

# Constraints On Rape As a Weapon of War: A Feminist and Post-Colonial Revision

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On 17<sup>th</sup> of July 1998, for the first time in international law, the Rome Statute of the International Criminal Court (ICC) ingrained acts of sexual violence, including rape, to be constituted as a war crime (UNGA 1998). This jurisdiction proclaimed a landmark in understanding the role of gender-based violence within and post conflict, especially rape, as a systematic weapon of war. Much of this current progress is due to the inclusion of sexual violence within the study of International Relations (IR), in academia and policymaking (Koenig, Lincoln & Groth 2011:3). Rape as a weapon of war has been spearheaded in International Relations Theory (IRT) discourse in the past few decades, being explored to a certain degree by all disciplines and epistemologies (Carter 2010:343)". However, it is undeniable that mainstream IRT, such as the traditional discourses of realism and liberalism, still remain the prevalent and respected narratives (*ibid.*:348). Thus, the concept of rape as a weapon of war has been formulated by such mainstream platforms, which is beneficial to a certain extent, allowing international organizations and policymaking to take note of their prevalence in conflict. Nonetheless, it is essential to comprehend how mainstream IRT constrains the understanding of rape and sexual violence in and of war due to its nature of studying concepts such as security, war and perhaps most importantly, power. This essay shall argue that there needs to be a reconceptualization of rape as a weapon of war, through allowing for expansion into and greater attention towards non-mainstream epistemologies of IRT and their studies of gender-based violence.

This is not to say that there is no room for better conceptualizing gender-based violence within the current mainstream paradigm of IR, as they remain relevant and are constantly explored by scholars. Thus, this essay shall begin by placing the current concept of rape as a weapon of war within the prevalent traditional discourses of IRT. It shall then explore the challenges and constraints that exist within the current paradigm of traditional IR and rape as a weapon of war, by giving core examples that limit the scope of gender-based violence and how a great proportion of the atrocity is currently ignored or marginalized through popular discourse. Lastly, the essay will look at how non-mainstream epistemologies can and should be utilized when it comes to having a more realistic comprehension of rape both in and of war. This will be done by exploring how feminist theory and the post-colonial, de-colonial theory study and contribute to a better understanding of gender-based violence in general. The essay will bring to the conclusion that wartime sexual violence is a crucial case study that emphasizes on the current limitations of conventional IRT. As such, insofar as these non-mainstream discourses are excluded from the overall understanding of rape as a weapon of war, there will be limited progress in academia and most importantly, for the millions of people who are victims of systematic oppression through sexual violence.

### The Contemporary Rape as a Weapon of War

Rape being used as a systematic weapon is nothing new, as evidence goes back to the Greco-Roman times and forward to the mass rapes occurring during World War II by Japanese soldiers in China, Philippines and Korea (Brownmiller 1975: Ch. 3). Such atrocities only came to the forefront of international community during the testimonies given at the International Criminal Tribunals for Rwanda (ICTR) and Yugoslavia (ICTY) (Mackinnon 2006: 944). The current context of understanding sexual violence for systematic purposes lays on the foundations of increasing attention by (IR) scholars. It is true that without feminist theorists, there would arguably be less awareness on the topic as a whole and a complete marginalization of the gender lens, which is overwhelmingly accepted as a

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necessity in discussing sexual violence (Card 1996: 5-18). However, as K. R. Carter (2010) highlights, the current contextualization, i.e. that “rape as a weapon of war compromises state security, operates in a conception of power defined as material/“post-over”/zero-sum, and corresponds with a rational actor model”, fits primarily the core traditional discourse of International Relations (343). Emphasizing that despite the gender aspect of sexual violence, the contemporary understanding of rape as a weapon war is principally constrained to traditional conceptions of IR, with focuses on national security and the domestic and international levels of analysis (*ibid.*:343-367).

