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MEN CANNOT BE RAPED
The Systematic Silencing of Male Victims of Sexual Violence in Conflict

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ABSTRACT

There is an unwritten myth, an assumption, that men cannot be victims of sexual violence in conflict. Socially ascribed traits of masculinity do not leave space for men to assume the role of the victim - they are strong, indestructible; the perpetrators of this kind of abuse, not the sufferers. But in every conflict that women are raped, men are also victims of sexual violence. In fact, it has been estimated that as many as one in three victims of rape in conflict are men. As long as gender is used to define whether or not an individual can or should fall victim to an attack, those who experience sexual violence in conflict will not have the platform to seek reparations. This thesis uncovers the attitudes towards male victims of sexual violence that make it impossible for them to speak out about the violations they have experienced. Local, national and international perspectives will be drawn upon, uncovering the stigmatisation of male victims, the lack of awareness of their existence, and their ultimate omission from the international treaties and declarations that are supposed to protect them. This thesis argues for a universally accepted definition of gender-based violence that does not only address women, but all victims of sexual violence in conflict. Men are raped in conflict because they are perceived to be the strongest members of a community - their destruction means the destruction of all. Sexual violence against men is undoubtably a crime of gender-based violence deserving of international attention. Widespread and wholly destructive in its nature, it is time to break the silence on this taboo.

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CEDAW	Convention on the Elimination of Discrimination Against Women
CRC	Convention on the Rights of the Child
DEVAW	United Nations Declaration of the Elimination of Violence Against Women
EU	European Union
GBV	Gender-Based Violence
HRW	Human Rights Watch
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICTJ	International Centre for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IGO	Inter-Governmental Organisation
IMC	International Medical Corps
IMT	International Military Tribunal
LGBTI	Lesbian, Gay, Bisexual, Transgender and/or Intersex
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Co-operation in Europe
PAH	Polish Humanitarian Action
PIN	People in Need
RLP	Refugee Law Project
SCSL	Special Court for Sierra Leone
SGBV	Sexual Gender-Based Violence
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCESCR	United Nations Convention on Economic Social and Cultural Rights
UNCCPR	United Nations Convention on Civil and Political Rights
UNSCR	United Nations Security Council Resolution

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1.

INTRODUCTION

1.1 Research question

Sexual violence has been an element of conflict throughout history, used to overpower and destroy individuals and their communities. It has been documented throughout the world; in recent conflicts in Chile, Croatia, Sri Lanka, El Salvador, Iran, Kuwait, the Democratic Republic of Congo, and the former Yugoslavia to list some examples.¹ Yet, while it is universally accepted that sexual violence is committed against women in conflict, men as victims have been systematically excluded from this narrative. As put by Madame Zainab Hawa Bangura, Special Representative of the UN Secretary-General for Sexual Violence in Conflict, at a UN meeting on addressing the issue in 2013: “The crippling repercussions of rape in war are devastating for women, but our sons and brothers who are victims also suffer in silence.”²

Although it has been found that in almost every conflict in which women are victims of sexual violence, men suffer these atrocities too, this is not adequately reflected in media coverage, academia, and the practices of Non-Governmental Organisations (NGOs) and Inter-Governmental Organisations (IGOs).³ Male victims of sexual violence in conflict appear to suffer in silence; too ashamed to speak out about what happened to them, because it 'shouldn't' and 'couldn't' happen to a man. This thesis aims to explore the reasons why sexual violence against men in conflict is not reported and discussed, by both its victims and the international community. It questions why so many do not deem it important to discuss sexual violence against men, questioning why human rights protection from certain atrocities appears to be deemed less paramount according to the

¹ Select Committee On Sexual Violence in Conflict, 'Written And Oral Evidence' (House of Lords 2015) 606.

² 'UN News - UN Forum Highlights Plight Of Male Victims Of Sexual Violence In Conflict' (*UN*, 2013) <<http://www.un.org/apps/news/story.asp?NewsID=45532#.WMkFp8tHmfB>> accessed 28 May 2017.

³ Sandesh Sivakumaran, 'Sexual Violence Against Men In Armed Conflict' [2007] 18(2) *European Journal of International Law* 255.

victim's gender. If human rights are universal, inalienable and indivisible, should gender be a factor when considering who is protected from violations? While focusing on the rights of groups who are systematically oppressed in a society is of vital importance, no human rights violation should be deemed unworthy of justice. This thesis will put forward recommendations that could open a dialogue about male sexual violence in conflict, allowing these human rights violations to be appropriately addressed by the media, academics, aid workers and in international law.

1.2 Context

1.2.1 Sexual Violence Against Women

Before outlining the context of sexual violence against men it is important to discuss sexual violence against women in conflict, for two reasons. To begin with, as scholars have tended to focus on women as victims of sexual violence, this provides a useful background for understanding. More importantly, I have chosen to speak about women at this stage to make it clear that this study is in no way intended to invalidate or ignore their experiences. Women and girls face widespread and systematic oppression throughout the world; especially in conflict situations. Indeed, "it is unlikely that the number of men sexually abused in armed conflict will ever exceed or even equate to the number of women similarly abused."⁴ This is reflected in the quantity of literature that focuses on female victims/survivors as opposed to that which discusses men.⁵ However, including men in the discussion of wartime sexual violence should not detract from the experiences of women, for it "forms part of the same issue, namely the gender dimension of conflict."⁶ In almost every conflict that women experience sexual violence, men are also victims of such atrocities.⁷

Laura Stemple argues that the female-specific approach to sexual violence in conflict is best understood in the political context in which legal instruments were developed: "Women's issues were historically ignored in international law, and violence against women emerged as the salient

⁴ Ibid, 259

⁵ Richard Tewksbury, 'Effects of Sexual Assaults on Men: Physical, Mental and Sexual Consequences' [2007] 6(1) International Journal of Men's Health 23

⁶ Sivakumaran, [2007] 259.

⁷ Ibid, 255.

issue around which attention to women's human rights would revolve."⁸ One of the achievements of the feminist movement and theory is that it "gave recognition to female rape victims", however it has been argued that as a result of this, men are often excluded from the narrative.⁹ In this context 'hegemonic masculinities', the "culturally idealised patterns (practices, norms, and forms) of masculinity that perpetuate patriarchy", are reinforced.¹⁰ As will be explored in chapter two, hegemonic masculinities encourage men to see themselves in a way that does not fit with being the victim of sexual violence. When families, communities, aid workers and academics also hold this view, men become silent victims. The oversimplification of gender roles in armed conflict is harmful for both women and men. It removes the agency of women, while purporting that men cannot be victims of sexual violence.

It is a widely assumed phenomena that, when considering an instance of sexual violence, the role of the victim is attached to women, whilst the perpetrator is a man. Although this is very often the dynamic in which sexual violence is carried out, it is important to acknowledge that it is not the only format in which assault takes place. In their report session 2015-16, the UK Select Committee on Sexual Violence in Conflict noted that:

Victims of sexual violence in conflict, especially rape victims, include adult males as well as females and children. This has so far been inadequately acknowledged in post-conflict solutions. There is an acute need for the same kind of public advocacy and recognition, as well as tailored responses to the needs of men and boys.¹¹

A gender analysis does not constitute a female-specific approach.¹² When considering sexual violence in armed conflict, it is vital that no victims are left unheard. No experience of sexual violence is less valid than another, and all victims have the right to rehabilitation and justice.

1.2.2 Sexual Violence in Conflict

⁸ Laura Stemple, 'Male Rape and Human Rights' [2009] 60(605) *Hastings Law Journal* 606

⁹ Aliraza Javaid, 'Feminism, Masculinity and Male Rape: Bringing Male Rape Out of the Closet' [2016] 25(3) *Journal of Gender Studies* 291 <http://dx.doi.org/10.1080/09589236.2014.959479> accessed 17 February 2017

¹⁰ *Ibid.*

¹¹ Select Committee on Sexual Violence in Conflict, 'Sexual Violence in Conflict: A War Crime' (House of Lords 2015-16) 13 <https://www.publications.parliament.uk/pa/ld201516/ldselect/ldsdc/123/123.pdf> accessed 10 January 2017

¹² Stemple [2009] 606.

Men and boys can experience different types of sexual violence in conflict, including:

Person to person rape (including gang rape), coerced participation in acts of sexual violence (such as forced to commit rape), rape with objects, sexual torture particularly genital torture (including beatings, electrocution, tying, and burning), forced to observe and/or listen to sexual violence inflicted on others, threats of rape against the individual or the individual's family and friends, forced nudity, sexual humiliation, targeting of reproductive organs (e.g. Snipers shooting men in the groin), forced marriage... forced to bite off another man's testicles or penis (multiple cases at ICTY), forced circumcision (documented in Kenya and Iraq), being used as a mattress while perpetrators rape their family members on top of them (Northern Uganda), being held for lengthy periods of time as sexual slaves.¹³

In the exiguous discourse offered on the importance of investigating sexual violence against men in war, scholars have referenced reports of rape and sexual violation of men occurring in over twenty-five conflicts in the past two decades, including Afghanistan, Central African Republic, Congo, El Salvador, Iraq, Rwanda, Sierra Leone, Sri Lanka, Sudan, Syria and the former Yugoslavia.¹⁴ Despite this, male victims of sexual violence continue to suffer in silence- a whole assemblage of victims omitted from the narrative.

The key case studies used to demonstrate this argument will be based on the experiences of male victims of sexual violence in Northern Uganda, the Former Yugoslavia, the DRC, and Croatia.¹⁵ While unfortunately there are few pools of data and victim accounts that have been compiled, there are small pockets of information that can be gleaned, giving a striking illustration of recurring themes that make men reluctant to speak out about these crimes. In Northern Uganda, for example, the rape of men was so prevalent that the phrase "Tek Gungu", translated to mean "the way which is hard to bend" has been used to describe this violence, rather than formally labelling it as rape.¹⁶ As

¹³ Select Committee, 'Written and Oral Evidence'.

¹⁴ Stemple [2009] 607.

