

Biography

Kathleen Dougherty is a junior in the Holocaust and Genocide Studies program at Keene State College. An alumna of Boston Latin School, Kathleen is involved in many extracurriculars at Keene State. As a member of the Sexual Assault and Violence Education Committee, Kathleen found ties to her studies through the topic of sexual violence and has become passionate about finding solutions to these types of scenarios in atrocity crimes.

Abstract

The 2015 Quadrennial Diplomacy and Development Review states that “preventing mass atrocities is a core national security interest and moral responsibility of the United States”. The prevention of genocide can occur pre-conflict, during the conflict itself, and post-conflict. Each of these stages requires a different and specialized response from internal and external forces. In modern conflict, the threat and implementation of sexual violence on a targeted group as a continuation of victimization have become the norm rather than its historical context as a spoil of war. The Review notes that “gender inequality—imposed either by culture or law—limits full participation by women and girls in political, economic, and social life. This denial of rights fuels conflict, fosters instability, and closes off avenues for individual opportunity and contributions to development. The United States continues to stand at the forefront in opposing these trends”. In the post-conflict rebuilding of a society torn apart by genocide, attention must be paid to the treatment of victims of gender-based violence as well as the prosecution of those who perpetrated such violence. Without a strong focus on the reconstruction of these societies, they continue to be areas of international concern and are seen as fragile states. The Review also declares that “what happens in and among these countries affects the interests of the United States and our regional partners”. The purpose of this paper is to explore the post-conflict

challenges that arise from gender-based violence and suggest ways in which societies can be transformed so that communities can be rebuilt on more egalitarian and tolerant bases. Examples will be drawn from Bosnia-Herzegovina and Rwanda in the late 1990's to more recent conflicts in places such Iraq, Guatemala. These states provide evidence of failed and successful international responses that should guide future agencies and provide them with the tools necessary to decrease the number of fragile states worldwide.

Responding to Sexual Violence in Conflict

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Abstract

The 2015 Quadrennial Diplomacy and Development Review states that preventing mass atrocities is a core national security interest and moral responsibility of the United States¹. The prevention of genocide can occur pre-conflict, during the conflict itself, and post-conflict. Each of these stages requires a different and specialized response from internal and external forces. In modern conflict, the threat and implementation of sexual violence on a targeted group as a continuation of victimization have become the norm rather than its historical context as a spoil of war. In the post-conflict rebuilding of a society torn apart by genocide, attention must be paid to the treatment of victims of sexual violence as well as the prosecution of those who perpetrated such violence. Without a strong focus on the reconstruction of these societies, they continue to be areas of international concern and are seen as fragile states. The purpose of this paper is to explore the post-conflict challenges that arise from sexual violence and suggest ways in which societies can be transformed so that communities can be rebuilt on more egalitarian and tolerant bases. Examples will be drawn from Bosnia-Herzegovina and Rwanda in the late 1990's to more recent conflicts in places such Iraq, Guatemala. These states provide evidence of failed and successful international responses that should guide future agencies and provide them with the tools necessary to decrease the number of fragile states worldwide.

¹ N.A. (2015). Quadrennial Diplomacy and Development Review. *Encyclopedia of United States National Security*, 24.

Introduction

Whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it.² Throughout the history conflicts, the violation of what we now consider to be inalienable rights has been an inevitable byproduct for one, if not more, groups. Far too often these conflicts reach the level of mass atrocity. Though armed conflicts between states has plummeted since the 1950's the number of civil wars has increased since 2010.³ A country in any form of conflict is considered a fragile state and is then an overall threat to international security. While the United States State Department has been adamant in being a leader in the prevention of mass atrocity, a strong focus needs to be given to post-conflict societies. After a society has seen a conflict, the stabilization of the nation is still at risk. One area in which there needs to be a specialized focus is in regards to areas of conflict in which sexual violence was used as a method of destruction. In order to fully understand how and why this focus needs to be of a higher importance, case studies from Bosnia-Herzegovina, Rwanda, Guatemala, and Iraq will be addressed. These cases provide examples of the difficulties national and international respondents face while addressing this violence. These examples will then be followed by recommendations from leading scholars in the field.

