

CHARLES UNIVERSITY
FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

Department of Security Studies

Master's Thesis



2020

Linda Jelínková

CHARLES UNIVERSITY
FACULTY OF SOCIAL SCIENCES

Institute of Political Studies
Department of Security Studies

**International Response to conflict-related sexual
violence:
Comparing Rwanda and former Yugoslavia**

Master's thesis

Author: Bc. Linda Jelínková

Study programme: International Security Studies

Supervisor: JUDr. PhDr. Tomáš Karásek, PhD.

Year of the defence: 2020

Declaration

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on
20. 05. 2020.

Linda Jelínková

Bibliographic note

JELINKOVA, LINDA. *International response to conflict-related sexual violence: Comparing Rwanda and former Yugoslavia*. Praha, 2020. 70 pages. Master's thesis (Mgr.). Charles University, Faculty of Social Sciences, Institute of Political Studies, Department of Security Studies. Supervisor JUDr. PhDr. Tomáš Karásek, PhD.

Length of the thesis: 128 489 characters with spaces

Abstract

Sexual violence in conflict is not a new phenomenon, but rather something which has been perpetrated against women, men and children as long as mankind can recall. On the other hand, wartime sexual violence only began to be documented in the twentieth century, especially in light of its ties to the atrocities of World War II. While often previously labelled as a *'by-product'* of war. However, the issue of sexual violence in conflict only truly became recognised as an international security concern in 1990's, in the fallout of both the Yugoslavian Civil War and the Rwandan Genocide. This thesis explores the role of the international community of states, international governmental and non-governmental organisations, and other actors such as the international media, in producing a "norm of change" in regards to sexual violence jurisprudence in the 1990's. In order to do so, this thesis explores the role of the tribunals and transnational advocacy groups in this process. It is important to note that changes in transnational advocacy, such as the prosecution of sexual violence, are not frequently the sole result of the political will to effectuate a change in norms. Change also requires other influential actors to respond, predominantly in the form of a transnational advocacy mobilisation. This thesis uses the comparative research design which derives from the feminist theories of gender and constructivist theory of international relations in order to identify the possibility of adaptation of two distinct approaches to The Yugoslavian Civil War and The Rwandan Genocide. This thesis illustrates how a massive transnational advocacy mobilization can generate political will to prosecute laws just like in the case of the Yugoslavian Civil War.

Abstrakt

Válečné sexuální násilí není novým jevem, ale spíše něčím, co bylo páčáno na ženách, mužích a dětech, tak dlouho jak jen lidstvo pamatuje. Na druhou stranu, válečné sexuální násilí začalo být dokumentováno až ve dvacátém století, zejména ve světle jeho vazeb na zvěrstva druhé světové války. Navzdory tomu, bylo často dříve označován jako „vedlejší produkt“ války. Problematika válečného sexuálního násilí však byla skutečně uznána jako problém mezinárodní bezpečnosti v 90. letech minulého století, ve vztahu jak k občanské válce v Jugoslávii, tak i genocidě ve Rwandě. Tato práce zkoumá roli mezinárodního společenství států, mezinárodních vládních a nevládních organizací a dalších aktérů, jako jsou mezinárodní média, při vytváření „normy změny“ s ohledem na judikaturu v oblasti

sexuálního násilí v 90. letech. Tato práce zkoumá roli tribunálů a nadnárodních advokátních skupin v tomto procesu. Je důležité poznamenat, že změny v nadnárodní advokacii, jako je stíhání sexuálního násilí, nejsou často jediným výsledkem politické vůle změnit normy. Změna také vyžaduje, aby na ni reagovali jiní vlivní aktéři, zejména ve formě nadnárodní mobilizace advokacie. Tato práce využívá metodu komparace, a vychází z feministických teorií genderu a konstruktivistické teorie mezinárodních vztahů, s cílem identifikovat možnost adaptace dvou odlišných přístupů k Jugoslávské občanské válce a Rwandské genocidě. Tato práce ilustrovala, jak masivní transnacionální mobilizace advokacie může vyvolat zvýšenou politickou vůli stíhání zločinů stejně jako v případě jugoslávské občanské války. Tato práce také poukázala na to, jak nedostatek nadnárodní mobilizace omezuje politickou vůli stíhat závažné trestné činy.

Keywords

Conflict-related sexual violence, response, feminism, Yugoslavian Civil War, Rwandan Genocide

Klíčová slova

Sexuální násilí související s konflikty, reakce, feminismus, Občanská válka bývalé Jugoslávie, Genocida ve Rwandě

Title

International response to conflict-related sexual violence: comparing Rwanda and former Yugoslavia

Název práce

Mezinárodní reakce na válečné sexuální násilí: komparace Rwandy a bývalé Jugoslávie

Institute of Political Studies
Master thesis proposal

CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

Diploma thesis proposal

**International Response to conflict-related sexual violence:
Comparing Rwanda and former Yugoslavia**



Author: Bc. Linda Jelínková

Supervisor: JUDr. PhDr. Tomáš Karásek, PhD

Study programme: Master of International Security Studies

Introduction

Wartime sexual violence is not a new phenomenon and have been around as long as mankind can recall. The awareness of sexual violence in conflict and its use as a weapon of war had nonetheless only became more discussed after the World War II when women were sexually assaulted by the German, Axis and Allied soldiers (Skjelsbaek, 2015). Until then, sexual violence in conflict had traditionally been labelled as a '*by-product of war*' (Brownmiller 1975). In the post-World War II period human rights activists and advocates, researchers and some reporters started to warn that violations of human rights against women can take form of sexual violence. Even though the research on conflict-related sexual violence was carried out during the post-World War II period it did not gain much of an international attention. The 1970s gave rise to some first feminist thoughts on conflict-related sexual violence and contested that the international community has been ignorant regarding this issue. Over the years after the war feminist thinkers were lobbying for the issue of sexual violence to become accepted internationally. The issue of sexual violence in conflict gained, however, international attention only in 1990s when the civil war in former Yugoslavia and genocide in Rwanda took place and shifted the understanding of conflict-related sexual violence form a *by-product of war* to a *weapon or strategy of war*. The uniqueness of these cases is primarily due to their ability to contribute to development of conflict-related sexual violence jurisprudence which had until then been omitted by all international actors.

Research target, research question

The target of this research is to gain understanding of the international response to the conflict-related sexual violence committed in former Yugoslavia and Rwanda. As the two cases are considered to be the landmark cases in history of prosecution of sexual violence. The thesis will aim to analyse whether the international community adopted a uniform approach to resolve the crimes of sexual violence in the above-mentioned cases. Due a fact that the ICTY resulted in a far greater number of prosecutions of sexual violence than the ICTR did albeit dealing with more perpetrators and victims, the thesis will hypothesise that the international response to the two conflicts was not uniform. It is important to note that transnational advocacy group composing of actors such as women rights organizations or media have the potential to bring about a change with regards to for instance adaptation a new law and in this case pressuring the tribunal to prosecute sexual violence crimes

through a transnational advocacy mobilization/campaign (Haddad 2011). The thesis will therefore seek an answer to the following research question on the overall response to the conflict-related sexual violence by international actors:

How did the international response to conflict-related sexual violence differ in the cases of civil war in former Yugoslavia and genocide in Rwanda?

In order to find answers to these questions the thesis will investigate the role of the tribunals and their possibly distinct responses to conflict-related sexual violence and secondly, with an assumption that transnational advocacy groups have the power to pressure the tribunal to prosecute sexual violence crimes I am going to investigate their response to the conflict related sexual violence. To find the answers I am going to ask the following sub-questions:

- *To what extent did the political will to prosecute conflict-related sexual violence differ in the cases tried by the ICTY and ICTR?*
- *Did transnational advocacy groups adopt a uniform response to conflict-related sexual violence during the Yugoslavian Civil War and The Rwandan Genocide?*
- *To what extent could the (in)action of transnational advocacy mobilisation impact overall political will to prosecute conflict-related sexual violence?*

Literature Review

Susan Brownmiller (1975) was one of the first scholars to challenge the idea that sexual violence in conflict is an inevitable by-product of war or acceptable ‘spoil of war’. In her ground-breaking analysis she provided evidence that rape perpetrated against women is not just about sex but its purpose has roots in power, fear and subjugation. Even though there is no explicit definition of conflict-related sexual violence I am going to use a widely recognized description by Ruth Seifert (1993) who sees that rape in conflict is “an aggressive manifestation of sexuality, but rather a sexual manifestation of aggression.” (p. 308). Seifert’s understanding of sexual violence in conflict to some extent correlates with finding of Susan Brownmiller. He sees that “[sex] serves no sexual purpose but it is the expression of rage, violence, and dominance over a woman. At issue is her degradation, humiliation, and submission.” (Seifert, 1993, p. 308). Cynthia Enloe further elaborates on

the occasions where rapes took place and divides them into three categories which she finds the most important in understanding contemporary feminist research on sexual violence in conflict: 1) 'recreational rape', 2) 'national security rape' and 3) 'systematic mass rape' (Enloe, 2000).

The study of systematic mass use of sexual violence by feminist scholars has mainly concentrated the research around women being the victims and men being the perpetrators, and fairly little research has focused on men being the victims and women being the perpetrators (Sjoberg 2016). For instance, Chinkin in her study pointed out that "women are raped in all forms of armed conflict, international and internal, whether the conflict is fought primarily on religious, ethnic, political or national grounds, or a combination of all these" (Chinkin 1994) Enloe also recognized rapes by men of one ethnicity, race, or nationality of men from the 'enemy' group to make the latter feel humiliated because they have been, via rape, reduced to 'mere women' she does not further elaborate on male victims and female perpetrators and mainly focuses on the traditional understating (Enloe 2000).

This understanding where women are the victims and men are the perpetrators has been, therefore, criticized for not being able to fully apply the concept of gender which is the core of the feminist theory. The wrong conceptualization therefore creates a gender structure-bias. The category of systematic mass violence however constitutes of fairly large number of male victims who are being sexually assaulted as form of torture and humiliation. Even though there has been evidence that various forms of sexual torture were perpetrated against men during the ethnic conflict in former Yugoslavia and genocide in Rwanda the media, academia and international actors were fairly ignorant to this issue. Research and articles on male sexual violence started only appearing in recent years uncovering some horrifying forms of torture men were subjected to during conflicts (Clark 2017).

Theoretical/ conceptual framework

In order to analyse the international response to conflict-related sexual violence I am going to use one theoretical framework for conceptualization of conflict-related sexual violence and second theoretical framework will be used to analyse the international response.

The theoretical/conceptual framework for the analysis of conflict-related sexual violence will be based on the Feminist Security Studies. The theoretical analysis will be done by studying the Feminist constructivist theory of gender which in its theory introduced an influential component *masculinity*. I am going to choose the constructivist theory of gender because unlike other feminist theoretical approach to gender, for instance essentialist, the constructivists recognizes that both women and men can be victims of conflict-related sexual violence. The component of masculinity, further divided in sub categories such as hegemonic or militarized masculinities, gives an explanation why the less masculine individuals (both women and men) are more vulnerable to victimization by the more masculine individual and therefore more likely to be subjected to conflict-related sexual violence.

The second theoretical framework will analyse the international response from the International Relations constructivist perspective which “suggests that the international community condemns certain actions that are proscribed by norms and shared beliefs about what constitutes appropriate behaviour and these beliefs change over time,” [and] “the interests are not just ‘out there’ waiting to be discovered; they are constructed through social interaction” (Crawford, 2017, p.7; Finnemore in Crawford 2017, p. 7).

Methodology and data

In order to examine the international response the thesis will use a comparative research design focused on the following cases of conflict-related sexual violence: former Yugoslavia and Rwanda. The comparative research will be based on what Przeworski & Teun called the ‘most similar’ versus ‘most different’ design. The most similar system design is “based on a belief that a number of theoretically significant differences will be found among similar systems and that these differences can be used in explanation. (Przeworski & Teun in Berg-Schlosser & de Meur, 2012, p. 4). Whereas the most different

system design “seeks maximal heterogeneity in the sample of systems and is based on a belief that in spite of intersystem differentiation, the populations will differ with regards to only a limited number of variables or relations” (Ibid. p. 4). In the thesis I am going to use the ‘most similar’ design as the two cases on the first glance highly resembles, however their outcomes regarding the international response might widely differ.

The thesis will be based on both primary and secondary sources. The theoretical part will mainly constitute of the secondary sources such as books and articles theorizing both the response (the IR constructivist theory) and sexual violence in conflict (Feminist constructivist theory of gender). The analysis of the response will then mainly constitute of the primary sources such as reports of the NGOs, legal documents of the UN, and articles written by media.

Planned thesis outline

1. Introduction

The first chapter will introduce the main theme of this thesis: the international response to conflict-related sexual violence. The issue of the conflict-related sexual violence will be applied to a broader historical perspective underlying the importance of the selected case studies and their role in the development of recognition of sexual violence in conflict internationally. I am going to introduce the research of this thesis and research questions, and shortly summarize the chapters that will follow.

2. Theoretical framework of the international response

This chapter will first briefly introduce the history of international response to conflict-related sexual violence primarily focused on the World War II. The theoretical framework used for analysis of the international response will be the constructivist theory of international relations and will be introduced throughout this chapter.

3. Theoretical framework of the sexual violence in conflict

This chapter will in form of a literature review introduce the main perspectives on conflict-related sexual violence. Sexual violence in conflict will be mainly analysed from the feminist Security Studies perspective. Particular focus will be on the Feminist constructivist theory of gender which in its theory introduced an influential component of *masculinity*. The feminist constructivist theory recognizes that sexual violence can be perpetrated against men and therefore will allow gender sensitive analysis of the thesis.

4. Research design

This chapter will introduced the main objectives how the research of the thesis will be conducted. (See methodology and data)

5. Case Study - Former Yugoslavia

The part dedicated to the sexual violence in former Yugoslavia will be divided into approximately three sections and focus on the following:

- a) Background of the conflict
- b) Sexual Violence in Former Yugoslavia
- c) The international response
 - This part of the thesis will focus on the response by the ICTY and the transnational advocacy groups

6. Case Study – Rwanda

This chapter will be dedicated to the case of sexual violence in Rwanda and will likewise compose of three sections:

- a) Background of the conflict
- d) Sexual Violence in Rwanda
- e) The international response
 - This part of the thesis will focus on the response by the ICTY and the transnational advocacy groups

7. Findings

Chapter 7 will constitute of the main findings of this thesis and will seek the answers to the research question and sub-questions of this thesis.

8. Discussion

This chapter will proceed with the analysis of findings where I am going to interpret the results and establish some possible explanations of the findings.

9. Conclusions

Final concluding chapter will outline the main findings of this thesis.

Bibliography

Berg-Schlosser, D. & De Meur, G. (2009). Comparative research design: case and variable selection. In Rihoux, B., & Ragin, C. C. *Applied Social Research Methods*:

Configurational comparative methods: Qualitative comparative analysis (QCA) and related techniques (Vol. 51, pp. 19-32). Thousand Oaks, CA: SAGE Publications.

Buss, D. E. (2009). Rethinking 'rape as a weapon of war'. *Feminist legal studies*, 17(2), 145-163.

Card, C. (1996). Rape as a Weapon of War. *Hypatia*, 11(4), 5-18.

Chinkin, C. (1994). Rape and sexual abuse of women in international law. *European journal of international law*, 5(3), 326-341.

Clark, J. N. (2017). Masculinity and male survivors of wartime sexual violence: A Bosnian case study. *Conflict, Security & Development*, 17(4), 287-311.

Copelon, R. (2000). Gender crimes as war crimes: Integrating crimes against women into international criminal law. *McGill Law Journal* (46), 217.

Enloe, Cynthia. 2000. *Manoeuvres: The International Politics of Militarizing Women's Lives*. Berkeley: University of California Press.

Eriksson Baaz, M. & Stern, M. (2013). *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond*. London, New York: Zed Books Ltd..

Haddad, H. N. (2011). Mobilizing the will to prosecute: Crimes of rape at the Yugoslav and Rwandan Tribunals. *Human Rights Review*, 12(1), 109-132.

Seifert, R. (1995). War and Rape: A Preliminary Analysis. In A. Stiglmayer (ed.) *Mass Rape: the war against women in Bosnia Herzegovina*, University of Nebraska Press: Lincoln and London, 54-73.

Acknowledgement

I would like to express my gratitude to supervisor of this work JUDr. PhDr. Tomáš Karásek, PhD. for his valuable help from the beginning of the work on this thesis.