¹⁵ Northern Uganda and the Former Yugoslavia are both discussed in Chapters 2 and 4. The DRC is discussed in chapter 2, and Croatia in Chapters 3 and 4. All are referred to in Chapter 5.

¹⁶ *Gender Against Men* (Refugee Law Project 2008).

noted by Chris Dolan of the Refugee Law Project (RLP) following extensive interviews in the Gulu region, "to be a victim of Tek Gungu was regarded as worse than being killed".¹⁷

It is important to note the recurrent settings in which men experience conflict-related sexual violence. According to a report compiled by the United Nations Office of the Special Representative on Sexual Violence in Conflict:

Accounts indicate that sexual violence occurs in a wide range of settings, including but not limited to: people's own homes; their neighbourhood or village; military camps and training centres; police, prison and torture cells and other places of detention.¹⁸

Acts of sexual violence are deliberately carried out in a public setting, as perpetrators use this act to shame their victims and break down societal roles and norms.¹⁹ Violators also use this public display to demonstrate their own power.²⁰ For an act that is made so public, it is somewhat ironic that in its aftermath it is not discussed.

Certain groups of men are far more vulnerable to rape and sexual assault than others. While very few studies have been carried out in this field, those that have been undertaken suggest that there is a correlation between disability, ethnicity, homosexuality and the prevalence of male rape.²¹ Whilst these studies were carried out in non-conflict settings, their results can be reflected in conflict situations, where disabled and/or homosexual men and men of ethnic minorities are more vulnerable to rape and sexual assault. Indeed, it has been emphasised that "sub-groups of men with

¹⁷ Chris Dolan, *Social Torture: The Case Of Northern Uganda, 1986-2006* (1st edn, Berghahn 2011) 45.

¹⁸ Office of the United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict, 'Report Of Workshop On Sexual Violence Against Men And Boys In Conflict Situations' (United Nations 2013) 12 <<https://ifls.osgoode.yorku.ca/wp-content/uploads/2014/01/Report-of-Workshop-on-Sexual-Violence-against-Men-and-Boys-Final.pdf>> accessed 28 March 2017.

¹⁹ *Ibid.*

²⁰ Pauline Oosterhoff, Prisca Zwanikken and Evert Ketting, 'Sexual Torture Of Men In Croatia And Other Conflict Situations: An Open Secret' [2004] 12(23) *Reproductive Health Matters* 74

²¹ For study on disability see Goodman, L. A., Salyers, M. P., Mueser, K. T., Rosenberg, S. D., Swartz, M., Essock, S. M., & Swanson, J. (2001). Recent victimization in women and men with severe mental illness: Prevalence and correlates. *Journal of Traumatic Stress*, 14(4), 615-632. For a study on ethnicity see Sorenson, S. B., & Siegel, J. M. (1992). Gender, ethnicity, and sexual assault: Findings from a Los Angeles study. *Journal of Social Issues*, 48(1), 93-104. For a study on sexual orientation see Balsam, K. F., Rothblum, E. D., & Beauchaine, T. P. (2005). Victimization over the life span: A comparison of lesbian, gay, bisexual, and heterosexual siblings. *Journal of Consulting and Clinical Psychology*, 73(3), 477-487.

characteristics that make them particularly vulnerable, such as refugees, migrant workers, or those with disabilities, are consistently excluded" from this discourse.²²

Male combatants are widely subjected to acts of sexual violence. A study of former military members in Liberia noted that 32.6% of male combatants had experienced exposure to sexual violence, in comparison to 7.4% of non-combatants.²³ Sexual violence is also experienced at high rates amongst male detainees. Indeed, 21% of Sri Lankan males receiving treatment for torture in London reported sexual abuse in detention, while in El Salvador, 76% of male political prisoners who were surveyed in the 1980s reported at least one occurrence of sexual violence.²⁴

Research carried out by the RLP on the numbers of male and female refugees who had experienced sexual violence found that 3 out of 10 refugee men were victims of such abuse, constituting one third of the total victims of Sexual and Gender Based Violence (SGBV) whom they dealt with.²⁵ Indeed, the RLP noted that the figures were representative of data gleaned from other conflict settings, suggesting that there is approximately one male victim for every two female victims of sexual violence in conflict situations.²⁶

Rape against both men and women is used as a weapon of war to shatter civilisation and conquer whatever remains in its wake. As anyone can be a victim, we must understand what it is about this crime that makes it so difficult for men to speak about.

1.3 Methodology

1.3.1 Research

²² Tom Hennessey and Felicity Gerry, 'International Human Rights Law And Sexual Violence Against Men In Conflict Zones' [2012] Halsbury's Law Exchange 14

²³ Johnson and others, 'Association Of Combatant Status And Sexual Violence With Health And Mental Health Outcomes In Postconflict Liberia' (2008) 300 JAMA 1

²⁴ Will Storr, 'The Rape Of Men: The Darkest Secret Of War' (*The Guardian*, 2011) <<https://www.theguardian.com/society/2011/jul/17/the-rape-of-men>> accessed 22 February 2017

²⁵ 'Refugee Law Project - Written Evidence' (*Data.parliament.uk*, 2015) <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/sexual-violence-in-conflict-committee/sexual-violence-in-conflict/written/21715.html>> accessed 1 May 2017.

²⁶ Ibid.

This research aims to explore the response to sexual violence against men in conflict taken by communities, humanitarian workers and NGOs and IGOs. It considers the approach of international human rights law (IHRL), international humanitarian law (IHL) and international criminal law (ICL) to this phenomena. Finally, it asks whether enough is being done at an individual, national and international level both to combat and provide reparations for these human rights abuses. In analysing the relationship between gender and human rights, this thesis will address when it is important to consider gender and human rights together, and when the use of gender as a marker for human rights violations becomes exclusionary and ineffective.

1.3.2 Structure

Chapter two will focus on the impact that sexual violence has on men at an individual level, and the social stigma they experience. It will investigate the roles that gender inequality and homophobia play in constructing the stigma of sexual violence against men. Furthermore, it will explore the attitudes of families and communities towards male victims of sexual violence in conflict.

Chapter three will build upon research into the attitudes of those who have contact with male victims of sexual violence, exploring the role of aid and medical workers in interacting with them. It will question whether more could be done by both individuals and NGOs and IGOs to help male victims, and encourage them to speak out about the violence they have faced. This chapter will also include the accounts of five individuals working in this field, who have been surveyed for the purpose of analysing whether they believe they are doing enough for male victims of sexual violence.

Chapter four will magnify the information gleaned in chapters two and three onto an international level, considering the role of international human rights law, and international humanitarian and criminal law, in providing justice for male victims of sexual violence. It will first explore the developments in international law with regard to sexual violence in conflict, and will then discuss whether the implementation of the law is adequate for the protection of all victims of sexual violence, and the prosecution of its perpetrators. Taking into consideration the stigmatisation of male victims, as discussed in chapters two and three, chapter four will consider whether this reprobation makes it too difficult for male victims to seek reparations before the law.

To conclude, recommendations will be provided as to the measures that could be taken to encourage a discussion on sexual violence against men in conflict.

Each of the chapters chronologically impacts the next. Chapter two, in setting out the stigma that male victims of sexual violence face, gives some indication as to why medical and humanitarian workers, as focused on in chapter 3, do not recognise or report sexual violence against men in conflict. This lack of reporting in turn implicates how sexual violence is dealt with against men in international law, as outlined in chapter four. Practically, it is difficult to address the problem of sexual violence in law if victims are not willing to testify, or are afraid to do so because homosexuality may be criminalised in their country. Therefore, the stigma of male sexual violence, as outlined in both the second and third chapters, plays an important and influential role in how it is dealt with and portrayed in law.

1.3.3 Methodology and Materials

A multitude of methodologies will be used in the construction of this analysis, which ultimately takes an interdisciplinary approach to looking at the reactions to and dealings with sexual violence against men in conflict. In chapters two and three, a discourse analysis will be undertaken to explore the academic approach to this phenomena, whilst in chapter four, legal dogmatics- in particular international human rights, humanitarian and criminal law will be analysed- with reference to treaties, declarations, tribunals and case law.

The second chapter explores victim testimonies gleaned from two documentaries produced by the Refugee Law Project: 'They Slept with Me' and 'Gender Against Men', as well as interviews undertaken by The Guardian and a report entitled 'Mass Rape: Time for Remedies' published by Amnesty International in 2004.²⁷ It is telling that there are few resources available that share male victims' experiences of sexual violence in conflict, and it is due to this that these sources are relied upon in this study. A discourse analysis of leading scholars in this field will also be undertaken to present the current trend in attitudes towards male victims of sexual violence in conflict. Although there is limited access to both victim testimonies and literature, the chapter presents a well-rounded

²⁷ *They Slept With Me* (Refugee Law Project 2011) ; *Gender Against Men* ; Storr (2011) ; Amnesty International, 'Mass Rape: Time For Remedies' (Amnesty International 2004) <http://www.amnesty.eu/static/documents/DRC_main.pdf> accessed 5 April 2017.

overview of the kinds of attitudes that male victims face. As will be demonstrated, both the literature and testimonies that are available complement each other, providing reassurance that the conclusions drawn are accurate and representative of the feelings and attitudes of and towards male victims in most conflicts situations.

The third chapter, as well as drawing from various NGO and IGO reports and secondary literature, includes interviews conducted with aid and medical workers, and those who train them. To collect this information, five individuals were sent detailed questionnaires about their experiences in working with male victims of sexual violence.²⁸ The study produced both quantitative and qualitative data, collected through self-completion questionnaires conducted with those who have worked in the humanitarian field. The questions posed in this survey were conducted in a way so as not to achieve a biased or loaded outcome, and were vetted by an independent evaluator who has worked for many organisations, including the European Commission, before being finalised. Respondents were taken from a cross-sectional sample of E.MA alumni who were known to work in the humanitarian sector. Only those who had undertaken fieldwork and/or trained those who had were qualified for the questionnaire. Although the sample size is small, it is comprised of individuals identifying as both male and female, eliminating a gender bias. The answers given were analysed comparatively in order to give some examples of these individuals' own opinions of a phenomena that has so far only been discussed in literature. It was important to this study to allow those who work in this field to respond to the arguments put forward by scholars as to why sexual violence against men in conflict is not reported. The subject matter of this thesis can raise both ethical and legal dilemmas, and it is for this reason that it was only appropriate to interview aid workers through the E.MA programme, and understandably male victims themselves could not be contacted.

