



## Protection of women in Armed Conflicts

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**ABSTRACT:** *In the recent years, violence against women during armed conflicts has become on the major concern and use as weapon of Tactics. Both men and women suffer during the conflicts but it is women who suffer more than the men. Women are considered as the major bear of the burden in armed conflicts. It has been largely ignored as how women suffer the obstructs during the armed conflicts. The importance of this comment is to consider a wide source of ways in which women are affected by the armed conflicts and top assess the adequacy of international law in protecting them. It is indeed, the process of identifying women's particular experience and demonstrating the failure of the law to acknowledge them is more advanced in this context than an organizations focusing solely on armed conflicts. The rules of International Humanitarian law are intended to provide protection for victims of armed conflicts. This paper focus on the protection of women in Armed conflicts with International law and Humanitarian law with its way forward.*

**Keywords:** *Violence against women, Protection of women, armed conflicts, International law, International Humanitarian Law.*

### I. INTRODUCTION

Since the beginning of century, legal efforts to protect women in wartime or during the period of armed conflicts have been underway. In recent decades, government and institutions have produced declarations, conventions and other legal texts which would ensure the primacy of women's right in even the worst of circumstances. For instance, the law of armed conflicts grants women general protection as civilian persons and requires that women members of the armed forces shall in all cases benefit from treatment as favorable as that granted to men. With all these basic protection, likewise women are granted specific protection including, protection against outrages upon personal dignity and in particularly against rape, enforced prostitution and any form of indecent assault, the protection against pregnant mothers, maternity cases and mother of infants, and the rule that women deprived of liberty i.e. civilian internees or prisoners of war, must be confined in separate quarters from male internees and must be under the immediate repression of women.

Despite these declarations, conventions and other legal texts which were agitated out to ensure the primacy of women's right in armed conflicts, there are considerable variation between those detailed provisions worked by experts and the daily life, law and the reality of sufferings. This paper intends to analysis the protection of women during International or Non- International armed conflicts and the legal challenges in the contemporary scenario.

### II. INTERNATIONAL HUMANITARAIN LAW AND WOMEN: A BRIEF HISTORY OF LAW MAKING

International humanitarian law came into being to restrict human suffering in times of armed conflicts and to prevent atrocities. The first instruments of international humanitarian law were motivated by the principles of humanity. Conventional origin of the principle of humanity may be found in the preamble of the St Petersburg declaration -1868. The declaration through its following preamble left a mark and also left the first principle of the law of war or armed conflict as follows:

*"Considering that the only legitimate object to accomplish during the war is to weaken the military forces of the enemy; that for this purpose it is sufficient to disable the greatest possible number of men; that the object would be exceeded by the employment of arms which uselessly aggravate the suffering of disabled men or render their death inevitable; that the employment of such arms would therefore be contrary to the laws of humanity".*

This general customary principle was later embodied in the annexure to the 1899 Hague Convention II and 1907 Hague Convention IV. To this extent, the St. Petersburg declaration represents customary international law and

would be binding upon all states and not merely those who were formally parties to it and its general participation clause notwithstanding. Moreover, while the focus of early international humanitarian law was on minimizing direct causes of human suffering among participants in armed conflicts, the discipline itself was never restricted in such a way. Indeed, international humanitarian law has its foundation in general exhortations of the Martens clause and originally in the call of the International Committee of the Red Cross (ICRC) founder Henry Dunant, "To press forward in a human and truly civilized spirit, the attempt to prevent or at least to alienate the horrors of war. The Martens clause which first appeared within the preamble to the Hague Convention IV of 1907 provides as follows:

*"Until a more complete Code of the laws of war has been issued, the high contracting parties deem it expedient to declare that in case not included in the regulations adopted by them, the inhabitants and the belligerents remains under the protection and the rule of principles of the law of nations, as they result from this usages established among civilized peoples, laws of humanity and the dictates of the public conscience"*

The Martens clause predates the general principle of public international law resulting from the steamship Lotus case. The effect of the Martens clause is two folded and limited to international agreements that deal with the law of armed conflicts. Firstly, in areas where the law of armed conflicts treaties is silent customary, international law governs the situation, secondly, what is not specially prohibited is not necessarily permitted. Different versions of the Martens clause appear throughout the corpus of the law of armed conflict. The most recent expression of this clause reads as:

*"In cases not covered by this protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established customs, from the principles of humanity and from the dictates of public conscience"*.