Despite the vast range of epistemologies and methods that are studied within IRT, the “recurrent relapse of American mainstream IR into neo-neo-neo...positivism” (Ole Waever 2009: 217) has to be taken into account when exploring the limitations of international jurisdictions and academic research. For example, the forefront of perceiving gender-based violence as a weapon for political goals stems from the traditional Western conceptions of state sovereignty for several traditional theorists (Vitanza 2011:Ch. 2). This conception is both internal, within the constructed borders, where a sovereign entity proclaims governments to have autonomy over their territory and peoples, and external, as perceived and interacting with other states (Gill 2003: Ch. 1). Rape as a weapon of war is seen to violate these fundamental assumptions of sovereignty, which are foundations of IRT and international organizations (ie. Article 2 of the United Nations Charter 1945). Internally, because rape and other sexual crimes are value-free and available to all, it is impossible for governments to have control, whether through lawmaking or policing (Carter 2010:348). As evidenced in several insurgencies, such as the Peruvian civil war of 1980-2000, the state's legitimacy is diminished when systematic sexual violence is perpetuated by insurgent militias, in this case the Communist Party (*Shining Path*) to further their goals of overthrowing the government (Theidon 2006:433-442). Moreover, external sovereignty is also challenged when systematic rape influences relationships with neighboring states or international pressures de-legitimizing ones' sovereignty. One relevant example is the genocide in Darfur, where the Janjaweed paramilitary groups are systematically murdering, raping and conducting ethnic cleansing towards black Africans in Western Sudan (Harvard Humanitarian Initiative 2009). This has brought tensions between Sudan and their neighboring countries such as Chad where refugee camps have situated near their borders for those seeking “safe haven”, although several accounts of sexual violence have been reported there from both sides of the border (*ibid.*). Within the conventional system and state level of analysis which prevails in traditional IR discipline, it is through concepts such as sovereignty, in turn national security, that rape as a weapon of war come to be on the agenda.

Furthermore, the ICC Statute defines rape as when “the perpetrator [invades] the body of a person by conduct resulting in penetration” and “the invasion was committed by force, or by threat or force of coercion” (ICC 2002:Art. 8). The emphasis on “invasion” to bring legitimacy in criminalizing rape is a direct display of core International Relations' attention towards hierarchical structures of power and their inherent antagonistic nature, prevalent in classic and structural realist discourses.

It is clear that the contemporary understanding of rape as a systematic weapon is primarily stemming from the traditional IRT discipline. It is beneficial in bringing such atrocities to be included in conflict resolution but due to the post-World War II, Cold War and Eurocentric nature that originated such discourse (Carter 2010:343-360), this conception often ignores the multitude of layers, lenses and considerations that are key when analyzing the intricate concept of gender-based violence, as will be explained below.

## The Constraints of Rape as a Weapon Today

Despite the contemporary understanding of rape as a weapon of war through mainstream International Relations spearheading accountability and awareness for international jurisdiction, it is still a constrained understanding of the multilayered complexities when dealing with such large-scale atrocities. In order to expand the scope of gender-based violence, there is need to understand the flaws of conceptualizing it through mainstream approaches to security, sovereignty and power. Thus, we allow enlarged roles for other non-mainstream and “marginalized” discourses in expanding the scope for better analysis (Smith 200: 375-380).

Due to the nature of traditional International Relations and its focus on positivist analysis and their search for an intrinsic “truth” (Ashley 1996:252-53) for state relations, the experience of rape within and of war becomes highly constrained, being compartmentalized and categorized into generalizations. For example, the emphasis of power

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within structural sexual violence, where “rape is a cross-cultural language of male domination” (Card 1996:7) is argued to be parallel to Mearsheimer (2001) and Waltz’s (1959) conception of one actor’s “power-over” (Carter 2010:359) another. Hence, rape is placed on same grounds as material “hard” power, such as Weapons of Mass Destruction (WMD) and how they share the same power dynamics of zero-sum or relative gains (Carter 2010:350). The issue with relating acts of sexual violence to weapons is not only the dehumanization of one’s experience but the perpetuation of generalizing power dynamics within systemic rape.

It is true that women and girls are majority victims of rape as a weapon and the perpetrators have “power” over them, however there are greater complexities that impact societies as a whole. Systematic mass rape is also aimed at exploiting and humiliating men in said communities. Women have throughout history been perceived as the biological and cultural reproducers of the nation whilst men are their protectors (Yuval-Davis 1997:Ch. 2). Rape tactics often aim at “effeminate[ing] men” (Peterson 2004:40) by subjecting them to humiliation for being unable to protect the women, which in turn breaks down entire society’s foundations, a contribution for ethnic cleansing, genocide and war’s political goals. By constraining rape as a weapon of war to traditional IRT’s approach to power, we are categorizing men and women’s experiences to be essentialist, which is untrue and problematic. Men are often targeted through mass rape tactics both through women and them being victims themselves – as seen throughout the ICTY testimonies on Bosnia-Herzegovina (Carter 2010:359) – and without adequate representation, there will never be proportional action, reconciliation and breaking down feminine and masculine gender roles.

