



Gender Based Violence in Armed Conflict and Displacement and Sustainable Development Goals: A Case Study in International Law

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Abstract

Gender-based violence (GBV) is a continuing reality that takes place during situations of armed conflict and displacements with no regard for human rights or the trauma (physical and mental) that victims have to go through. The vulnerability of victims and the strategic approach of inflicting violence on them is the exploitation of the human body. Most GBVs are gone underreported or considered insignificant by domestic laws which shower injustice on victims who have to suffer the prolonged effects of the event. GBV is an obstruction in the face of achieving gender equality and empowerment of all girls and women, which is one of the most important objectives of the Sustainable Development Goals (SDGs). This paper focuses on the SDG 16 and the SDG 5 with the chosen topic.

The paper uses a doctrinal research method in conjunction with qualitative legal research analysis in the preparation of the research paper. The paper looks at the social, cultural, and political factors that mold the contextual elements in the said narrative. The paper concentrates on the current legal regime in international law and investigates the research hypothesis for future development.

Keywords: Gender-Based Violence, Sustainable Development Goals, Armed Conflict, Displacement, International Law

"War is an inherently patriarchal activity, and rape is one of the most extreme expressions of the patriarchal drive toward masculine domination over the woman. This patriarchal ideology is further enforced by the aggressive character of the war itself, that is to dominate and control another nation or people." (Sajor, 1998)

Introduction

The most widespread and yet the least acknowledged human rights violation in the world is gender-based violence (GBV). GBV is a global public health problem that poses challenges in human health, with a higher prevalence in developing countries. GBV is an abuse of human rights that occurs internationally, in both developing and developed countries, regardless of culture, socioeconomic class, or religion (Muluneh *et al.*, 2020). In the past decade, the relationship between GBV and armed conflicts has received much international attention. The impact and implications of violence against women have led to numerous attempts to address accountability and impunity issues through processes that include access to justice mechanisms. The number

of forcibly displaced people worldwide rose to 90 million by the end of 2021 (UNHCR, 2022). Displacement causes several problems and difficulties for women, especially in the context of armed conflict. Resultantly, their lives are endangered by the dreadful atrocities of armed conflict throwing them to unbearable sufferings (Seneviratne, 2008). Local and international organizations have documented reports of sexual violence perpetrated by Russian military forces. This mounting crisis suggests, not for the first time, that conflict-related sexual violence requires urgent action (Stark *et al.*, 2022). There is an urgent need for enhanced investment by the international community to break the vicious cycle of sexual violence and impunity (UNSC, 2022).

In recent times, there have emerged extensive accounts of violence against women in times of armed conflict. Systematic rape and other forms of GBV are increasingly used as weapons of war in armed conflicts in different regions of the world. Furthermore, the use of rape to reinforce policies of ethnic cleansing and the establishment of camps explicitly intended for sexual torture and the forcible impregnation of women are tragic developments which mark a definite escalation of violence against women in situations of armed conflicts (Sajor, 1998).

All this act of violence is a hindrance to the SDG 16 - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels, specifically the targets of 16.1 and 16.2 along with the SDG 5- Achieve gender equality and empower all women and girls where the target of 5.2 is affected. This research paper will be an analysis of the proposed topic with the said SDG's.

Review of Literature

Understanding GBV

International law has not employed a specific definition for sexual violence and GBV. Sexual violence has been defined in the World Report on Violence and Health as 'any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work' (Wood, 2004). Whereas GBV is the violence that is directed against a person on the basis of their sex or gender, and it includes acts that inflict emotional, physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. This term encompasses those types of intimate partner violence (IPV) and non-partner rape, as well as a range of violent acts including other physical, psychological, economic, and sexual violence, exploitive or coercive acts, as well as harmful traditional practices (UNGA, 1993).

GBV is a broader umbrella term referring to any harmful act that is perpetrated against a person's will, and that is based on socially ascribed (gender) differences between males and females, which in most settings privilege men (Tol *et al.*, 2013). It is psychological, physical, and/or sexual violence perpetrated or condoned within the family, the general community, or by the state and its institutions (UNGA, 1993).

