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# Sexual Savagery in Armed Conflicts: A Critique of the United Nations Response

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## Abstract

One of the consequences of the Second World War was the formation of the United Nations (UN) in 1945. The horrendous crimes committed in that war, including sexual violence against women and girls, necessitated the elevation of issues of human rights to the top of the UN agenda. The UN over the years evolved various mechanisms to end sexual violence against women during armed conflict. These measures have achieved minimal results. The problem is even worse as sexual violence is now employed as a tactic of war, while the UN appears unable to help the victims. This article examines UN measures to end wartime sexual assault on women, among them, adoption of resolutions, advocacy, the imposition of sanctions and prosecution of offenders. There are also challenges such as the non-binding character of its resolutions, lack of intervention force, the absence of data and paralysis in the Security Council. The work finds that the UN has not done enough to protect women in conflict zones, and recommends the training of peacekeepers on gender issues, prosecution of offenders and inclusion of women in peace-building.

**Keywords:** Sexual Violence, Armed Conflict, United Nations, Measures, Impunity.

## Introduction

Sexual violence in conflict depicts a serious moral issue. It has had negative impacts on families and communities and undermined efforts at peace and security. The term encompasses rape, sexual mutilation, sexual humiliation, forced prostitution and forced pregnancy (Women 2000, 1998). It also includes forced marriage, forced maternity and various forms of sexual abuse (Lindsey-Curtet, Hoist-Roness, and Anderson, 2004:25). In virtually all armed conflicts, the female population is exposed to various forms of sexual abuse.

It has been a long-standing view that where there is an armed conflict, there is inevitably sexual violence. It has been part and parcel of conflicts for centuries and has been described

as a by-product of war. (Lindsey-Curtet *et al.*,2004). The victims are generally women and girls. They bear the brunt of the armed conflict. Often women and girls are regarded as part of the spoils of war (Women 2000, 1998) and as sexual objects (Etuk, 2003). They are also targeted for socio-cultural and discriminatory reasons. Most worrisome, however, is the use of sexual violence as a weapon of war ((Ndifon and Archibong, 2009)) to conquer and humiliate the adversary, to extract information and for ethnic cleansing (*Prosecutor v Kunarac* Case No IT-98-23/2).

International law prohibits sexual abuse in peacetime and in time of hostilities. The Law of Armed Conflict encapsulated in the Geneva Conventions, Additional Protocols, and various international instruments declare sexual violation a war crime, crime against humanity and the constitutive act of genocide depending on the circumstance in which it was committed. However, states to which these legal instruments are directly addressed are unable or unwilling to observe, implement or enforce them, thereby creating a fertile ground for impunity to thrive. It is in this regard that the UN finds relevance. This article examines the role of the UN and its measures for addressing the problem of sexual violence during armed conflicts. It also appraises the challenges encountered by the world body as well as proffers remedial measures for the way forward.

### **The UN and sexual violence in conflict**

The United Nations was formed in 1945 to replace the League of Nations because of the latter's inability to prevent the Second World War. A unique feature of that war was the widespread sexual violence against women by Japanese forces (Sterngold, 1993). The Allied forces participated in sexual violence. Russian soldiers raped German women, and to this extent, historians approximate that two million German women and girls were sexually abused (Dowling, 2008). Women and girls were abducted, imprisoned and forced to assuage the sexual appetite of occupying troops (UNICEF, 1996).

In response to the atrocities against women in the Second World War, the UN prioritized human rights to ensure that such evil does not occur again. The UN era has witnessed increased activities and efforts towards the promotion and respect for human rights generally and the rights of women in particular. It provides the platform for advancing human rights and freedom devoid of distinction of any kind (Articles 1(3), 13(1), 55(c), 56 of the UN Charter). Various articles in the Charter prohibit discrimination on the ground of sex which is directed principally at women (Buergenthal, 1995). United Nations action to promote the cause of women started when UN members articulated in the Charter their belief in the dignity and equal rights of all persons (Buergenthal, 1995).