Moreover, the first code for the conduct of warfare, the famous Lieber Code adopted by Abraham Lincoln for the use of his Union forces in the American Civil War - 1863, is also quite general of nature in its scope. Contemporary international humanitarian law was born with the signing of the 1864 Geneva Convention for the Amelioration of the condition of the wounded in armies on the field. This development was a response to a Swiss Philanthropist, originator of the International Relief Agency, the Red Cross, who is following his experience at the battle of SOLFERINO in 1859 made a proposal for the establishment of an international body for the aid of the wounded in wartime.

Since 1864 a tremendous number of international conventions declarations, treaties, protocols, acts, agreements and resolutions as well as regional and sub-regional instruments relating to international humanitarian law have been adopted. On 2nd August 1864, the Geneva Convention was finally adopted. The era in making Geneva Convention of 1864 influenced the evolution of the law of nations. States for the first time in history, accepted in a formal and permanent document, a limitation of their own powers, not for the sake of the individual and or altruistic ideals. For the first time ever, war or armed conflict yielded to law. In less than a century, the principles of the Geneva Convention was gradually extended to other categories of war victims and this extension led to the rigging of the text of the Hague. It is precisely for this reason that it is called the mother of Convention.

The 1949 Geneva Convention and the Additional Protocols was not only ratified by Nigeria -1977, it has also incorporated the Convention into domestic law by enactment. It has further enacted the Nigerian Red Cross Society Act, incorporating the Nigeria Red Cross Society and issued the code of conduct to the Nigerian Armed Forces during the Nigerian Civil War.

### **III. WHAT IS ARMED CONFLICT?**

One of the most authentic definition of armed conflicts and used several times by other international bodies is contained in the International Criminal Tribunal for Yugoslavia (ICTY) Appeal Chambers decision on jurisdiction in the TADIC case to the effect that:

*"...An armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between government authorities and organized armed groups or between such groups within the state. International humanitarian law applies from the initiation of such armed conflict and extends beyond the cessation of hostilities until a general conclusion of peace is reached, or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the territory of the warring states or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there".*

#### **IV. WHY PROTECT WOMEN?**

In today's contemporary world, women lives are ruled up on situations by fear (or) threat of destruction and extreme sufferings. The purposely targeting of women civilians, the destruction of properties, looting, forced displacement, use of women as human shields, rape and other forms of sexual violence such as forced pregnancy, forced sterilization, forced mutilation, sexual exploitation, slavery and sexual trafficking and sexual transmission diseases like HIV/AIDS. The indiscriminate attacks and other acts of violence's against women unfortunately all are too common in most armed conflicts in the world today. Women today are also actively supplying their men folks in military operations – not by taking up arms but by providing them with the support needed to wage war. Moreover, there are women at risk because of their existence amongst the armed forces but who are present completely against their will (i.e) either abducted for sex or to do domestic work in the camps. Within the period of their abduction, these girls and women can be considered at a greater risk from attacks by the combatant forces or as well as their abductors.

With respect to these examples of voluntary and involuntary involvement of women in armed conflicts as opposing forces and in supportive roles, some countries and cultures refuse the participation of women in combat roles in the armed forces. As part of the civilian population women experience their majority of effects in armed conflicts. Women suffer direct or indirect effects as a member of civilian population and others include lack of shelter, food and other needed healthy survival. No matter what, women have to bear the greater responsibility for their children and other family members and often when presence of men is absent women take ironical measure thinking they will be protected from the warring parties. Women believe their gender, their social constructed role will protect them. With greater risk of reprisals women have to invariably restrict their movements and other supplies like food, water and medical attentions and their ability to tend their animals and crops, to exchange news and information and to seek community or family support.