GBV includes a host of harmful behaviors directed at women and girls due to their sex, including wife abuse, sexual assault, dowry-related murder, marital rape, selective malnourishment of female children, forced prostitution, genital mutilation of female children, and sexual abuse of female children. Specifically, violence against women includes any act of verbal or physical force, coercion, or life-threatening deprivation, directed at an individual woman or girl that causes physical or psychological harm, humiliation, or arbitrary deprivation of liberty, and that perpetuates female subordination (Heise et al., 1999).

Understanding Armed Conflict

An armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between governmental authorities and organised armed groups or between such groups within a state as stated in *Prosecutor Vs. Dusko Tadic* (IT-94-1-A) at the ICTY on 2 October 1995. There are two types of armed conflict in International Humanitarian Law (IHL), international and non-international armed conflicts. Common Article 2 to the 1949 Geneva Conventions provides that: In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance (see *Prosecutor v Thomas Lubanga Dyilo* (ICC-01/04-01/06)).

Armed conflict is divided into the following three subsets (Gleditsch et al., 2002)

1. Minor Armed Conflict: at least 25 battle related deaths per year and fewer than 1,000 battle-related deaths during the course of the conflict.
2. Intermediate Armed Conflict: at least 25 battle-related deaths per year and an accumulated total of at least 1,000 deaths, but fewer than 1,000 in any given year.
3. War: at least 1,000 battle-related deaths per year.

Conflicts are further distinguished on the basis of different types (Small and Singer, 1982)

1. Interstate armed conflict occurs between two or more states.
2. Extra-state armed conflict occurs between a state and a non-state group outside its own territory.
3. Internationalized internal armed conflict occurs between the government of a state and internal opposition groups with intervention from other states.
4. Internal armed conflict occurs between the government of a state and internal opposition groups without intervention from other states.

In times of armed conflict (international and non-international), the main body of applicable law is International Humanitarian Law. Human Rights Law was initially conceived to be applicable in peacetime. Its applicability to wartime was hardly considered. Since the 1960s, this position was reversed (Kolb, 1999). It is today generally accepted that Human Rights Law applies also in situations of armed conflict (Sassàli, 2007).

Understanding Displacement

Wars and armed conflicts are the main causes of displacement across the world. However, these conflicts still lead to the large-scale displacement of men, women, and children seeking refuge in neighbouring states. However, the nature of forced migration is increasingly changing, as more and more people are forced to seek refuge within the borders of their own state, as internally displaced persons (hereafter 'IDP') (Odhiambo-Abuya, 2003). Currently, internal conflict is credited as the principle cause of the displacement of an estimated 10,000 people daily (Lewis, 1992). Burundi, Rwanda, the Sudan, Sri Lanka, Columbia, Tajikistan, and former republics of the Soviet Union, such as Azerbaijan and Chechnya, are just a few of the countries with internally displaced persons (Cohen and Deng, 1998). Internal displacement occurs as the result of a number of happenings, i.e. armed conflict, internal strife, grave violation of human rights, political upheavals and persecution, for economic reasons and other natural or human-made disasters (Senevirantne, 2006). The General Assembly of the United Nations noted 'with concern':

"The number of refugees and displaced persons of concern to the High Commissioner, as well of other persons whom her office had been asked to extend assistance and protection, has continued to increase and that their protection continues to be seriously jeopardized in many situations as a result of ... threats to their physical security, dignity,, and well-being, and lack of respect for their physical security, dignity and well-being, and lack of respect for fundamental freedoms and human rights" (UNGA, 1982).

Statement of the Research Problem

On 25 September 2015, the 193 member states of the United Nations (UN) unanimously adopted the SDGs, a set of 17 goals and 169 targets aiming to transform the world over the next 15 years. These goals are aimed at eliminating poverty, discrimination, abuse, and preventable deaths, addressing environmental destruction, and ushering in an era of development for all people, everywhere (UNGA, 2016). The SDGs set the agenda for global priorities in development between now and 2030. This agenda represents a welcome change to its predecessors, the Millennium Development Goals (MDGs). It was acknowledged that the persistence of violence against women even after 15 years of MDGs has undermined the progress on other MDGs, given its crippling effect on women's ability to contribute to and benefit from broader developmental processes (UN, 2014). Universally, they call for a sustainable future, whereby all people enjoy equal rights and poverty is a thing of the past. Goal 5 is aimed more broadly at achieving gender equality and empowering all women and girls, and target 5.2 specifically aims to eliminate all forms of violence against women and girls. Achieving gender equality is impossible without ending violence against women and girls, and vice versa. Sustainable development relies on peace,