### **Wartime sexual savagery continues unabated.**

After the Second World War, sexual violence in conflict has continued unstopped (Women 2000, 1998). In response, the UN has adopted or inspired the adoption of conventions on rights of women and aided in establishing a universal benchmark for determining the progress by society in the attainment of equality for all persons (UNFPA, 2006). Yet female-

targeted violence has continued globally at an alarming rate in international and non-international armed conflicts (McDougall, 1998).

In the conflict that engulfed Bangladesh (United Nations, 1994), there was appalling account of wartime mass rape of Bengali women by Pakistani soldiers in 1971 (Brownmiller, 1975). By the time the war was over, an estimated 200,000 to 400,000 women were raped or sexually assaulted (Brownmiller, 1975). During the assault on Kuwait by Iraqi forces in 1990, sexual cruelty was widespread (Women 2000, 1998). Rape of Kuwaiti women by Iraqi soldiers during the invasion was documented in UN reports (United Nations, 1992). *In the armed conflict in the former Yugoslavia, sexual violence was systematic and widespread. In Bosnia, several thousands of women were raped in a single year (Slavenka, 2008). Sexual violence was used as a means of ethnic cleansing in that conflict (The Foca Case, Prosecutor v Kunarac Case No IT-98-23/2).*

*Throughout the civil war conflict in Sierra Leone, which spanned nine years, there was widespread and organised sexual attack on women and girls (Human Rights Watch, 2003).* In other armed confrontations such as those in Darfur, Sudan northern Uganda, the D.R. Congo, Libya, Syria, and northeast Nigeria sexual attack is pervasive, organized and premeditated. Belligerents use it as a tactic of combat.

### **Various measures by the UN to curb war-related sexual violence**

The UN in keeping with one of its fundamental aims, namely, that of preservation of peace and safety globally, is concerned by armed conflicts and at any time there is an outbreak of hostilities, different organs and agencies of the UN must busy themselves with humanitarian law which is an intrinsic corpus of international law which the United Nations must comply with and promote (Pfanner, 2009:314). The UN created an international body, the United Nations Action Against Sexual Violence in Conflict, to coordinate its activities on wartime sexual violence. Other measures of the UN include the adoption of resolutions, the imposition of sanctions, prosecution of perpetrators and advocacy programmes.

### **Security Council resolutions to address wartime sexual violence**

The major organ of the UN vested with the responsibility to maintain international peace and security is the Security Council. It requires belligerents to abide by the humanitarian law and expresses the belief that conformity to rules is essential for achieving peace and security. Diverse mechanisms are available to the Council although it can also devise new procedures (Pfanner, 315) as long as it is acting in fulfillment of, and in accordance with, its mandate under the Charter (Art. 24, para. 2 of the Charter of the UN). In recent times, the Security Council has been involved in efforts to protect women from sexual violence during any armed conflict. It has initiated different measures to achieve this objective one of which is the adoption of resolutions.

*Resolution 1325 on women, peace, and security*

The Security Council is essentially focused on the problem of sexual cruelty during armed hostilities. This is treated as something capable of undermining international peace and security. The Council adopted Resolution 1325 soliciting protection for women from sexual abuse. The resolution dealt particularly with the struggles of women in times of armed conflict.

Passed in October 2000, the resolution vests specific and substantial responsibilities on the global organisation to initiate positive and realizable steps to address sexual enslavement of women affected by war (Amy, 2010:229). These include protecting women and girls from sexual abuse, respecting humanitarian law, respecting human rights, training international forces, providing financial support and engaging civil society.

*Resolution 1820 on sexual violence as a weapon of war*

Security Council revisited the issues raised in Resolution 1325 in 2008 by adopting Resolution 1820 (S/RES/1820 of 19 June 2008). In it, the Council ordered a prompt and absolute end to all forms of sexual abuse by belligerents. It noted that "Rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide" (S/RES/1820 of 19 June 2008). This is in response to the fact that sexual cruelty has attained a calculated status as an instrument of war. The resolution appealed for the inclusion of women in peace-building; prescribed punishment for violators; and advocated the exclusion of sexual attack from amnesties. The resolution called on combatants and pacifists to increase measures to avert sexual assault during armed hostilities, and the UN Secretary-General to report on global compliance.