#### **V. THE PROTECTION OF WOMEN IN INTERNATIONAL HUMANITARIAN LAW: GENERAL AND SPECIAL PROTECTIONS IN INTERNATIONAL ARMED CONFLICTS**

International humanitarian law is a body of law that provides essential protection for those directly affected by an armed conflict. It is respected by the parties to the conflict. Basically International Humanitarian Law harmonize women protection on equal support to those of men. There are equally humanitarian law treaties which acknowledge the need to give women special protection according to their special requires. This protection is contained in the four Geneva Conventions for the protection of war victims and their Additional Protocols. The Convention and Protocols protect women (and) men as members of the civilian population not taking part in an armed conflict. Women (and) men as members of the armed forces are also protected unless captured by the enemy.

The 3<sup>rd</sup> Geneva Convention which relates to the treatment of prisoners of war stipulates that prisoners of war shall be treated humanely at all times. Besides this general protection, women are also afforded special protection based on the principle outlined thus:

*“Women shall be treated with all the regard due to their sex”*

The above principle is followed through a number of provisions which expressly refers to the conditions of detention of women in prison camps e.g. the deed to provide separate dormitories for women and men and for separate sanitary provisions. Both men and women must have separate confinement and women should be hold under a women supervision. Under 4<sup>th</sup> Geneva convention and Additional Protocol I, women and men as a civilian members of population are protected at time of war. Women are been protected against abusive treatment by the parties of the armed conflict and also against the effect of conflicts. They are entitled to human treatment, respect towards life and integrity and to live free form torture, ill treatment, execution and harassment. Furthermore, with the above general protection, women are granted special protection under the said convention and protocol 1 thus provides:

*“Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution or any form of indecent assault”.*

International humanitarian law also lays down special protection for pregnant women and Mother's including small children. The provision specifies:

*“They shall benefit by any preferential treatment to the same extent as the nationals of the state concerned”.*

According to the physical needs pregnant women and nursing mother's shall be given additional food and mother's with infant should be given outmost priority and pregnant women must be admitted for adequate health care. In the conduct of hostilities, the parties to an armed conflict should every times salient themselves between the civilian population and combatants and between civilians objects and military objectives and accordingly shall direct their operations only against the military objectives.

## **VI. PROTECTION OF WOMEN IN NON-INTERNATIONAL ARMED CONFLICTS**

In the recent armed conflicts, they are of non – international in nature as they take place within the border(s) of states and are waged between a state and organized non-states armed group(s) or among such groups themselves. In the case of armed conflict that is not of an international character, occurring in the territory of one or the high contracting parties, each party to the conflict shall be bound to apply as a minimum, the following provisions (common Article 3) –

### **1. Persons taking no active part in the hostilities, including members of armed forces**

Who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other similar cause shall in all circumstances be treated humanely without any adverse distinctions founded on race, colour, religion (or) faith, sex birth or wealth or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- Violence to life and persons in particular - murder of all kinds and mutilation,
- cruel treatment and torture,
- Taking of hostages,
- Outrages upon personal dignity in particular humiliating and degrading treatments,
- The passing of sentences and the carrying out of execution without previous judgment pronounced by regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people.

### **2. The wound and sick shall be collected and cared for**

Women (and) men who do not take part in hostilities in non-international armed conflict do not have prisoner of war status when they fall into enemy hands. In such situation, they are to be afforded the fundamental guarantee defined by Article 4 of the Additional Protocol II relating to the protection of victims of non-international armed conflict. They are entitled to the same protection as men but person not taking part in such a conflict are protected by Article 3 common to the 4<sup>th</sup> Geneva Conventions. Even though no special provision relating to special treatment is contained therein, the rule establishes fundamental guarantees for the treatment of all persons not taking part in the hostilities. Similarly, Additional Protocol II stipulates in general terms that:

*“... Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault are forbidden”.*

Protocol II also provides for special treatment of women who are arrested, detained, interned in relation to the hostilities. In such situation, except when men and women of a family are accommodated together, women shall be held in quarters, separated from those of men shall be under the immediate supervision of women. Women as members of the civilian population are also protected against the effects of hostilities in non-international conflicts. Additional Protocol II states that:

*“The civilian population as such, as well as individual civilians shall not be the object of attack”.*

## **VII. LEGAL PROTECTION OF WOMEN IN PRESENT CENERIOS**

Whether there is observance of the legal protection for women in armed conflicts can be seen from the following perspectives –

### **1. Sexual Violence**

In reality, the comprehend perception it is often not in reality that women will be safe and on the contrary that women have been targeted specifically because they are women. The conflict in Bosnia Herzegovina brought world recognition to the issue of rape of women as a means of warfare. Rape, forced prostitution, sexual slavery and forced impregnation are violated and a violation of international humanitarian law and are now an unprecedented part of the vocabulary of war.

In any conflicts, women have been systematically targeted for sexual violence. From Bangladesh to former Yugoslavia, from Berlin to World War II to Nanking under Japanese occupation, from Vietnam to Mozambique, from Afghanistan to Somalia, women and girls have been the victims of sexual violence in armed conflict. It is only possible to give estimates as to the number of victims of sexual violence as not all victims survived and the majority of the victims will never report the violence against them. Even where reports are made, the greatest smaller factor in the rape question is the negative attitude of the police to rape complaints. Researches in South Africa, Zimbabwe, Namibia, Brazil and United States – indicate that police often hear complaints with various misinterpretations, laughing as they recount their obvious traumatic experiences.

In **BAGOSORA trial judgment**, the trial chamber recalled the testimony of several witnesses as follows:

*“The bodies of the death were frequently piled near the round blocks and a times were collected by local officials. Female victims were left lying on their backs with their legs spread and stained with semen. Dallaire Saw objects crushed or implanted in virginal, breast cut off, stomach opened and the mutilate genitals of men”.*

This sexual violence has a multiple consequence for the mental health of women. The image of the victim becomes radical and the way in which she sees her past, present and future and the society, the community she belongs become whole different. There this brings a life-long negative impact on the victim's perception of herself, of events, and of others. The ICRC has long considered sexual violence as a war crime and a serious violation of International humanitarian law.

## **2. Detention**

In the recent years of armed conflicts women are been detained in the worse conditions than men. This is because majority of the detainees are men and there are few prisons or places for detention solely for women. In many cases, women detainees are consequently, housed in the main prison and since, they are fewer in number, their section is normally the smallest and lack adequate sanitary and other facilities. Detained women face horrific situations including sexual violence. Serious rise of pregnancy and gynecological problems and fear of consequences on their release during detention and their return to families and communities.

## **3. Displacement**

Horrific armed conflicts that have taken place around the globe have seen displaced women on the increase. Displaced women have been isolated in unsafe areas thus making them fragile as victims of violence, rape and even murder and may arising from these displacements be subject of forcible recruitment into fighting forces. So many cases have arising where women fled without documents and this has an effect on their status.

## **VIII. THE WAY FORWARD**

On the whole humanitarian law, a suitable framework for regulating the conduct of parties to a international (or) non-international armed conflicts. Over past years customary law and Treaty have developed. Current experience have demonstrated the unceasing relevance and lack of humanitarian laws in protecting women's life and dignity during armed conflicts and therefore there is a need for development in the law. It is therefore, is what required is not only greater compliance with the existing framework but its time that is need for the adoption of new rules. It is therefore not necessary to discuss rules where inadequacy is long established.