Bosnia-Herzegovina

² Jefferson, T. (1776). The Declaration of Independence. *Historic American Documents* (Lit2Go Edition).

³ N.A. (2015). Quadrennial Diplomacy and Development Review. *Encyclopedia of United States National Security*, 21.

Before the fall of the former Yugoslavia, Roman Catholics primarily from Croatia (Croats), Orthodox Christians primarily from Serbia, and Muslims primarily from Bosnia (Bosniaks) lived peacefully. After a series of successions, countries began to declare their independence. In Slobodan Milosevic's rise to power in Serbia in 1991, the fight for a "Greater Serbia" began and his quest for acquiring Bosnia-Herzegovina under his rule set the scene for conflict. As Serbs began killing Bosniaks, women were quickly left vulnerable and targeted for victimization via sexual violence. Rapes began immediately after clashes broke out between Serbs and Muslims in April 1992 and were used as a means of ethnic cleansing.⁴ Though ethnic cleansing holds no legal weight to try perpetrators for, in 2001 the International Criminal Tribunal for Yugoslavia (ICTY) held a landmark trial in which three individuals were convicted of war crimes solely from sexual violence.⁵ This conviction set a precedence for international consequences for sexual violence yet only three individuals out of numerous perpetrators were sentenced. After the conflict ended in 1995, sexual violence continued. With increased international forces on the ground in an unstable Bosnia-Herzegovina, a market for sexual services was created and there was an increase in prostitution and trafficking of women adding to a growing number of both victims and perpetrators of this violence.⁶

Rwanda

⁴ Bastick, M. (2007). *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*. Geneva Centre for the Democratic Control of Armed Forces, 117.

⁵ Ibid.

⁶ Ibid.

Years before the shooting down of Rwandan President Juvenal Habyarimana's plane, the match that ignited the 1994 Rwandan genocide, Hutu propaganda inspired hatred towards Tutsi women by portraying them as more beautiful but less dignified and faithful than Hutu women.⁷ As the genocide unfolded, the targeted hatred of Tutsi women manifested itself in widespread sexual violence. Sexual violence in Rwanda took many forms; rape, gang-rape, sexual slavery, forced incest, deliberate HIV transmission, forced impregnation, and genital mutilation.⁸ The deliberate transmission of HIV/AIDS through unprotected sex allowed for the victimization of a population to continue even today as the disease still takes lives. The International Criminal Tribunal for Rwanda (ICTR) concluded that the acts of rape, sexual violence and mistreatment constituted serious bodily or mental harm and therefore they constituted as genocide.⁹ Rwanda was so successfully destructed by genocide that the rebuilding of the country left many stones unturned. The arrest and imprisonment of those who committed crimes during the genocide led to extreme overpopulation in the prisons. There were scarcely the means to count and identify the prison population, much less to enforce international standards of due process.¹⁰ With international standards of due process non-applicable on an high number of individual cases , the ICTR mainly focused on the architects of the conflict while the Rwandan National Court took on most cases of sexual violence. One landmark case that the ICTR took on involved Jean Paul Akayesu. Akayesu was charged September 2nd, 1998 with several accounts of

⁷ Bastick, M. (2007). *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*. Geneva Centre for the Democratic Control of Armed Forces, 55.

⁸ Ibid.

⁹ N.A. (2010). *Genocide, War Crimes and Crimes Against Humanity: A Digest of the Case Law of the International Criminal Tribunal for Rwanda*. *Human Rights Watch*, 80.

¹⁰ Waldorf, L., & Straus, S. (2011). *Remaking Rwanda : State Building and Human Rights After Mass Violence*. Madison: University of Wisconsin Press. 187.

genocide. Two of these charges included accounts of rape being imposed to prevent births within the targeted group¹¹. This was the first time rape had been prosecuted as a form of genocide.

With the number of sexual violence cases being so high, many cases were not able to be heard.

In addition, many survivors of this type of violence were likely to not be forthcoming with their victimization due to the psychological trauma that occurs when one is the target of such violence.