*Resolutions 1888 and 1889 reaffirming previous resolutions*

In 2009 the Council adopted Resolutions 1888 (S/RES/1888 of 30 September 2009) and 1889 (S/RES/1889 of 5 October 2009). Through their unanimous adoption, the Security Council reaffirms its landmark resolution 1325 and condemned the continued use of sexual violence against women in conflict and post conflicts situations. It denounced the perpetuation of sexual assault as a strategy of war, enjoining parties to a conflict to end it. The resolution implored the UN, states, and NGOs to treat as priority issues of protection and empowerment of women during planning (Iwilade, 2011).

*Other Security Council Resolutions*

In order to strengthen the mechanism of protection for women caught in conflict, the Council passed resolution 1960 requesting the Secretary-General to list the entities suspected of committing sexual violence. In addition, it called for the setting up of monitoring and reporting mechanism. The Council also passed Resolution 2106 intended to enhance the supervision and reporting of wartime sexual abuse. On 18 October 2013 the Council adopted Resolution 2122 designed to reinforce the part played by women in preventing and resolving a conflict. The resolution stresses the need for more women to be involved in peace processes.

## **Action by the General Assembly**

Another principal organ of the UN is the General Assembly. This is its main deliberative, policymaking, and representative organ. It has the power to draw up propositions on global problems within its jurisdiction (Articles 10-12, 14 and 15 of the UN Charter). The Assembly can sternly deal with issues of sexual violence in armed conflicts through its declarations and other measures.

### *Action through Declarations*

The Assembly adopts declarations on specific conflicts. Through such declarations, it draws the attention of states to their duty as captured in the Geneva Conventions to ascertain that humanitarian law is complied with (A/RES/63/96 2008). Some of the declarations of the Assembly include the Universal Declaration of Human Rights 1948; Declaration on the Protection of Women and Children in Conflict 1974; Declaration on the Elimination of Violence against Women 1993; and Windhoek Declaration. The General Assembly established the Council in 2006 (GA resolution (A/RES60/251) of 15 March 2006). Its primary aim is to deal with violations of human rights and offer suggestions on their reinforcement and advancement. The Council is also concerned with human rights in situations of armed confrontations (Human Rights Council Resolution 9/9, 24 September 2008).

## **Promotional work of the Economic and Social Council (ECOSOC)**

The ECOSOC is in charge of the coordination of 14 UN Specialised agencies and functional commissions in the economic and social sphere (New Zimbabwe, 2016). It formulates policies for the UN and member states and ensures the efficiency of humanitarian action within the system. In 1946, ECOSOC established the Commission on the Status of Women as part of its mandate to promote women's rights (Arts. 62(2), 68 of the Charter). The Commission was set up to supervise matters relating to women and advancement of their rights in all societies around the world. There is regular assessment of developments concerning gender equality. The Commission identifies problems, establish international standards and develop strategies to achieve universal advancement of women. The body makes recommendations to ECOSOC in connection with the promotion of women's rights (Linder, 2001). Over the past decade, the Commission initiated world conferences to address issues concerning women.

## **Role of the Secretary-General**

The Secretary-General takes care of the practical arrangements for and the follow-up to the actions of the other non-judicial UN bodies, and "may bring matters to the attention of the Security Council on his own initiative" (Pfanner, 2009: 321). The Secretary-General's statement on the application of resolutions 1820 and 1888 was released in December 2010, and recommended to the Security Council the establishment of a system to monitor analyse and inquire into wartime sexual abuse. In that regard, the Office of Special Representative of the Secretary-General on Sexual Violence in Conflict was created by Resolution 1888 and

will serve as the spokesperson and advocate in matters relating to wartime sexual violence. The UN Chief Scribe can report directly to the Security Council on conflict-related sexual violence (United Nations Security Council, 2015).