The undertaking in Article 1 common to the four 1949 Geneva Conventions to ensure respect for international humanitarian law means that the contracting parties are obliged to help bring about compliance with the Geneva Conventions whenever they are applicable even in conflicts in which those parties are not involved. This provision thus reinforces the responsibility of each contracting states, which besides regulating its own conduct must act by all appropriate means to ensure that humanitarian law is observed by all other states. This article has been invoked several times by the UN General Assembly, the Security Council and the International Court of Justice, as well as the ICRC. The said undertaking by state parties to the Geneva Convention and the Protocols Additional there to respect and ensure respect for those instruments in all circumstances encompasses a wide range of means in addition to those expressly provided for by the international law, for (e.g.) The appointment of protecting powers or international fact finding commissions. These include diplomatic, confidential or public approaches and public appeals.

There is the need to build more respect for humanitarian law especially amongst weapon bearers through dissemination sessions, first aid courses, advanced courses for commanders, practical support to incorporate IHL into training, education, policy tools such as bilateral declaration and special agreements between parties as it relates to women even in ceasefire and peace agreements.



Reparations for victims of violation are another area in which legal development is urgently required. There is insufficient respect for applicable rules to the practical course of suffering during armed conflicts in recent years as the emphasis has been on developing criminal law procedures to prosecute and punish those who have committed serious violation of humanitarian law; but appropriate means of halting and addressing violation when they occur are still lacking. Reparation is essential for victims to overcome the deeply distressing experience they have had to endure and take up their lives once again. Reparations should be adapted to the circumstances and needs of the victim. Reparation here does not necessarily imply financial compensation. Other forms of reparation include restitution, rehabilitation, satisfactory and the guarantee that the violation(s) will not be repeated.

Humanitarian laws in the area of providing adequate protection for displaced persons should be strengthened. Specific legal protection continues to be deficient in this regard. The adoption in 1998 of the guiding principles on internal displacement was a significant step in fortifying the international legal framework for protecting internally displaced persons. Women who fled without documents attesting to their civil status may find it difficult to gain access to social services or to move freely within the country. Therefore legal development is necessary to ensure the perseverance of the family unit. Thus the Permanent Court of International Justice held in the Chorzow factory case that;

*“Reparation must as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability have existed if that act had not been committed”*

Among the different forms of individual reparation, restitution and compensation can be claimed and are most commonly awarded.

## **IX. CONCLUSION**

Humanitarian law remains as a whole, a suitable framework for regulating the conduct of parties to armed conflicts – International and Non-international treaty and customary law have developed over the years and gaps been filled with ambiguities clarified. In Sepur Zarco trail 2016, a recent experience in Guatemala after 30 years of struggle, the first National court in the world to trial its military officers for committing sexual offences on women in armed conflicts under International law and Violation of Human rights under International Humanitarian law. However demonstrated the enduring relevance and inadequacy of humanitarian laws in preserving women lives and dignity during armed conflicts. Abuse of women’s right by combatants seems to rise in higher proportion to the number of international laws adopted to ensure women’s safety. Combats have continued to murder, rape and their main aim in conquering the future. In all this , the UN security council is asking the conflict affected countries to report on the yearly measure’s that are taken by them to protect violence against women during and Post-conflict situations but still world seems to be turning blind eye on these facts.

The fall in social order has paved the way open to lawlessness. Society has slide towards tolerance of such behavior through sheer negligence which in turn violates the principles championed by international humanitarian law since its inception. In truth, women have never before been so poorly protected in practical terms during periods of armed conflicts. The problem has reached such disastrous proportion that appeals for funds to help women in wartime or during period of armed conflict elicit little more than polite murmurs. Until an remedy is found for the vicious violence of internal, regional and international conflicts women survival will depend largely on the capacity of humanitarian institutions to come to their aid at the right time and with the appropriate measures.