An analysis of legal doctrine will be undertaken in chapter four, in order to gauge the stance of international legal bodies in relation to sexual violence against men in conflict. A comparison will be drawn between the development of international human rights law and that of both international humanitarian and criminal law, to attain the level to which both have progressed in their interaction with male victims of sexual violence and their prosecutions of the crimes. Amongst the instruments that will be referred to in this chapter are various United Nations treaties and covenants, the

²⁸ A copy of this questionnaire can be found in Appendix 1.

Universal Declaration of Human Rights (UDHR), the Geneva Conventions and the Rome Statute of the International Criminal Court (ICC). Case law and judgements will be referred to extensively, particularly that taken from the International Criminal Tribunals of former Yugoslavia and Rwanda. A review of the International Committee of the Red Cross' (ICRC) 'Customary International Humanitarian Law' manual will also be carried out to determine how international humanitarian law translates into customary practices.

It is necessary for this study to undertake an interdisciplinary approach, as the relationship between gender and human rights protection in relation to sexual violence against men is controlled by the opinions of so many different individuals and bodies, from victims to aid workers and in international law. While being interdisciplinary, these chapters are each connected: the identification of sexual violence against men through self-reporting (as highlighted in chapter two) and through aid workers (as explored in chapter three) is vital for the realisation of human rights through international human rights and humanitarian law, as well as international and national criminal law proceedings (as realised in chapter four).

As well as undertaking qualitative data collection, qualitative data analysis methods were used to determine the attitudes of academics, NGO and IGOs and legal bodies towards sexual violence against men in conflict. Initially a qualitative content analysis was undertaken to assert general attitudes towards the subject matter. Patterns can be seen chronologically: in literature predating the feminist movement, sexual violence is not discussed at all; then as a result of focus on women's rights, sexual violence against women appeared in the discourse. It is only in the last two decades that it has begun to be discussed in relation to men, and only now are we breaking the surface of this discussion. As this area of study has not been given adequate attention, there is not a large body of literature or data to focus on, making the primary empirical study even more important. Indeed, the literature used has been selected because these are the leading scholars in the field, and hence they are referred to throughout this study. A combination of literature-based research, legal reviews, case study research, secondary analysis and the empirical study comprise the information presented in this thesis.

1.3.4 Limitations

As will be explored in Chapter 2, there are specific gendered reasons why men are targeted and violated in this way. While it is important to consider these gendered aspects, victims of sexual violence should not only be given help if they fall into a particular gendered category. It is this categorisation that reduces women to victims and men to perpetrators of sexual violence in conflict, and completely dismisses the experiences of those who are not included in gender binarism. Indeed, the experiences of the transgender community of sexual violence cannot be ignored. Lesbian, gay, bisexual, transgender and intersex (LGBTI) persons are identified as one of the most at-risk groups for sexual violence in conflict.²⁹ However, for the purposes of this short study, male victims will be discussed in general, in the hope that bringing attention to this issue may lead to a more nuanced approach to all victims of sexual violence in conflict. It is therefore a limitation of this study that certain groups, such as LGBTI persons, boys, and disabled men, will not be focused on in their own right. All represent at-risk groups, but unfortunately the scope of this study does not provide the detail for their inclusion.³⁰

²⁹ 'Guidelines For Integrating Gender-Based Violence Interventions In Humanitarian Action, Reducing Risk, Promoting Resilience And Aiding Recovery' (Inter-Agency Standing Committee 2015) 12-13 <http://gbvguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines_lo-res.pdf> accessed 10 May 2017.

³⁰ Ibid.

2.

STIGMA AND THE DECONSTRUCTION OF MASCULINITY

"There are certain things you just don't believe can happen to a man, you get me? But I know now that sexual violence against men is a huge problem. Everybody has heard the women's stories. But nobody has heard the men's."

- Eunice Owiny, Refugee Law Project, Africa

2.1 Introduction

In order to recognise and address the crimes committed against men, they first need to be spoken about and reported. Yet, there is a reluctance of men to speak about acts of sexual violence perpetrated against them, as the crime is "nearly unspeakable in its brutality."³¹ While there is a stigma attached to sexual violence, a fear of not being understood or being blamed, a fear of the perpetrator, and a reluctance to relive the violation, are elements of the crime that stop them from speaking out. Sexual violence is carried out against men in conflict largely so that the perpetrator can: "Gain power and dominance through a complex psychosocial process in which homosexual and/or feminine attributes are imputed to the male victim—attributes that may obtain a larger, even more damaging significance in wartime."³² Due to the fact that straight men have traditionally held a monopoly over women and the LGBTI community, these acts of violence, in likening men to women or to being gay, 'reduce' their status, and it is this phenomena that exaggerates the culture of shame surrounding male victims. Thus it shall be argued that a common thread linking men who experience sexual violence in conflict is that they do not wish to speak out through fear of social and cultural stigma, sanctioned by the inherent gender inequality and homophobia present both within these societies and at a national and international level.

³¹ Valorie K. Vojdik, 'Sexual Violence Against Men And Women In War: A Masculinities Approach' [2013] 14(923) Nevada Law Journal 926.

³² Dustin Lewis, 'Unrecognized Victims: Sexual Violence Against Men In Conflict Settings Under International Law' [2009] 27(1) Wisconsin International Law Journal 7.

2.2 Power, Dominance and the Deconstruction of a sense of self

2.2.1 Essentialising Gender Roles in War

In a conflict situation, power dynamics are exaggerated as dissonant groups struggle for dominance and control. As put by Sivakumaran: "As rape and other forms of sexual violence are about maintaining and restoring certain power balances, sexual violence will likely be committed in time of potential imbalance", making conflict situations a common setting for this kind of violence.³³

In the traditional representation of gender roles, men are seen to be strong, powerful, and dominant while women have been perceived to be weak and submissive. Translated into a conflict setting, these roles reflect the presumption that men are the perpetrators of sexual violence, whilst women are the victims.³⁴ Men are the agents of violence, the protectors of the family; they are at the frontline of any conflict. Because men are only ever depicted as the aggressors or protectors in conflict, they "are not conditioned to think of themselves as potential victims of sexual abuse or potential targets for perpetrators in the same way as women."³⁵ Men who experience sexual violence feel that they have in some way deviated from the "heteronormative male standard", having become feminised and homosexualised by the act enforced upon them. Somewhat ironically, the perpetrators of this violence do not experience the same shame.³⁶ Research has suggested that "men... rape other men as a way to boost, preserve and execute 'hegemonic masculinity'", upholding the perpetrator's masculinity by diminishing that of the victim.³⁷ The reluctance to report these crimes comes into play when men "associate their victimisation as incompatible with their masculinity."³⁸

Gender roles are also deemed to be significant in wartime because they perpetuate a sense of nationalism and the "mobilisation of men into military forces in defence of the nation."³⁹ Indeed,

³³ Sivakumaran [2007] 267.

³⁴ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 8.

³⁵ Sivakumaran [2007] 270.

³⁶ Lewis [2009] 7.

³⁷ Javaid [2016] 284.

³⁸ Lewis [2009] 9.

³⁹ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 9.

even those who become casualties of war are held up as "emblematic of heroic masculinity."⁴⁰ Therefore men feel reluctant to relate their experiences for fear of being labelled emasculate, and states do not wish to investigate these matters for concern of deconstructing their own nationalism. A crime of disempowerment against an individual can be seen as a crime against a community.⁴¹ As Stemple has contended, oversimplifying gender roles "fails to acknowledge male victims of sexual violence during armed conflict."⁴² Likewise, seeing women as only the victim diminishes their political agency.⁴³ The amplification of gender roles in wartime only serves to make it more difficult for men to speak about their experiences of sexual violence, as will be shown.

2.2.2 "Men Cannot Be Raped"

Scholars have noted that the most commonly held rape myth in relation to men and sexual violence is that men cannot be raped.⁴⁴ Tied to this myth are the ideas that 'real' men can "fight off a rapist" and that "no man would allow himself to be raped without at least incurring serious injury."⁴⁵ Studies of sexual violence committed against men in peacetime suggest that victims believed they should have been able to defend themselves from the attack; while masculine stereotypes demand that after the attack, men cope "like a man."⁴⁶ While such studies were carried out in peacetime, it is arguable that ideals of masculinity are only heightened during conflict situations. There exists a dangerous undertone in such studies that men who are raped or sexually assaulted have failed to fight back, and therefore lack the 'masculine' traits of strength and power.

In her article 'The Body of the Other Man', Dubravka Zarkov analysed media coverage of sexual violence against men in the former Yugoslavia. She noted that between November 1991 and

⁴⁰ Stemple [2009] 612.

⁴¹ Sivakumaran [2007] 268.

⁴² Stemple [2009] 612.

⁴³ Ibid.

⁴⁴ Carol O'Brien, Jessica Keith and Lisa Shoemaker, 'Don't Tell: Military Culture And Male Rape.' [2015] 12(4) Psychological Services 359

⁴⁵ Ibid.

⁴⁶ Sivakumaran [2007] 255.

December 1993, only six articles mentioning such violence appeared in the Croatian press.⁴⁷ Zarkov then analysed and compared the kind of "masculinities, sexualities and ethnicities" portrayed in these newspapers for the victims of sexual violence- Muslim men, and the perpetrators- Serbian men. She found that, according to the newspaper Vjesnik, Muslim lorry drivers "expected to be protected, they were naive, and, in the end, they were raped".⁴⁸ Zarkov goes on to link this expectation and naivety to signalling a lack of masculinity, stating that:

In contemporary European gender relations, dominant forms of masculinity are inseparable from power. That power finds its expression in many different forms: in power to protect oneself and others, as well as in power to attack, in sexual power as well as intellectual and moral power. Proper manhood is defined by all these powers. Men who lack some of these powers are not 'proper men'.⁴⁹

The lack of power to protect oneself is an element that frequents accounts of sexual violence against men, and undoubtedly goes some way to stopping men speak out about their experiences.