The traditional standards of Rwandan justice; the Gacaca Court system was also not often a method of justice for victims of sexual violence as their case would be made public. Through Gacaca prison population was reduced yet sexual violence cases were seldom heard here as survivors were not given the mental, physical, or emotional attention and care needed.

Guatemala

After gaining independence from its colonizing Spanish power in 1821, Guatemala went through a 139 year cycle of alternating civilian and military governments. In 1960, as many countries in Central and South America revolutionized, Guatemala saw a rise in activism demanding rights for the indigenous Mayan population which prompted a 36 year civil war between Mayan forces and Guatemalan military. Within these years, the time period of 1978 - 1985 has today become known as La Violencia. In 1996, the United Nations-brokered peace accords between the warring parties. Years later, The Commission for Historical Clarification (CEH), a state sponsored truth commission, investigated the crimes committed during these years. The report found that acts of sexual violence were an integral part of the [government's]

¹¹N.A. (1998).Prosecutor v. Akayesu, Case No. ICTR-96-4, Judgment (Sept. 2, 1998). *University of Minnesota Human Rights Library*, 507 - 508.

counter-insurgency strategy.¹² There have also been reports of systematic sexual violence against men, in some cases involving animals or bottles, and physical blows or electrical current applied to genitals.¹³ CEH gave light to these and many other crimes committed during La Violencia yet it held no legal weight. Names of perpetrators and victims were not published so few individuals were tried. A rise in violence against women occurred afterwards as many women were left widowed by the course of conflict and a 2003 report by the Center for Reproductive Rights stated that 49 percent of Guatemalan women are the victims of domestic violence.¹⁴ Today in Guatemala, 30 years after the conflict, legal justice is being brought to those who committed crimes. The President, Jose Efraim Rios Montt, was charged with Genocide, Crimes Against Humanity, and War Crimes by the country itself. Likewise, soldiers under Montt are charged with sexual slavery.

Iraq

The 1979 induction of Saddam Hussein into the presidential seat in Iraq quickly turned into a regime of human rights abuses. However, the evidence of sexual violence in Iraq presents, not only examples of sexual violence used as a form of oppression and torture internally, but also sexual violence used against Iraqi citizens by international troops. Hussein's campaign against his political opponents was documented as using various forms of sexual violence, including

¹² Bastick, M. (2007). Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector. *Geneva Centre for the Democratic Control of Armed Forces*, 131-132.

¹³ Bastick, M. (2007). Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector. *Geneva Centre for the Democratic Control of Armed Forces*, 131-132.

¹⁴ Center for Reproductive Rights. (2003). *An Unfulfilled Human Right: Family Planning in Guatemala*, 15.

rape [...] as a form of torturing men and women in custody.¹⁵ Sexual violence was used to intimidate and extract information and forced confessions that Hussein used to keep his position of power secure.¹⁶ March 2003 began United States-led military operations “aimed at removing the Iraqi regime. Human rights agencies focused on Iraq as cases of sexual violence increased with the heightened military forces. Formal investigations indicate that acts of sexual violence against male and female detainees, including juveniles, in jails run by the United States/coalition or Iraqi forces, as well as by militias are widespread.¹⁷ Although Iraq regained its sovereignty in June of 2004, the Monitoring of Human Rights in Iraq Network sent a report in August of 2005 to the United Nations Secretary General Kofi Annan asking for an international investigation of the occupying forces human rights abuses. In November of 2005, the Network sent a second report to Annan pleading for assistance. In the report, it is stated that 2,000 women were raped by the occupation troops, especially the American, British, Italian, Polish, and Spanish.¹⁸ As international forces sent in with the task to depose a violent regime, unnecessary harm was committed against a population of civilians that were meant to be protected.

Conclusion

Each of these cases demonstrates the extreme difficulty that comes with the rebuilding of a society that has seen sexual violence in the context of conflict. Bosnia-Herzegovina sought justice and stability from the international community and ICTY. Rwanda attempted

¹⁵ Bastick, M. (2007). *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*. Geneva Centre for the Democratic Control of Armed Forces, 131.

¹⁶ Ibid.