justice, and inclusive, effective, and accountable institutions. However, we cannot achieve sustainable development, including SDG 16, without ending violence against women and girls (Homan and Fulu, 2021). Reducing gender-based violence (GBV) is a public good that benefits individuals, families, and communities in many ways. Reducing GBV is a driver for progress across a host of specific SDG targets (Lang et al., 2019).

The importance of bringing an end to all forms of violence against women and girls has further been reiterated in the SDGs, which for the first time recognise this as central to the achievement of SDG 5 on gender equality and women's empowerment, as well as several other SDG targets, including those related to health (SDG 3) (Heidari and García Moreno, 2016).

The UN has noted that with the rise to prominence of violent extremist groups in recent years, the systematic use of sexual violence against women and children has become a tactic of terrorism (UN, 2016). Many of today's conflicts displace masses of people and result in women's and children's exposure to violence, family separation, splintering of community solidarity, shattered social trust, and inability to create an adequate livelihood (Ai et al., 2002). GBV takes various forms during armed conflicts like domestic violence, pornography, genital mutilation, and prostitution (Lombard, 2021).

Concurrently, the UN acknowledges that in armed conflict and post conflict situations, the vulnerability of displaced persons to human trafficking for the purposes of exploitation, including sexual violence, increases (UNODC, 2016). Displaced and refugee women, who find themselves forced to leave their place of origin and move to other locations, whether in the same country or elsewhere, deserve special attention, in view of the specific forms of violence they suffer. Although political and military violence obliges men and women alike to leave their places of residence, and affects them in a similar way because they are both victims of the same kind of aggression, the experiences of men and women, and the meaning and connotations attached to these experiences, cannot be seen as independent from a gender-based analysis, especially considering the issue of rape and the mistreatment and assaults women suffer at the hands of the men who form part of those same displaced population groups (Rico, 1997). Displaced women are vulnerable to all forms of violence at every stage of their flight (UNHCR, 1991). In armed conflicts and warfare, sexual violence against women, as well as men, is used as a tactic of war, with grave consequences on the physical, mental, and sexual and reproductive health of survivors of violence (Heidari and Moreno, 2016).

Purpose

To state the measurable purpose of the research undertaken, this study was geared to achieve the following:

- 1) To study the various conflict and displacement situations around the world in order to highlight the severity of GBV and impact on the SDG's.

- 2) To examine the social, cultural, and political factors in GBV during armed conflict and displacement.

Research Questions

1. What is the relationship between GBV and SDG in the present time of armed conflict and displacement?
2. How will solving the current legal lacuna with regard to GBV in armed conflict and displacement help achieve the SDG for the future?

Data Collection and Methodology

In accordance with the objectives of the present study, the doctrinal research design has been adopted. The doctrinal design has been used to study the jurisprudential development in the several armed conflict and displacement situations used. This has been done primarily with the help of case laws and leading judgments of various courts along with research studies conducted by experts in International Humanitarian Law and International Refugee Law. Reports from committees and commissions have been scanned for issues relating to the research problem.

The scope of the research extends to the past 50 years in process through the different kinds of conflict and displacement situations that took place around the world. Countries such as Rwanda, Bosnia, Kosovo, Sierra Leone, Sudan, Algeria, Cambodia, Sri Lanka, East Timor, Cyprus, Haiti, Liberia, Somalia and Uganda among some others are the main coverage areas in the research. The stratified sampling method is used to highlight differences between the populations based on the basis of gender in the research.

Limitations of the Study

The main limitation of the research study is the inability to enquire and collect data from the internal governments of different countries with regard to GBV crimes committed against displaced populations and in conflicted societies. The data as understood are confidential and, unfortunately, cannot be used for research purposes. Other limitations include the lack of research of SDG and the proposed research study in mainstream academic circles. There has also been a limitation of inadequate sampling for large populations with reliable data to base the research but it can be overlooked in a qualitative research like this one.