Table of Contents

<i>Table of Contents</i>	1
1. Introduction	4
1.1. Thesis outline	6
2. Theoretical Framework: International Response	8
2.1. A Brief history of the international response	8
2.1.1. World War II.....	9
2.2. Theorising the response.....	11
2.2.1. Constructivism	11
3. Theoretical Framework: Conflict-related Sexual Violence	14
3.1. Conflict-related Sexual Violence.....	14
3.2. Feminist Security Studies – theories of gender.....	17
3.2.1. Gender and Sex	19
3.2.2. The main theoretical perspectives.....	19
3.3. Men, masculinity, and masculinities – the constructivist approach.....	20
3.3.1. Victimization of men	22
4. Research Design	24
4.1. Methodology – Comparative research design	24
4.2. Case selection.....	26
4.3. Variable selection	26
4.3.1. Sexual violence.....	27
4.3.2. Gender	27
4.3.3. International response.....	27
4.4. Limitations	28
5. Case Study – The Yugoslavian Civil War	29
5.1. Introduction	29
5.2. Conflict overview – ethnic cleansing in former Yugoslavia.....	29
5.2.1. Ethnic cleansing	30
5.3. Sexual Violence in former Yugoslavia	31
5.4. International Response to Sexual Violence in former Yugoslavia	32
5.4.1. Prosecutions of sexual violence by the ICTY.....	32
5.4.2. Transnational advocacy groups	35
6. Case Study - The Rwandan Genocide	40
6.1. Conflict overview – The Rwandan Genocide	40
6.2. Sexual Violence in Rwanda	42
6.3. International Response to Sexual Violence in Rwanda	44
6.3.1. Prosecution of sexual violence by the ICTR	44

6.3.2. Transnational advocacy groups	48
7. Results	51
8. Discussion	56
1.1 Interpretation of results	56
1.2 Limitations of the research.....	59
9. Conclusion.....	60
Summary	61
List of References.....	63

1. Introduction

Sexual violence in conflict is not a new phenomenon, but rather something which has been perpetrated against women, men and children as long as mankind can recall (Weitsman 2008). On the other hand, wartime sexual violence only began to be documented in the twentieth century, especially in light of its ties to the atrocities of World War II. While often previously labelled as a *'by-product'* of war (Brownmiller 1975), conflict-related sexual violence came to be seen as a war crime in the years following World War II, also bringing to light the failure of the international community to prosecute its perpetrators during the Nuremberg and Tokyo trials (Skjelsbaek 2015). In other words, influential discourse on conflict-related sexual violence – predominantly driven by feminist academics in the 1970's - asserted the international community's ignorance of the issue and demanded its wider recognition.

However, the issue of sexual violence in conflict only truly became recognised as an international security concern in 1990's, in the fallout of both the Yugoslavian Civil War and the Rwandan Genocide. As Buss (2009) contends, these events helped shift the understanding of conflict-related sexual violence from a *by-product* to a *weapon* of war.

Both the Yugoslavian and Rwandan conflicts saw sexual violence against women, men and children being used pervasively, systematically and strategically, respectively affecting 20,000-50,000 and around 500,000 victims (Jones 2008). As a result, both are highly prescriptive for the analysis of the development of conflict-related sexual violence jurisprudence, which had until then been mostly absent in the international arena.

The United Nations (UN) responded to the violence perpetrated in both former Yugoslavia and Rwanda by establishing two international criminal courts: The International Criminal Tribunal for Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda (ICTR) in 1994 (Barria & Roper 2005). While both courts bore a host of similarities, since its establishment, the ICTY has nonetheless been far more effective in prosecuting war crimes, crimes against humanity and crimes of genocide than the ICTR.

Both tribunals were given specific legal instruments to prosecute sexual violence, which Haddad (2011) describes as an "agent of change" in the history of the prosecution of wartime sexual violence. The ICTY was the first tribunal to respond to sexual violence in

conflict in the *Foča* case, while the ICTR is notoriously famous for being the first tribunal to label and prosecute rape as an act of genocide in the *Akayesu* case (Prosecutor v Kunarac et al.; Kalosieh 2002; MacKinnon 2005). Their effectiveness in addressing crimes of sexual violence, however, largely varied. According to a study of the success rates of sexual violence prosecutions by the two tribunals compared to prosecutions of other crimes found that the ICTR had largely failed in delivering justice to victims of conflict-related sexual violence, albeit while dealing with a much higher number of victims of sexual violence than the ICTY (Nowrojee 2003).

This thesis explores the role of the international community of states, international governmental and non-governmental organisations, and other actors such as the international media, in producing a “norm of change” in regards to sexual violence jurisprudence in the 1990’s. Based on the general outcomes of the ICTY and the ICTR prosecutions, it is hypothesised that the actors involved prioritised the Yugoslavian Civil War over the Rwandan Genocide. To test this hypothesis, the following research question is proposed:

How did the international response to conflict-related sexual violence differ in the cases of the Yugoslavian Civil War and The Rwandan Genocide?

Understanding the political will to investigate and prosecute crimes of sexual violence committed throughout the two conflicts will be key to answering this question. As already mentioned, the outcomes of the two tribunals differed significantly with regards to the number of individuals prosecuted for sexual violence crimes. The first sub-question therefore focuses on the responses given during the two tribunals, as they played the most important role in the development of jurisprudence of conflict-related sexual violence. In addition to the approaches and procedures adopted by the ICTY and ICTR to prosecute sexual violence crimes, it is also important to focus on cases tried in these courts which did not result in a prosecution. This two-pronged approach will help identify the political behind the decisions of the ICTY and the ICTR to prosecute conflict-related sexual violence. The first sub-question is therefore as follows:

- a) *To what extent did the political will to prosecute conflict-related sexual violence differ in the cases tried by the ICTY and ICTR?*

It is important to note that changes in transnational advocacy, such as the prosecution of sexual violence, are not frequently the sole result of the political will to effectuate a change in norms. Change also requires other influential actors to respond, predominantly in the form of a transnational advocacy mobilisation (Keck & Sikkink 1999). These movements help promote issues and bring them to the attention of a wider audience, which pressures policy and law makers to be more open to change and to adopt new laws (Haddad 2011). With regards to wartime sexual violence, transnational advocacy groups comprise women's rights organisations, human rights organisations, the media and influential proponents of Feminism (Keck & Sikkink 1999). As Haddad (2011) notes:

“When successful, the widespread dissemination of the narrative – through the codirectional channel of the media and advocacy organisations – create awareness and stimulates debate, mobilisation, and action.” (p. 124).

Differing levels of power between the mobilisation campaigns has led to different outcomes regarding the willingness to implement new laws. This could help to explain the inequalities in the results of the ICTY and the ICTR, as lower attention paid to one from transnational advocacy groups may have led to an overall lower level of political will to prosecute wartime sexual violence. To understand this impact further, the following sub-questions are proposed:

- b) *Did transnational advocacy groups adopt a uniform response to conflict-related sexual violence during the Yugoslavian Civil War and The Rwandan Genocide?*
- c) *To what extent could the (in)action of transnational advocacy mobilisation impact overall political will to prosecute conflict-related sexual violence?*

1.1. Thesis outline

This chapter provides an overview of the topic of conflict-related sexual violence, highlighting some of the main historical perspectives on wartime sexual violence. More importantly, it also elaborates on the role of different international actors involved in the

ICTY and the ICTR which could have possibly influenced the outcomes of cases tried within these courts.

The following chapter comprises the literature review, which offers insight into the history of wartime sexual violence and a deep dive into its use during World War II. Theories of International Relations (IR) will also be analysed in this chapter, with a particular focus on Constructivism.

Chapter 3 covers the theoretical framework employed in this thesis to analyse conflict-related sexual violence. In this chapter, existing discourse on wartime sexual violence from a range of sources will be engaged with in order to gain insight into a variety of perspectives and theories of sexual violence. In order to avoid gendered structural-bias, the Constructivism of gender will also predominantly be looked at.

Chapter 4 then outlines the research design, which is based on comparative research. Here it is discussed why this model is the most appropriate approach given the selection of variables. Possible limitations of the research will also be discussed in this section.

Chapters 5 & 6 respectfully analyse conflict-related sexual violence in the Yugoslavian and Rwandan cases. Firstly, the background of each conflict is briefly explained, including how and in which form the sexual violence took place. This introduction to the conflict will be followed by an analysis of the responses of the ICTY and the ICTR respectfully in each case, as well as the role of transnational advocacy groups in both cases.

The main findings of the research are outlined in Chapter 7, while a discussion of how these results can be interpreted and applied to policy change in Chapter 8. In the final chapter, the original research questions will be revisited and overall concluding remarks will be provided.

2. Theoretical Framework: International Response

The nature of sexual violence in conflict has developed over the years. The original use of sexual violence in warfare was believed to be a reward to victorious soldiers, an instrument for satisfaction of soldiers' needs or to destroy social relations among populations in areas affected by war and conquered by troops, as well as a form of ethnic cleansing and/or genocide (Brownmiller 1975, MacKinnon 1994a). Sexual violence was pervasive in conflicts for hundreds of years with no or little attention from those who had the capacity to constitute change (Brownmiller 1975). The lack of interest from the international community consisting of states, transnational advocacy groups and other actors to prosecute wartime sexual violence is believed to be caused by two underlying reasons. Firstly, rape was believed to be an inherent and inevitable component of war (Haddad 2010, Brownmiller 1975), used to reward soldiers or to make them more successful on the battlefield (Dikken & Lausten 2009). Secondly, sexual violence was viewed as a less serious offense than murder, therefore war tribunals focussed on prosecuting murder rather than sexual violence or rape (Haddad 2011).

2.1. A Brief history of the international response

One of the first documents mentioning the prohibition of rape by a military personnel dates back to the era of Richard II. Already in 1385 Richard II issued a document stipulating that military personnel who committed acts of rape would be subject to capital punishment (Brownmiller 1975). Sexual violence in conflict also gained international attention when the Lieber Code, the codification of international humanitarian law, called for punishment of sexual violence in war (Ward 2013). The U.S. Army Regulations similarly included rape as one of the most serious offenses in 1863, punishable by death (*ibid.*).

In 1907 Hague Conventions and Regulations prohibited the use of sexual violence in conflict, establishing that "family honour and rights, that lives of persons, and private property, as well as religious convictions and practice must be respected. Ward (2013) notes that the label of 'sexual assault' as crime against honour is "a clear reflection that sexual violence was unmentionable due to the conventionalities of the time" (191). Furthermore, she states that its actual prosecution was non-existent, given that rape, even

though committed during war, was believed to be a private matter that should stay outside the realm of international politics (Ward 2013, p. 191).

2.1.1. World War II

World War II was the first major conflict during which conflict-related sexual violence gained at least some international attention. While the post-war response failed to produce any immediate change to wartime sexual violence jurisprudence, this relatively small recognition was the first step in the long process of the recognition of wartime sexual violence internationally (Wood 2006).

Sexual violence was prevalent throughout World War II, with reports of its instance committed by both Allied and Axis powers (Skjelsbaek 2015). For example, German victims of sexual violence by Soviet soldiers was extensive, believed number 130,000 in Berlin alone (Wood 2006). Widespread use of sexual violence also appeared in the Pacific, such as the ‘Rape of Nanking,’ during which Japanese soldiers committed horrifying atrocities against, women, men and even girls as young as twelve years old (*ibid*). It is believed that up to 250, 000 women and girls were raped and subsequently executed, while men were subjected to

“various forms of sexual abuse ... including rape, the forcing of men to have intercourse with family members or the dead, and the forcing of celibate men to have intercourse” (*ibid*, p. 311).

The Japanese soldiers were also infamous for keeping so called ‘comfort women’ from East and Southeast Asia in militarily organised brothels (*ibid*). Nazi soldiers also engaged in mass sexual violence mainly in occupied areas (Chalmers 2015). Similarly to the Japanese army, Nazi forces established brothels which were mostly located in the concentration camps where primarily Jewish prisoners were kept for the exploitation of soldiers. Women were also sometimes rounded up on the streets for the purpose of sex (*ibid*).

Consequently, crimes and atrocities committed during World War II were tried at the Nuremberg and Tokyo tribunals. The Nuremberg Tribunal for the first time introduced the

concept of ‘crimes against humanity’, which serves as an international instrument to prosecute widespread or/and systematic use of inhumane acts, among which rape is included (Ward 2013). Official documents of the Nuremberg tribunal acknowledged that many women and girls were subject to inhumane treatment, including the cutting off of breasts, rape and other instances of sadistic torture (Segal & Demos 2013). Rape was however not prosecuted in any of the Nuremberg trials, instead falling into the category of torture. The Nuremberg Trials simply overlooked the suffering women went through during the war and “rape was not as grave as other war crimes” (Ward 2013 p. 193).

The Tokyo tribunal also failed to prosecute sexual violence, as it was solely aimed to prosecute the most responsible political and military leaders. Similar to the Nuremberg trials, the Tokyo tribunal instead listed rape as a branch of the wider category of ‘crimes against humanity’(Ward 2013). On the other hand, the prosecution of sexual violence was prosecuted as a crime under the ‘Conventional War Crimes’ and rape was characterised as inhuman treatment, mistreatment, or failure to respect family honour and rights (*ibid*). However, this meant that a single verdict was absent and prosecuting rape was still folded into the wider category of ‘crime against humanity’ (*ibid*).

The only post-war tribunal in Asia and Pacific which did prosecute soldiers for sexual slavery was the Batavia tribunal,¹ which aimed to prosecute Japanese soldiers for the sexual enslavement of 35 Dutch women (*ibid*). However, this tribunal failed to prosecute sexual violence committed against Indonesian women who were also affected (*ibid*).

Despite the lack of action and the apparent absence of will to prosecute the sexual violence throughout World War II in its immediate aftermath, the nature of the crime had captured the public’s attention. The post-World War II era gave rise to a new social consciousness in which sexual violence as tool of war became recognised and highly discussed, predominantly amongst academics. A number of articles and books on the topic were published and research of conflict-related violence became more widespread than ever. At the same time, the international legal community started producing series of documents aimed to stop wartime sexual violence (Brownmiller 1975).

¹ The Batavian tribunal was conducted by the Dutch living in present Indonesia (originally, The Netherlands East Indies)

The failure of the Nuremberg and Tokyo tribunals to adequately address the systematic use of sexual violence which was prevalent during World War II resulted in disagreement and disparagement amongst the actors involved in post-war transnational advocacy (Nadj 2011). In particular, those who were eager to bring justice to the victims of sexual violence and who had relied on the military tribunals to manifest the will to prosecute wartime sexual violence were highly disappointed (Brownmiller 1975). Across the world, groups were incited by the tribunal's failure and mobilised various actors involved in transnational advocacy to refuse to accept the outcomes of the tribunals and lobby for the issue of wartime rape to become internationally recognised and adequately prosecuted (*ibid*). Their further engagement in transnational advocacy campaigns in the post-war period highly contributed to the promotion of conflict-related sexual violence to the wider public. As a result, a process of change emerged regarding the recognition of sexual violence perpetrated in conflict (*ibid*). As will be shown, this laid the foundations of the implementation of jurisprudence of conflict-related sexual violence in both the Yugoslavian and Rwandan cases.

2.2. Theorising the response

Although the prohibition of wartime rape can be traced back to the medieval period, it has still occurred in a vast number of wars, revolutions, ethnic cleansings, genocides and many other conflicts, there has nonetheless been hardly any international response (Brownmiller 1975). The will to prosecute the crimes of sexual violence was almost non-existent until relatively recently, when in the 1990's the ICTY and ICTR contributed to the development of jurisprudence of wartime sexual violence by listing and prosecuting rape and other forms of sexual violence tied to these conflicts (de Brouwer 2005).

2.2.1. Constructivism

In order to examine the relationship between international actors - such as the UN and the transnational advocacy groups - and their response to the issue of conflict-related sexual violence, it is useful to view the matter through the lens of Constructivism. The main focus of Constructivism is how social structures within society affect the ways in which individual actors - be they individuals or states - act and behave (Crawford 2017). According to Reus-Smith (2013) the understanding of how different actors

“develop their interests is crucial to explaining a wide range of international political phenomenon that rationalists ignore or misunderstand. [Also], constructivists are not opposed to the idea that actors might be ‘self-interested’, but they argue that this tells us nothing unless we understand how actors define their ‘selves’ and how this informs their ‘interests’” (p. 225).

In addition, as Crawford (2017) contends, Constructivism

“suggests that the international community condemns certain actions that are proscribed by norms and shared beliefs about what constitutes appropriate behaviour and these beliefs change over time,” [and] “the interests are not just ‘out there’ waiting to be discovered; they are constructed through social interaction” (p.7).

A central aspect of Constructivism is the importance of (international) norms. As Davidson (2013) describes, “Constructivism tells us that states care about how the international community views them” (p. 313). This assumption therefore must be analysed from the perspective of how sexual violence is viewed by international actors and can lead to a change in their behaviour.

In *Wartime Sexual Violence*, Political Science expert Kerry F. Crawford stresses that the construction of the perception that women, children and elderly people are the most vulnerable group in conflict situations is based on the historic ‘civilian immunity norm’, which she describes as having

“evolved over time from the protection of all individuals employed in specific vocations to the protection of women, children, and the elderly” (Crawford 2017 p.28).

It is important to note that the notion of ‘innocent women and children’ can have a highly influential role on the response from the international community. First, international advocacy groups can use this notion in a historical perspective, which is known to have an influential role in capturing the attention of a wider audience (Crawford 2017). However,

Crawford (2017) also notes that this frame is not usually the most realistic representation of the issue and proposes the 'weapon of war' frame as a more realistic frame to explain conflict-related sexual violence.

the ability of the 'innocent women and children' frame to evoke a significant response is due to the fact that violence perpetrated against women and children can be said to be seen as more inherently shocking than violence perpetrated against men. However, by framing the issue in a non-gender sensitive manner, transnational advocacy groups can attract more supporters and therefore have a more influential role on in pushing the adoption of new norms, such as prosecution of conflict-related sexual violence because the tribunals cares how the international community but also public views them.