The Special Representative has set out six important objectives, among them, to stop immunity for sexual attack; protect and empower the victims; muster political resources to fight crime; step up the campaign against rape as a tool of war; and effectively coordinate measures initiated by the UN. The Office is currently involved in issues of sexual violence in many conflict zones.

### **Other UN measures**

#### *UN Action against Sexual Violence in Conflict*

This is an international body within the UN System vested with the responsibility of uniting the activities of several UN bodies charged with the responsibility of stopping conflict-related sexual cruelty. It was created in reaction to requests by rape survivors and women's rights groups for the UN to go the extra mile to tackle sexual violence within a humanitarian and human rights legal framework. It functions through extant UN system.

#### *Open debates on action to end sexual violence in conflict*

The Security Council holds open debates from time to time on action to end sexual violence against women in armed conflicts. On 29<sup>th</sup> October 2008, the Council conducted a conference on women peace and security. It adopted a Presidential Statement urging states and international and regional organizations to involve more women in conflict prevention, resolution and peacebuilding. It called upon the Secretary-General to appoint more women to pursue good offices and requested a report on resolution 1325 including information on obstacles to women's participation.

#### *UN Peacekeeping Operations*

The Department was officially established in 1992, and vested with the responsibility of planning, preparing, managing and directing UN Peacekeeping Operations. The UN from time to time dispatches the peacekeeping force to areas of armed conflict to observe a ceasefire and keep the peace, protect civilians, document grave abuses, and assists victims of sexual violation (Ndulo, 2009).

#### *UN Compensation Commission*

In the aftermath of the Iraqi attack on Kuwait in 1990, the UN established the Compensation Commission to make reparation to persons injured by the invasion (Women 2000, 1998). Among the beneficiaries were those who suffered a serious personal injury which included victims of sexual abuse. There were claims based on rape by personnel of the Iraqi security forces. Guidelines were also issued regarding proof of the claims. A panel of commissioners made recommendations for claims (Women 2000, 1998).

### *UN Conferences on Women*

In 1975, the first world conference on women was held in Mexico City. This was followed by the second, third and fourth conferences in Copenhagen (1980), Nairobi (1985) and Beijing (1995) respectively. A conflict-related sexual attack on women was a principal subject-matter at the Beijing Conference. In 1993, UN Vienna Conference on human rights addressed violence against women, including rape as an issue of human right. The sexual assault on women in the Yugoslav war provided the impetus for NGOs to argue that violence against women is of concern to the international community at large (Women 2000, 1998).

### *International Day against Sexual Violence in Conflict*

The General Assembly on 19 June 2015 adopted a resolution to enhance the world-wide struggle to combat atrocities that women encounter in times of war. (UN News Centre, 2015) The Assembly by consensus adopted 19 June as International Day for the Elimination of Sexual Violence in Conflict. President of the General Assembly, Sam Kutesa, declared that "Rape and other forms of sexual violence in conflict and post-conflict constitute grave violations of human rights and international humanitarian law. Yet these depraved acts still occur and are used to terrorize and control civilian populations in conflict zones." (UN News Centre, 2015). He stated further that "Together, we must prioritize prevention and response efforts, empower victims, provide comprehensive assistance and shift the stigma of shame to those who commit them and condone them" (UN News Centre, 2015). Referring to the brutal acts of sexual attack on women and girls by ISIL in Iraq and Syria and Boko Haram in Nigeria, Kutesa said that "Rape as a weapon of war must be stopped. We should ensure that the perpetrators of these crimes and their superiors who condone their actions are held accountable and that victims get justice." (UN News Centre, 2015) The International Day will be observed annually.

## **Prosecution and punishment of perpetrators**

### *Imposition of sanctions*

One of the strategies adopted by the Security Council to address cases of sexual assault in armed conflict is by the imposition of sanctions on perpetrators. Individuals implicated in sexual violence are sanctioned by the Council. In March 2009, the Council's D.R. Congo Sanctions Committee levied asset seizure and travel embargo on three individuals identified in 2008 by the Expert Group report as responsible for sexual violence. In February 2010, the Sanctions Committee on D.R. Congo added four more persons and groups to entities liable to travel embargo and asset seizure. The Security Council imposed sanctions on Boko Haram in May 2014 (Ledere, 2014) about a month after the abduction of the Chibok school girls.