Originality/Value of the Paper

This paper provides evidence of the intermingling of GBV in armed conflict and displacement in the eyes of achieving SDG'S for the future. The research compares the current situation and shows the need for an impactful intervention to prevent and protect future girls and women from the threat of GBV. It also provides important information on the legal tools currently present in tackling the crime and the need for improvement.

Data Analysis

Causes of GBV during Armed Conflict and Displacement

The term gender-based violence was originally coined to highlight gender inequality (i.e., unequal power dynamics between women and men and unequal access to resources for women) that put women and girls at higher risk of certain forms of violence. It is, however, increasingly being used also to refer to violence on the basis of a person's sex, sexual orientation or gender identity. Notions of masculinity and femininity underpin both violence against women, and against groups with diverse sexualities and gender identities, nonetheless, the gender dynamics and the underlying drivers for each form of violence are not necessarily the same. Violence based on sexual orientation or gender identity must be studied and understood in its own right. Documenting the magnitude and nature of violence faced by individuals on the basis of their sexual orientation and gender identity will help develop more targeted approaches to addressing such violence and address the many barriers, including stigma and discrimination, which limit their access to services (Heidari and Moreno, 2016). Many writers consider GBV an aspect of patriarchy, i.e. male control, and imply that some men use violence to control their partner (Ellsberg and Heise, 2005). Some writers claim that "partner violence is primarily a problem of men using violence to control 'their women', a control to which they feel they are entitled and that is supported by a patriarchal culture" (Johnson and Ferraro, 2000). Gender inequality manifests itself at multiple levels of society. Unequal attitudes and norms that promote the acceptance of, and justify violence against, women and girls drive prevalence rates around the world. In one study from Timor-Leste, it was found that 45 per cent of men believe it is ok for a man to beat his wife if she goes out without telling him (GDS, 2016). In general, violence against women is justified by, and closely linked to, the institution of marriage.

Forced sexual contact can occur at any time in a woman's life and includes a variety of behaviours, from forcible rape to non-physical forms of pressure that force girls and women to engage in sex against their will. The touchstone of coercion is that a woman lacks choice and faces severe physical or social consequences if she resists sexual advances (Heise et al., 2002). Victims of sexual violence can face myriad obstacles to reporting an assault. In much of the world, women are viewed as keepers of the family virtue, and female modesty is enshrined in law or tradition. A woman may suffer if she reports a crime: she may lose status in her community, or her husband may leave her. She may even be killed. Where female sexuality itself is taboo, women may not be able to discuss sexual crimes with male authorities. Too often, women view violence, including sexual violence, as a fact of life. Under these circumstances women sometimes elect, or are pressured by their families or communities, not to report sexual violence to authorities (Kelly, 2005).

Contributing Factors of GBV during Armed Conflict and Displacement

Previously thought of as an inevitable by-product of war or collateral damage to be tolerated, it is now realised that SGBV is used as a weapon of war by perpetrators of these crimes. It is used to instil fear and humiliate the enemy, bring shame and destruction to a community as an instrument

of 'ethnic cleansing' and as a form of punishment (Manjoo and McRaith, 2011). GBV during armed conflicts is used as a "tactic of war". Believers of that argument claim that warring parties use GBV and rape as a tactic of war in order to defeat their enemies and achieve their military objectives. Many scholars claim that rape during conflicts is used strategically in order to achieve military objectives (Horwood, 2007). Similarly, the UN Human Rights Council confirms that sexual violence happening in the current conflict in Myanmar is used as a tactic of war (OHCHR, 2018). Hegemonic masculinity plays a fundamental factor in the commission of GBV during conflicts. In times of peace, dominant white (Dudink et al., 2004) or Arab or Macho or Muslim (Aslam, 2012) or African (Dudink et al., 2004) men represent hegemonic masculinity and lead the gender hierarchy. They exercise their dominance and power over subordinated gender identities. However, in times of conflicts, soldiers and military commanders become on top of the hierarchy (Elserafy, 2019). In expressing his opinion on the violent nature of sexual violence committed against civilian women during armed conflict, Major General Patrick Cammaert, a former peacekeeping commander of the United Nations (UN) in the Democratic Republic of the Congo (DRC), stated that '[i]t has probably become more dangerous to be a woman than a soldier in an armed conflict' (Schaack, 2009).