However, when the international community solely focuses on the traditional understanding that women, children, and elderly are the most vulnerable group, it is possible for men to not be recognised as victims of sexual violence (Conteh-Morgen 2005). The construction of perception that women and children are the only victims of sexual violence might therefore lead to a complete exclusion of prosecutions of sexual violence perpetrated against men or influence the framing of the crime as 'torture' or 'other inhuman acts' instead of labelling the crime 'rape' or 'sexual violence'.

3. Theoretical Framework: Conflict-related Sexual Violence

Both the post-World War II period and the 1990's are considered to be important milestones in a history of conflict-related sexual violence. The foundation constructed in the legal environment of post-World War II tribunals provided a platform upon which sexual violence in conflict could be uniformly recognised, first applied in a rigorous sense in the tribunals following conflicts in Yugoslavia and Rwanda. In the past few decades, sexual violence in conflict has become widely researched by social scientists, legal scholars, and many others who have aimed to determine the causes of widespread use of sexual violence. Wartime sexual violence has often been studied through the 'rape as a weapon of war' frame (See: Copelon 1994; Kohn 1994; MacKinnon 1994a; Seifert 1995) or even a 'genocidal' frame (MacKinnon, 1994b).

The research designs of the scholars differ widely, ranging from essentialist approaches, to constructivist approaches, to biosocial explanations, to rational choice perspectives. According to Koos (2015), research has typically focused on the documentation of the cases of conflict-related sexual violence from a meta-perspective, while more recently, perspectives which focus on empirical, largely qualitative studies have come to the fore (Koos 2015).

3.1. Conflict-related Sexual Violence

Susan Brownmiller was one of the first scholars to challenge the perspective that sexual violence in conflict is an inevitable by-product of war or an acceptable spoil of war. In her ground-breaking analysis, Brownmiller (1975) provides evidence that rape perpetrated against women is not just about pleasure or reward but power, fear, and subjugation. Even though there is no explicit definition of conflict-related sexual violence, the following widely-recognised definition from Seifert (1995) will be used in this analysis: "[conflict-related sexual violence] is not an aggressive manifestation of sexuality, but rather a sexual manifestation of aggression" (p. 308). This understanding of sexual violence in conflict to some extent corresponds with argument put forward in Brownmiller (1975):

“[sex] serves no sexual purpose but it is the expression of rage, violence, and dominance over a woman. At issue is her degradation, humiliation, and submission.” (Seifert 1995, p. 308).

When conflict-related sexual violence is discussed, it must be understood that it can take on many forms. An important part of the analysis of conflict-related sexual violence is therefore *what* the researchers consider as ‘conflict-related sexual violence’. According to the Rome Statute of the International Criminal Court (ICC), the term ‘conflict-related sexual violence’ refers to sexual assault, rape, sexual mutilation, sexual slavery, torture, enforced prostitution, forced impregnation, enforced sterilisation, sexual humiliation, sex trafficking, forced maternity, forced abortion, forced marriage, forced nudity or sexual molestation (UN General Assembly 1998).

Certain authors, such as Elisabeth Jean Wood explore forms of sexual violence perpetrated during World War II, the Yugoslavian Civil War, conflicts in Sierra Leone and many others. She notes that

“in some conflicts, sexual violence takes the form of sexual slavery, whereby women are abducted to serve as servants and sexual partners of combatants for extended periods; in others, it takes form of torture in detention. In some wars, women belonging to particular groups are targeted; in others, violence is indiscriminate. In some wars, only women and girls are targeted; in others, men are as well. Some acts of wartime sexual violence are committed by individuals; many are committed by groups. Some acts occur in private setting others are public, in front of family or community members. In some conflicts, the pattern of sexual violence is symmetric, with all parties to the war engaging in sexual violence to roughly the same extent; in other conflicts, it is very asymmetric.” (Wood 2006, p. 308).

It is therefore important to consider each of the conflict-related sexual violence from the perspective of the unique characteristics of each conflict. Some researchers, however, solely focus on rape and exclude other forms of sexual violence. For instance, Diken & Laustsen (2005), underlines the nature of rape and its use against women:

“War rape is perhaps the clearest example of an asymmetric strategy. In war rape, the enemy soldier attacks a civilian (not a combatant), a woman (not another soldier), and only indirectly with the aim of holding or taking a territory. The prime aim of war rape is to inflict trauma and thus to destroy family ties and group solidarity within the enemy camp. Apart from demoralization of the enemy, war rape can also become an integral aspect of ethnic cleansing” (p. 111).

The purposes of sexual violence can take many forms, from destroying family ties, to inciting trauma or fulfilling genocidal intentions. Cynthia Enloe, a highly recognised feminist scholar, has also tried to uncover various forms of sexual violence. In *Manoeuvres*, she lists the following “exhausting but not exhaustive” list of circumstances under which men as soldiers perpetrate rape:

- Rape by male soldier of a woman he thinks of as a ‘foreigner.’
- Rape by a male soldier of a woman soldier in the same army, perhaps because he resents her presence in a previously all-male unit or because he is angry at her unwillingness to date him or flirt with him.
- Rape of women held in military prisons by male soldiers serving as guards and rape perpetrated by a soldier acting as an interrogator with the apparent purpose of forcing the woman victim to give information.
- Rape of captured women by soldiers of one communal or national group aimed principally at humiliating the men of an opposing group.
- Rape by men of one ethnicity, race, or nationality of men from the ‘enemy’ group to make the latter feel humiliated because they have been, via rape, reduced to ‘mere women.’
- Rape of women by men who are prostitution procurers, to ‘prepare’ them for later service in a brothel organized for soldier clients (Enloe 2000, p. 110)

Enloe further elaborates on these occasions where rape has taken place and divides them into three categories: (1) ‘recreational rape’, (2) ‘national security rape’ and (3) ‘systematic mass rape’ (*ibid*, p. 111). The first form of sexual violence, recreational rape, concentrates on rape and prostitution, which in a military policy setting are commonly discussed together. In this category, the provision of prostitutes to male soldiers is seen as a measure to prevent rape of other (civilian) women (*ibid*). A concrete example from history is World

War II, during which the Japanese military committed a number of crimes related to sexual violence against people of East Asia, the Pacific but also against the Allied Powers (Wood 2006). An additional 200,000 women were then put into sexual slavery in military-controlled brothels established by the Japanese government (*ibid*). By creating brothels and creating of system of so-called ‘comfort women’, the Japanese government aimed to prevent the spread of sexually transmitted diseases within the Japanese military structures and protect local populations (*ibid*). In order to keep rape outside the concern of international security, the women kept as sex slaves were usually labelled as prostitutes and the places they were kept in were called “comfort station brothels” (Copelon 2000).

Another form of sexual violence, national security rape, has been perpetrated against women around the world who were seen by the regime as threats to national security. Between 1970-1990, thirteen countries² were accused of using sexual violence against women with an aim of upholding national security. In Chile, militarised rape was carried out by the government’s male security personnel as a form of torture (Enloe 2000). A similar tactic was used in Argentina, where women who were deemed as threats to national security were captured and sexually tortured (Robben 2018). The vast majority never returned to their homes and their remains were only recently found in mass graves spread around the country (*ibid*). A Canadian survey found that 64 percent of women who fled Latin America’s oppressive regime in Chile, Argentina, Uruguay, El Salvador, Brazil, Honduras, and Guatemala had been raped or had undergone some form of sexual violence (Enloe 2000).

The third form of sexual violence, systematic mass rape, which Enloe describes as “a tool of open warfare and ethnical oppression,” is central to this thesis and will be discussed in the two following chapters (Enloe 2000, Eriksson Baaz and Stern 2009).

3.2. Feminist Security Studies – theories of gender

Feminist scholars have argued that sexual violence has been used in conflict as a tool to threaten the enemy, described by Susanne Brownmiller as “a message passed between men – vivid proof of victory for one and loss defeat for the other” (Brownmiller 1975, p. 13).

² Chile, Argentina (1970s); the Philippines (1980s); Iraq, Israel, Haiti, Indonesia, Bhutan, Zaire, China, Turkey (1980s and 1990s)

Through sexual violence, one group can exercise control over the other and assert their supremacy over an enemy through humiliation (*Ibid*).

The study of systematic mass use of sexual violence by feminist scholars has mainly envisioned women as victims and men as perpetrators, while fairly little research has focused on men being the victims and women being the perpetrators (Sjoberg 2016). As Chinkin (1994) describes,

“women are raped in all forms of armed conflict, international and internal, whether the conflict is fought primarily on religious, ethnic, political or national grounds, or a combination of all these”.

Enloe (2000) also describes the use of rape against men of one ethnicity, race, or nationality from the ‘enemy’ group as a tool of humiliation, because they have been, via rape, reduced to ‘mere women.’ However, Enloe does not further elaborate on male victims and female perpetrators, instead focusing mainly on the traditional understating (Enloe 2000).

It can be argued that the concept of women as victims and men as perpetrators fails to fully apply the concept of gender, which is the core of the feminist theory. As a result of this continued misconceptualisation, a gender structure-bias emerges. In terms of systematic mass violence, males in fact constitute a large proportion of victims, subject to sexually assault, sexual torture and sexual humiliation (Féron 2018). Even though there has been evidence that various forms of sexual torture were perpetrated against men during Yugoslavian Civil War and The Rwandan Genocide, they have not been the subject of attention amongst the media, academia and international actors (Houge 2008). Discourse on male sexual violence only started appearing in recent years, when the horrifying forms of torture that men have been subjected to during conflicts emerged (Clark 2017).

The following part of this chapter focuses on three theoretical perspectives: Essentialism, Structuralism, and Constructivism. Constructivism is the main theoretical framework used in this thesis and is therefore explained in more detail. Nonetheless, it is first important to outline the concept of gender, which is central to the understanding of feminist theories.

3.2.1. Gender and Sex

Firstly, it is important to distinguish the differences between sex and gender. As Terrell Carver stresses in *Gender is not a Synonym for Women*,

“in many contexts one finds that a reference to gender is a reference to women, as if men, males, and masculinities were all unproblematic in that regard – or perhaps simply nothing to do with gender at all” (Carver 1996 in Shepherd 2016, p. 5).

What Carver is referring to here is the conflation of gender with biological, social and legal definitions of sex, a misconception which only deepens the divide between men and women. Simply put, gender in modern politics, academia, advocacy, and many other spheres sometimes serves a synonym for both women and biological sex (Shepherd 2016). In reality, gender can be understood as a cultural and/or social construct, whereas sex refers to the biological differences between men and women.

3.2.2. The main theoretical perspectives

Conflict-related sexual violence has been conceptualised by many feminist scholars (Skjelsbaek 2001). Some have theorised it based on those whom are perceived to be victims of sexual violence. This is especially true for essentialists, who believe that all victims are women (*ibid*). Viewed through the lens of Essentialism, women are traditionally more prone to emotions, caring and nurturing, seen mostly as caring mothers (Enloe 2000). Men, on the other hand, are seen to be more likely assertive and, in some cases, aggressive (Shepherd 2016, Enloe 2000). In other words, Essentialism prescribes that women are peace-oriented and men, on the contrary, are more prone to violence and war (Skjelsbaek 2001, Kirby 2013, Shepherd 2016, Evans & Williams 2012, 283).

Structuralism takes the view that female vulnerability to violence is based on association to certain groups, for instance ethnic groups (Kirby 2013). Finally, Social Constructivism takes the view that victims of conflict-related violence can indeed be both women and men, based on understanding of the notion of femininity and masculinity (*ibid*).

Essentialism, Structuralism and Social Constructivism, offer three very different understandings of conflict-related sexual violence. As Skjelskaek (2001) notes:

“While the essentialist conceptualization explains war-time sexual violence from the perspective of the perpetrator and the structuralist conceptualization explains in from the perspective of the victims, it is only the social constructionist conceptualization which focuses on how war-time sexual violence can be regarded as a transaction of identities between the perpetrator and the victims; i.e. how their social identities become situated” (p. 226).

While Skjelskaek espouses the theoretical application of Social Constructivism as the most prescriptive in understanding conflict-based sexual violence, other scholars have categorised conflict-related sexual violence based on empirical findings (Kirby 2013). Donna Pankhurst, for instance, takes a more empirical approach to studying sexual violence through a theoretical lens by splitting evidence into five categories: “rape as a weapon of war; reward for troops; the result of a breakdown in social constraints; the consequence of a ‘root cause’ of masculinity; or the expression of frustration-aggression and male trauma” (Pankhurst cited in Kirby 2013, p. 800).

3.3. Men, masculinity, and masculinities – the constructivist approach

The core of feminist theory has been understood through different approaches, practices, and concepts, but all focus on the key concept of gender. The constructivist theoretical approach of feminist security studies, similarly concentrates on the concept of gender, but focuses on the terms ‘femininity’ and ‘masculinity’ to understand sexual violence. While Constructivism recognises biological differences between men and women, the behaviours that men and women adopt are socially constructed (Evans & Williams 2012). In other words, constructivist Feminism holds that aspects of human behaviour have become engendered, recognised as either ‘masculine’ or ‘feminine’ (Shepherd 2016, Evans & Williams 2012).

The concept of masculinity dates back to approximately 14th century (Evans & Williams 2012). The modern investigation of masculinity is tied with Freud and Adler, who articulated that an adult’s “character [is] not predetermined but constructed through emotional attachments to others in a turbulent growth process” (*ibid*, p. 149). Malinowski and Mead then further elaborated on the original formulation, adding the importance of

cultural differences in the process of growth (Ibid.). In other words, people are born either male or female, but that is not a prerequisite for their behaviour. Their behaviour is further shaped through a process of socialisation, during which men and women adopt behaviours deemed suitable for their sex (Eriksson Baaz Stern 2013).³ These can vary based on a person's background, which is also shaped by the ideals of the society the person lives in (*ibid*).

Masculinity has traditionally been associated with white heterosexual men which is characterised the dominating ideals of strength, autonomy, assertiveness, and aggressiveness (Evans & Williams 2012). Femininity, on the other hand, is associated with vulnerability, an identity as a life-giver, peacefulness and in need of protection by men (Houge 2008, Evans & Williams 2012, Enloe 1990, Goldstein 2001). It is, however, not uncommon for women to adopt masculine behaviour and vice versa if the individual's social background is constructed in that sense, for instance, in the military (Enloe 1990). The point of view that in the military, boys can achieve their potential as men, has been contradicted by feminist scholars who claim that both boys, men girl, and women who enter the military learn to be masculine and violent.

“The desirable type of masculinity that is produced within the military celebrates violence, order, masculine-coded obedience and domination [where] men undergo a form of indoctrination, which includes humiliation and breaking down the civilian (feminized) boyish identity, and then the building up of the macho soldier” (Eriksson Baaz Stern 2013,p 20).

In the 1970's, the concept of masculinity emerged with a focus on men's social power, based on social psychological and social structural reflections (Evans & Williams 2012). The plural form, “masculinities,” was used to describe types or social processes, for instance, hegemonic or marginalised masculinities (*ibid*). These types of masculinities served as tool of analysing “masculinities as power laden in men's unequal relations both to women and between men” (*ibid*, p 151). The study of hegemonic masculinities has highlighted that it is not a single individual man who is oppressed but that oppression is

³ A concrete example can be found in the association of girls wearing the colour pink and playing with dolls and boys wearing blue and playing with cars. (Eriksson Baaz Stern 2013)

usually tied to a particular group, for instance, for gay men to be seen as subordinate to heterosexual men (*ibid*). From this emerged the term ‘militarised masculinity/masculinities’ to describe power relations which are found within military structures (Eriksson Baaz Stern 2013). This term has been used to describe the power and violence soldiers direct “inwards toward the

‘others within’; [where] killing the ‘women in them’ becomes necessary for soldiers in their attempts to live up to the myths of militarized manhood” (Eriksson Baaz & Stern 2013).

In this sense, more masculine individuals can exercise more power over the less masculine, i.e. women and weaker men, making sexual violence an important tool of feminising the enemy (Houge 2008).

“The line of thought can be summarized as follows: the perpetrator, and his (potentially also her) ethnic/ religious/ political identity become masculinized, while the victim’s ethnic/ religious/ political identity becomes feminized. Further, the masculinized and feminized identities are situated in a hierarchical power relationship where masculinized identities are ascribed power and feminized identities are not.” (Skjelsbaek, 2001, p. 226).

3.3.1. Victimization of men

Even though research on conflict-related sexual violence has offered ground-breaking analysis, the majority of research has only fully elaborated on women as victims (Clark 2017). This is mainly due to the view of women as the only possible victims of sexual violence (*ibid*). Women and children are imagined to be as more vulnerable to rape, sexual slavery, or for instance forced pregnancies, while little attention has been paid to men as possible victims of such crimes.