Masculinity, dominance, power and thus the ability to protect oneself and others are all interlinked, and so the experience of sexual violence by its very nature attacks these traits. In the documentary 'They Slept With Me', commissioned by The Refugee Law Project, survivors of sexual and gender-based violence in Northern Uganda speak about their experiences. One man, whose identity remains anonymous, states: "Some people were saying that if it were them they would not allow such a thing to happen to them. I challenged them that if they had been there, the same thing would also have happened to them."⁵⁰

The notion that a man should be able to protect himself from sexual violence; that if he becomes a victim it is because he has allowed himself to be so, is an underlying factor in the lack of reporting of this crime. Men who feel that they shouldn't have become victims inadvertently believe they shouldn't have access to reparations, ultimately denying their human right to an effective remedy. If

⁴⁷ Dubravka Zarkov, 'The Body Of The Other Man: Sexual Violence And The Construction Of Masculinity, Sexuality And Ethnicity In Croatian Media', *Victims, Perpetrators or Actors? Gender, Armed Conflict, and Political Violence* (Zed Books 2001) 72

⁴⁸ Ibid, 77.

⁴⁹ Ibid.

⁵⁰ *They Slept With Me* (2011).

SGBV against men were a more widely articulated phenomena, the notion that men should be able to protect themselves would be eradicated, and men might be more willing to seek justice.

I take some issue with the title of this documentary. Although its aim is clearly to uncover the significant and terrible assault of men during the conflict in Northern Uganda, the title 'They Slept With Me' implies, at least in a Western understanding of the terminology surrounding rape, that the assault was consensual. Sexual assault and rape are here framed as sex, which again exaggerates the idea, to the Western audience of the documentary, that in some way the victims were complicit in their own victimisation. Thus, even those aiming to shed light on the atrocities faced by men in war are complicit in exaggerating structural gender roles, stereotypes and criticisms.

Men do not want to admit that they were unable to protect themselves for fear of being ostracised by their communities, and their families. Indeed, a survivor of rape in Northern Uganda known as Jean Paul stated in an interview that his brother kept asking what was wrong with him. He said: "I don't want to tell him. I fear he will say: 'Now, my brother is not a man.'"⁵¹ Another Ugandan survivor said: "It happened. It's painful to the extent that you feel you no longer want to be the head of the family. That is true. It is unspeakable."⁵²

2.2.3 "If he can be raped, who is protecting me?"

It is not only a man's inability to defend himself from sexual violence that sanctions his silence, but also the perception that he will not be able to protect his family. In many cultures, men are still perceived as the head of the household; the breadwinner and protector. The perception of men as defenders of the family and community is particularly important in a conflict setting, where there is a very real threat of danger. Perpetrators carry out sexual violence against men in conflict so that they can break down family structures and tear communities apart. As stated by Dolan: "Sexual violence is very much about going right to the heart of individual and group sense of self"; men who do not wish to alter the dynamic of their community often choose to stay silent.⁵³

As Salome Atim, the Refugee Law Project's Gender Officer for Uganda, has stated:

⁵¹ Storr (2011).

⁵² *They Slept With Me* (2011).

⁵³ *Gender Against Men* (2008).

In Africa no man is allowed to be vulnerable. You have to be masculine, strong. You should never break down or cry. A man must be a leader and provide for the whole family. When he fails to reach that set standard, society perceives that there is something wrong.⁵⁴

Atim has come into contact with many wives who, upon discovering their husbands have been raped, decide to leave them:

They ask me: 'So now how am I going to live with him? As what? Is this still a husband? Is it a wife?' They ask, 'If he can be raped, who is protecting me?' There's one family I have been working closely with in which the husband has been raped twice. When his wife discovered this, she went home, packed her belongings, picked up their child and left. Of course that brought down this man's heart.⁵⁵

Male victims are therefore put in the situation where they are required to choose between speaking out about human rights violations against them, or maintaining their family relationships. It is evident that male victims of sexual violence may not come forward and claim their human rights for fear of destroying "community and family bonds" if family members deem them unable to serve their protective duties.⁵⁶ Indeed, many of the crimes documented against men involve family members, again used by perpetrators to systematically break down social bonds. In the DRC, for example: "The man would be made to lie down like a mattress, then make the wife lie down on the man and then she would be raped and the children would watch."⁵⁷

Stories of enforced incest appear periodically in accounts of war. In Rwanda, a woman recounted her experience:

They dragged me to the ground. In full view of my children they undressed me and raped me. They took my brother, a young man, and they tried to force him to rape me. My brother

⁵⁴ Storr (2011).

⁵⁵ Ibid.

⁵⁶ *Gender Against Men* (2008).

⁵⁷ Ibid.

refused because in the Rwandan culture a brother can never sleep with a sister. He refused, he ran, he managed to get out, but one of the soldiers followed and shot him and he died.⁵⁸

Whilst in this case the forced rape was not carried out, the cultural stigma attached to such acts, even when forced under threat of death, explains why victims do not want to speak about such atrocities. Similar examples can be noted from accounts of victims of the Sierra Leonean civil war: "Rebels broke other taboos . . . forcing male family members to rape female family members or to watch them dance naked or be raped by others."⁵⁹ A study of detainees in a concentration camp in Sarajevo Canton found that of 6,000 inmates, 80% of men had reported being raped while in detention.⁶⁰ Of these victims, many reported forced incest.⁶¹ This study also highlights that these acts haven't just taken place in Africa, but also Europe, demonstrating how widespread sexual violence against men in conflict is.

These instances do not only highlight the widespread and systematic use of sexual violence against all individuals, but they affirm the use of sexual violence as a weapon to humiliate individuals and destroy families. As stated by Rosalba Oywa of 'People's Voices for Peace' in Uganda: "It was to show these people that they had totally conquered them so they could sleep with their wives, their daughters, including them themselves."⁶² Indeed, the Acholi people of Uganda have "no cultural description or name" for the rape of a man "in front of other men and family" because of its "outrageous and alien nature."⁶³ Human rights abuses that are considered so heinous they do not even have a name are unlikely to ever be prosecuted.

In dominating men, perpetrators of sexual violence in conflict disempower communities, increasing their feeling of vulnerability.⁶⁴ Men who believe that the sexual violence they experienced is not known of by family members may therefore choose to keep it hidden. In situations where other

⁵⁸ *Gender Against Men* (2008).

⁵⁹ Lewis [2009] 14.

⁶⁰ Stemple [2009] 613.

⁶¹ Ibid.

⁶² *Gender Against Men* (2008).

⁶³ Opiyo Oloya, *Child To Soldier: Stories From Joseph Kony's Lord's Resistance Army* (University of Toronto Press 2013).

⁶⁴ Sivakumaran [2007] 269.

family and community members are witness to the assault, or are themselves victims, it would appear that the societal damage and stigma are enough to encourage group silence. These are human rights violations that would rather be forgotten than persecuted.

2.3 Feminisation

2.3.1 “They turned me into a woman”

The idea that men cannot be raped, and thus its counterpart that only women can be raped, reinforces the notion of the feminisation of male victims of sexual violence. That is, male victims of sexual violence in conflict are likened to females because sexual violence is seen as a female victim-specific crime, and this identification instills social stigma that silences men. In a report published by Amnesty International, a male survivor of rape from South-Kivu named Polidor recalled: "Then they raped me. While they were doing that they kept saying 'you're no longer a man, you are going to become one of our women'."⁶⁵ Indeed, the idea that only women can be raped is so engrained that it is reinforced "even amongst those working in the field such as medical and aid workers, that only women can be raped", as will be explored in chapter three.⁶⁶ Even on the page in the Amnesty report that shares Polidor's account of sexual violence, there is a logo that reads 'stop violence against women'.⁶⁷

Whilst the feminist approach to sexual violence in conflict has made considerable progress in raising the profile of violations and achieving justice for victims, scholars have critiqued its tendency to "place rape in an extensive social structure, wherein a hierarchy of patriarchal relations exists to enable men to exercise power and control over women", so that rape is deemed only to be committed by men as an extension of their male power.⁶⁸ A gendered analysis is warranted in determining why rape occurs, for "when both the perpetrator and victim are men, the interaction often typifies a gendered power-play of masculinised dominance and feminised subordination."⁶⁹ However, Stemple concludes that the "female-specific approach to rape does not allow room for

⁶⁵ Amnesty, 'Mass Rape' (2004) 21.

⁶⁶ Sivakumaran [2007] 271.

⁶⁷ Amnesty 'Mass Rape' (2004) 21.

⁶⁸ Javaid [2016] 284 ; Hennessey and Gerry [2012] 5.

⁶⁹ Stemple [2009] 628.

any consideration of male rape".⁷⁰ Instead, it is more productive to take into consideration the traditional power dynamics that have existed between men and women, while acknowledging that both can still be victims. Otherwise the female-specific approach acts as an obstacle to male victims of sexual violence claiming their human rights. Indeed, a recent United Nations report labelled this approach "a serious obstacle to prevention of and response to conflict related sexual and gender-based violence against men and boys".⁷¹

Through this female-specific discourse, victims of sexual violence have taken on the patriarchally determined role of the weak, helpless woman. It is certain that this construction of what it means to be a victim of sexual violence has deterred both women and men from reporting the crimes committed against them. In particular, men in patriarchal, nationalist and militant settings do not wish to be feminised. As noted in the United Nations Report of the Workshop on Sexual Violence against Men and Boys:

Demonstrating... that the victim is unable to defend himself, sends a clear message to all that, in terms of received gender norms about male invulnerability and men's capacity to defend themselves, the victim is a 'feminised' failure... The violence and the destabilisation of gender certainties that such violence entails, undoubtedly weakens social cohesion, both at family and community levels. The capacity to resist is also diminished by reducing the pool from which leaders are drawn; known victims, for example, are less likely to access leadership or military positions.⁷²

Of the accounts of male victims that have been recorded, many question their masculinity following being sexually assaulted and raped. A Congolese refugee who was arrested and imprisoned stated:

There were many soldiers who slept with me, that's to say had sexual intercourse with me, whether in my ears, my anus, in my mouth, wherever they wanted, they would screw me. These were things which I could not imagine ever happening, but they happened. It is something which, when I think about it, causes me a lot of trauma. One doesn't really know how to live as one did before. It's a sort of vengeance, a sort of humiliation, a way of

⁷⁰ Ibid.