### *Prosecution of offenders*

One of the greatest achievements of the UN since its establishment in 1945 was the establishment of *ad hoc* tribunals to try rape violence as a war crime, crime against humanity and a constitutive act of genocide (Women 2000: 1998) In response to the armed conflicts in the former Yugoslavia, Rwanda and Sierra Leone, the UN Security Council established the International Criminal Tribunal for the former Yugoslavia (SC Res. 827 of 25 May 1993), International Criminal Tribunal for Rwanda (SC Res. 955 of May 1994), and the Special



Court for Sierra Leone (SC Res.1315 of 2000) where individuals alleged to have perpetrated sexual violence were prosecuted and jailed.

### **Challenges before the UN**

The protection of women and prevention of sexual abuse on them in times of war remain a serious challenge before the UN. The unequivocal proscription in international law and within the UN system notwithstanding, sexual cruelty remains an unfortunate constituent of numerous wars globally (Haeri and Puechguirbal, 2010:118-119). According to Pfanner (2009:317) "the main challenges are currently considered to be promoting greater compliance with the legal obligations, also by non-state entities, the growing role of peacekeeping missions in the protection of civilians, humanitarian access, and increased accountability." With regard to sexual cruelty in war, the basic challenge before the UN and its agencies depends on the conscientious application of and compliance with the law (Haeri and Puechguirbal, 2010).

#### *Lack of a standing force*

The Organization has no military force of its own (United Nations, 2013). It relies on troop contributions from member states for peacekeeping operations. These peacekeepers are supposed to secure vulnerable people where they have been deployed. But in recent times, there have been reports implicating UN peacekeepers in "beatings, rape, sexual exploitation, murder or general discrimination against local women and children" (Lindsey, 2001:53)

#### *Failure of the Security Council*

The Security Council also faces some challenges in the global effort to curb war-related sexual attack. The Council is endowed with enforcement powers and can initiate punitive action against perpetrators. In recent conflicts, however, the Council appears incapable of preventing such attacks. This is largely attributed to the division within the Council, and the inability of Council members to find consensus on major global issues (Genser, 2014). In the ongoing conflict in Syria, the Council is unwilling or unable to adopt resolutions or take serious action to stop sexual assault because of the national interest of the 'big powers' such as the United States and Russia that are supporting different parties in the conflict.

#### *Non-binding nature of Security Council Resolutions*

The Security Council has adopted resolutions aimed at protecting women in times of armed conflict. However, unlike Chapter VII resolutions, Resolution 1325 and similar ones are not binding on states though they have impacted on the behavior of states. The goals of Resolution 1325 are lofty, but the Security Council has not created a central mechanism for tracking its implementation.

Another criticism of Resolution 1325 is that its implementation is incomplete, as well as prejudicial and discriminatory against women within the UN system. A big challenge before the UN concerning the realization of goals embodied in Resolution 1325 is that several years after its adoption only a few states have developed National Action Plans for its implementation. (Cabrera-Balleza, 2013)

*Poor knowledge and weak implementation of operational guidelines*

The UN has operational guidelines on sexual violence (UNFPA, 2005). There are poor knowledge and weak implementation of these guidelines (Steinberg, 2010). There is also the problem of inadequacy of framework for methodical coordination in the UN to deal with the sexual attack in war-related armed conflict (Steinberg, 2010).

*Absence of data*

Another factor that poses a big challenge to UN efforts and seriously hampers its responses in the absence of statistics on the predominance and character of a sexual attack in armed conflicts (Steinberg, 2010). The production of such data is difficult because of lack of cooperation by victims who fear rejection or retribution. It has been noted by Steinberg (2010) that "The failure to generate data on the extent and nature of sexual violence in displacement has a number of negative effects. First, it hampers international efforts to prioritize specific locations for action and undercuts efforts to foster political will to address the challenges in these settings. Equally important, the lack of data hinders the development of interventions appropriate for specific areas."