This has led to the creation of a gendered structure-bias, whereby women are portrayed as vulnerable civilian victims of sexual violence, while on the contrary, men are seen as soldiers who are the perpetrators of wartime sexual violence (Card 1996). As Herman in

Card 1996 states, “the most common post-traumatic disorders are those not of men in war but of women in civilian life.” Herman also contends that women and children who are subject to domestic violence and/or rape during a wartime are

“the subordinate condition of women is maintained and enforced by the hidden violence of men. There is war between the sexes. Rape victims, battered women, and sexually abused children are its casualties. Hysteria is the combat neurosis of the sex war.” (Card 1996, pp. 5-6).

According to Élise Féron (2018), there are three reasons for the underestimation of sexual violence perpetrated against men: firstly, the majority of the literature on conflicts sees men as the victims of killings and injuries whereas women are understood as the primary victims of sexual violence; secondly, discourse viewing men as victims is highly lacking in empirical data, due to the taboos surrounding this issue and a higher level of men not reporting crimes compared to women; and thirdly, sexual violence perpetrated against men is typically not understood as sexual violence but as form of torture or inhuman treatment. It is therefore not uncommon that courts sentence conflict-related sexual violence against men as ‘outrage against dignity’ or for instance ‘other inhumane acts’ (Féron 2018). Torture has indeed historically been an integral component of war, however, the recognition that torture can take a form of sexual violence against men has been typically absent (*ibid*). Oosterhoff et al. (2004) has noted that

“a major factor in the failure to identify male victims of sexual torture has been the slowness of institutions to recognise that male victims exist. (...) Sexual torture consists of any acts of sexual violence, from forced nakedness to rape, which qualifies as torture.” (p. 68-69).

4. Research Design

This chapter gives an overview of how the topic of this thesis – the international response to conflict-related sexual violence – will be analysed. Firstly, this chapter introduces the methodology to be employed - comparative research - and explains why this method was selected as the most suitable for the topic at hand. Secondly, the main objectives of the comparative research design will be discussed, including details of the cases and variables. Finally, the possible limitations of this research method for achieving the objectives of the research will be discussed.

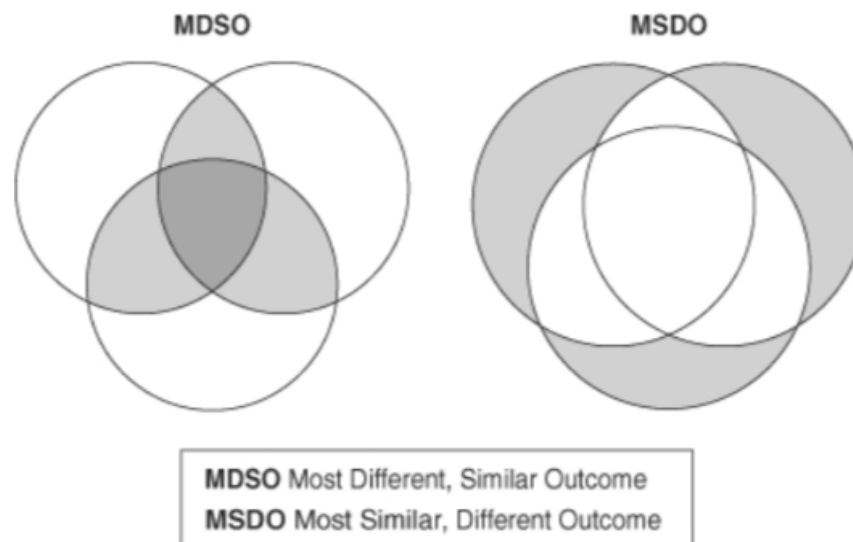
First, it is necessary to elaborate on how the research of this thesis was conducted. This thesis is based on primary and secondary sources. Secondary sources included books and articles, which constitute the main baseline for the theoretical part of this thesis, whereas primary sources, such as reports or judgments, are used to analyse the international response. In order to fully assess the response, it is necessary to restrict the scope of the research to a particular time period. One exception are the UN documents (mainly the legal documents of the ICTY and ICTR), which are not limited by a time period. International media and reports published by international women's or human rights organisations have been taken from the time period between 1992 and 2000. This is because the most important reports and articles reflecting on conflicts-related sexual violence during the Yugoslavian Civil War and the Rwandan Genocide were published during this period.

4.1. Methodology – Comparative research design

In order to examine the international response to conflict-related sexual violence, this thesis uses a qualitative comparative research design applied on the two selected conflicts: former Yugoslavia and Rwanda. The comparative research design is a field of study which focuses on a study of two or more cases which are analysed under consideration of their characteristics. These characteristics will form the variables to be measured in the research (King, Keohane, & Verba 1994).

Comparative research design offers two system designs called ‘most similar’ and ‘most different’ (Berg-Schlosser & de Meur 2009, p. 4). The most similar system design is “based on a belief that a number of theoretically significant differences will be found among similar systems and that these differences can be used in explanations” (Przeworski & Teun in Berg-Schlosser & de Meur 2009, p. 4). On the other hand, the most different system design “seeks maximal heterogeneity in the sample of systems and is based on a belief that in spite of intersystem differentiation, the populations will differ with regards to only a limited number of variables or relations” (*ibid*, p. 4).

Berg-Schlosser & de Meur (2009) have visualised the two designs and in the following way:



Source: Berg-Schlosser & de Meur, 2012, p.5

To understand the international response to sexual violence, this thesis applies the Most Similar, Different Outcomes theory, which as will be shown below, is the most applicable to the Yugoslavian and Rwandan case studies. Later in the section, the case and variable selection process will be further elaborated. However, it is important to first explain why the ‘Most Similar’ method is being used.

The hypothesis of this thesis assumes that the two cases at hand are similar in that they both involve mass ethnic violence and the widespread use of sexual violence against women, men, and children. They are also similar in that they both resulted in an extensive

international response, however, that the level of response differed with regards to conflict-related sexual violence. While both cases resulted in a significant change in transitional justice and led to first prosecutions of wartime sexual violence, the ICTR resulted in far less successful prosecutions than the ICTY, despite the fact that the ICTR dealt with far more victims and perpetrators of conflict-related sexual violence. In the introduction, the importance of various actors involved in the transnational advocacy campaigns was shown to derive from their power and potential to trigger political will to action and push for the implementation of a new rule or law. It is therefore highly possible that the involvement of transnational advocacy groups was significantly lower in the case of the ICTR. It can therefore be predicted that although the two cases share similar characteristics, there will be significantly divergent outcomes regarding the international response to conflict-related sexual violence.

4.2. Case selection

This thesis uses the cases of civil war in former Yugoslavia and the 1994 genocide in Rwanda due to their importance in transforming the international perception of the importance to prosecute conflict-related sexual violence crimes in 1990's. Today, both of these cases are perceived as milestones in history of the prosecution of conflict-related sexual violence. These cases were also unprecedented for having led to the creation of international tribunals which were established prosecute conflict-related sexual violence. It is therefore important to analyse how the two cases were perceived by the international community and why widespread attention was only given to one of the cases.

4.3. Variable selection

In analysis of conflict-related sexual violence, the following variables are applied: (1) sexual violence, (2) gender, and (3) the international community in identifying response to sexual violence perpetrated in the Yugoslavian Civil War and the Rwandan Genocide.

4.3.1. Sexual violence

Sexual Violence is a broad term which represents a variety of acts. It is therefore important to establish a uniform definition that can be used to explain how the variable of sexual violence is understood throughout this thesis. It is also important to note that the term ‘rape’ is sometimes used when analysing conflict-related sexual violence. The term rape, however, only represents one act of a broad scale of conflict-related sexual violence. Acts of conflict-related sexual violence are recognised by the UN Secretary-General as:

“rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys that is directly or indirectly linked to conflict” (UN Secretary-General in Clark 2017, p. 289).

The term ‘rape’ refers to a single act and is perhaps used in order to evoke of the clear and horrific nature of sexual violence but eschews other manifestations of sexual violence. Instead, the broader definition of ‘sexual violence’ is used in order to cover a broader spectrum of victims who were possibly not raped but have undergone other forms of sexual torture which are equally worthy of analysis.

4.3.2. Gender

Gender is a key concept of Feminism. In explaining conflict-related sexual violence, the feminist constructivist theory of gender will predominantly be used in the analysis, as it understands that both women and men can be victims of conflict-related sexual violence. In addition, this thesis will present a gender-sensitive analysis which also focuses on sexual violence perpetrated against men. Finally, the international response will also be analysed through the lens of the feminist theory of gender, in order to evince an understanding of how both women and men can be victims of sexual violence.

4.3.3. International response

To fully apply the theory of Social Constructivism to the international response to sexual violence in the two cases at hand, the following actors will be focused upon. Firstly, the UN and the ICTY and ICTR are used for the main analysis of how the tribunal viewed

conflict-related sexual violence and adopted gender-sensitive prosecutions. Secondly, this thesis analyses the response of transnational advocacy groups, described by Keck & Sikkink (1999) as “actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense of exchanges of information and services” (p. 89). These groups are either: (1) international and domestic NGOs, research, and advocacy organisations; (2) local social movements; (3) foundations; (4) the media; and (5) other groups (*ibid*). NGOs, particularly international women’s / human rights organisations, feminist groups, and the international media were chosen for the analysis of the international response.

4.4. Limitations

One limiting factor to the research is the inability to access certain legal documents issued by the United Nations, the ICTY and the ICTR as these are not publicly available. In addition, the gap in available research on conflict-related sexual violence concerning men as a victims of this crime is another limiting factor. In analysing conflict-related sexual violence, this thesis relies on the feminist constructivist approach of gender, which considers that both women and men can be victims of sexual violence and stresses the importance of less masculine individuals being more vulnerable to sexual victimisation. As previously mentioned, sexual violence perpetrated against men no less brutal than sexual violence perpetrated against women. More importantly still, it continues to reoccur in conflicts today, particularly as a form of humiliation the sexual victimisation of men. This highly under-researched has left a considerable gap in the literature on conflict-related sexual violence.

5. Case Study – The Yugoslavian Civil War

5.1. Introduction

This chapter outlines the main objectives of researching the case of sexual violence during the Yugoslavian Civil War. In order to understand why so many individuals fell victim to conflict-related sexual violence, it is important to introduce the background of the conflict and highlight key events and significant characteristics. The differences between genocide and ethnic cleansing will also be made clear, as the differentiation of these two terms plays an important role in understanding an ongoing major feminist debate around the genocidal use of sexual violence in conflict. Next, explanations will be provided of conflict-related sexual violence in former Yugoslavia. After highlighting why this case plays an important role in history of conflict-related sexual violence, the international response to the conflict will be described. This will start with an elaboration of the accomplishments of the ICTY and how sexual violence was perceived during the tribunal's prosecutions. Following this, as already discussed in this thesis, the response of international media and women's / human rights organisations will be analysed, focusing in particular on their power to mobilise political will through transnational advocacy campaigns. This will be key to measuring the extent to which interventions made by these groups might have influenced the outcomes of the ICTY.

5.2. Conflict overview – ethnic cleansing in former Yugoslavia

The period between late 1980's and early 1990's in Yugoslavia was marked by intense political and economic crises. Yugoslavia comprised the nation-states of Serbia, Bosnia-Herzegovina, Croatia, Slovenia, Macedonia, and Montenegro, as well as the two autonomous regions of Kosovo and Vojvodina which were formerly Serbian territory. Increasing political and economic tensions led to an increased in nationalist sentiment and conflicts between the ethnicities (Wilmer 2002). The war in former Yugoslavia began in 1991 and shortly after the Serbs gained power in disputed border areas in Croatia inhabited by both the Serbs and Croats (*ibid*). Their dominant position further spread to areas of Bosnia and Herzegovina in 1992, which eventually became the location of a campaign of ethnic cleansing targeted at Bosnian Muslims and Croats (*ibid*). In 1993, this

campaign was further shaped by conflicts between Bosnian Muslims and Bosnian Croats (Bloxham & Moses 2013).

One of the most significant and tragic events of the conflict occurred in 1994 in the Bosnian Muslim village of Srebrenica, a supposed UN safe haven. A team of Dutch UN peacekeepers were deployed to protect the village, but were largely unstaffed, unarmed and also undersupplied (Weitz 2015). As a result, they were unable to protect locals from the ethnic cleansing campaign led by Serb forces, who proceeded to kill or deport the vast majority of Bosnian Muslim residents (*ibid*).

Conflict in Yugoslavia continued until 1999, when Serb forces targeted Kosovar Albanians in Kosovo, however, they left much of Kosovo in June 1999 (Bloxham & Moses 2013). Many ethnicities indigenous to the Balkan states became victims of ethnic cleansing during the Yugoslavian Civil War, including Bosnian Muslims, Croats, Kosovar Albanians and even Serbs (Wilmer 2002). It is estimated that more than 100,000 people were killed and another two million people were forced to flee from their homes (*ibid*).

5.2.1. Ethnic cleansing

To gain a deeper understanding of the debates which arose around the terms ‘genocide’ and ‘ethnic cleansing’ in relation to sexual violence, the following section discusses the key differences between the two terms. The use of ‘ethnic cleansing’ was widespread during the Yugoslavian Civil War in the 1990’s, however, the term has often caused controversy due to its conflation with the term ‘genocide’. While both genocide and ethnic cleansing focus on targeting certain groups, unlike genocide, the aim of which is the complete destruction of a group as a whole, ethnic cleansing targets groups within a specific geography (Bloxham & Moses 2013). The two terms also differ in terms of tactics. While both involve the targeted killing of groups, ethnic cleansing also involves forced migration or population transfer (*ibid*). As Benjamin Lieberman puts it:

“ethnic cleansing shares with genocide the goal of achieving purity but the two can differ in their ultimate aims: ethnic cleaning seeks the forced removal of an undesired group or groups where genocide pursues the group’s ‘destruction’.” (*ibid*, p. 45).

5.3. Sexual Violence in former Yugoslavia

During the Yugoslavian Civil War, mass sexual violence was perpetrated primarily against civilian women from Bosnia-Herzegovina (Skjelsbaek 2015). The estimated number of sexual violence victims is believed to be somewhere between 20,000 and 50,000 (Jones 2008). Widespread and systematic sexual violence was primarily perpetrated by Serbian armed forces, who deliberately detained mostly Bosnian women (in addition to a number of Croats) for the purpose of sexual abuse and torture (Amnesty International 1993; Jones 2008). The overall purpose of the Serbian ethnic cleansing was to remove (not necessarily through murder) Muslim populations in certain territories under the auspices of establishing a 'Greater Serbia' (Drakulic in Jones 2008). Sexual violence was an effective tool of doing so. Serbian forces targeted both men and women of all age, with victims' ages ranging from as young as 6 to 80 years or older. Ethnic cleansing was conducted through systematic sexual violence which took many forms. For example, Muslim women were forcibly impregnated by Serbian forces further and held captive in order to prevent them from getting an terminating the pregnancy (*ibid*). This is a concrete example of what Susan Brownmiller defines as "a message passed between men – vivid proof of victory for one and loss and defeat for the other" (Brownmiller 1975, p. 13). Their release would only be possible after Serb soldiers would ensure that these women could no longer undergo abortion and would therefore give birth to ethnically Serbian children (Jones 2008). Through repeated rapes, sexual torture and other inhumane acts, Serbian forces also aimed to traumatise victims into having later difficulties in reproducing (*ibid*).

MacKinnon (1994b) explores the connection between rape and pornography, postulating the existence of a hidden discourse coded into mass media and pornography that "makes hatred sexy" (p.74). MacKinnon points to a phenomenon which emerged during the conflict of videotaping massacres and rapes. Combined with an existing structure of female subjugation inherent within pornography, the filming of sexual assaults and showing the footage to soldiers both fetishes violence towards women and incites them to commit their own acts of sexual violence; in her words, "with this war, pornography emerges as a tool of genocide" (p.75). MacKinnon provides the example of Borislav Herak, a Serbian soldier who spoke openly about his first sexual experience being an act of sexual violence during the ethnic cleansing campaign. She comments:

“Whatever this rape does for the rapist, the pornography of the rape mass-produces. The materials become a potent advertisement for a war, a perfect motivation for tortures, who then do what they are ordered to do and enjoys it. Yes, it improves their morale.” (MacKinnon 1994b, p.75).

As part of an analysis of wartime sexual violence perpetrated by the Serbs, Hauge (1997) expounds upon notions of femininity and masculinity and the roles they had to play in the conflict, offering a different understanding from the traditional masculinisation of both men and women. Viewed through the perspective of sexual violence committed during the Yugoslavian Civil War, Hauge (1997) argues that not only can an individual’s personal identity become masculinised, but a national identity:

“In the crime of (...) rape in Bosnia-Herzegovina, traditional gender assumptions of which persons are ‘masculine’ and which ‘feminine’ came under attack, and in many cases were asserted, through ascriptions of national identity. The qualities of power, domination and violent subjugation often associated with a hegemonic masculinity accrued, in this context, to the national identities known as ‘Serb’ and ‘Bosnian Serb’.” (*ibid*, p. 53).

5.4. International Response to Sexual Violence in former Yugoslavia

In this section, the international response of various actors to conflict-related sexual violence during the Yugoslavian Civil War will be discussed. This will firstly address the UN’s response and the prosecutions of sexual violence led by the ICTY, before then shifting to the response from feminist advocates and the debate over whether sexual violence should be considered genocidal or not. This will then be followed by an analysis of responses from transitional advocacy mobilisation by women’s human rights organisations and the media.