In a more general sense, the positivist approach of IRT is said to be in line with conceptualizing rape as a weapon of war. Arguing that with Steve Smith’s (2010) definition of positivism as “a belief in naturalism in the social world...and a commitment to empiricism as the arbiter of what counts as knowledge” (383), it holds true that rape can be empirically understood. Thus, “wartime rape is a visible reality occurring as part of both the natural and the social world; this weapon is material as the human body is, by definition, made of physical properties and not a metaphysical force or idea” (Carter 2010:350). By seeking truth, there is an inherent need for explanation (Hollis & Smith 1990) and “overt-hyper rationalism” (Kirby 2012:801), both fundamental assumptions ingrained in core IRT. However, no matter how influential these approaches have been in shedding light towards international jurisdiction, it is impossible to procure an explanation of rape as a weapon of war without gender, ethnic and “irrational” experiences (*ibid.*:809). Due to the lack of individual analysis, the assumption of rationality for all actors proclaims that rape is an effective tool for political aims, a very Clausewitzian (1989) and hence realist perspective.

However, evidence shows that a positivist overarching consensus of rationality does not reflect on the ground. There are cases of “irrationality as in the sense of actions that do not benefit or even harm, an actor, but it is not chaotic or random” (Kirby 2012:809). Such would call for a psychological and emotional aspect of rape through the internal urges and logic of one’s self. A prime example would be collective rape for masculine bonding, as evidenced by US soldiers in Vietnam or the most brutal aspects of sexual violence, such as mutilation and severing body parts, often recorded through the ICTR (*ibid.*:810). These “narratives of celebrity and transgressive violence, psychotherapy, perverse homosociality and the kind of opportunism that can find no justification in financial reward” (*ibid.*:809) are a clear representation of how rape as a tool *and* a weapon cannot solely fit the rational model and in turn the positivist approach to International Relations.

Overall, these limitations are clear examples of how the current conceptualization of rape as a weapon of war has been constrained by mainstream IRT, which would then call for expanding the scope of gender-based violence. Such is only productively viable through the inclusion of non-mainstream methodologies and lenses that are fundamental when it comes to placing rape in and of war for better and more efficient action.

## The Feminist is Fundamental

The feminist is fundamental and “the personal is political, the latter cannot be fully understood without taking into account the former” (Enloe 1989:195). Cynthia Enloe’s (1989) work has brought integral contribution to how IRT understands and analyses key concepts whilst ignoring others, such as private life. Rape, as conducted by one individual to another, is often perceived as a private sexual act and in turn disregarded as political or irrelevant to threatening the state (*ibid.*:195-198). As aforementioned, the individual analysis is lacking in the current

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understanding of rape as a weapon of war, which is a significant flaw when dealing with social issues and human security in general. Enloe (1989) brings forth the methodology of politicizing the individual, which not only provides agency for the silenced but deconstructs the idea of power contained by sovereign states. Instead, a gender lens is applied when understanding how power and the state revolve around ideas and assumptions of masculinity and femininity for the international system to function as is. Thus, the contribution of understanding how “international is personal” (*ibid.*:196) towards rape as a weapon of war is by expanding the concept beyond state sovereignty, which is assumed to be better understood by men, but by delving into the private spheres of the individual and that of women’s contribution towards power functionality. In turn, we come to comprehend that analysis cannot cut off at the point where women are victims; instead women are fundamentally oppressed by the existing structures of state security, warfare and their roles are ignored by conventional IRT (Okello & Hovil 2007). More importantly, women have consistently fought against these norms and urges to stereotype them as victims. Examples include bottom-up initiatives and Non-Governmental Organizations (NGOs) that seek to bring agency towards women victims and more importantly towards women’s conception of peace, security and human rights (Björkdahl & Selimovic 2015:167-168). This shift is a challenge towards conventional IRT, a bold one to say the least. However, without understanding the complexity of women’s agency through the individual level of analysis, it is impossible to bring about critical change to defy why and how power hierarchies are established through gender.