*The implication of peacekeepers in sexual violence*

Peacekeepers on UN Missions have been implicated in the sexual abuse of women and girls (Ndulo, 2009). The UN force deployed in Congo did not provide protection for victims of sexual assault. To make matters worse, troops of the UN Mission and the civilian personnel took part in the sexual exploitation of the women and girls they were meant to protect (Lindsey, 2001: 53).

Peacekeepers on UN operation in Liberia took advantage of the vulnerability of the girls and sexually abused them (Bowcott, 2005). The sexual exploitation and abuse have been described by the UN as one of the greatest stains on UN history. In relation to involvement in sexual violence by UN peacekeepers, Kofi Annan said such abhorrent act was a "violation of the fundamental duty of care" (Bowcott, 2005). The involvement of peacekeepers in sexual violence is a menace and has turned a serious political issue. There is presently no basis to hold them criminally responsible. Even when they are expelled for the UN mission, the home states often fail to prefer charges. This has become an increasingly high profile, political problem. At present, many of them return to their home countries where prosecutions are rarely pursued.

**Strengthening the UN mechanism for effective result***Training and code of conduct for peacekeepers*

Peacekeepers should be equipped with requisite instruction on human rights, international humanitarian law and gender issues. This should take into account women's rights, cultural sensibility, and peculiar security needs. Experts on gender issues and women should be incorporated into the training programme. A detailed code of conduct should be developed for peacekeepers who will exteriorise their behavior towards women. Apart from the peacekeepers, a robust security outfit with rapid reaction capability should be inaugurated to tackle unfolding situations of prodigious sexual violence.

### *Involvement of women in peacekeeping and peace-building*

In order to prevent sexual violence by UN personnel, it is suggested that women should be involved in peacekeeping. Female peacekeepers should form a reasonable part of the contingent. Their inclusion will confer a comparative advantage in how sexual violence is tackled. It is also essential to involve women in the reconstruction programmes and peace-building efforts. This will guarantee enduring peace and ensure that the peace so created is equitable.

### *Dissemination of UN guidelines on gender-based violence*

Agencies of the UN, especially the Inter-Agency Steering Committee, should disseminate the Guidelines for Gender-based Violence Interventions and make certain that functionaries of the UN, states, NGOs and concerned women are grounded in these guidelines. The UN should improve coordination machinery for tackling sexual violence. The responsibility to gather data can be assigned to the Special Representative on Sexual Violence in Conflict. This would unveil the currency and order of the crime generally and in specific ambience.

### *Accountability through the international justice system*

Perpetrators of sexual violence should be made to face justice. In the respect, the machinery of accountability should be strengthened. The UN *ad hoc* tribunals had already set precedents. The UN should, therefore, collaborate with the International Criminal Court (ICC) in bringing culprits to justice. This will send a strong message to armed men in Syria, Iraq, northeast Nigeria and other war zones that they will one day be guests of the ICC.

## **Conclusion**

The UN was formed on the ruins of the Second World War with a promise to promote and protect human rights, including averting the horrendous crimes against women. The organization has been trying to address sexual violence in conflicts through diverse measures. There is no doubt that limited successes have been recorded. But the UN can do more to surmount its challenges through sincerity and determination of member states.

There are numerous resolutions and reports on curbing sexual violence in conflict. But beyond rhetoric, little has been done to stem the tide. The outcome of inaction is an exacerbation of the problem as it is being witnessed in Syria, Iraq and other conflict zones. The Security Council must muster the political will to enforce its resolutions and refer perpetrators to the ICC. There should be a robust mandate to peacekeepers and those implicated in sexual violence should be held accountable for their actions. UN agencies should develop goals and indicators and collect data on the prevalence and patterns of sexual violence. The UN should focus on training of its officials and also ensure that women are included in decision-making and peacekeeping.

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