5.4.1. Prosecutions of sexual violence by the ICTY

The ICTY was established in 1993 when the conflict in former Yugoslavia was far from over, with the intention of holding individuals responsible for war crimes committed

during the conflict (ICTY In Numbers). The ICTY was the first international war tribunal since the Nuremberg and Tokyo trials, which as previously mentioned, failed to prosecute sexual violence committed during World War II (Skjelsbaek 2015). Since World War II, the international community's attitude toward conflict-related sexual violence has shifted. Now, sexual violence perpetrated in conflict and the prosecution of its perpetrators has risen in priority beyond any level in the history of human kind (*ibid*). The ICTY was the manifestation of this shift, the first tribunal with the power to prosecute perpetrators of conflict-related sexual violence (Nadj 2011; Skjelsbaek 2015).

When the ICTY started its investigations, its main priority was to prosecute crimes related to the ethnic cleansing (Haddad 2011). Even though the prosecution of sexual violence crimes was not the core of the prosecution's strategy, it became an integral element shortly after opening of the tribunal (*ibid*). In 1994, the UN Commission on Human Rights published a document which called for the prosecution of wartime sexual violence. More importantly, the UN Commission on Human Rights in this document identified rape as a weapon of war (UN Commission on Human Rights 1994). In order to successfully adopt policies which would deal with gender-sensitive issues, the chief prosecutor, Richard Goldstone, appointed Patricia Viseur Sellers to the position of Legal Advisor for Gender-related Crimes (Haddad, 2011). The International Criminal Tribunal for Yugoslavia also established a Victims and Witness Protection Unit in order to provide the victims of sexual assault with counselling and support (ICTY Innovative Procedures). In order to avoid re-traumatisation of the victims, the ICTY adopted the Tribunal's Rules of Procedure and Evidence a Rule 96, which:

“provides that corroboration of the testimony of a victim of sexual violence is not required. This rule ensured that the crime of sexual violence would not fall under the stringent evidentiary standards applied to other types of crimes, thus addressing a problem experienced in some domestic systems. It shows a realistic understanding of the particular nature of the crime of sexual violence, which often takes place with no witnesses or only witnesses acting in collaboration with the perpetrators.” (ICTY Innovative Procedures).

The average success rate in the prosecution of conflict-related sexual violence cases was high. As of September 2016, a total of 78 individuals out of 161 (48 percent) accused of sexual violence were charged, As of September 2016, 32 individuals were for their responsibility for crimes of sexual violence (ICTY In Numbers). Running in parallel to the ICTY, the UN Security Council established the International Residual Mechanism for Criminal Tribunals (also known as ‘the Mechanism’ or MICT) to whom the ICTY referred eleven individuals who had allegations of sexual violence (IRMCT About). Additionally, six individuals accused of sexual violence were referred to national jurisdiction (ICTY In Numbers).

The ICTY has not been subject to much criticism for its prosecution of the perpetrators of sexual violence, but commentators have pointed out that male victims of sexual violence were subject to less representation than female victims. In an analysis of prosecutions of conflict-related sexual violence by the ICTY, Campbell (2007) finds that out of a total of seventeen cases, seven considered sexual violence against female victims, three against male victims and four against both female and male victims. This equates to 40 percent of cases involving charges of sexual violence against men (Campbell 2007). These findings are particularly surprising in light of the comparative lack of attention paid to male victims of sexual violence during the Yugoslavian Civil War in academic, political and popular discourse. As argued by Clark (2017) and Hogue (2008), the lack of visibility of male victims is gendered and rooted in the concept of masculinity, poor journalism and also lack of gender sensitivity.

The findings of Campbell (2007) indeed indicate that tribunal’s representation of male and female victims is to some extent gendered and portrays male victims as “active agents of conflict” and female victims as “passive civilians subjected to sexual violence” (Campbell 2007, p. 427).

In addition, imbalance in the representation of passive femininity and active masculinity is can also be explained by the unequal representation of women and men at the tribunal. Eighty percent of the ICTY witnesses were men giving testimony on war crimes, whereas the remaining twenty percent was represented by women giving testimony on wartime sexual violence (*ibid*). This reinforces the traditional perception of woman-as-victim and

man-as-perpetrator, and eschews the representation of men as victims of sexual violence themselves. As a result, the gender divide is further deepened, and to some extent resembles the essentialist approach to gender. Viewed through the lens of Feminism, the structure of the ICTY helped channel the notion of women as a more vulnerable group, vicariously reinforcing concepts of masculinity and femininity, one of the root causes of sexual violence in conflict.

5.4.2. Transnational advocacy groups

The publicity of wartime sexual violence in Bosnia-Herzegovina between 1992 and 1995 triggered a massive response in the international arena, with various transnational advocacy networks, including international mass media organisations, international women's / human rights organisations, and research and advocacy organisations, becoming engaged in the ensuing debate (Copelon 2000). In particular, widespread media coverage of the atrocities committed against the victims of the conflict broadcast shocking images around the world, triggering a huge response amongst the general public (Williams & Bower 2009). The front pages of predominantly western newspapers frequently displayed shocking images and reports of the violence ongoing in the Balkan States, accompanied by reports of mass incidences of sexual violence committed against Bosnian Muslim in so-called 'rape camps' (*ibid*).

5.4.2.1. Media

Unsurprisingly, global media coverage served as a major power of mobilisation. Williams and Bower (2009) focuses on media coverage of sexual violence during the Yugoslavian Civil War in two well-known US newspapers, *The New York Times* and *The Washington Post*, which between 1992 and 2000 published a combined total of 117 articles on the topic. The study found that a significant number of references were made in these articles to World War II, for instance comparing the so-called 'rape camps' in Bosnia to concentration camps in Nazi Germany (*ibid*). Frequent references were also made to Hitler or Stalin in news articles discussing sexual violence in Bosnia (*ibid*). Coverage of wartime sexual violence was also widespread in European news media coverage (*ibid*). The majority of articles also made reference to women as victims and men as perpetrators (*ibid*).

5.4.2.2. Women's and Human Rights organisations

Women's and human rights organisations from Europe and North America became highly engaged in the issue of mass sexual violence, carrying out research in order to investigate crimes committed against the Muslim women in Bosnia-Herzegovina. This research aimed to estimate the outcomes of wartime sexual violence and work on behalf of the victims. This led to the formation of the Ad Hoc Women's Coalition Against War Crimes in the former Yugoslavia, comprising a number of organisations including Amnesty International, Women's Action Coalition and The Centre for Women's Global Leadership (Lewin 1993). The coalition engaged in strategic planning to bring justice to victims of sexual violence and ensure accountability for the war crimes committed, via pressure on the UN to establish a war tribunal (*ibid*). When the tribunal opened, the coalition secured criminal accountability for the perpetrators primarily by securing broad coverage of sexual violence crimes.

In 1991, Amnesty International published its first major report, in which it was reported that sexual violence was being perpetrated against babies, teenagers, pregnant mothers and also women in their sixties in over 40 countries, and called for an end to wartime sexual violence (Amnesty International 1991). This was followed by the organisation's first major report specifically on the then ongoing conflict in Yugoslavia in 1992 (Amnesty International 1992) followed by a dedicated report on sexual violence in the region (Amnesty International 1993). The objective of the latter report was:

“to illustrate some cases where women have been subjected to special forms of human rights abuses which they face primarily because of their sex. Rape and sexual abuse feature in particular. Rape constitutes an especially humiliating assault.” (Amnesty International 1993).

Similar to Amnesty International, Helsinki Watch, a private American non-governmental organisation designed to monitor the former Soviet Union's compliance with the 1975 Helsinki Accords, also monitored the situation in Bosnia-Herzegovina, noting that:

“soldiers often rape without regard for witnesses, and, on occasion, identify themselves to their victims. These are not the actions of men who fear retribution.” (Helsinki Watch 1996, p. 22).

5.4.2.3. Feminists

Feminist advocates and scholars launched investigations of conflict-related sexual violence during the Yugoslavian Civil War, leading to ground-breaking research on gender and conflict-related sexual violence (Jones 2008). Legal scholar Karen Engle, noted that:

“Eighty percent of the rapes are said to have occurred in detention camps. If feminists had overlooked or been unaware of mass rapes, even in their lifetime – of indigenous people in Ecuador, and in civil wars in Peru, Liberia, Burma and even initially in Rwanda – Bosnia and Herzegovina became the terrain upon which feminist critiques and debates concerning rape surfaced” (Engle 2005, p. 785).

Some feminist advocates were highly critical of the tribunal for its apparent inability to prosecute sexual violence as a war crime (Copelon 2000). This was later, however, believed to have “made it easier to argue for the mainstreaming of sexual violence crimes, else they would be excluded altogether” (*ibid* p.229). Feminist discourse on the topic has frequently engaged in the debate around the prosecution of sexual violence as a form of genocide. For example, one strand of feminist legal discourse concentrated on the calcification of sexual violence by the tribunal. However, differences in opinion between proponents have caused a split along two theoretical perspectives, one viewing sexual violence as a crime of gender orchestrated against women of *all* nationalities and ethnicities (i.e. not solely Bosnian Muslim women) and the other viewing sexual violence as genocidal and perpetrated against Muslim women as a distinct group (Engle 2005).

Catharine MacKinnon was one of the most influential voices in representing the approach of viewing sexual violence in Bosnia and Herzegovina as an act of genocide perpetrated by the Serbs (MacKinnon 1994a). MacKinnon also offered the following counter-argument to those opposed to the idea that sexual violence was genocidal, viewing their approach as a cover-up and

“useful to the perpetrators because it seems to acknowledge the atrocities – which are hard to deny (although they do that too) – and appears to occupy the ground on which women have effectively aroused outrage against them. But its function is to exonerate the rapists and to deflect intervention.” (French, Teays, & Purdy 1998, p. 49).

On the opposing side were influential scholars such as Susan Brownmiller and Rhonda Copelon who argued that that all Balkan women are victims of sexual violence in war, regardless of their ethnicity. Rhonda Copelon asserts that these women are victims “because rape embodies the male domination and female subordination”(Engle 2005, p.786). In regard to genocidal rape, she also argues that “to emphasize as unparalleled the horror of genocidal rape is factually dubious and risks rendering rape invisible once again.” (*ibid*, p.786).

Despite the differences in opinion between these two camps over the concept of sexual violence as a weapon of war, all agree on the need to address gender-based violence in tribunals such as the ICTY (Gruber 2009). However, one issue that remains is the perception of gender-based violence which corresponded highly with traditional structural-bias. For example, the representation of male dominance and female subordination is still predominant within discourse, as is the perception of woman-as-victim and man-as-perpetrator of sexual violence (*ibid*). As Engle (2020) contends, modern-day Feminism eschews the idea of women being perpetrators and men being victims of sexual violence.

The overall input and eagerness of transnational advocacy groups to bring justice to victims of sexual violence did to some extent influence the decision-making of the ICTY. In an assessment written in 1996, Richard Goldstone, the chief prosecutor of the ICTY and the ICTR, described how the international pressure to address crimes of sexual violence influenced his decision making:

“From my very first week in office, from the middle of August, 1994 onwards, I began to be besieged with petitions and letters, mainly from women’s groups, but also from human rights groups generally, from many European countries, the United States and Canada, and also from non-governmental organisations in the former Yugoslavia.

Letters and petitions expressing concern and begging for attention, adequate attention, to be given to gender related crimes, especially systematic rape as a war crime. Certainly if any campaign worked, this one worked in my case, because it definitely made me much more sensitive, concerned and determined that something should be done about the proper investigation of allegations of mass rape in the former Yugoslavia and Rwanda.” (Goldstone in Haddad 2010, p. 122).

6. Case Study - The Rwandan Genocide

This chapter analyses the international response to sexual violence perpetrated during the 1994 Rwandan Genocide. Despite estimations putting the number of victims of sexual violence in Rwanda around 500,000 - significantly higher than the cases reported during the Yugoslavian Civil War - the ICTR delivered far fewer sentences for crimes of sexual violence than the ICTY. This chapter first investigates the responses of the ICTR, highlighting its achievements, failures, and its contribution to inciting the will to prosecute crimes of sexual violence. Secondly, the responses of international transnational advocacy groups will be analysed, as will their role and engagement in pressuring the tribunal to prosecute perpetrators of sexual violence during the conflict. As previously mentioned, it is hypothesised that transnational advocacy groups put comparatively less pressure on the representatives of the ICTR than the ICTY, resulting in a lower level of willingness to prosecute large numbers of criminals for wartime sexual violence crimes.

6.1. Conflict overview - The Rwandan Genocide

On 6 April 1994, a plane carrying Rwandan president, Juvénal Habyarimana, was shot down by unknown perpetrators (Prunier 1995). This event acted as a catalyst for the already escalating political and social unrest in the country, marking the beginning of a protracted conflict that subsequently resulted acts of apparent genocidal intent (*ibid*). The 100-day Rwandan ethnic conflict between the Hutu and Tutsi ethnic groups was a result of a decades long dispute the roots of which can be traced back to the region's colonial past (*ibid*). Historically, ethnic Tutsis were traditionally viewed in Rwandan society as the ruling class, whereas the Hutu were considered the second-class citizens which was a source of the conflict (*ibid*). Over the course of one hundred days, around 800,000 Tutsis perished due to their ethnic background (*ibid*). The prevalence of conflict-related sexual violence was also alarmingly high, with estimates of around approximately half a million people falling victim during the conflict (Jones 2008). The majority of victims of sexual violence were Tutsi women who were subject to large scale campaign of sexual violence, which in most instances took form of rape, gang rape, and/or sexual mutilation (*ibid*). The terrible scale of the atrocities was facilitated by a strong Hutu governmental leadership and a systematic campaign of propaganda aimed at smearing Tutsis and purporting the ethnic purity of Hutus (Prunier 1995). State-backed media in the region acted as a

propaganda machine during the conflict, facilitating the wide diffusion of anti-Tutsi messages and images (*ibid*). As mentioned above, the media has the power and potential to rapidly accelerate the spread of any sort of campaign in relatively short spaces of time. In the case of Rwanda this potential resulted in tragedy.

In the years prior to the genocide, the government's propaganda machine had already started exacerbating the already poor condition of co-existence between Hutus and Tutsis in Rwanda (*ibid*). Both in print media and on Radio Télévision des Mille Collines (RTLM), propaganda underlying the differences between the Hutus and Tutsis became prevalent, laced with messages conveying the Tutsis as foreign conquerors who desired to assert control over the Hutus (Thompson 2007). Propaganda in the media also appealed to a sense of populism, using tools such as street slang, music and obscene jokes, which Prunier (1995) contends "attracted the Hutu people who kept on listening to it with an abnormal fascination" (p. 189). The use of hate speech progressively increased in intensity, and by the time the genocide broke out it had become a powerful tool that could incite members of the public into violence (*ibid*).

Shortly after the genocide ended, the ICTR was established to identify and prosecute those who were responsible for the atrocities committed (De Brower 2005) . In addition, a restorative form of justice took place in form of the Gacaca courts, which were designed to facilitate reconciliation between both ethnic groups (*ibid*). However, the conflict in Rwanda only received widespread attention after the genocide had ended. It can be argued that the relative obscurity of the conflict to the outside world at its height is one of the main reasons why the conflict in Rwanda escalated to the extent that it did. Furthermore, the international community is often blamed for not taking a more prominent role in preventing or limiting the scale of violence during the conflict.

Today, the conflict in Rwanda represents a turning point in history, and is subject to the widespread attention of researchers, policy makers, international lawyers and other groups. In particular, the Rwandan Genocide acts as a example of how widespread sexual violence can develop in times of conflict and is used as part of a wider campaign of genocidal activity.

6.2. Sexual Violence in Rwanda

In the conclusion of a report published by *Doctors Sans Frontiers*, Dr Catherine Bonnet describes the conflict thus: “The scope of rape in Rwanda defies imagination (...) It appears that every adult woman and every adolescent girl spared a massacre by militias was then raped” (Bonnet in Enloe 2000). Forms of sexual assault committed during the conflict included rape, gang rape, sexual mutilation, and torture (*ibid*). Reports also emerged of victims being raped with objects such as sharpened sticks or guns (*ibid*). Women were commonly held hostage in sexual slavery both collectively and individually (Nowrojee 2003). Some women were assaulted in their homes and in front of their families (Enloe 2000). Forced sexual assault by family members was not uncommon either (*ibid.*). Previously peaceful communities became rife with continuous instances of sexual violence, as rape became viewed as a weapon to eradicate the enemy. Labelled as ‘genocidal rape’ or ‘rape as an act of genocide,’ this was usually committed with various sharp objects which were intended to secure suffering and death (MacKinnon 2005). While the majority of the victims were ethnic Tutsi women, some Hutu women also became victims of sexual violence, predominantly women who were in opposition to the government, in favour of political parties associated with the Tutsis, protectors of the Tutsis or wives of Hutu men (Nowrojee 2003).