⁷¹ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 9.

⁷² Ibid, 12.

attacking our identity so that they could diminish us in society. They were saying many things... you can see they wanted to show that they are superior to us, that we are worth nothing, that this time around they were putting us in the place of women. You know that in society they say that men dominate and women are inferior so they said to us that 'we are going to show you that you are women that you are not men like us'. That is what they wanted to affirm through their actions that they committed on us.⁷³

Similarly, a male victim from Northern Uganda stated:

My guess is that those who penetrated me were three in number. Each of them in turn would do it and leave. All of their actions were full of violence to the extent that whatever they commanded one was forced to comply... They made me as if I were a woman.⁷⁴

The fact that sexual violence is deemed a crime only committed against women ultimately makes male victims feel as though they are abnormal, that they are not male, and it is therefore not only the stigma of sexual violence, but the stigma of being likened to a woman, that stops them reporting this abuse. In accounts of sexual violence, this 'gender humiliation' is "tightly connected to ethnic agendas and the attempt to discredit an entire ethnic group."⁷⁵ Gender humiliation is also linked to the gendering of human rights- the fact that certain violations are only deemed to affect women puts even more shame on male victims.

Acts of sexual violence committed against men in conflict, such as cutting of or harming the penis and genitals, are used to symbolically emasculate the victim. Such acts do not only harm the male on an individual level, but also seek to damage ethnic groups and nationalism. As stated by Zarkov:

Because the phallic power of the penis defines the virility of the nation, there can be no just retribution for its loss. So, when the male body is ethnic and male at the same time, the castration of a single man of the ethnically defined enemy is symbolic appropriation of the masculinity of the whole group.⁷⁶

⁷³ *Gender Against Men* (2008).

⁷⁴ *They Slept With Me* (2011).

⁷⁵ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 12.

⁷⁶ Zarkov (2001) 79.

This act is therefore more prevalent in conflict situations, when groups of varying ethnicities may be competing for power and dominance. Discrediting a man through castration ultimately discredits his whole community and ethnic group; thus presenting the penis as a central symbol of power and strength. Other acts related to femininity that are used to humiliate men in wartime include forcing men into "humiliating nude poses" and "the use of women's underwear".⁷⁷

Acts of sexual violence against men serve to diminish their status, and that of the socio-ethnic group they belong to. In avoiding speaking about these crimes, men inherently avoid damaging their reputation and that of their peers. When boiled down, the sum of this argument is that victims of sexual violence are women, so male victims of sexual violence are comparable to women, and being seen as a woman brings too much shame to men to even report the crimes committed against them. As stated by DelZotto and Jones: "What greater humiliation can one man impose on another man or boy than to turn him into a de facto 'female' through sexual cruelty?"⁷⁸

Fundamentally, the patriarchal norms that still govern the dynamic of society; particularly those societies in conflict situations when gender stereotypes are amplified, dictate that men should not report sexual violence against them.

2.3.2 Perpetuation of Gender Inequality

As has been discussed, male victims of sexual violence in conflict are often likened to women, either by their attackers, members of their community, or even themselves.⁷⁹ The coupling of the act of sexual violence with the notion that the victim, in succumbing to the act; in being weak, vulnerable, in 'allowing' it to happen, is now a woman, or a 'feminised male' highlights the intention to reduce his social status. It is therefore abundantly clear that 'becoming' a woman is seen in these terms as a social step-down, an embarrassment, a decline.

⁷⁷ Stemple [2009] 615.

⁷⁸ Augusta DelZotto and Adam Jones, 'Male-On-Male Sexual Violence In Wartime: Human Rights' Last Taboo?' [2002] Paper presented to the Annual Convention of the International Studies Association (ISA) 3 <<http://adamjones.freeservers.com/malerape.htm>> accessed 5 March 2017.

⁷⁹ Amnesty, 'Mass Rape' (2004) 21.

In her breakthrough 1975 book: 'Against Our Will: Men, Women and Rape', Susan Brownmiller penned:

War provides men with the perfect psychological backdrop to give vent to their contempt for women. The very maleness of the military—the brute power of weaponry exclusive to their hands, the spiritual bonding of men at arms, the manly discipline of orders given and orders obeyed, the simple logic of the hierarchical command—confirms for men what they long suspect, that women are peripheral, irrelevant to the world that counts, passive spectators to the action in the centre ring.⁸⁰

While Brownmiller's focus is on men as the perpetrators of rape and women as the victims, (she described rape as: "A conscious process of intimidation by which all men keep all women in a state of fear") she sets out the patriarchal characteristics of rape which, if not applied to men and women so rigidly, highlight why both male and female victims of sexual violence suffer negatively from female oppression.⁸¹

As stated in the United Nations booklet on 'Working With Men and Boy Survivors of Sexual and Gender-Based Violence in Forced Displacement': "Sexual violence against men and boys builds on the same gender constructs as are evident in sexual violence against women and girls... the 'feminisation' of men through sexual violence is an extension of the larger gender logic that informs the subordination of women."⁸² Traditionally seen as the victims of sexual violence, women have been construed as weak and helpless in conflict situations. The inequalities and stigma that women face are therefore transferred onto men who become victim to these crimes.

It would be idealistic to say that in achieving gender equality throughout the world, both men and women who are raped in conflict situations would be more willing to speak out about the acts committed against them. However, in this societal utopia in which gender equality would prevail for all, perhaps conflict situations, and rape, would also be less common, as power dynamics would become more equally spread. While gender equality is the zenith solution, a more achievable short-term goal would be to adapt feminist scholarship on rape to include men as victims. This would

⁸⁰ Susan Brownmiller, *Against Our Will: Men, Women And Rape* (Faucet Columbine 1975) 32

⁸¹ *Ibid.*

⁸² UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 5.

both serve to shake the woman's role as the victim, and encourage male victims and their societies to recognise that rape can be committed against all people. It is important for survivors of sexual violence to know that in becoming a victim their sense of self, their being, their worth as a human being, is not diminished.

2.4 Homosexualisation

2.4.1 Only Homosexual Men are Raped

Male victims of sexual violence in conflict do not only experience feminisation, but also homosexualisation as a result of the acts committed against them. Coupled with the assumption in the field of conflict-related sexual violence that only women are victims is the belief that sexual violence is always heterosexual.⁸³

Heterosexual masculinity in traditional, patriarchal societies, represents the pinnacle of being. It is the "dominant construct", the "symbol of power" and historically, it has been the heterosexual male that holds the ranks of the armed forces.⁸⁴ In contrast, the homosexual male has been seen as less powerful, less masculine and more effeminate.⁸⁵ Thus, in the same way male victims of sexual violence in conflict are equated to women, constructing them with a homosexual identity allows their social status to be degraded."⁸⁶

Homosexualisation is significant in the context of male rape because during a rape "it is not uncommon for the victim to experience an erection or ejaculate", and this response, perhaps unexpected to him, makes him question his sexuality.⁸⁷ Indeed, male survivors of sexual violence in conflict have been known to ask aid workers if their experience of an erection makes them homosexual.⁸⁸ Victims often go through a cycle of self-blame after experiencing sexual violence, and if a man has experienced pleasure during the assault, he may encounter "sexual-orientation

⁸³Ibid, 8.

⁸⁴ Sivakumaran [2007] 272.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Oosterhoff, Zwanikken and Ketting [2004] 71.

confusion... thereby aggravating the effects of the abuse if he conceives of homosexual behaviours as an indicator of weakness."⁸⁹ Experiencing an erection can be confused with sexual pleasure, and this belief makes it more difficult for men who have experienced sexual violence to speak out, because they feel in some way complicit.⁹⁰ Furthermore, if they belong to a society in which homosexuality is deemed wrong, they might not want to be seen as being gay.

In many accounts of rape in conflict, one male victim is forced to rape the other.⁹¹ In this situation, it may be particularly worrying for the male victim if he experienced an erection. Sandesh Sivakumaran points out the importance of power dynamics when male victims are forced to rape one another. When a man is raped by the perpetrator, he retains the power, whilst the victim is deemed weak and effeminate. When two victims are forced to rape one another, the perpetrator holds on to the power, and so the enforced rape "'taints' both parties with homosexuality, strips them both of their masculinity and with it any power they may have."⁹²

Jeffrey Weeks describes the construct of masculinity as "an indicator of a relative gender fragility."⁹³ He argues that the masculine identity is achieved through "the constant process of warding off threats to it."⁹⁴ These threats, lists Weeks, are femininity and homosexuality. He argues: "Male violence against women, and the taboo against male homosexuality may both be understood as effects of this fragile sense of identity, rooted in... the historical norms which have defined male identity as counterposed to the moral chaos of homosexuality."⁹⁵ If masculinity is so fragile and difficult to retain, this should be reflected in the response to victims of sexual violence, who should not face gender or sexuality discrimination. Gender and sexuality are by no means intertwined and interrelated.

2.4.2 Perpetuation of Homophobia

⁸⁹ Lewis [2009] 8-9.

⁹⁰ Oosterhoff, Zwanikken and Ketting [2004] 71.

⁹¹ Amnesty 'Mass Rape' (2004) 21.

⁹² Sivakumaran [2007] 272.