Shame and stigma are integral to the logic of sexual violence being employed as a tactic of war or terrorism: aggressors understand that this type of crime can turn victims into outcasts, thus unraveling the family and kinship ties that hold communities together. The effect may be diminished reproductive capacity and prospects for group survival. Just as there are many manifestations of conflict related sexual violence, there are multiple and intersecting stigmas that follow in its wake. These include the stigma of "guilt by association" with the perpetrator and their group; fear of suspected sexually transmitted infections such as HIV; the perceived dishonour of lost chastity or virginity; the stigma of maternity out of wedlock, especially where children conceived through rape are considered "children of the enemy"; homosexuality taboos, in the case of male rape; and the shame of being unable to defend oneself and loved ones (UN, 2017). The threat and use of abduction and sexual violence terrorizes civilian populations to such an extent that it drives forced displacement of civilians, particularly minorities, internally and across borders (UN, 2016).

Forms of GBV Used during Armed Conflict and Displacement

GBV in conflict and post-conflict areas can take many forms including rape, slavery, forced impregnation/miscarriages, kidnapping/trafficking, forced nudity, and disease transmission, with rape and sexual abuse being among the most common. Abduction and slavery are also frequent forms of GBV in conflict areas, where civilian girls and women are kidnapped by raiding military or rebel forces and taken back to the soldiers' camp to provide both sexual and domestic services (Rehn and Sirleaf, 2002).

Sexual GBV usually are designed to humiliate men and emasculate the victim and it takes on a variety of form which includes anal or oral rape, torture cutting off the genitals, enforced nudity. There are instances where men are forced to rape fellow men or women or even watch a female

relative being asexually assaulted (Schulz, 2015). Most of these rapes have occurred in the context of internal armed conflict, and the army, police, and navy are responsible (AI, 2002). Girls and women are at risk for abuse from aid workers and other persons in power in conflict and emergency humanitarian settings (Ferris, 2007) and continue to be at risk for sexual assault from asylum professionals, such as police, lawyers, and security guards once relocated to host countries (Akhter and Kusakabe, 2014). The sexual abuse and rape of women are also frequently used as a form of political reprisal, as has been documented in the case of dictatorships in the Southern Core countries and armed conflicts in Central America and Peru. Sexual violence against female political prisoners is one form of torture used during punishment sessions or interrogations and is designed to denigrate the prisoner both sexually and psychologically. Women who are jailed or arrested for other than political reasons also often fall victim to sexual violence and, ironically, are in many cases assaulted by the very men who are responsible for their safety (Rico, 1997).

In several of the countries mentioned, displaced families frequently cite rape, or the fear of rape, as a key factor for their displacement. In Bosnia alone, the organized and systematic rape of at least 20,000 women and girls by the Serbian military and the murder of many of the victims were horrifying. Many women were raped before displacement. They left their homes because they were afraid of being repeatedly raped or sexually abused. In this way, many women and girls became internally or externally displaced due to the massive scale of sexual violence in Bosnia and Herzegovina (Niarchos, 1995).

In Kosovo too, rape and other forms of sexual violence were used as weapons of war and instruments of systematic ethnic cleansing to terrify the civilian population, extort money from families, and push people to flee their homes (Peltola, 2018). In the Rwandan genocide, women were raped until death (actually making it extermination) or purposefully given AIDS to eliminate their group (Sharlach, 2000). According to human rights workers in Sierra Leone, the rebel rape campaign was as widespread and systematic as similar incidents in the 1992- 1995 Bosnian war. However, these incidents have received far less attention (Sharlach, 2000). The world was rightly horrified by reports of Ukrainian women and girls held hostage in Bucha and gangraped in a basement for 25 days by Russian soldiers. Unfortunately, Ukraine is only one crisis marked by such atrocities. Thousands of Ethiopian, Rohingya, Colombian, and Congolese survivors of sexual violence also need protection and support, and many others remain at risk (Stark *et al.*, 2022). The list of massive scale sexual violence against displaced women is not limited to these countries, but is a wide-spread, dreadful phenomenon (Seneviratne, 2008).