Standpoint feminists such as J. Ann Tickner (2001) emphasize how conventional IRT is inherently sexist, with prevailing scholarships such as realism focusing on deep-rooted masculine assumptions of strength, autonomy and foreign policy. Insofar as these accepting discourses are prevailing in statehood, women’s voices are deemed “inauthentic” (Tickner 2002:4). Henceforth, standpoint feminists stem their analysis from women’s experiences, giving them agency, further highlighting the essence of gendered International Relations and how they tend to be violent and/or oppress women (Clough 1994). Consequently, scholars problematize the state and their inherent gendered nature of masculine ideals and protectors of women, bringing indirect norms that impact rape within and of war perpetuated beyond the sexual act. To echo Spike Peterson (1992), “the objects of masculinist social control not only through direct violence (murder, rape, battering, incest), but also through ideological constructs, such as ‘women’s work’ and the cult of motherhood, that justify structural violence—inadequate health care, sexual harassment, and sex-segregated wages, rights and resources” (46). It is within analyses like these that Tickner (1994) sheds relevance on coining “*structural violence*” (187) through and from the experiences of women. Most of current international jurisdiction is on bringing perpetrators accountable to court, but as such, high rates of precarious abortions, rape injuries and Sexually Transmitted Diseases that prevail long after conflict ends are not given enough attention (Carter 2010:363). In the Democratic Republic of Congo, their long-lasting civil conflicts brought mass rape conducted by government and revolutionary (ie. M23) soldiers (*ibid.*). Victims with STDs are continuously increasing, where “reports indicate that up to 30% of patients tested in the eastern part of the country were HIV positive, one of the highest infection rates in the world” (*ibid.*). The lack of awareness on the long-term consequences of systematic rape is a direct repercussion of being conceptualized through mainstream ideals of security, war and perhaps most importantly, peace. By reconceptualizing rape as a weapon of war through the experiences of women and taking into account their forms of security long after the resolution of conflict, better action can be taken towards bettering their health and preserving their bodies and mental stability.

One of the biggest criticisms of standpoint feminists is that their normative project of how the patriarchy and the state are violent towards women is innately essentialist (Benhabib 1995: 14). Due to their categorizations of women to be homogenous, they thus call for universal frameworks that fit all. As a consequence, it is fundamental to take into account different feminist approaches. Post-structural feminist theory distances from procuring truism and brings post-positivism to the forefront (Randall 2010: 116). Michel Foucault, one of the main post-structural scholars, controversially called for the “desexualization of rape” as he argued for “understanding the body as a concrete phenomenon without eliding its materiality or positing a fixed biological and pre-discursive essence” (Henderson 2007:231). This provocative postulation is loaded with criticisms, but for the purpose of this essay it will focus on how perceiving the body to “exist as a social and cultural entity” (*ibid.*) brings better understanding of rape in and of war. The emphasis on gender performativity, spearheaded by Judith Butler (1990: 179), highlights how mainstream IRT and thus the current concept of rape as a weapon perpetuates the homogeneity and binaries of gender. Instead, there needs to be focus on how these social constructions came to be and how they constrain individuals to perform within them (*ibid.*). Consequently, issues such as heteronormativity in military environments that perpetuate

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masculine and heterosexual behavior for soldiers come to the agenda (Enloe 2000:Ch. 2). Cases of collective rape for male bonding and asserting military hierarchies are often overlooked, despite their frequency in and outside of conflict (Boesten 2009:118). Moreover, often times victims of rape are shamed and excluded from their communities and families, which leads to women being embarrassed to report cases of sexual violence (Carter 2010:352). These norms are perpetuated by the social construction of women as pure, which is destroyed by their body's exploitations deeming them undesirable, dirty and in some cases bad luck (*ibid.*). This leads to major underreports when it comes to data collection and future policymaking. Hence, these issues only come to light with the aid of post-structural feminist inquiry into finding the relationship between gender expectations and its effects on rape as a weapon, which can be applied to finding appropriate policy to tackle these structurally ingrained constructions.