## **Reference**

- [1]. See generally Articles 3 & 12 if the Geneva Convention I, Article s 3 & 12 of the Geneva Convention II, Articles 3, 14, 16, 25, 29, 49, 88, 97 – 108, of the Geneva Convention III, Articles 3, 14, 16, 17, 21-23, 38, 50, 76, 85, 89, 91, 97, 98, 119, 124, 127 & 132, of the Geneva Convention IV, and Articles 8, 70, 75, 76 of the Additional Protocol 1 of 1977 as well as Articles 4-6 of the Additional Protocol II of 1977.
- [2]. Quoted from Jean P, “Development and Principles of International Humanitarian Law” P. 50
- [3]. See Article 23(e) of the regulations
- [4]. Dunant H. Un Souvenir de Solferino, (1802) 2nd Edition Joel Cherbuliez Libraire, Geneva and Paris.
- [5]. (1927) PCIJ, Serial A. No. 10 to the effect that what is not specifically prohibited is permitted.
- [6]. See Article 63 Geneva Convention 1, Article 62, Geneva Convention II Article 142 Geneva Convention III, Article 158, Geneva Convention IV and Article 1 Additional Protocol 1.
- [7]. See Article 2, Additional Protocol 1 of 1977.
- [8]. 1863. These are instructions for the Government of armies of the United States of America in the field.
- [9]. Dunant H, Un Souvenir de Solferino; Geneva 1802 (published in translation: A memory of Solferino) American National Red Cross 1939 and 1959.
- [10]. Jean P, “Development and Principles of International Humanitarian Law op cit at page 62.