Consequences of GBV on Women and Girl Children

It is evident that physical and sexual violence have an immeasurable impact on an individual and on society. There is the human cost in grief and pain to both the individual and the society. Individuals who are physically and sexually violated may not fully function in activities and may be less able to care for themselves and their families (Heise *et al.*, 1994). In addition to causing injury, violence increases the long-term risk of a number of other health problems for women, including chronic pain, physical disability, drug and alcohol abuse, and depression. Women with

a history of physical or sexual abuse are also at increased risk of unintended pregnancy, sexually transmitted infections (STIs), and adverse pregnancy outcomes (Heise et al., 2002).

Although violence can have direct health consequences, it also increases women's risk of future ill health. Physical harms such as injury to reproductive organs, traumatic fistulas, and infertility often accompany brutal or repeated rapes (Ward et al., 2005). Physical violence and sexual abuse can directly put women at risk of infection and unwanted pregnancies, if, for example, women are forced to have sex or fear using contraception or condoms due to the potentially violent reaction of their partners. A history of sexual abuse in childhood can also lead to unwanted pregnancies and STDs indirectly by increasing sexual risk taking in adolescence and adulthood. Therefore, like tobacco or alcohol use, victimization can best be conceptualized as a risk factor for a variety of diseases and conditions (Heise et al., 1999).

Some of the well-known medical problems which victims of SGBV may suffer include post-traumatic stress disorder, insomnia, HIV/AIDS, gonorrhoea, traumatic fistulas and injury to their reproductive organs or infertility as a result of being raped repeatedly (Manjoo & McRaith, 2011). Victims of SGBV are normally traumatised twice. First, from the violence suffered at the hands of their perpetrators, and then from the reactions of society and state toward them (UNSC, 2017).

In addition to these physical effects, GBV also has serious psychological consequences, including depression, anxiety, post-traumatic stress disorder, shock, memory loss, and sexual dysfunction (AI, 2007). After an assault, survivors experience The Rape Trauma Syndrome (RTS), which affects not only victims of rape, but also victims of all types of sexual violence and would perhaps be better labelled as Sexual Assault Trauma Syndrome (Chivers-Wilson, 2006). Fear of additional sexual violence may also prevent women from going about their normal activities, such as attending school, participating in the market, or participating in politics. This is true both for conflict areas and post-conflict areas, as women remain exceptionally vulnerable to sexual violence even in societies that are engaging in post-conflict transitional justice mechanisms (Scanlon and Muddell, 2010).

Understanding GBV from the Perspective of International Law

Feminist scholars and activists have critiqued the ways that international instruments primarily focus on strategic rape and fail to provide for the broader range of violence that may be experienced by women during conflict. By making visible wider forms of violence that women experience as part of, alongside, and distinct from strategic rape, this article aims to close some of the gaps in empirical knowledge about women's experiences of conflict-related violence. It purposely diverts focus from what is routinely considered to constitute women's primary experiences of violence in armed conflict, i.e., patterns of systematic rape set out as public harms under international law (Swaine, 2015).

Feminist scholars argue that IHRL is created by men and for the sake of men. Hence, the issues of human rights law are men-centered, in the words of Charlesworth and Chinkin, "in the major human rights treaties, rights are defined according to what men fear will happen to

them”(Charlesworth and Chinkin, 1993). Considerable work has been done on women and armed conflict by institutions concerned with human rights violations against women in general. Indeed, the process of identifying women's particular experiences and demonstrating the failure of the law to acknowledge them is more advanced in this context than in organizations focusing solely on armed conflict (Chinkin, 1997).

Understanding the international humanitarian community's response to sexual violence in armed conflict necessitates an analysis of how actors within this community position themselves in relation to the issue, as well as to victims/survivors of sexual violence (Anholt, 2016). Over the past decades, the international community has taken concrete steps in response to the various calls to recognize GBV as a serious crime.

Prior to the development of International Humanitarian Law, laws governing conduct in war were primarily based on custom, bi-lateral agreements, military doctrine and religious codes. One of the earliest attempts at international codification of sexual violence was the Regulations to the 1899 Hague Convention II that implicitly referenced a prohibition on sexual violence during occupation, stating 'family honour and rights ... must be respected.'