⁹³ Jeffrey Weeks, *Sexuality And Its Discontents: Meanings, Myths And Modern Sexualities* (Taylor & Francis 1985) 190.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

As Sivakumaran has pointed out, 'tainting' a victim with homosexuality has far-reaching consequences:

Constructing the male victim of sexual assault as homosexual is... a means by which to emasculate him, thereby reducing his social status. It is also a means by which to 'taint' him with homosexuality. This implies not only severe consequences on the part of society, but is a means by which the international community can ignore the situation. If homosexuality is involved, even just a 'taint', the international community can carry on with business as usual and turn a blind eye to the situation no matter how egregious it may be.⁹⁶

As will be outlined in chapter four, under the municipal law of many post-conflict states, if the rape cannot be proven, the victim may be convicted of engaging in homosexual activity, and found guilty of a 'crime'.⁹⁷ In Uganda, for example, men as victims are excluded from the definition of rape, but can be penalised for acts "against the order of nature".⁹⁸ This, according to the United Nations, has "a serious and chilling effect on reporting of such incidents".⁹⁹ Indeed, same-sex relations are criminalised in around 70 countries.¹⁰⁰ For men attacked in these homophobic environments, the potential risks involved in reporting crimes against them often outweigh their desire for justice. Men who do decide to report acts of sexual violence against them often face "disbelief and ridicule".¹⁰¹

Fear of ridicule, being shunned from society, and even prosecution are clearly factors that stop men reporting sexual violence that they experience during conflict. Similarly to the issue of feminisation, the desirable solution would be to eradicate homophobic views and normalise homosexual relationships, thus allowing men to speak out about assault against them. Whilst this is universally difficult to achieve, a step forward is certainly to lobby governments who criminalise homosexual

⁹⁶ Sivakumaran [2007] 272.

⁹⁷ Ibid, 256.

⁹⁸ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 8.

⁹⁹ Ibid.

¹⁰⁰ Oosterhoff, Zwanikken and Ketting [2004] 68.

¹⁰¹ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 9.

relationships to decriminalise them, thus creating a platform where men feel safe to report rape and other crimes of sexual assault.

Interestingly, in an article featured in *The Guardian*, the author, who travelled to Uganda to interview those dealing with male victims of sexual violence, asserted that male victims would not only be prosecuted by the country's judicial system, but turned away by the United Nations. He stated:

In Uganda, survivors are at risk of arrest by police, as they are likely to assume that they're gay – a crime in this country and in 38 of the 53 African nations. They will probably be ostracised by friends, rejected by family and turned away by the UN and the myriad international NGOs that are equipped, trained and ready to help women. They are wounded, isolated and in danger... They are despised.¹⁰²

As shall be explored in the following Chapter, the gendered approach to sexual violence in conflict taken by many humanitarian workers, NGOs and IGOs further contributes to men not seeking justice for the human rights violations committed against them.

¹⁰² Storr (2011).

3.

IDENTIFYING MALE VICTIMS OF SEXUAL VIOLENCE

"What happens to someone after they have been sexually attacked affects the rest of their life. The journey to recovery is complex and depends greatly on the individual victim and survivor's situation and needs. The immediate and long-term needs of victims and survivors of conflict-related sexual violence are life changing."

-Select Committee on Sexual Violence in Conflict, Report of Session 2015-16, Sexual Violence in Conflict: A War Crime, House of Lords

3.1 Introduction

In addition to the stigma that male survivors of sexual violence in conflict face in their communities, it has also been documented that those positioned to identify these victims carry their own prejudices. Aid workers, medical practitioners, and NGOs and IGOs as a whole are often not equipped to spot male victims of sexual violence or indeed help them; an omission which only entrenches the myth that men cannot be victims of sexual violence. According to the Inter-Agency Committee's 'Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action': "Gender-based violence is among the greatest protection challenges individuals, families and communities face during humanitarian emergencies... gender-based violence not only violates and traumatises its survivors, it also undermines the resilience of their societies, making it harder to recover and rebuild."¹⁰³ Despite this, "current programming to prevent gender-based violence and provide support for survivors is insufficient to deliver the desired results."¹⁰⁴ The guidelines recognise that sexual violence is carried out against men during conflict to emasculate or feminise the enemy, and point out that, as will be explored in the fourth chapter, this violence may go unreported "in situations where such reporting could result in life-threatening repercussions against the survivor and/or his family members", due to the fact that many countries criminalise same sex

¹⁰³ 'Integrating Gender-Based Violence Interventions' (2015) iii.

¹⁰⁴ Ibid.

sexual relations.¹⁰⁵ While noting all of the elements of sexual violence against men that contribute to its under-reporting, the guidelines go on to state, somewhat despairingly, that:

While humanitarian actors must analyse different gendered vulnerabilities that may put men, women, boys and girls at heightened risk of violence and ensure care and support for all survivors, special attention should be given to females due to their documented greater vulnerabilities to GBV.¹⁰⁶

This entrenches the very attitude that needs to be avoided if sexual violence against men in conflict is to be reported and addressed. No crime should be disregarded because fewer people experience it. The guidelines state that women and girls should be given "special attention" because of their "lack of safe and equitable access to humanitarian assistance".¹⁰⁷ As will be expressed, male victims of sexual violence also experience this lack of access to assistance.

Former United Nations Secretary-General Ban Ki-Moon stated in 2008 that: "It is time to focus on the concrete actions that all of us can and must take to prevent and eliminate this scourge- Member States, the United Nations family, civil society and individuals- women and men."¹⁰⁸ Indeed, "an aggressor nation rarely admits to rape", so when it comes to achieving their humanitarian task, it is essential that outside actors, including aid workers and NGOs, take steps to address this.¹⁰⁹ While individuals on the ground, including humanitarian and medical workers, have the opportunity to interact with victims of sexual violence, NGOs and other organisations such as the United Nations (UN) and its specialised agencies could bring this to international attention through reports and recommendations. Instead, they predominantly focus on women as victims and men as perpetrators.

Those who are identified as victims of sexual violence in conflict have multi-dimensional needs, identified as immediate (medical care) and long-term (psycho-social support), including access to: "Medical health care; psycho-social support; security; economic and livelihood support; education;

¹⁰⁵ Ibid, 5-6.

¹⁰⁶ Ibid, 6.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid, iii.

¹⁰⁹ Brownmiller (1975) 38.

and justice."¹¹⁰ However, before these services can even be offered, male victims of sexual violence must be located. This can be achieved through eradicating the stigma of sexual violence, and encouraging men to speak out about the atrocities committed against them, claiming justice for the human rights they have been denied. Furthermore, humanitarian workers can be trained to spot male victims, and organisations as a whole can be more inclusive of the fact that both men and women can be victims, particularly within the reports they publish and their recommendations; ending the unhelpful desire to prioritise female victims of sexual violence over male victims. Victims of sexual violence are victims, and must receive help, regardless of their gender identification. As stated by the UK Select Committee on Sexual Violence in Conflict:

We... urge that all aspects of survivors' needs must be addressed. Safe and hygienic hospital examination and treatment is essential after any form of sexual violence has taken place. Since rape and all other forms of sexual violence fracture personalities as well as bodies, learning frameworks should be encouraged to help reconstruct the lives of victims.¹¹¹

While it would be possible to explore in detail the system that should be in place, from aid and medical workers who have first contact with the victims, to hospital treatment, and a reflection of these crimes in NGO and IGO literature, those at the beginning and end of the chain will be focused on. Individuals are in a position to possibly identify victims, and organisations have the power to share these atrocities with the world, and in doing so call for reparations in international law, as will be explored.

3.2 The Role of Individuals

3.2.1 Humanitarian Workers

Humanitarian workers functioning on the ground in conflict and post-conflict situations "mirror the responses of survivors, thus not picking up signs of male sexual violence."¹¹² As will be explored in section 3.3, humanitarian workers do not receive adequate individual training to even consider the prospect that men are victims of sexual violence. It has been suggested that a way to overcome the

¹¹⁰ Select Committee on Sexual Violence (2015-16) 64.

¹¹¹ Ibid, 66.

¹¹² Sivakumaran [2007] 256.

exclusion of men would be for fieldworkers to interview men when determining prevalence of sexual assault, a practice which is not currently widely undertaken.¹¹³ Including men in these discussions from the outset would ensure that the myth that men cannot be victims of sexual violence in conflict would be dispelled. Sivakumaran has outlined recommendations that would encourage male victims to talk about their experiences of sexual violence, stating that: "All workers who may be the first point of contact for survivors should be trained and sensitised to sexual violence against men for fear of accentuating the problem. Counselling services for survivors of sexual assault should be opened up to men and women."¹¹⁴ Humanitarian workers are very often the first point of contact for victims of sexual violence, and so it is vital that they recognise that men can also be victims, and refrain from seeing victims through internalised gender roles.¹¹⁵

Another issue within the remit of humanitarian work has recently come to international attention and must be noted in this section. The humanitarian community itself has begun to document incidences of sexual violence occurring within the sector. NGO 'Report the Abuse' has been "providing a platform for the humanitarian community to report their experiences of sexual violence since November 2015", advocating to end sexual violence against humanitarian workers on a global level.¹¹⁶ Since then, over 1,200 individuals have "come forward to recount incidents of rape, assault and harassment", and "in 44% of these cases, the perpetrator was another international colleague."¹¹⁷ Indeed, the Headington Institute in California has estimated that "of the 400,000 humanitarians currently working in the field, one in 10 experience sexual violence."¹¹⁸ These statistics raise enormous concerns not only for the safety of humanitarian workers, but also for the protection of civilians in conflict situations. If the very individuals sent to help the most vulnerable people in a society can be capable of raping and sexually assaulting their own colleagues, those individuals cannot be relied upon to aid victims of sexual violence in conflict. Furthermore, these statistics highlight a lack of training and awareness of sexual violence and consent within the

¹¹³ Oosterhoff, Zwanikken and Ketting [2004] 75.

¹¹⁴ Sivakumaran [2007] 276.

¹¹⁵ Oosterhoff, Zwanikken and Ketting [2004] 68.

¹¹⁶ Nicola Kelly, 'Aid Workers And Sexual Violence: Survivors Speak Out' *The Guardian* (2017) <<https://www.theguardian.com/global-development-professionals-network/2017/feb/17/aid-workers-and-sexual-violence-survivors-speak-out>> accessed 10 April 2017. ; <http://www.reporttheabuse.org/about/>

¹¹⁷ Ibid.