Both sexual violence and the spread of propaganda aimed at inciting sexual violence grew exponentially (*ibid*). Hate speech was regularly broadcasted on RTML radio and extremist articles were published in newspapers and magazines (Prunier 1995). The most virulent magazine, the *Kangura*, had repeatedly warned the Hutus of the danger posed by the Tutsis (*ibid*). It was in this magazine that the ‘Ten Commandments’ of the Hutus were published, a dogmatic paradigm of anti-Tutsi propaganda designed to rally Hutus against the Tutsis. The following passage quotes the four ‘Commandments’ which make overt reference to women:

- *Every Hutu should know that a Tutsi woman, wherever she is, works for the interest of her Tutsi ethnic group. As a result, we shall consider a traitor any Hutu who: marries a Tutsi woman; befriends a Tutsi woman; employs a Tutsi women as a secretary or a concubine.*

- *Every Hutu should know that our Hutu daughters are more suitable and conscientious in their role as women, wife, and mother of the family. Are they not beautiful, good secretaries and more honest?*
- *Hutu women be vigilant and try to bring your husbands, brothers, and sons back to reason.*
- *The Rwandese Armed Forces should be exclusively Hutu. The experience of the October [1990] war has taught us a lesson. No member of the military shall marry a Tutsi*

(Thompson, 2007, p. 366).

The *Interhamwe* militia group was the main perpetrator of sexual violence during the conflict, whose members were actively encouraged to sexually assault Tutsi women (*ibid*). The militia was comprised of ordinary Hutu people who prior to the conflict lived in a relative harmony with the Tutsi ethnic group (*ibid*). Rape, torture and murder occurred in communities where Hutus and Tutsis had previously co-existed peacefully, with instances of Tutsis being subjected to violence by their neighbours, colleagues, or friends (Jones 2008, Prunier 1995). Sometimes militia groups operated alongside government soldiers in orchestrating attacks (Prunier 1995).

The widespread use of sexual violence was rooted in the successful and well-prepared propaganda which had been steadily gaining momentum over the course of the Habyarimana regime (*ibid*). However, with increasing pressure on ordinary Hutu populations and punishment for sympathisers, even ordinary Hutus directed violence against Tutsis (*ibid*). Part of the propaganda machine incited violence specifically against Tutsi women. This is captured in the ICTR testimony of General Roméo Dallaire, commander of the UN peacekeeping operation in Rwanda:

“[W]e could notice on many sites, sometimes very fresh – that is, I am speaking of my observers and myself – that young girls, young women, would be laid out with their dresses over their heads, the legs spread and bent. You could see what seemed to be semen drying or dried. And it all indicated to me that these women were raped. And then a variety of material were crushed or implanted into their vaginas; their breasts cut off, and the faces were, in many cases still the eyes were open and

there was like a face that seemed horrified or something. They all laid on their backs. So, there were some men that were mutilated also, their genitals and the like. A number of them were – women had their breasts cut off or their stomach open. But there was, I would say generally at the sites you could find younger girls and young women who had been raped.” (ICTR-98-41-T in Nowrojee 2003).

The study of sexual violence during the Rwandan Genocide has pointed toward the alignment of militarism and gender which emerged during the conflict. Tracing Rwandan history back to its colonial past, Gallimore (2008) describes how the concept of gender developed in the nation, which not only tied femininity and masculinity to the sexes of women and men, but also a masculinisation of the Hutu ethnicity and a feminisation of the Tutsi ethnic group. Before the conflict broke out, militarisation in the country had already been escalating, propped up by anti-Tutsi propaganda directed against both women and men (*ibid*). Anti-Tutsi propaganda aimed to evoke feelings of hate amongst the Hutu population, vilify the Tutsi population, and incite acts of extreme violence amongst the general public. Sexual violence featured prominently, which as mentioned previously, serves as a message which demonstrates power over the enemy, creates fear, subjugation and humiliation (Brownmiller 1975, Seifert 1995).

6.3. International Response to Sexual Violence in Rwanda

This part of the chapter explores the responses from the tribunal as well as from transnational mobilisation groups and the overall international response to the conflict-related sexual violence in during the Rwandan Genocide.

6.3.1. Prosecution of sexual violence by the ICTR

Shortly after the ethnic conflict in Rwanda ended, the UN Security Council established the ICTR, whose aim was as follows:

“[P]rosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and

neighbouring States, between 1 January 1994 and 31 December 1994” (UN Security Council, 1994).

Even though the conflict in Rwanda resulted in more victims of sexual violence than conflict in Yugoslavia, the Rwandan International Criminal Tribunal is considered to be less successful in its prosecution of sexual violence in conflict. Unlike the ICTY, the prosecution of perpetrators of rape and sexual violence were not the core concern of the ICTR (Haddad 2011). Despite the large number of victims and perpetrators, the ICTR delivered only five successful convictions regarding sexual violence which were not overturned on appeal (Haddad 2011). The fact that the prosecution of rape was not the main aim of the tribunal is apparent from evidence of the tribunal’s lack of political will to prosecute sexual violence committed during the Rwandan conflict.

The decision-making of the tribunal can already be called into question due to a fact that a major source of the incitement to commit wartime/ genocidal rape, the media, did not receive any charges regarding sexual violence (Prosecutor v Nahimana et al.). The so-called ‘Media Case’, during which the prosecutor found the media leaders Nahimana, Barayagwiza and Ngeze guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, complicity in genocide and crimes against humanity, did not include any charge of sexual violence, even though the media highly contributed to the scale of sexual violence perpetrated during the conflict (Prosecutor v Nahimana et al.).

While the ICTR, did bring some cases of sexual violence to trial, they were often controversial and involved putting witnesses through a series of unpleasant procedures. For example, as the court was not located in Rwanda, witnesses had to undertake long-distance journeys in order to deliver testimony, which for some victims was impossible as they could not leave their children at home (Nowrojee 2005). Witnesses that did manage to attend the tribunal had to face an often traumatic series of cross-examinations, during which they were subject to intimidation or asked humiliating questions (*ibid*). For example, during one cross-examination, a defence attorney asked the victim whether she had bathed prior to being raped (*ibid*). When the witness responded that he hadn’t, the attorney used this as evidence that she could not have been raped by implying that she would have

smelled too bad to be the victim of sexual assault (*ibid*). To make matters worse, the judges of the tribunal responded by erupting into laughter, which quickly spread throughout the whole courtroom (*ibid*). This now commonly cited example of a witness undergoing a traumatic cross-examination has drawn great criticism to the processes and procedures of the ICTR (*ibid*).

Another issue which resulted from the prosecution of sexual violence in Rwanda was that the promise of anonymity for witnesses was not upheld (*ibid*). This was a major issue for prosecution of sexual violence in Rwanda. In Rwanda, women who were sexually assaulted by men who are not their husband are often rejected by the community they live in or even their own family (*ibid*). Women who are labelled as rape victims are practically unmarriageable and are isolated in society (*ibid*). Victims also felt they could not testify against their attackers out of fear that they or their families could take a revenge and harm them or their family. The humiliation of the tribunal personnel, breaches of anonymity and re-traumatisation after the cross-examination all contributed to further damage to victim's wellbeing resulting in many instances in which witnesses refused to provide testimony (*ibid*).

Sometimes, however, the failure to prosecute sexual violence was not the result of issues around witness testimony but due to the behaviour of members of the tribunal (*ibid*). This is perhaps best illustrated by the *Kajelijeli case*, in which the court delivered charges of genocide, but failed to deliver charges regarding sexual violence (Prosecutor v. Kajelijeli). This was not due to lack of evidence, nor to evidence suggesting that sexual violence had not taken place, but due to an administrative error (*ibid*). The prosecutor did not file the paperwork regarding sexual violence in time, causing the rape charges to be dropped from the final judgment (Prosecutor v. Kajelijeli).

Despite the apparent failure of the ICTR to prosecute sexual violence in conflict, a minority of cases were successful. For example, in the *Akayesu* case bore witness to the first prosecution of rape as an act of genocide (MacKinnon 2005). What is however important to note is that the original indictments of Jean-Paul Akayesu did not include any counts of rape (Copelon 2000). Originally, Akayesu was to be tried for twelve counts of genocide and crimes against humanity (Prosecutor v. Akayesu). The rape indictments were

only included much later, approximately five months prior to the trial due to the pressure from various human rights organisations (*ibid*). On 17 June 1997, the original indictment was modified and three additional counts were added, including those related to sexual violence (Prosecutor v. Akayesu). In 2001, Jean-Paul Akayesu was the first person to be sentenced for the crime of rape as an act of genocide (*ibid*). The Akayesu case is therefore considered as a landmark because it marked the first time that the court considered that rape can be committed with the intent to destroy, in a whole or in a part, a national, ethnical, racial or religious group (Genocide convention 1948).

The second case that stands out is the prosecution of Pauline Nyiramasuhuko (Prosecutor v. Nyiramasuhuko). She was the first and also the last women whom the ICTR found guilty of not only genocide, but also inciting soldiers (including her son) into committing acts of sexual violence (Drumbl 2012). Nyiramasuhuko was found guilty of all the charges and was appropriated prosecuted (*ibid*). This case provoked shock among the general public due to its association with gender and the fact that a woman could conceivably commit such crimes (Sjoberg 2016). The combination of ‘gendered’ and ‘rationalized exoticism’ made this case stand out and attracted the attention of a wide audience (*ibid*) According to Sjoberg (2016), Nyiramasuhuko was by many framed as “‘other’ to femininity and civilization,” shattering pre-conceived notions of gender through the sheer existence of an individual who simultaneously held the role of being a feminine care-giver through being a mother and grandmother, while also taking the masculine role of a person capable of inciting others to commit acts of sexual violence (Sjoberg 2016 pp. 59-60). Sperling (2005) describes how this paradox manifested during the Rwandan Genocide:

“[W]omen throughout history have equalled their male counterparts in their cruelty and in their willingness to plan, orchestrate, and participate in mass atrocities. Women, girls, and mothers also willingly and enthusiastically played important roles in Rwandan Genocide. As a female perpetrator of mass violence, Pauline is not an anomaly” (p.102).

Even though the Gacaca courts are not a main concern of this thesis, the international community plays a role in the adaptation of sexual violence prosecutions by the Gacaca

courts. Therefore, the following part briefly outlines the international role in prosecutions by the Gacaca courts.

6.3.1.1. Gacaca Courts

The Rwandan government adopted the resolution to establish the Gacaca courts in 2001 with the aim of addressing the crimes committed during the Rwandan Genocide (Haskell 2011). Due to the sheer number of criminals who committed more serious offenses, neither the ICTR nor the national courts were able to prosecute all perpetrators and all offenses alone (Haskell 2011). The decision was made to transfer some trials to the Gacaca courts, however, this responsibility went far beyond the court's intended purpose, which was to process minor cases (Morris 2014). As a result, crimes of sexual violence crimes become the baseline of prosecutions in the Gacaca courts overnight. In addition, both governmental and non-governmental organisations from a number of different states welcomed the Rwandan initiative to prosecute crimes in the Gacaca courts, lending support totalling \$25 million USD (Haskell 2011).

In response to this support, the government of Rwanda aimed to follow the successful prosecution of Jean-Paul Akayesu by prosecuting others involved in conflict-related sexual violence (*ibid*). Up to 90 percent of the crimes transferred to Gacaca courts were sexual violence related crimes (*ibid*). Nonetheless, the public nature of the trials did not bring many positive outcomes. Out of the 500,000 women who were victims of sexual violence in conflict only 6,608 had their cases tried in front of the Gacaca courts (Morris 2014).

In general, the Rwandan government's aim to prosecute the perpetrators of sexual violence in Rwanda was mainly due to the pressure from the states and organisations who wished to deliver justice to the victims of sexual violence. By receiving generous funding designed to aid the prosecution such crimes, the Gacaca courts in Rwanda aimed to include more prosecutions of sexual violence by Gacaca courts. However, this was mainly done in order to please the western nations and did not consider victim's wellbeing (*ibid*).

6.3.2. Transnational advocacy groups

6.3.2.1. Media

The representation of the Rwandan conflict-related sexual violence was highly underreported in the media. One study of coverage of the conflict in US newspapers found

that the first time attention was paid sexual violence in Rwanda only appeared in 1995 (Williams & Bower 2009). The *New York Times* published in total two articles on the issue of mass sexual violence in Rwanda, while the *Washington Post* published one (*ibid*). The *New York Times* seemed to follow the trend in the following years, and the total number of the articles informing about Rwandan sexual violence culminated in nine articles published between 1992 and 2000 (*ibid*). The *Washington Post*, on the other hand, printed only one article per year and between 1992 and 2000 in total three articles informing about sexual violence in Rwanda appeared in press (*ibid*).

6.3.2.2. Women's / Human rights organisations and feminists

The mobilisation of women's human rights organisations around the ICTR was, to a certain extent, limited. While these organisations did conduct some investigation of the atrocities of the Rwandan Genocide, their active involvement around the mobilisation of political will to prosecute conflict-related sexual violence did not emerge until two years after the tribunal opened practically non-existent. The main focus of the transnational advocacy groups concentrated around the large scale genocide, which was already the subject of a large number of reports published by other organisations. however, sexual violence was overlooked and did not feature heavily in ensuing reports (see Amnesty International 1994, Amnesty International 1995, Human Rights Watch 1994). Heidi Nichols Haddad (2011), interviewed a leader within a women's human rights movement who explained the reason why mobilisation around the issue of sexual violence only occurred two years after the tribunal opened:

“So, you had the prosecutor for the ICTY also being the prosecutor for the ICTR, Richard Goldstone. You had him making very strong statements about the fact that the rape could constitute a war crime and that they were committed to doing so. So, it was very exciting time from the perspective of gender justice... The Yugoslav tribunal was really the first time that mass rape and crimes against women were going to be recognised as international crimes. And we just assumed that these gains would carry over to the Rwandan tribunal. We started watching the Rwandan tribunal and it was becoming clear that they were not paying attention to this issue, and that it was not being included in the investigation work that was underway” (p. 123).

When mobilisation did appear, two NGOs, Human Rights Watch and African Rights, conducted investigation into crimes of sexual violence (Copelon 2000). Human Rights Watch sent a team to investigate the atrocities committed against women during the Rwandan genocide, consequently publishing an extensive report on the crimes of sexual violence perpetrated throughout the conflict (Human Rights Watch 1996). Others involved in the Coalition for Women's Human Rights in Conflict Situations unsuccessfully wrote letters to the ICTR calling for adaptation of sexual violence prosecutions (Haddad 2011). Due to disagreement over the exclusion of rape prosecutions by the ICTR, women's / human rights organisations and feminists sent two amicus briefs to the ICTR, demanding a rape prosecutions in the Akayesu and Cyangugu cases (Coepelon 2000, Haddad 2011). In the Akayesu case, the ICTR responded positively to the amicus brief , leading to the prosecution of Jean-Paul Akayesu for crimes of sexual violence, including charges of genocidal rape (Prosecutor v Akayesu). This is considered to be a major achievement of the tribunal (Copelon 2000). Rhonda Copelon (2000) notes the important role Judge Pillay had to play in this historic prosecution of genocidal rape. After hearing about the rapes from a witness testifying in the Akayesu case, Pillay requested an investigation of this crime and postponed the Akayesu trial (*ibid*).

Even though the Cyangugu case closely reassembled the Akayesu case, the court turned down the amicus brief despite having already prosecuted Ntagerura, Bagambiki and Imanishimwe for crimes of sexual violence the support provided by international advocacy groups who investigated his crimes and found witnesses to testify against him (Prosecutor v. Ntagerura et al., Haddad 2011). The amicus brief was received by Carla del Ponte who was the chief prosecutor of the ICTR. She asked the court to deny it, which it did. Haddad (2011) points to the disappointment of one leader within a women's human rights organisation who bemoaned the lack of willingness from the tribunal to prosecute crimes of sexual violence:

“Maybe there wasn't a perceived need on the side of the tribunal to do this again... because they could have done in the case of Cyangugu.... Akayesu was the first one... maybe one sexual violence conviction like the Akayesu is considered to be sufficient and so there's no need to go and seek others.” (p. 124).

7. Results

This thesis sought to reveal the differences between the cases of The Civil War in Yugoslavia and The Genocide in Rwanda in terms of the international response to instances of conflict-related sexual violence. To do so, it was essential to analyse the responses of a variety of actors, including those given by transnational institutions, non-governmental organisations, military tribunals and those found in popular media. As shown above, a crucial factor to explore is whether the extent to which the will to prosecute conflict-related sexual violence crimes differed between the cases tried by the ICTY and the ICTR. Through a careful review of evidence across primary and secondary sources, this thesis has identified that the political will to prosecute conflict-related sexual violence was indeed different.

Transnational advocacy groups have been identified as influential actors due to their ability to influence the political will of members of the two tribunals to prosecute crimes of sexual violence. Based on the findings above, it appears that the transnational advocacy groups that engaged with the ICTY and ICTR adopted two different approaches to the Yugoslavian Civil War and the Rwandan Genocide respectively. This points toward the existence of a causal link between the lack of transnational advocacy mobilization in response to the Rwandan Genocide and the ICTR's lack of political will to prosecute crimes of sexual violence.

The evidence analysed here suggests that the ICTY demonstrated far more political will and openness toward the prosecution of conflict-related sexual violence crimes than the ICTR. This is evident not only from the fact that the ICTY's prosecutions resulted in a greater number of successful convictions, but also from the ICTY's more gender-sensitive approach.