¹⁷ Ibid., 131-132.

¹⁸ Al-Darraj, M. (2005). *Second Periodical Report of Monitoring Net of Human Rights in Iraq*. Monitoring Net of Human Rights in Iraq, 34.

international practices and when those did not meet the expectations of what the country needed, they turned to culturally traditional forms of justice. Iraq, hoping for international aid from an oppressive regime, fell victim to sexual violence from aiding forces. Guatemala looked for justice in honesty which resulted in the publishing of a truth commission. This in time gave push to Guatemala seeking justice on its own country's terms and courts. By examining the similarities in the crimes themselves and comparing the responses of internal and external forces, hope can be had that guiding principles can be found to transition post-conflict, fragile, states; to ones of stable peace.

Recommendations

Conflicts are ever-changing and no two conflicts are ever identical. Acknowledging that there cannot be a singular way to respond to instances of sexual violence is of utmost importance. One of the biggest mistakes intervening countries can make is imposing foreign practices onto countries. When torn apart by any sort of conflict, a country has lost its sense of self. Introducing foreign concepts to these fragile states can often hinder more than advance the rebuilding period. Care needs to be given and patience is required. The Quadrennial Diplomacy and Development Review notes that the United States will continue working with the [Department of Defense] and other agencies to promote effective security sector governance. We [the United States] will place special emphasis on accountability and human rights within security sectors, including preventing and responding to gender-based violence.¹⁹ Houses can be restored, economies can be pieced back together, and bones can mend; however a country devastated by sexual violence can not advance until those who survived are given their

¹⁹ N.A. (2015). Quadrennial Diplomacy and Development Review. *Encyclopedia of United States National Security*, 34.

opportunity to heal. While healing may take time on an individual basis, the Geneva Centre for the Democratic Control of Armed Forces has published ten recommendations (see Appendix A). If international security sectors were to incorporate these recommendations into their intervention policies, the transitional state's likelihood of continuing to be deemed fragile would decrease.

Appendix A

Geneva Centre for the Democratic Control of Armed Forces

Recommendations for the security sector

1. Security sector institutions should cooperate and coordinate with other sectors that provide essential services to survivors of sexual violence in conflict. These include agencies providing medical care and psychological counselling,

protection and shelter, socio-economic support and legal advice. Security sector actors should also coordinate and collaborate with each other in their efforts to prevent and respond to sexual violence.

2. Security sector institutions should adopt a gender-sensitive approach at all stages of response to sexual violence in conflict: in planning, implementation, monitoring and evaluation. This approach should take into consideration the particular needs of adult male survivors of sexual violence.
3. Gender training for all security sector personnel is necessary in order to develop a gender-sensitive capacity within security services. This should include training to address the particular needs of victims of sexual violence.
4. The full and equal participation of women in the security sector should be promoted, to ensure that security services are able to effectively identify and respond to the needs of all members of the community. Measures to increase the proportion of women should include gender-sensitive recruitment and retention strategies, and be accompanied by the development of an organisational culture that promotes gender equality within security services.
5. Security sector institutions should develop operational protocols and procedures for assisting and supporting victims of sexual violence. These should include, for example, protocols for interviewing victims and investigating sexual violence crimes, for documenting sexual violence, and for referrals to health, social and legal services.
6. In providing services to survivors of sexual violence during conflict, security sector institutions should determine whether special measures are needed for

particular groups, such as children, former combatants, and male survivors of sexual violence.

7. Access to justice, including reparations, should be ensured for victims of sexual violence.
8. Security sector institutions should develop and prioritise operational strategies to prevent sexual violence in armed conflict.
9. Strict codes of conduct prohibiting sexual abuse and exploitation by security sector personnel, including armed forces, police, peacekeepers and DDR staff, must be formulated, implemented with proper training, and enforced. This is essential to prevent sexual violence, to fight impunity and thus ensure accountability.
10. Security sector institutions should seek and support the participation of civil society and affected communities, including women and girls, in responding to sexual violence. Civil society organisations may advise or provide training to security actors, undertake awareness-raising in affected communities, or provide essential services to victims.

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