## The Colonial is Critical

To further reconceptualize rape as a weapon of war, it is essential to deconstruct the Western constructions of International Relations that are reflected in understanding wartime sexual violence. Because the discipline of IRT originated from the West, postcolonial theorists postulate that they disregard experiences and the histories of the non-West (Sharp 2008). In turn, mainstream IRT lacks scope and depth when it comes to understanding how statehood in postcolonial nations differs from European state's conventional sovereignty (*ibid.*). Due to varying degrees of disparity, much of international jurisdiction and especially conflict reconciliation excludes those who are marginalized in society, which are arguably the ones who should be given most attention to (Björkdahl & Selimovic 2015:168). In Post-Shining Path Peru, the Truth and Reconciliation Commission attempted to gather conflict experiences throughout the country and use them to recommend policy towards the government (*ibid.*). However, no policy or top-down action was implemented for indigenous peoples in Peru, especially for women, despite sexual violence specifically targeting them for their "racial otherness" and how they were deemed "lesser human beings" (Boesten 2009:110). For example, native Peruvian women and girls with darker skin tone were given to lower ranking officials, whilst lighter skin "mulato" and white women were for the high rank chiefs (Friedman 2016). As such, without a postcolonial outlook that highlights racial and ethnic marginalization, many victim groups are excluded in decision-making and the conversation in general.

Additionally, Walter Mignolo (2011), a decolonial theorist, argues that the "colonization of space and time are the two pillars of Western civilization" (6) and through this paradigm they have exported "modernity" to fit their capitalistic needs. The monopoly of space and time begs critical questions on Western conception of war's timeframe, starting when conflict begins and ending when there is some sort of formal resolution (*ibid.*). Yet, in many postcolonial conflicts, especially insurgencies and modern intra-state violence, a surrender or a ceasefire does not necessarily signify peace, especially for women and girls (Boesten 2009:110-115). Jelke Boesten (2009:113) finds that domestic violence spiked higher during post-conflict years in Peru than during conflict. However, due to a formal resolution of conflict, there was limited domestic and international attention to the aftermath of war. This brings in bigger questions of constraining rape only as a weapon of war, whilst the author argues that there are numerous other forms of sexual violence that are underestimated in the international community. Examples include "rape as consumption", the logic that hardworking soldiers need and deserve sex, and "invisible sexual violence", which are incidents that fall under the radar due to being perpetrated by relatives, husbands and neighbours (*ibid.*:117). These other forms of gender-based violence are crucial as they often reflect on peacetime rationality as much as during conflict. By decoding the numerous rape regimes that occur within and during the aftermath of war, there is precedence in expanding the scope of international jurisdiction to pay greater attention to victims of such acts both during and after war.

It becomes clear that an intersectional lens needs to be applied when conducting solutions for rape regimes in and of war to include the grievances of those ostracized from society. Moreover, by comprehending that peace is different for women as compared to men, there is greater recognition on policy and ground initiatives that focus on long-term security for victims.

## Conclusion

Overall, this essay has been a decoding process of understanding how the current concept of rape as a weapon of war is highly constrained to the mainstream IRT paradigm. By highlighting the several limitations that exist, there is

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space and urgency for non-mainstream IRT disciplines such as feminist, post-colonial and decolonial theories to contribute their analyses to reconceptualize rape as a weapon of war and gender-based violence in general. This is not to say that all accounts of rape and sexual violence that exists within traditional IRT are diminished. These have crucially allowed international law, NGOs and other organizations to spearhead awareness and accountability, and despite their limitations, should be acknowledged and applauded (Carter 2010:344).

There is a plethora of layers that exist when dealing with wartime sexual violence. This essay has given core examples of areas that IR needs to expand upon in order for legislation and policymaking to encompass comprehensive needs. Issues such as prioritizing victims who are marginalized in society to understanding where these gender norms are constructed from are mere beginnings of a bigger and necessary reconceptualization. It is an ongoing struggle, from the individual to the structural level of comprehending sexual violence. Most importantly, rape as a weapon of war, together with the challenges and calls for expanding the scope outlined through this essay should continuously challenge how the discipline of IR is no way an exhaustive end goal, but an unending process of learning, analyzing and imposing change. Wartime sexual violence is one of the several issues brought to the international community that highlights the limitations of conventional IRT and their Western, masculine and Westphalian constraints.

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