From a theoretical perspective, these cases are also examples of how traditions, thoughts and ideas are powerful forces in driving the behaviour – a concept which is central to Social Constructivism. Due to deep-entrenched cultural and societal traditions, women are often automatically assumed to be the victims of violence, while men are portrayed as the

perpetrators of violence. Described by Féron (2018) as “a gendered structure-bias,” this phenomenon leads to the neglect of sexual violence perpetrated against men.

As evidence presented in this thesis has shown, sexual violence was perpetrated against both men and women during the The Yugoslavian Civil War and The Rwandan Genocide. However, it seems that the approaches toward the prosecution of sexual violence perpetrated against men were not uniform across the ensuing tribunals. Viewed through the lens of Feminism, it seems that the approach of the ICTY toward the conceptualisation of gender followed the logic of Constructivism, whereas the ICTR’s approach was informed by Essentialism due to its predominant focus on the victimization of women.

It is important to underline here the significance of the controversy that arose during some of the trials which took place as part of the ICTR. When female victims of sexual violence provided testimony at the trial, they were often faced with unpleasant cross-examinations, humiliating questions and harsh interrogations, all of which could have potentially exacerbated the already significant trauma which victims had undergone (Nowrojee 2005). However, to a certain extent, the prosecution of Pauline Nyiramasuhuko seems to reflect an approach within the ICTR which contradicts the aforementioned gender structural-bias, as it involves the first woman who was prosecuted as a perpetrator of rape. This was also reflected in the Akayesu case, which for the first time involved the prosecution of rape as an act of genocide (Prosecutor v Akayesu, Sjoberg 2016). Both these cases represent the biggest achievements of the ICTR in terms of successfully prosecuting the perpetrators of sexual violence. However, these two cases also represent something of an anomaly in terms of the wider prosecution activity undertaken by the ICTR. As a result, it is clear that the ICTR lacked the political will to prosecute sexual violence crimes nor to adopt a more gender-sensitive approach.

This section of the analysis has demonstrated the extent to which the political will of the ICTR to prosecute conflict-related sexual violence crimes mostly exceeded the political will of the ICTR. The next section focused upon the role of transnational advocacy groups in influencing the political will of the tribunal.

The response of transnational advocacy groups to conflict-related sexual violence during the Yugoslavian Civil War resulted in a large-scale mobilization of influential voices from around the world, who were capable of spreading public awareness of the issue and pressuring international institutions to seek justice for victims. On the other hand, the will to actively engage around the Rwandan Genocide was limited. As research into coverage of both conflicts in two prominent US newspapers presented in Williams and Bower (2009) demonstrates, an unequal amount of attention was paid toward issue of conflict-related sexual violence between the two conflicts. Both *The New York Times* and the *Washington Post* published a far greater amount of coverage of The Yugoslavian Civil War but neglected the topic of sexual violence perpetrated during the Rwandan Genocide.

Year	NEW YORK TIMES			WASHINGTON POST		
	Total ^b	Rwanda	Both ^c	Total ^b	Rwanda	Both ^c
1992	3	0		10	0	
1993	14	0		21	0	
1994	3	0		5	0	1
1995	9	2		13	1	3
1996	9	2	2	5	0	
1997	5	2	1	2	0	
1998	7	3	3	10	1	
1999	3	0		12	0	
2000	3	0		5	1	
Totals	56	9	6	83	3	4

^aThe Rwandan crisis began in 1994

^bTotals include articles about the crises in the former Yugoslavia and in Rwanda.

^cBoth refers to articles that included information about both crises.

Source: Williams and Bower, 2009

Similar results have been demonstrated in an analysis of the responses of women's rights organisations and feminist advocates, who were initially responsible for driving the establishment of the ICTY and the prosecution of crimes of sexual violence. Relatively soon after the conflict in Yugoslavia broke out in 1992, women's rights organizations were already working on to support a number of Bosnian women who had become victims of sexual violence. By publishing investigative reports, organising public demonstrations, pressuring representatives of the UN and debating the conceptualisation of sexual violence, these transnational advocacy groups attracted widespread attention (Lewin 1993).

On the other hand, the Rwandan Genocide seemed to trigger a comparatively limited degree of mobilisation by these groups. In addition, this activity only emerged around two years after the ICTR had been established, when suspicions arose amongst a number of women's rights organisations that the tribunal had overlooked gender-sensitive crimes (Copelon 2000). The slow reactivity of these groups and their relatively limited level of engagement yielded few major achievements, while the ICTR prosecuted only five individuals for crimes of sexual violence.

Mobilisation around the Yugoslavian Civil war put significant pressure on the ICTY to prosecute crimes of sexual violence committed throughout the conflict. Awareness campaigns launched by a number of NGOs and disseminated throughout global networks of supporters increased the public's knowledge of how women and children had become victims of sexual violence during the conflict. These campaigns, however, seemed to channel gender structural bias, as many presented men as the perpetrators of sexual violence and women and children as innocent victims. This is a clear example what Crawford (2007) identifies as the 'innocent women and children' frame (p. 28), a perspective in which women, children and the elderly are automatically perceived to be innocent victims of violence and a powerful influence on the political will of those with the capacity to prosecute the crime. Furthermore, the language used during these campaigns frequently included the terms 'rape' or 'rape camps,' seems to be constructed to highlight the importance to prosecute conflict-related sexual violence.

The mobilisation of transnational advocacy groups around the Yugoslavian Civil War was both extensive and heavily influenced by essentialist thinking. The portrayal of the victims of sexual violence as both innocent and vulnerable (both of which being traditionally conceptualised as feminine characteristics) put immense pressure on prosecutors, ultimately leading to declaration of the chief prosecutor of the ICTY and the ICTR Richard Goldstone that both the ICTY and the ICTR would investigate and prosecute conflict-related sexual violence crimes (Haddad 2010).

In the case of the Yugoslavian Civil War, the mobilization of transnational advocacy groups proved to be an effective tool in building the political will to adopt and use hitherto

unprecedented legislation related to sexual violence in conflict. The pressure applied by these groups significantly contributed to the development of jurisprudence in the area of wartime sexual violence, which had not existed until the establishment of the ICTY. On the other hand, the limited mobilization around The Rwandan Genocide seems to have limited the extent of the ICTR's will to prosecute conflict-related sexual violence. It can therefore be argued that the campaigns led by transnational advocacy groups are a highly influential factor in generating political will. Moreover, this provides evidence that the actions of transnational advocacy groups during the Yugoslavian Civil War had a significant impact on the overall political will of the ICTY, whereas their comparatively small level of engagement in the case of The Rwandan Genocide can be seen as a limiting factor on the will of the ICTR to prosecute conflict-related sexual violence.

Based on the research presented within this thesis, two distinct approaches to conflict-related sexual violence emerge between the cases of The Yugoslavian Civil War and The Rwandan Genocide. The findings of the research also lend support to the hypothesis proposed in the introduction. Different actors, be they the tribunals or the transnational advocacy groups, construct their responses through social interaction and through personal sensibilities concerning what can be deemed as 'appropriate' behaviour. Activity or inactivity is typically dictated by both norms and the belief in aspiring to behave appropriately, which when combined with the aim to be seen in a good light, works as an influential factor. The following chapter elaborates on the understanding of these norms, noting in particular how they are rooted in the historical context of post-World War II jurisprudence, as well as the reasons they were prioritized in the Yugoslavian Civil War over the Rwandan Genocide.

8. Discussion

The previous chapter established that the overall international response to conflict-related sexual violence largely differed between the cases of The Yugoslavian Civil War and The Rwandan Genocide. The overall response to the sexual violence perpetrated throughout The Yugoslavian Civil War significantly exceeded the response to The Rwandan Genocide, both in the ensuing tribunals and amongst the transnational advocacy groups. On the other hand, the case of sexual violence perpetrated during The Rwandan Genocide did not provoke a comparably sizable international response. In fact, it is possible that without the last-minute intervention of international women's organizations who demanded the prosecution of Jean-Paul Akayesu for crimes sexual violence, the tribunal would never have been capable of delivering the landmark charge of rape as an act of genocide. In the introduction, it was hypothesised that the international response to the two conflicts would lack uniformity, with greater attention paid to the Yugoslavian Civil War.

1.1 Interpretation of results

The interpretation of these results can be done in number of ways, but here have been narrowed down to two distinct factors: the first is how in the context of World War II, Yugoslavian 'rape camps' can be taken as an influential factor in the more extensive responses of ICTY and of transnational advocacy groups ; while the second, is the notion of cultural superiority, by which European countries are seen as superior to African countries and could potentially also explain the different outcomes regarding the response.

1.1.1. Context of World War II

World War II was marked by the widespread and systematic use of sexual violence directed against women, men and childre (Brownmiller 1975). These war atrocities have arguably had a significant impact on the way in which conflict-related sexual violence is perceived today. During the war, a number of detention facilities were constructed, in which prisoners were systematically raped and sexually assaulted for purposes of torture or for the pleasure of soldiers (Wood 2006, Chalmers 2015). These facilities were typically

given softer labels such as ‘work camps’ or ‘comfort station brothels,’ to try to hide the human rights abuses which occurred within them from other states (Wood 2006). The language used to describe these facilities therefore allowed the perpetrators to present what during The Yugoslavian Civil War became known as the ‘rape camps’ in an acceptable form. When the crimes of sexual violence committed within these camps came to light, a variety of actors, such as transnational advocacy groups, demanded justice for the victims. However, despite the establishment of the Nuremberg and Tokyo military tribunals to prosecute those guilty of war crimes, neither was successful in delivering charges for crimes of sexual violence. This resulted in controversy, with many organizations across the world asserting the need for a system of international justice capable of dealing with crimes of such magnitude.

When the fact that sexual violence became a strategy of the Yugoslavian conflict came to light, transnational advocacy groups responded with a massive campaign aimed at spreading awareness of the establishment of so-called ‘rape camps,’ where women and children were regularly being sexually assaulted (Nadj 2011). These locations were frequently labelled by transnational advocacy groups as ‘concentration camps,’ a strategy which played strategic role in pressuring the members of the tribunal into action. In addition to analogues made between the perpetrators of the ethnic cleansing campaign with Adolf Hitler and the Nazi regime, the evocation of concentration camps by transnational advocacy groups returning to Europe was highly effective (The British Newspaper Archive 1992). These powerful symbols of the atrocities committed during World War II evoked a huge response, attracting the attention of both the general public through the news media as well as the representatives of the ICTY, to whom women’s right groups also sent letters and reports demanding the prosecution of perpetrators of wartime sexual violence crimes perpetrated against the Bosnian women. By linking the rape camps of The Yugoslavian Civil War to the concentration camps of Nazi-occupied Europe, a powerful discourse was established which would ultimately exert significant influence over the actions of the ICTY.

At this point, it is necessary to point out that the establishment of the UN was a direct consequence of the end of World War II. While the outbreak of global conflict in 1939 represented a huge failure of The League of Nations, the need for a supranational

institution to facilitate peaceful relations between states remained. At the end of World War II, the leaders of the world's major powers proposed the creation of the UN mostly as a tool to prevent the future abuse of human rights and ensure peace and security between states. As the ICTY was the first international criminal tribunal established by the UN, acted as a symbolic litmus test for the UN's capability to uphold its core mission of protecting human rights and preventing conflict. In addition, the widespread transnational advocacy campaign regarding crimes of sexual violence committed during The Yugoslavian Civil War had brought this fact to the attention of a global audience, who eagerly awaited the arrival of justice for victims of sexual violence. It was therefore essential that the ICTY responded in an adequately comprehensive manner when prosecuting crimes of conflict-related sexual violence perpetrated during the Yugoslavian Civil War in order to prove both itself, and the UN by proxy, as a capable international organization.

The relatively lacklustre legislative response to The Rwandan Genocide can be interpreted as a result of cultural superiority (Lears 1985). This aids in the understanding of why The Yugoslavian Civil War elicited a comparatively greater response in the international arena. The Europeans have created an image of Africa which represents the opposite image of Europe (*ibid*). The African continent is often pictured as dark, uncivilised, beset by conflict, and a hotbed of human rights abuses. This phenomenon has its roots in the colonisation of a number of African states by Western Imperial powers throughout the 19th and early 20th centuries (Brownmiller 1975). The stark differences between European and African ways of life were often interpreted by colonialists as backward, savage and animalistic. Exacerbated by popular pseudoscientific ideas of the time regarding race and biological essentialism, the commonly accepted sentiment in contemporary European discourse was that the citizens of African nations were being saved through subjugation to colonial powers. This also shaped conceptions of regional and ethnic identity, along the lines of a subordinate Africa and a hegemonic Europe, which in many cases still prevails in modern day discourse. The notion of cultural superiority can therefore offer a possible explanation of the differences between the international responses to the Yugoslavian Civil War and The Rwandan Genocide. Namely, of the war crimes committed during The Yugoslavian Civil War were portrayed as analogous to the atrocities of World War II, underpinning discourse which resulted in an extended response of the involved actors.

Consequently, the historic distribution of identities where the European are seen as a superior culture could therefore lead to a prioritization of the Yugoslavian case over the Rwandan.

1.2 Limitations of the research

This thesis offers a broader understanding of how different actors, be they tribunals or transnational advocacy groups, responded to two very similar conflicts in two very different ways. While the responses of a broad range of actors has been subject to analysis, these have not been specific, referring instead to the transnational advocacy campaigns they comprised. . Such a generalisation presents a confounding limitation to the research method applied here. Even the findings present above suggest there was greater engagement from transnational advocacy groups in the case of The Yugoslavian Civil War, it is possible that some of the voices demanding the prosecution of conflict-related sexual violence were not heard.

In addition, future research could analyse more closely the role of cultural superiority in determining the actions and responses to crimes of conflict-related sexual violence. This would provide a deeper and more psychological understating of the thought processes and patterns of behaviour which are significant when dealing with cases of a cross-cultural nature.

Finally, another point of departure from the research presented here concerns the specific role of tribunals or transnational advocacy groups. The research on the tribunals would not need to be limited to the ICTY and the ICTR, as there were more transnational justice systems which have been created to address international crimes. Furthermore, by addressing a broader spectrum of stakeholders, this research could yield richer data and more prescriptive insights. On the other hand, transnational advocacy groups are typically composed of large groups which are not always uniform in terms of their activity over the years. It is therefore suggested that a more precise approach is taken, focusing on one actor, such as the women's rights groups or the media, for example.

9. Conclusion

This thesis sought to reveal differences between the cases of The Civil War in Yugoslavia and The Rwandan Genocide in terms of the international response to sexual violence crimes which in both cases affected women, men and children. In order to analyse these differences, a review of evidence across both primary and secondary sources was conducted, identifying that The Yugoslavian Civil War was prioritized over The Rwandan Genocide.

A crucial factor from which the analysis derived was the difference in levels of political will to prosecute conflict-related sexual violence crimes by the ICTY and the ICTR. The analysed evidence suggested the ICTY demonstrated far more political will to prosecute conflict-related sexual violence crimes than the ICTR. The ICTY's openness towards the prosecutions of sexual violence crimes was apparent from a greater number of successful convictions and more gender-sensitive approach. The ICTR's approach on the contrary resulted in only five successful convictions and the trials were oftentimes highly controversial. It should be noted that the openness and political will are frequently not the sole result of the decision-making of the tribunal. Transnational advocacy groups typically play an important role in mobilization of political will which can effectuate a change in norms. Careful review of the response given by women's right organizations or those found in popular media identified the transnational advocacy groups as an influential actors in mobilization of political will and openness to prosecute conflict-related sexual violence crimes during the ICTY's trials. The comparatively small level of transnational advocacy groups' engagement in the Rwandan case has on the contrary been identified as having a causal effect on the lack of political will of the ICTR to prosecute sexual violence crimes.

This thesis intended to offer a slightly different perspective from the traditional analysis of conflict-related sexual violence perpetrated during The Yugoslavian Civil War and The Rwandan Genocide which is typically solely focused on the actions or inactions of the UN or the tribunals. This thesis has demonstrated that the variations in the ICTY and the ICTR prosecutions can indeed be a result of a transnational advocacy mobilization which can effectuate action.

Summary

This diploma thesis concentrated on application of the feminist theories of gender and constructivist theory of International Relations to international response given to conflict-related sexual violence perpetrated during The Yugoslavian Civil War and The Rwandan Genocide. The two cases were selected for their significant impact on recognition of conflict-related sexual violence as an international security concern. Both the Yugoslavian and Rwandan conflicts saw sexual violence against women, men and children being used strategically with an ethnic cleansing and/or genocidal intentions, respectively affecting 20,000 – 50,000 and around 500,000 victims.

The United Nations responded to the violence by establishing two international criminal courts: the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Both the ICTY and the ICTR were given a legal instrument to prosecute sexual violence perpetrated throughout the two conflicts. Their effectiveness, however, largely varied, consequently resulting in a relatively large number of sexual violence prosecutions by the ICTY and barely any sexual violence charges in the case of the ICTR. It needs to be noted that both the ICTY and the ICTR are well known for being the ‘agents of change’ in the development of jurisprudence of conflict-related sexual violence. Such change is frequently not the sole result of the political will to effectuate a change in norms. This change also requires involvement of other actors predominantly in form of a transnational advocacy mobilization. Different levels of power in these mobilizations can therefore lead to different outcome regarding the willingness to implement new laws.