¹¹⁸ Ibid.

humanitarian sector. In order for humanitarian workers to adequately address victims of sexual violence, violence within the profession must first be tackled.

3.2.2 Medical Workers

It has been widely stated that medical workers are not trained to spot the signs of sexual violence against men, as men are not seen as being susceptible to it.¹¹⁹ Even those who are trained to "look for signs of sexual abuse of men" may focus only on the crime of rape, due to their "familiarity with female sexual violence, which often takes the form of rape."¹²⁰ For many victims, the sexual violence they have experienced is "ignored or treated as physical violence", meaning that they fail to receive adequate treatment or reparations.¹²¹ This practice omits the many forms of male sexual violence that are "frequent in armed conflict" but that "may not leave any physical scars to stand out to medical workers."¹²²

Victims of sexual violence need both access to medical health care and psycho-social support. However, if men are not recognised as victims of sexual violence, they will have no access to this support, and thus the notion that they cannot and should not be victims will be reinstalled- then the cycle continues. The report of the UK Select Committee states:

Clinical services are an essential—yet frequently overlooked—component of a comprehensive response to addressing sexual violence in conflict. Critical medical services include the treatment of injuries, emergency contraception, prevention and treatment of STIs.¹²³

A testimony recovered by Human Rights Watch (HRW) tells an all-too-common story of the treatment of men in detention centres during conflict. Salem, a soldier detained in Latakia, Syria, stated:

¹¹⁹ Oosterhoff, Zwanikken and Ketting [2004] 68.

¹²⁰ Sivakumaran [2007] 256.

¹²¹ A Kapur and K Muddell, 'When No One Calls It Rape: Addressing Sexual Violence Against Men and Boys in Transitional Contexts' [2016] International Centre for Transitional Justice, 2.

¹²² Sivakumaran [2007] 256.

¹²³ Select Committee on Sexual Violence (2015-16) 64.

They started torturing me here (gesturing toward his genitalia) [with the electricity]. They were also beating me and there was a guard behind me turning the electricity on. I passed out. They were beating me and shocking me. The interrogator was beating me with a cable over my whole body. I still didn't have any clothes on ... they asked me every thirty minutes if I would confess.¹²⁴

This testimony shows not only that men experience injuries that may not leave a permanent mark, but that the scenarios in which these injuries are obtained may well be linked to torture as well as sexual violence. Medical workers should therefore have a standard classification of these injuries as "torture or sexual abuse or both", so that consistent data can be collected, and relevant treatment given.¹²⁵ Only one of the 10 former detainees interviewed by HRW received medical treatment after their release from prison, and none received medical or psychological treatment in prison.¹²⁶ Having interviewed both men and women for the report, it is clear that medical services are lacking for all victims of sexual violence in conflict, not only for men.

Richard Tewksbury highlights many studies of sexual violence against men in which physical evidence of trauma is lacking.¹²⁷ Whilst these studies took place in a non-conflict setting, their findings can be applied in this context for the acts carried out are often similar. One study, carried out in a NYC hospital found that of all documented male victims of sexual assault, only 25 per cent presented "trauma or physical injury."¹²⁸ In a Denver-based study, "genital or rectal trauma is reported in 35 per cent of male victims."¹²⁹ Therefore, even if medical workers are aware of the prevalence of male rape in a conflict environment, they may not be able to spot any signs of its occurrence. Furthermore, a tendency to focus only on male rape leads to the "exclusion of other forms of sexual violence."¹³⁰

¹²⁴ 'Syria: Sexual Assault In Detention' (*Human Rights Watch*, 2011) <<https://www.hrw.org/news/2012/06/15/syria-sexual-assault-detention>> accessed 11 April 2017.

¹²⁵ Sivakumaran [2007] 275.

¹²⁶ 'Syria: Sexual Assault' (2011).

¹²⁷ Tewksbury [2007] 27.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Lewis [2009] 9.

Survivors of sexual violence in conflict also need access to psycho-social support, in order to help them on the path to rebuilding their lives. According to the UK Select Committee, this support is essential:

It is time critical. Its function is to provide immediate relief and on-going support. It helps governments determine what is needed, where and when and how best to deliver it. It helps build the foundations from which reconciliation between conflicted societies can begin.¹³¹

Indeed, if psycho-social support were to be provided for male victims of sexual violence, their feelings of inadequacy, and the self-doubt and shame which ultimately lead to their feminisation and homosexualisation, would begin to be eradicated. Sexual violence in conflict "affects victims' physical and psychological well-being and also impacts on their economic status and their standing in society."¹³² It has been explored in the previous chapter that men who are victims of sexual violence often lose their standing within the family and community. Furthermore, it has been found that: "Untreated medical, psychological and psychosocial trauma prevents male survivors from engaging in economic livelihoods, maintaining healthy relationships with their family members, and recovering from traumatic experiences of sexual violence in conflict."¹³³ Thus, victims have "multiple needs", which range from "medical treatment and counselling to vocational training and/or income-generating measures."¹³⁴ The issue is that, unless medical workers identify these victims, they will never have access to these services, and their isolation from society will only become more entrenched. Indeed, clinical psychologist Dr Emilie Medeiros stated that justice, reconciliation and reintegration would be difficult to achieve "if sexual violence abuses are not addressed."¹³⁵ The International Centre for Transitional Justice (ICTJ) released new recommendations for addressing sexual violence against men and boys in transitional contexts in December 2016.¹³⁶ Included in its recommendations for reparations programmes was a call to: "Design reparative measures to incorporate psychological support appropriate for and available to male victims of sexual violence,

¹³¹ Select Committee on Sexual Violence (2015-16) 65.

¹³² Ibid.

¹³³ RLP 'Written Evidence' (2015) 2.

¹³⁴ Select Committee on Sexual Violence (2015-16) 65.

¹³⁵ Ibid, 66.

¹³⁶ Kapur and Muddell [2016] 3.

and material support that provides income-generating alternatives for men unable to continue with previously held positions."¹³⁷

Various NGOs have suggested that humanitarian workers and organisations take a 'survivor-based approach' to the "prevention of sexual violence in conflict and treatment of victims."¹³⁸ NGO Survivors Speak OUT said that this approach is necessary because "survivors are the only ones who truly know what is best for them."¹³⁹ Indeed, this focus on individual treatment is in line with the Universal Declaration of Human Rights' (UDHR) emphasis on the importance of individual human rights. Treating victims as individuals rather than classifying them and their experiences by their gender would make treatment available not only for men, but would make it more accessible for women, children and transgender victims of sexual violence in conflict.

3.3 The Role of Organisations

3.3.1 Non-Governmental and Inter-Governmental Organisations

In conflict and post-conflict settings, humanitarian organisations work in the following areas of operation: "camp coordination and camp management, child protection, education, food security and agriculture, health, housing, land and property (HLP), humanitarian mine action, livelihoods, nutrition, protection, shelter resettlement and recovery (SS&R), water sanitation and hygiene (WASH)."¹⁴⁰ According to the Inter-Agency Standing Committee, humanitarian actors have an obligation to protect "all populations affected by humanitarian crises".¹⁴¹ In 2013, the Committee released a statement on 'The Centrality of Protection in Humanitarian Action' outlining the role of "Humanitarian Coordinators, Humanitarian Country Teams and Clusters" in implementing protection in humanitarian action. The statement notes that:

Protection of all persons affected and at risk must inform humanitarian decision-making and response, including engagement with States and non- State parties to conflict... In

¹³⁷ Ibid.

¹³⁸ Select Committee on Sexual Violence (2015-16) 66.

¹³⁹ Ibid.

¹⁴⁰ 'Integrating Gender-Based Violence Interventions' (2015) 20.

¹⁴¹ Ibid, 6.

practical terms, this means identifying who is at risk, how and why at the very outset of a crisis and thereafter, taking into account the specific vulnerabilities that underlie these risks, including those experienced by men, women, girls and boys.¹⁴²

In theory then, NGOs and IGOs should have the protection of all persons against sexual violence at the forefront of their policy making. However in practice, humanitarian actors have failed to take action against gender-based violence (GBV), negating one of "their most basic responsibilities" and contributing to "a poor foundation for supporting the resilience, health and well-being of survivors".¹⁴³ Further evidence of this can be seen in Stemple's research, which "doesn't only show that male sexual violence is a component of wars all over the world, it also suggests that international aid organisations are failing male victims."¹⁴⁴ Stemple found that in a review carried out in 2002 of 4,076 NGOs that have "addressed wartime sexual violence" only 3 per cent of them have mentioned the experiences of men "as a passing reference".¹⁴⁵ A decade after this study was carried out, the United Nations Office of the Special Representative on Sexual Violence in Conflict noted that little had changed, and that those organisations who had begun "to develop gender-inclusive responses and case management" were "the exception to the rule."¹⁴⁶

Despite this failure, it must be noted that humanitarian actors provide almost all of the studies published on sexual violence in conflict and post-conflict situations. For example, NGOs such as Amnesty International, Human Rights Watch and Medecins Sans Frontieres have provided much of the literature relating to sexual violence against men in the conflict of the Democratic Republic of Congo.¹⁴⁷ Indeed, as a standard, NGOs and IGOs now include a sentence in their reports "on sexual atrocities in armed conflict in which they note that men can be victims of sexual violence."¹⁴⁸ However, a sentence is barely enough to express just what these victims have been through. Indeed, Dolan of the Refugee Law Project has criticised the meagre inclusion of men in NGO and IGO reports, stating that:

¹⁴² Ibid, 1.

¹⁴³ Ibid, 14.

¹⁴⁴ Storr (2011).

¹⁴⁵ Ibid.

¹⁴⁶ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 12.

¹⁴⁷ Sivakumaran [2007] 259.

¹⁴⁸ Ibid, 275.

