, we must prioritize prevention and response efforts, empower victims, provide comprehensive assistance and shift the stigma of shame from the victims of these crimes to those who commit them and condone them.*"

CONCLUSION

In an international context of increased brutality and ignominious acts against women in girls in conflict, the actions undertaken by the entire UN system can be put into perspective. Addressing a global and complex issue, the organisations of the United Nations face a rampant challenge, that is occurring mainly in area where there is a very limited access. As it was reported from different international organisations that the extremist group Daech, that is very active in certain parts of Iraqi Kurdistan and in Syria in particular, came back to sexual slavery as a tactic of terror against minority ethnic and religious groups, especially the Yezidis population.

The prevalence and the impact of sexual violence in current conflict settings, and especially in intractable conflict situations leads to a certain pessimism among the international community. Neither the rules and principles promulgated by the international law, nor the actions led by the Security Council, highest instance at the political level to take action, managed to prevent and respond to sexual violence in conflict in an efficient way.

In DRC, despite the deployment of many UN operations in the eastern provinces to put an end to the ongoing violence, the United Nations Population Fund reported 11,769 cases of sexual and gender-based violence in five provinces in eastern Congo between January and September 2014.[107]

Although, according to the International Committee of the Red Cross, it is essential to overcome this fatalism, and grab the issue in its entire complexity.[108] First, and as it is always asserted in UNSC resolution on the agenda of women, peace and security, the primary responsibility to protect women from sexual in conflict belongs to the State, first agent responsible for the protection of its own population. The State needs to act in order to prevent sexual violence to be perpetrated in complete impunity. Many efforts have still to be done to end the silence of victims and provide them with social, medical and psychological support, and prosecute perpetrators in front of international juridictions, but these efforts are still essential. The commitment of many organisations from grass-roots NGOs to international civil society organisations in this field should be used as a form of empowerment for the United Nations to carry on their efforts.

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[107] http://www.aljazeera.com/indepth/features/2015/09/scars-rape-dr-congo-150913101349553.html

[108] https://www.icrc.org/fre/resources/documents/interview/2011/women-interview-2011-03-02.htm

Also, some intractable conflicts such as the ongoing conflict in the eastern provinces of the DRC, make it very complicated for the UN to intervene on sexual violence issues, due to the fact that many operations have been deployed already in this region, with little achievement, leading to a legitimacy deficit of the international organisation, and the for the local population.

The observation can be acknowledge that the nature of the problem itself, when it comes to sexual violence in conflict, the United Nations have to deal also with cultural and social standards, that are sometimes difficult to address for an organisation perceived as being mainly western in many countries.

In the strategies adopted by the United Nations, many efforts have been completed in the field of communication, through major campaigns broadcast in the social media and the involvement of celebrities as 'goodwill ambassadors' to get the international community mobilised on the issue. If the impact in terms of people reached by this kind of strategies cannot be put into question, the real impact of these campaigns on the ground is to be questioned. Such strategies are used broadly by many international organisations, UN related or NGOs, and the market starts to be overloaded by this sort of advertisements.

As well, on the recent initiative of Argentina to implement an International Day to End Sexual Violence in Conflict, a similar project led the UN to implement an International Day for the Elimination of Violence Against Women, set on the 25th of November of each year. In July 2012 the Secretary-General's UNiTE to End Violence against Women campaign, proclaimed every 25th of the month as Orange Day. Initiated and led by the UNiTE campaign's Global Youth Network, worldwide activities implemented on this day by UN country offices and civil society organisations strive to highlight issues relevant to preventing and ending violence against women and girls, not only once a year, on 25 November (International Day for the Elimination of Violence against Women), but every month.[109]

The position adopted by France is usually reluctant when it comes to the establishment of a new International Day. Currently, the calendar of the United Nations counts more that 181 vInternational Days and commemorations, not including religious celebrations. The large number of international days can lead to the question of the efficiency of such initiatives.

If the issue of the lack of political leadership on the "Women, Peace and Security" agenda has been discussed, some countries are still mobilised to improve the implementation of this agenda. The United Kingdom for instance have shown a strong commitment on this topic, and more

[109] Orange Day April 2014:End conflict-related sexual violence against women and girls.

specifically on the political issue of the elimination of sexual violence in conflict. A Global Summit took place in London in 2014, as part of the broader initiative led by the Foreign and Commonwealth Office on that matters, Preventing Sexual Violence Initiative (PSVI), as a new campaign to prevent the use of rape and other forms of sexual violence as a weapon of war.[110] Sexual violence was presented as a way to perpetuate division and conflict, undermining international peace and security. The PSVI initiative set clear objectives, and was merely oriented on ending the impunity for perpetrators.[111] Speaking of this initiative, the former British foreign secretary William Hague put the emphasis on the need to empower women in order to address the root causes of sexual violence in conflict, and to stop the way men think about women as a property.[112]

The Global Summit hosted by William Hague and the goodwill Ambassador Angelina Jolie set many criticisms. mainly due to the cost of the event. Indeed, 5 millions pounds were spent on the organisation of the event, which was criticised by many civil society organisations. Madeleine Rees, secretary general of the Women's International League for Peace and Freedom, asserts on the contrary that this amount is quite small compare to the budget of NATO (a £250m pumped into the Nato conference in Wales in the autumn of 2014 to discuss military deployments), knowing that the Global Summit gathered more than 100 countries to take actions on this issue.[113] Her reactions happened on the aftermath of the publication of an article on the 13th of June 2015 in the British newspaper *The Guardian*, titled *"William Hague's summit against warzone rape seen as 'costly failure'"*. In this article, new figures reveal that the three-day London summit to promote the initiative last June cost £5.2m to host. The food bill alone came to more than £299,000, while total expenditure on taxis, hotels and transport reached £576,000. According to Marcy Hersh of the Women Refugee's Commission, *"For an initiative that used such lofty language, I struggle to see what the initiative has tangibly created, other than recognition, acknowledgement and sympathy for the issue."*

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[110] Speech delivered by William Hague, https://www.gov.uk/government/speeches/preventing-sexual-violence-initiative-uk-team-of-experts

[111] "*There are no quick fixes for warzone rape, but Hague's Summit was a vital first step"*, The Guardian, 24th of June, 2015

[112] Ibid

[113] Ibid

As actions speak louder than words, Madeleine Rees recommends to the UK to "*be robust in demanding accountability for sexual violence by peacekeepers and insist on the participation of women in all peace processes. Britain must also ratify the Council of Europe convention on preventing and combating violence against women, to which it committed three years ago.*"[114]

For now, the money Britain spent hosting a global summit, headed by William Hague and Angelina Jolie, to end sexual violence in conflicts was five times higher than the entire confirmed budget the UK has dedicated to tackling rape in war zones this year.[115]

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[114] Ibid

[115] "William Hague's summit against warzone rape seen as 'costly failure' ", The Guardian, 13th of June, 2015.

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