There has been progress in the body of international law relating to SGBV crimes committed in armed conflict situations: various UN reports (UN, 1998), human rights law, such as the Universal Declaration of Human Rights (UNGA, 1948), human right instruments, such as, the Vienna Declaration on Violence against Women (UNGA, 1993), the Convention on the Elimination of All Forms of Discrimination against Women (UNGA, 1979), the Declaration on the Elimination of Violence against Women (UNGA, 1993), and UN resolutions such as 1325 (UNSC, 2000), 1888 (UNSC, 2009) and 1820 (UNSC, 2008) have been instituted to address such violent attacks. The UN in 2008 unanimously adopted Resolution 1820 (2008) recognising that 'rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or constitutive act with respect to genocide.'

The UDHR is the first human rights tool adopted by the UN. Whilst, it is not a binding document, however, it does reflect part of customary international law (Sohn, 1997). Article 5 of the UDHR prohibits torture or cruel, inhuman, or degrading treatment or punishment (UNGA, 1948). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, is the most extensive international instrument dealing with the rights of women. Nonetheless, the CEDAW committee's general comment 19 defines GBV as "Violence that is directed against women because she is a woman or that affects women disproportionality. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty" (CEDAW, 1992). As Sellers notes, since General Recommendation No. 19 is considered as an 'authoritative legal interpretation of CEDAW', it thereby recognizes that CEDAW grants 'women and girls the right to equal protection or non-discriminatory application of humanitarian norms in times of international or internal armed conflict and reaffirms the redress of war-related gender-based violence, such as rape, has a human rights dimension' (Sellers, 2009). It has been suggested that the Women's Convention is in some ways of lesser status than general human rights instruments. This is evidenced, for example, in the

acceptance of the widespread practice of States making reservations to its provisions that appear to strike at its very heart (Belinda, 1991).

Despite SGBCs occurring in armed conflict situations, these crimes were often passed over for prosecution by tribunals such as the International Military Tribunal (IMT) in Nuremberg, which elected to prosecute the perpetrators for generalised war crimes such as murder and torture. Instead, gender-specific crimes were subsumed under the category of 'other inhumane acts' (Ashiru, 2017).

On the basis of the Yugoslavia wars of the 1990s, feminist scholars and activists achieved recognition for rape as a crime within the international legal paradigm (Stiglmeier and Faber, 1994). The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are commonly regarded as the events that put sexual violence in conflict on the international agenda (Marsh et al., 2006). Historically, rape and other forms of sexual violence against women were regarded as an inevitable aspect of armed conflict and were hardly ever prosecuted (Chinkin, 1994).

"Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular murder, systematic rape, sexual slavery, and forced pregnancy, require a particularly effective response." (UN, 1993). At the conference to establish the ICC, states agreed upon a number of provisions in the Rome Statute recognizing various forms of SGBV as "amongst the most serious crimes of concern to the international community." (ICC, 2014). The Statute is the first international law instrument "to include an expansive list of sexual . . . crimes as war crimes [in the context of] both international and non-international armed conflict." It also expands the heretofore accepted list of sexual crimes as crimes against humanity beyond the crime of rape (ICC, 2014).

The first case at the ICTY to concentrate entirely on charges of sexual violence was that against Anto Furundžija, in *Prosecutor v. Anto Furundzija* (IT-95-17/1-T 10). The court in discussing the position of the law on Gender-based violence stated that, "The essence of the whole corpus of international humanitarian law as well as human rights law lies in the protection of the human dignity of every person, whatever his or her gender. The general principle of respect for human dignity is the basic basis and, indeed, the very *raison d'être* of international humanitarian law and human rights law; in fact, in modern times it has become of such paramount importance as to permeate the entire body of international law. This principle is intended to shield human beings from outrages upon their personal dignity, whether such outrages are carried out by unlawfully attacking the body or by humiliating and debasing the honour, the self-respect or the mental well-being of a person. It is consonant with this principle that such an extremely serious sexual outrage as forced oral penetration should be classified as rape."