This thesis therefore explored the variations in response of different actors involved in the process which resulted in a significant milestone in the development of conflict-related sexual violence jurisprudence. In order to do so, it was essential to evaluate the response of a variety of actors, including those given by translation advocacy groups, criminal tribunals and those found in popular media. A careful review of primary and secondary sources identified that the political will to prosecute conflict-related sexual violence was indeed different.

A crucial factor from which the analysis derived was the difference in levels of political will to prosecute conflict-related sexual violence crimes by the ICTY and the ICTR. The analysed evidence suggested the ICTY demonstrated far more political will to prosecute conflict-related sexual violence crimes than the ICTR. The ICTY's openness towards the prosecutions of sexual violence crimes was apparent from a greater number of successful convictions and more gender-sensitive approach. The ICTR's approach on the contrary resulted in only five successful convictions and the trials were oftentimes highly controversial. It should be noted that the openness and political will are frequently not the sole result of the decision-making of the tribunal. Transnational advocacy groups typically play an important role in mobilization of political will which can effectuate a change in norms. Careful review of the response given by women's right organizations or those found in popular media identified the transnational advocacy groups as an influential actors in mobilization of political will and openness to prosecute conflict-related sexual violence crimes during the ICTY's trials. The comparatively small level of transnational advocacy groups' engagement in the Rwandan case has on the contrary been identified as having a causal effect on the lack of political will of the ICTR to prosecute sexual violence crimes.

List of References

Primary Sources

- Barria, L. A. & Roper, S. D. (2005). How effective are international criminal tribunals? An analysis of the ICTY and the ICTR. *The International Journal of Human Rights*, 9(3). 349-368.
- Berg-Schlosser, D. & De Meur, G. (2009). Comparative research design: case and variable selection. In Rihoux, B., & Ragin, C. C. *Applied Social Research Methods: Configurational comparative methods: Qualitative comparative analysis (QCA) and related techniques* (Vol. 51, pp. 19-32). Thousand Oaks, CA: SAGE Publications.
- Bloxham D & Moses D. (2013). *The Oxford Handbook of Genocide Studies*, ed. Donald Bloxham and A. Dirk Moses. Oxford UK: Oxford University Press.
- Brownmiller, Susan. (1975). *Against our will: Men, women and rape*. New York: Simon and Schuster.
- Buss, D. E. (2009). Rethinking 'rape as a weapon of war'. *Feminist legal studies*, 17(2). 145-163.
- Campbell, K. (2007). The gender of transitional justice: Law, sexual violence and the International Criminal Tribunal for the Former Yugoslavia. *The International Journal of Transitional Justice*, 1(3). 411-432.
- Card, C. (1996). Rape as a Weapon of War. *Hypatia*, 11(4). 5-18.
- Chalmers, B. (2015). Jewish women's sexual behaviour and sexualized abuse during the Nazi era. *The Canadian Journal of Human Sexuality*, 24(2). 184-196.
- Chinkin, C. (1994). Rape and sexual abuse of women in international law. *European journal of international law*, 5(3). 326-341.
- Clark, J. N. (2017). Masculinity and male survivors of wartime sexual violence: A Bosnian case study. *Conflict, Security & Development*, 17(4). 287-311.
- Conteh-Morgan, E. (2005). Peacebuilding and human security: a constructivist perspective. *International Journal of Peace Studies* 10(1). 69-86.

- Copelon, R. (1994). Surfacing gender: Re-engraving crimes against women in humanitarian law. *Hastings Women's LJ*, 5.
- Copelon, R. (2000). Gender crimes as war crimes: Integrating crimes against women into international criminal law. *McGill Law Journal* (46), 217.
- Crawford, K. F. (2017). *Wartime sexual violence: From silence to condemnation of a weapon of war*. Washington, DC: Georgetown University Press.
- Davidson, J. W. (2013). France, Britain and the intervention in Libya: an integrated analysis. *Cambridge Review of International Affairs*, 26(2). 310-329.
- De Brouwer, A. M. (2005). *Supranational Criminal Prosecution of Sexual Violence: The ICC and the Practice of the ICTY and the ICTR* Antwerp – Oxford: Intersentia.
- Dikken, B. & Laustsen, C. B. (2005). Becoming object: Rape as a weapon of war. *Body & Society*, 11(1). 111-128.
- Drumbl, M. A. (2012). She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011. *Mich. J. Int'l L.*, 34.
- Engle, K. (2005). Feminism and its (dis) contents: Criminalizing wartime rape in Bosnia and Herzegovina. *American Journal of International Law*, 99(4). 778-816.
- Engle, K. (2020). *The Grip of Sexual Violence in Conflict: Feminist Interventions in International Law*. Sandford CA: Stanford University Press.
- Enloe, Cynthia. 1990. *Bananas, Beaches and Bases: Making Feminist Sense of International Politics*. Berkeley: University of California Press.
- Enloe, Cynthia. 2000. *Manoeuvres: The International Politics of Militarizing Women's Lives*. Berkeley: University of California Press.
- Eriksson Baaz, M. E. & Stern, M. (2009). Why do soldiers rape? Masculinity, violence, and sexuality in the armed forces in the Congo (DRC). *International studies quarterly*, 53(2). 495-518.
- Eriksson Baaz, M. & Stern, M. (2013). *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond*. London, New York: Zed Books Ltd..

Evans, M., & Williams, C. (Eds.) (2012). *Gender: The key concepts*. Abingdon, UK: Routledge.

Féron, É. (2018). Wartime Sexual Violence Against Men: The Hidden Face of Warfare. Retrieved March 10, 2020 from: <https://www.rowmaninternational.com/blog/wartime-sexual-violence-against-men-the-hidden-face-of-warfare> .

French, S. G., Teays, W., & Purdy, L. M. (Eds.). (1998). *Violence against women: Philosophical perspectives*. Ithaca NY: Cornell University Press.

Gallimore, R. B. (2008). Militarism, ethnicity, and sexual violence in the Rwandan genocide. *Feminist Africa*, 9-29.

Goldstein, J. S. (2001). *War and Gender: How gender shapes the war system and vice versa*. Cambridge UK: Cambridge University Press.

Gruber, A. (2009). Rape, feminism, and the war on crime. *Wash. L. Rev.*, 84. 581.

Haddad, H. N. (2011). Mobilizing the will to prosecute: Crimes of rape at the Yugoslav and Rwandan Tribunals. *Human Rights Review*, 12(1). 109-132.

Haskell, L. (2011). Justice Compromised: The Legacy of Rwanda's Community-based Gacaca Courts. *Human Rights Watch* (May 31).

Hague, E. (1997). Rape, power and masculinity: the construction of gender and national identities in the war in Bosnia-Herzegovina. In R. Lentin (Ed.) *Gender and catastrophe*. 50-63. London UK: Zed Books.

Houge, A. B. (2008). Subversive victims?: The (non) reporting of sexual violence against male victims during the war in Bosnia-Herzegovina. *Nordicom Review*, 29(1). 63-78.

Jones, A. (2008). *Gender inclusive: Essays on violence, men, and feminist international relations*. New York: Routledge.

Kalosieh, A. (2002). Consent to Genocide: The ICTY's Improper Use of the Consent Paradigm to Prosecute Genocidal Rape in Foca. *Women's Rts. L. Rep.*, 24.

Keck, M. E. & Sikkink, K. (1999). Transnational advocacy networks in international and regional politics. *International social science journal*, 51(159). 89-101.

King, G., Keohane, R. O. & Verba, S. (1994). *Designing social inquiry: Scientific inference in qualitative research*. Princeton: Princeton University Press.

- Kirby, P. (2013). How is rape a weapon of war? Feminist International Relations, modes of critical explanation and the study of wartime sexual violence. *European Journal of International Relations*, 19(4). 797-821.
- Kohn, E. (1994). Rape as a weapon of war: Women's human rights during the dissolution of Yugoslavia. *Golden Gate University Law Review* 24. 199-223.
- Koos, C. (2015). What Do We Know About Sexual Violence in Armed Conflicts? Recent Empirical Progress and Remaining Gaps in Peace and Conflict Research. *Giga Working papers*.
- Lears, T. J. (1985). The concept of cultural hegemony: Problems and possibilities. *The American Historical Review*, 567-593.
- Lewin, T. (1993). The Balkans Rapes: A Legal Test for the Outraged. *New York Times*. (January 15).
- MacKinnon, C. A. (1994a). Rape, genocide and women's human rights. *Mass rape: The war against women in Bosnia-Herzegovina*, ed. Alexandra Stiglmayer. Lincoln, NE: University of Nebraska Press. 183-195.
- MacKinnon, C.A. (1994b). Turning rape into pornography: Post modern genocide. *Mass rape: The war against women in Bosnia-Herzegovina*. ed. Alexandra Stiglmayer. Lincoln, NE: University press. 73-81.
- MacKinnon, C. A. (2005). Defining rape internationally: A comment on Akayesu. *Colum. J. Transnat'l L.*, 44. 940.
- Morris, M. B. (2014). *The Courage to Come Forward: Factors Related to Rwandan Women Taking Cases of Sexual Violence to Transitional Courts*. University of California, Berkeley. Retrieved April 20, 2020 from: <https://escholarship.org/uc/item/2wff0j068> .
- Nadj, D. (2011). The culturalisation of identity in an age of 'ethnic conflict'—depoliticised gender in ICTY wartime sexual violence jurisprudence. *The International Journal of Human Rights*, 15(5). 647-663.

- Nowrojee, B. (2003). "Your Justice is Too Slow": Will the ICTR Fail Rwanda's Rape Victims?. *Boston Consortium on Gender, Security and Human Rights Working Paper No. 105*.
- Oosterhoff, P., Zwanikken, P. & Ketting, E. (2004). Sexual torture of men in Croatia and other conflict situations: an open secret. *Reproductive health matters*, 12(23). 68-77.
- Prunier, G. (1995). The Rwanda Crisis 1959-1994. *History of a Genocide*. New York: Columbia University Press.
- Reus-Smith, C. (2013). Constructivism in Theories of International Relations in Burchill, S., Linklater, A., Devetak, R., Donnelly, J., Nardin, T., Paterson, M., ... & True, J *Theories of International Relations*, New York: Macmillan International Higher Education.
- Robben, A. C. (2018). *Argentina betrayed: memory, mourning, and accountability*. Philadelphia: University of Pennsylvania Press.
- Segal, M. T. & Demos, V. (Eds.) (2013). *Gendered perspectives on conflict and violence*. Bingley: Emerald Group Publishing.
- Seifert, R. (1995). War and Rape: A Preliminary Analysis. In A. Stiglmeier (ed.) *Mass Rape: the war against women in Bosnia Herzegovina*, University of Nebraska Press: Lincoln and London, 54-73.
- Shepherd, L. J. (2016). Feminist security studies. In Steans, J., & Tepe-Belfrage, D. (Eds.) *Handbook on Gender in World Politics*. Cheltenham: Edward Elgar Publishing.
- Sjoberg, L. (2016). *Women as wartime rapists: Beyond sensation and stereotyping*. New York: New York University Press.
- Skjelsbaek, I. (2001). Sexual violence and war: Mapping out a complex relationship. *European Journal of International Relations*, 7(2). 211-237.
- Skjelsbæk, I. (2015). The military perpetrator: A narrative analysis of sentencing judgments on sexual violence offenders at the International Criminal Tribunal for the Former Yugoslavia (ICTY). *Journal of Social and Political Psychology*, 3 46-70.
- Sperling, C. (2005). Mother of atrocities: Pauline Nyiramasuhuko's role in the Rwandan genocide. *Fordham Urb. LJ*, 33. 637.
- Thompson, A. (2007). *Media and the Rwanda genocide*. Ottawa, ON, CA: IDRC.

- Ward, C. A. (2013). Significance of wartime rape. *Advances in Gender Research, Gendered Perspectives on Conflict and Violence: Part A, 18*. 189-212.
- Weitsman, P. A. (2008). The politics of identity and sexual violence: A review of Bosnia and Rwanda. *Human Rights Quarterly*. 561-578.
- Weitz, E. D. (2015). *A Century of Genocide: Utopias of Race and Nation-Updated Edition*. Princeton: Princeton University Press.
- Williams, Y. & Bower, J. (2009). Media images of wartime sexual violence: Ethnic cleansing in Rwanda and the former Yugoslavia, in D. Humphries (ed.) *Women, Violence, and the Media: Readings in Feminist Criminology*, Boston: Northeastern University Press 156-74.
- Wilmer, F. (2002). *The social construction of man, the state, and war: Identity, conflict, and violence in former Yugoslavia*. New York: Routledge.
- Wood, E. J. (2006). Variation in sexual violence during war. *Politics & Society*, 34(3). 307-342.

Secondary Sources

- Amnesty International. (1991). Women on the front line: new report details “barbaric” abuses of women in more than 40 countries. Amnesty International. Retrieved April 23, 2020, from: <https://www.amnesty.org/download/Documents/196000/act770041991en.pdf> .
- Amnesty International. (1992). Bosnia-Herzegovina: Gross abuses of human rights. Amnesty International. Retrieved April 10, 2020, from: <https://www.amnesty.org/download/Documents/192000/eur630011992en.pdf> .
- Amnesty International. (1993). Bosnia-Herzegovina, Rape, and sexual abuse by armed forces. Amnesty International. Retrieved April 23, 2020 from: <https://www.amnesty.org/download/Documents/188000/eur630011993en.pdf>.
- Amnesty International. (1994). Rwanda: Mass murder by government supporters and troops in April and May 1994. Retrieved April 23, 2020 from: <https://www.amnesty.org/en/documents/afr47/011/1994/en/> .

Amnesty International. (1995). Rwanda and Burundi: A call for action by the international community. Retrieved April 23, 2020 from:

<https://www.amnesty.org/en/search/?q=genocide+rwanda&ref=&year=1995&lang=en&adv=1&sort=relevance> .

Human Rights Watch. (1994). Genocide in Rwanda. Retrieved May 2, 2020 from:

<https://www.hrw.org/report/1994/05/01/genocide-rwanda> .

Human Rights Watch. (1996). Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath. Retrieved May 2, 2020 from:

<https://www.hrw.org/legacy/reports/1996/Rwanda.htm> .

ICTY. In Numbers. Retrieved April 5, 2020 from:

<https://www.icty.org/en/features/crimes-sexual-violence/in-numbers> .

ICTY. Innovative Procedures. Retrieved April 5, 2020 from:

<https://www.icty.org/en/features/crimes-sexual-violence/innovative-procedures> .

ICTY. The Prosecutor v Kunrac et al. (Judgement), IT-96-23 & 23/1, International Criminal Tribunal for Yugoslavia (ICTY), 22 February 2001. Retrieved April 20, 2020 from: <https://www.icty.org/x/cases/kunarac/tjug/en/kun-tj010222e.pdf> .

ICTR. The Prosecutor v. Kajelijeli (Judgment and Sentence), ICTR-98-44A-T, International Criminal Tribunal for Rwanda (ICTR), 1 December 2003. Retrieved April 20, 2020 from: <https://www.refworld.org/cases,ICTR,404466007.htm> .

ICTR. The Prosecutor v. Jean-Paul Akayesu (Trial Judgement), ICTR-96-4-T, International Criminal Tribunal for Rwanda (ICTR), 2 September 1998. Retrieved April 20, 2020 from: <https://www.refworld.org/cases,ICTR,40278fbb4.html> .

ICTR. The prosecutor v. Nyiramasuhuko (Judgement and Sentence), ICTR-98-42, International Criminal Tribunal for Rwanda (ICTR), 14 December 2015. Retrieved March

25, 2020 from: <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-98-42/appeals-chamber-judgements/en/151214-judgement.pdf> .

ICTR. The Prosecutor v. Ntagerura et al. (Judgment and Sentence), ICTR-99-46, International Criminal Tribunal for Rwanda (ICTR), 25 February 2004. Retrieved March 27, 2020 from: <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-99-46/trial-judgements/en/040225.pdf> .

ICTR. The Prosecutor v. Nahimana et al. (Judgment and Sentence), ICTR-99-52, International Criminal Tribunal for Rwanda (ICTR), 3 December 2003. Retrieved March 20, 2020 from: <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-99-52/trial-judgements/en/031203.pdf> .

IRMCT. About. Retrieved April 20, 2020 from: <https://www.irmct.org/en/about> .

UN Commission on Human Rights, *Rape and abuse of women in the territory of the former Yugoslavia.*, 9 March 1994, E/CN.4/RES/1994/77, Retrieved April 20, 2020 from: <https://www.refworld.org/docid/3b00f09e20.htm> .

UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277. Retrieved April 20, 2020 from: <https://www.refworld.org/docid/3ae6b3ac0.html> .

UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6. Retrieved April 20, 2020 from: <https://www.refworld.org/docid/3ae6b3a84.html> .

UN Security Council, *Statute of the International Criminal Tribunal for Rwanda (as last amended on 13 October 2006)*, 8 November 1994. Retrieved April 5, 2020 from: <https://www.refworld.org/docid/3ae6b3952c.html> .