- [11]. See the Geneva Convention Act Cap 162, Laws of the Federation of Nigeria 1990 (now 2004).No. 52 of 1960.
- [12]. See for instance, Cases No. 211, ICTY, The Prosecutor V. Tadic (Part E, Para 371), p. 1831; Case No. 220, ICTY, The Prosecutor v. Boskoski (Para 175), p. 2015.
- [13]. ICTY, Prosecutor Vs Dusko Tadic, Appeals Chambers decision of 2nd October 1995.Ibid, at page 70.
- [14]. Such as Rape, enforced prostitution, defilement, indecent assault and sexual slavery.
- [15]. Such as Sex trafficking, abduction, forced abortions and domestic violence etc.
- [16]. See The People on War Report: ICRC World Wide Consultation on the Rules of War, ICRC Geneva, 1999.Available at ICRC Geneva Website www.onwar.org retried on 20/9/2011.
- [17]. The best known and wide scale example of such abduction was that of the so called comfort women in the far east during the second world war – a term which is no way encompasses, the horrific nature of the ordeal to which these women were subject to during their detention by the Japanese military. In recent years, women and girls have also reportedly been abducted by the armed groups in other countries such as Uganda.
- [18]. This is however not often the case as the ideologue which justify the use of violence against women (are based) on a particular construction of sexual identity. Masculinity given men the power to control the lives of those around him especially women. Even though women are less likely than men to be victims of index crimes, only women face crimes peculiar to their gender such as Rape, prostitution and sex trafficking,
- [19]. defilement, abduction, abortion and domestic violence
- [20]. It is been argued rather rightly that international humanitarian law is not the only body of law relevant to situation of armed conflict. Human Rights laws are also applicable. These two bodies of law should not be seen as mutually exclusive and their methods of implementation should be seen as complementary.
- [21]. Of 12th August 1949.
- [22]. Of 8th of June 1977.
- [23]. Article 14 Para 2 Additional Protocol I of 1977.
- [24]. See 3rd Geneva Convention relating to the treatment of prisoners of war. Art 25(4) Ibid. Art 25(4).
- [25]. Ibid. Art 97 and 108 Additional Protocols V, Art 75(5).
- [26]. See Articles 75 & 76 of the Additional Protocol I and Art, 27(2) of the 4th Geneva Convention relating to the protection of civilian persons in tries of war.
- [27]. Children in this context are generally considered to be children under seven years of age.
- [28]. Article 38, 4th Geneva Convention
- [29]. Ibid. Article 89.
- [30]. Article 76(2), Additional Protocol I of 1977.
- [31]. Article 91, 4th Geneva Convention 1949.
- [32]. Article 48, Additional Protocol I of 1977
- [33]. Article 4(2)(e) Additional Protocol II.
- [34]. Ibid. Article 5(2)(a).
- [35]. Ibid. Article 13.
- [36]. The ICRC assisted for example, large number of mostly elderly and frailed women left behind in the former United Nations protected Areas in Croatia (i.e. UNPAs frequently referred to as the KRAJIMAS). They had been left by their fleeing family members to protect the property and even then elderly and often bedridden women were not free from harassment and attack.
- [37]. Is the unlawful carnal knowledge of women without her consent or with her consent if such consent is
- [38]. obtained by fraud, duress or any form of intimidation. This definition has been criticized as being gender biased by ATSEUWA A. “Better Protection for Criticized Women and children and the law” in Osinbajo (ed.) of Women and Children under Nigeria law Fed. Ministry of Justice p.17.
- [39]. Rape may not be a new crime as lessons can be learnt from the marauding armies entering the conquered town on a rampage of looting, and raping. See Brown Miller S, *Against Our Will; Men, Women and Rape.* (Simon & Schuster New York) 1975. Many believed that raped is a crime and can never be justified as a means of war fare or show of power, as a reward for the victorious army or as a lesson for the vanquished
- [40]. unable to protect up their women folk.
- [41]. Sometimes this may be the basis of broaden political objective of ethnically cleansing in areas or destroying a people
- [42]. This is equally true of men and boys although less is known about the extent of this problem.
- [43]. Many women are generally too afraid to speak of their experiences for the very real fear of ostracism or retaliation by their family or community. Many also believe that no one can help them nor that they have been violated and as there are often no witnesses to the violation as the recent case of KOSOVO and during the period of the NATO air strikes in Chechnya during the Russian Military Campaign, in rural areas of
- [44]. Sierra Leone and in numerous other conflicts around the world.
- [45]. See Nyamu C. (et al), “Towards Perform in law of Rape and Related Sexual Offences in Kenya in Kibwana K. (ed) *Women and Autonomy in Kenya : Law Reform and the Quest for Gender Equality*, claripress (1994)
- [46]. Anderson M, “Rape in South Africa” (2000)I Geo J. Gender and Law P. 789.
- [47]. Americas Watch Criminal Injustice Violence against Women, Brazil, 1999.
- [48]. Ibid.
- [49]. Prosecutor VsBagosora et al, case No, ICTRY 98 41 – T 18th December 2008, Para 1908.
- [50]. See Lindsey C. “Women and War” international review of the Red Cross Vol. 82, No. 839 September 2000 pg 572.
- [51]. See e.g. A/RES/63/96 (2008).
- [52]. See e.g. S/681/(1990), S/RES/764 (1992) and S/RES/955 (1994).
- [53]. ICJ, legal consequences of a wall in the occupied Palestine Territory, Advisory Opinion ICJ Reports (2004) paras 96 – 98 and 158 – 159, ICJ Military and Paramilitary activities in and against Nicaragua (Nicaragua Vs United States of America).
- [54]. In 1983 and 1984, the ICRC based itself on Article 1 common to the Geneva Convention in issuing formal appeals to the states parties to the Geneva Convention to use their influence with Iraq then at war with one another, and prevail upon them to comply with the laws of armed conflict. In connection with the conflict in the former Yugoslavia alone, the ICRC issued over 50 public appeals, often in response to
- [55]. particularly tragic or deadly events; in order to express its acute concern at the serious violations of an international humanitarian law that were taking place there.

- [56]. Permanent Court of International Justice, case concerning factory at Chorzow, merits, Series A, No. 17, (1928) Deviations from the standard of full reparation are discussed for situations of mass atrocities. See e.g. Ethiopia – Eritrea claims commission, final Award between the State of Eritrea and Federal Democratic of Ethiopia, Eritrea’s damages claim 17th August 2009 Para 22.
- [57]. Ibid at page 47
- [58]. See Emmanuel – Chiara Gillard “Reparation for violation of international humanitarian law” in international Review of the Red Cross Vol. 85, No. 851, 2003, P. 536,
- [59]. <http://www.unwomen.org/en/news/stories/2016/3/guatemala-victory-against-sexual-violence-in-armed-conflict>