Though rape has historically been considered a criminal offence in national and international laws relating to armed conflicts and it is not condoned by IHL, gender-specific violence remains rife in armed conflict situations (Copelon, 1994). IHL contains general provisions protecting all civilians

and a number of provisions affording women "special protection" during armed conflict (Tabory, 1989). However, they all deal with women in their relationships with others, not as individuals in their own right. Nineteen are, in fact, designed to protect children (Pilloud et al., 1987). Those that deal with sexual offenses are couched in terms of offenses against women's honor. The rules dealing with women are presented as less important than others. They are drafted in different language than the provisions protecting combatants and civilians generally, using the concept of "protection" rather than prohibition (Gardam, 1997).

Recommendations/Suggestions

Access to Justice for Victims and Other Stakeholders

One of the primary reasons as to why victims of GBV never approached a proper judicial system with their request for justice is the lack of the same in their home ground or their place of settlement after displacement. Justice is an abstract concept for many as they often have to go through domestic trials inside their own families who make them stand out for being a victim and provide absolutely no support in prosecuting the criminals. All GBV victims and their families who have been affected by the influence of such a crime need a proper answer, which must be established in the form of domestic laws prosecuting GBV in armed conflict and displacement by the respective governments in all countries.

Prioritising the Need for Gender Equality

As stated in the paper, the very fact that there still exists a large population of men who thrive on patriarchal norms and behaviour gives a reason for understanding the existence of GBV in most situations. The time to reestablish and remove the discriminatory notion of treating women as the spoils of war and treating them as such is beyond human dignity. There is a severe need for high level prevention efforts from the part of civil society organizations and governments in the ground level to bridge the gap in equality for Men, Women and Other genders in the society. Women and other Genders need to understand their value of being treated at par with men everywhere. It is also important to institute women as gender advisors in places of conflict.

Need for Urgent Response for all the Victims and Survivors

Victims and Survivors need serious medical help both in physical and mental care. The rehabilitation process of all victims and survivors need to be held in a systematic and judicial manner by governments. The need for convalescence in a manner of providing the necessary medical attention that can help prevent further complications which can arise due to GBV should be part of all proactive measures which will be taken by NGO's and local governments on the ground level. The victims also needs to be given therapy by certified mental health professionals in a long term initiative to bring them back to their feet and help them go back without judgment from their own families for being a victim.

Strengthen Accountability of Governments for GBV Crimes

Criminals who committed GBV crimes during armed conflict and displacement are more or less given a free ticket of not being prosecuted due to the lack of accountability on the part of the governments. The domestic laws and governments are in fault for not advocating trials for meting out justice for the victims and survivors who remain afraid of the perpetrators for the rest of their life. In some case, the courts rarely have acknowledged the evidential proof of such a crime taking place thus putting the onus of responsibility on the victim to prove their case. The states have to impose recognition of such crimes which take place in the guise of an armed conflict and situations of displacement with due respect to the victims and survivors through domestic legislations and criminal responsibility of the heads of state.

Increase Awareness of the Impacts of Armed Conflict and Displacement on Women and Children

Armed Conflict and Displacement put women, children, and other minorities in a vulnerable position where their physical and mental well-being is threatened as a consequence of the whole situation prevailing before them. The need to reintegrate peaceful societies and sending the message that violence will not be tolerated in any way is a necessity. Law enforcement agencies, civil society organizations, private sector enablers along with the Governments have to launch wide-spread campaigns stating impunity of any kind will not be provided while taking steps to ensure the protection of vulnerable populations as a high priority care. There needs to be support shelters and safe spaces which can safeguard and provide support for women, children, and other sexual minorities.

Conclusion

In summary, this paper has outlined that GBV during armed conflict and displacement is a constant fear of vulnerable groups like women, children and other sexual minorities. The results of this research study indicate that there is a rather strong connection between GBV and the still pertaining existence of the gender inequality among other factors in the society. The findings of this study have several implications stating that despite the prevalence of GBV in situations of armed conflict and displacement, there is a severe lack of accountability in spheres of criminal justice systems of State Governments along with the need for protection of vulnerable sexual minorities. The present study provides sustainable solutions which needs to be implemented in order to combat GBV and achieve the practical formulation of SDG 5 in the setting of SDG 16.

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