



WORKING PAPER

Conflict-Related Sexual Assault— Historic Barriers to International Recognition

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June 2020

In April of 2019, the United Nations Security Council adopted [Resolution 2493](#) within the Women, Peace, and Security Agenda. This resolution recognizes sexual violence occurring on a continuum of violence against women and girls, recognizes national responsibility on addressing sexual violence, and recognizes the need for survivor-based and survivor-centered approaches to preventative and provisionary responses. Despite this resolution and several others adopted within the last several years, it was only a little over a decade ago in 2008 that the United Nations (UN) first recognized the role of sexual violence as a war tactic and began implementing strategies to address and respond to such violence on a global scale. This delay and lack of international attention is due to a series of long-held beliefs about rape, sexual violence, and consent, as well as an acceptance of conflict-related sexual violence as inevitable to conflict. To explain the recent emergence of conflict-related sexual violence (CRSV) into international discourse and preventative strategies, I will define CRSV, explain the history of CRSV in international law and international human rights, and examine the belief systems surrounding CRSV that, until recent years, restricted prosecution and peacekeeping efforts.

The [UN defines](#) conflict-related sexual violence as the “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.” [CRSV is often](#) a tool used to instigate forced displacement—with many fleeing their home and finding themselves at further risk of sexual abuse—as well as intimidate and punish political opponents’ family members and women human rights defenders. [Consequences are far reaching](#), with survivors facing unwanted pregnancies and shame from their communities, a general lack of comprehensive healthcare to treat both physical and psychological damage, and difficulty gaining access to their own justice systems. Further, CRSV is recognized as damaging to the nation as a whole, as it sheds light on a lack of government control and stability, imposes large financial burden, and impedes

reconciliation efforts. Such detrimental impact and consequence of CRSV as a strategy of conflict can be seen in [Rwanda's](#), [Bosnia's](#) and [Guatemala's](#) armed conflicts.

Conflict-related sexual violence has long been recognized under International Humanitarian Law (IHL) as condemnable and unjust. [In the wake of WWII](#), major and minor Axis criminals were tried under the admission of rape as a war crime and a crime against humanity, though not all cases of such violence were indicted. [CRSV is further recognized](#) as prohibited in the 1949 Geneva Conventions and then built upon in the Additional Protocols, when [the Red Cross issued an Aide-memoire](#) to emphasize the inclusion of rape and attacks on a woman's dignity as included within the grave breaches of the Fourth Geneva Convention—as a source of suffering and serious bodily injury. [Thus by the 1990s](#), IHL prohibited sexual violence during international armed conflict against enemy civilians, the armed forces and accompanying persons, and prisoners of war. [Further](#), they prohibited sexual violence during non-international conflict against those no longer in combat. Also in the 1990s, rape was gaining international recognition as not just an international crime, but a crime against humanity, as internationally recognized crimes began to be adapted into national military codes and legislation. From the 1990s onwards, [through the work of multiple international courts](#)—including the International Criminal Court (ICC), the International Criminal Tribunal for the Former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR)—sexual violence was indicted as a war crime, crime against humanity, and/or an act of genocide. However, this does not equate to broad prosecution.

Despite being widely recognized in codified international law, prosecuting CRSV in courts of law remained complicated because of long-held ideas that sexual violence was the [right of the conqueror](#) and was inevitable to war and conflict. Prosecution was further complicated by [alternative definitions of rape](#) and the need to prove a lack of consent. There was no international law that could prosecute sexual violence, instead it could only be prosecuted if the CRSV met the [requisite elements](#) of a war crime, a genocide, or a crime against humanity. Many cases in the late 90s and early 2000s evoked different interpretations and definitions of sexual violence, rape, and consent, impacting the judicial system and ultimately complicating the access to justice for victims with the existence of [various legal definitions](#) and expectations for rape and proof of consent.

In 2008, the recognition of sexual violence as a pervasive war tactic and war crime largely targeting women and girls in [UN Security Resolution 1820](#) was groundbreaking in recognizing the effects of sexual violence in armed conflict on an international scale and making efforts towards prosecuting and preventing such crimes. These ideas were further supported in 2009 with Resolution 1888, which denounced conflict-related sexual violence and the responsibility of states to end impunity and prosecute crimes against civilians. The resolution also emphasized the need to include women and women's organizations in peace processes, the need to appoint a Special Representative to provide leadership in strengthening coordination mechanisms and advocacy efforts, the deployment of a team of experts in situations of armed conflict to assist in the implementation of the rule of law, and further reporting and recognition of sexual violence in armed conflict. These resolutions remain imperative to current efforts by the UN, Amnesty International, and numerous nonprofits like the [Women's Refugee Committee](#), to address sexual violence and urge preventive action on a global scale.

Today, addressing and prosecuting conflict-related sexual assault is an ongoing issue. Though such efforts have increased significantly, as evidenced by the work of the United Nations and other international organizations, widespread measures still remain a work in progress. Part of this can be attributed to a lack of [reporting and restrictions on the access given to United Nations staff](#), as well as the need for state and non-state actors to hold such perpetrators accountable and make efforts to prosecute and prevent such future CRSV. Conflict-related sexual violence is a significant strategic problem endangering women and men across the world and should be addressed as such. Efforts to address and prosecute such atrocities have long since been restricted by belief systems about the nature of war and consent and it is now imperative that international attention is directed to addressing and responding to violence that affects women and girls worldwide.