The organisations working on sexual and gender-based violence don't talk about it. It's systematically silenced. If you're very, very lucky they'll give it a tangential mention at the end of a report. You might get five seconds of: 'Oh and men can also be the victims of sexual violence.' But there's no data, no discussion.¹⁴⁹

This silence was one of the triggering factors for the production of the RLP's documentary 'Gender Against Men', which was discussed in Chapter 2.¹⁵⁰ When the documentary was initially screened, there were organisations who spoke out against it. Dolan stated: "There's a fear among them that this is a zero-sum game; that there's a pre-defined cake and if you start talking about men, you're going to somehow eat a chunk of this cake that's taken them a long time to bake."¹⁵¹ Indeed, one of the RLP's donors Dutch Oxfam refused to offer more funding unless Dolan promised "that 70 per cent of his client base was female."¹⁵² There is certainly an issue that many NGOs and IGOs are reluctant to address male victims of sexual violence in conflict for fear that it will detract from the experiences of female victims, which are undoubtedly vast and horrifying. A survivor-focused approach in which individuals were not defined by their gender but by the fact that they had experienced sexual violence in conflict and are all entitled to human rights would surely benefit both male and female victims, if the project in question received adequate funding.

Even the Inter Agency Standing Committee Guidelines, which have been referred to in this chapter, and which "serve as the core reference point for practitioners in the UN and major international NGOs", do not discuss "the specifics of sexual violence against men and boys."¹⁵³ In fact, the only document that does specifically address working with men and boy survivors of sexual violence is the UNHCR's 'Need to Know Guidance Note on Working with Men and Boy Survivors of Sexual and Gender-Based Violence in Forced Displacement', published in 2012, which notes that "service

¹⁴⁹ Storr (2011).

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 7.

providers may not recognise the male experience of SGBV".¹⁵⁴ In its 'key messages for staff, partners, survivors, and communities', the Guidance Note states that:

In conflict situations, men and boys, just as women and girls, may be raped or subjected to other forms of sexual violence as a weapon of war...Rape is rape, regardless of the survivor's sex, presumed or real gender identity, or sexual orientation...No survivor of sexual violence, whether man, woman, girl or boy, should be stigmatised, marginalised or left without care.¹⁵⁵

The Guidance Note proceeds to outline the indicators that "staff and partners who are involved in SGBV" should look for in male victims of sexual violence. Certain behaviours, such as not being able to sit comfortably, refusing to make eye contact, and showing high levels of homophobia, are said to be frequently present in male survivors of sexual violence.¹⁵⁶ Indeed, the same behaviours were discussed in the RLP documentary 'Gender Against Men'. The document provides a clear outline for understanding the needs of men and boy survivors, providing actions that can be taken by organisations to ensure that these victims are supported and protected.¹⁵⁷ The issue therefore, as will be explored in section 3.3, is therefore that these guidelines are not being used.

3.4 Research Survey

3.4.1 Outline

Due to the fact that there has been so little research and discussion surrounding sexual violence against men in conflict, it is invaluable to conduct as much individual inquiry as possible. The scholars that have been referred to in this chapter argue that aid workers and organisations do not put enough, if any, resources into dealing with male victims of sexual violence. This notion will be explored further, in order to determine whether the individuals involved in both training aid workers

¹⁵⁴ United Nations High Commissioner for Refugees, 'Working With Men And Boy Survivors Of Sexual And Gender-Based Violence In Forced Displacement' (2012) 4 <<http://www.refworld.org/pdfid/5006aa262.pdf>> accessed 8 May 2017.

¹⁵⁵ Ibid, 6..

¹⁵⁶ Ibid, 8-9.

¹⁵⁷ Ibid.

and dealing with victims of sexual violence believe that they could be doing more to protect male victims in conflict.

For this study, five individuals working in the humanitarian sector were surveyed: three of whom have been directly responsible for training field workers (one training those in management and security, one training police officers working as human rights and gender officers, and one training field workers in Austria, Bosnia, Croatia and Ukraine on 'psychiatric disorders in refugees'), and two who have worked directly with victims of sexual violence (one as a Human Rights Officer, the other as the head of an NGO treating people without access to healthcare). Three of these individuals identified as male, while two identified as female. Between them, they have worked for the following organisations: United Nations, Amnesty International, the Organisation for Security and Co-operation in Europe (OSCE), European Union (EU), Polish Humanitarian Action (PAH), People in Need (PIN) operating in the Czech Republic, the global NGO International Medical Corps (IMC), Caritas and Hilfswerk Austria in the following regions: Africa, Americas, Europe and Central Asia, Middle East. The respondents of the survey are anonymous. The survey was developed in early 2017, and sent to two individuals who work in the humanitarian sector to be tested. Once testing was complete, it was sent to a pool of respondents identified in the E.MA Alumni network. Confidentiality can be ensured as participants' answers are only saved on Google Drive, which uses high-level encryption. Please see figure 1.0 on page 83 for a breakdown of each respondent's background. The full survey can be found in Annexe 1 on page 92.

3.4.2 Results

Of the three individuals surveyed who had carried out training for aid workers, A had not organised training specifically related to sexual violence, but B and C had. Included in the training that respondent B carried out was a discussion about male victims of sexual violence, in which sexual violence against men was presented as "one major experience causing Post-traumatic Stress Disorder", reinforcing the statements made in section 3.1 regarding the need for psychological support for victims. While respondent C carried out some training specifically related to sexual violence, men were not discussed. This is particularly interesting as respondent C had discussed sexual violence against men in conflict within their line of work, but had not carried out training for others in this area. While not enough individuals were surveyed to use these results as a general

forecast of the inclusion of sexual violence against men in the training of aid workers, they certainly reflect the mixed attitudes towards male survivors outlined in section 3.2.

Respondent E worked in the Human Rights Monitoring sector, and had sometimes come into contact with the issue of sexual violence in this role. Despite this, men were never discussed as victims of sexual violence. Respondent E noted:

There is a local framework and there are local mechanisms to prevent, assist and to protect victims of violence. The case of men being victims of sexual violence would fall under their mandate. However, I have never heard of sexual violence cases against men, and if there is, which is very possible, it is probably not reported. It is perceived as a taboo or something unconscionable and mechanisms are not ready to face it due to culture and social strings and lack of awareness, training and experience. This is the case for females and I assume it may be heightened in the case of men.

All five respondents, when asked whether they thought more could be done within their line of work to support male victims of sexual violence in conflict, answered yes. When asked to explain this response, they answered the following:

Respondent A	Awareness campaigns are needed for aid workers.
Respondent B	Sexual violence against men seems to be quite common in conflict areas but tends to be neglected by field workers.
Respondent C	You should never stop until the problem has been eradicated.
Respondent D	It is a phenomenon not talked about much, it is maybe even more shameful than for women / or shameful in a different way. Little therapy options exist. In general we have too little psychotherapy offers (free of charge) in Austria, for everyone, for victims of torture, traumatised people etc.
Respondent E	We tend to focus on sexual and other kinds of violence against women.

These explanations all point to a lack of awareness of aid workers about sexual violence against men, the social stigma that it entails, and a lack and diversion of services, as the root causes for the lack of support for male victims. These are all arguments that correlate to those given by the

academics cited in this research. What makes these accounts so significant is that they are given by those who have actually come into contact with victims of conflict situations.

The respondents were asked whether, in their experience, it was easy to identify male victims of sexual violence in conflict. See figure 2.0 on page 83 for a visual breakdown of their answers.

Respondents B and C said that it was sometimes easy to identify male victims of sexual violence, while respondents D and E said that it was rarely easy. A did not have experience in this area. As a psychiatrist, it is perhaps not surprising that B found it 'sometimes' easier to spot these victims.

Indeed, B explained that: "Sometimes there are related physical complaints like haemorrhoids, anal fissures, prostatitis, or painful defecation" which make these victims easier to identify. Nonetheless, respondent D, who answered 'rarely' when asked if it was easy to identify male victims of sexual violence in conflict, reasoned that: "For me as a doctor, they would talk about medical issues. But I guess they would not talk about this experience so easily unless it had left physical problems as urination problems etc." This comment reinforces the point previously made that medical workers may not be able to spot the signs of male victims of sexual violence in conflict. Furthermore, it is clear that male victims do not even feel comfortable talking about their experiences to trained doctors. It is undoubtable that their psychological needs are thus as, if not more, important than their physical ones. If men cannot overcome the psychological trauma and social stigma that they face as victims, they will not ever seek treatment for the physical symptoms. Respondents A, C and E each cited "cultural taboos" and the "sensitivity" of the issue of sexual violence against men as reasons why it is not identified and reported. Again, these accounts reinforce the conclusions drawn in the previous chapters.

Only one respondent thought that there are adequate processes in place to support males who have been victims of sexual violence in conflict. Respondent B stated that "Medical evaluation and psychotherapy after the assault open discussion of the kind of violence that men face", however, they went on to add that healthcare professionals could do more to encourage men to speak out about the violence committed against them. While respondent D was not aware whether there were adequate processes in place, they did comment that "It is already difficult enough to get through to women who have such experiences although there is a lot of awareness, so it is more difficult with men." Respondents A, C and E all stated that there are not adequate processes in place to support males who have been victims of sexual violence in conflict. They made the following recommendations of actions that could be taken to resolve this:

Respondent A	I don't know of any processes to identify male victims, so I guess at least basic training could be provided in this regard.
Respondent C	Keep it on the agenda and use any opportunity to discuss it.
Respondent E	There are mechanisms and a protective legal framework but the implementation is poor due to lack of awareness and limited professional guidance among those in charge of implementing this legal framework or the mandate of the mechanisms.

These responses highlight that there is no clear process in place for humanitarian workers to follow when it comes to male victims of sexual violence. If all field workers were only provided with the UNHCR's 'Need to Know Guidance Note on Working with Men and Boy Survivors of Sexual and Gender-Based Violence in Forced Displacement' they would have a better sense of how to recognise and aid male survivors.¹⁵⁸

All of the respondents were asked what they thought could be done to encourage males who have been victims of sexual violence in conflict to speak about what happened to them. Their responses included the following:

Respondent A	I don't know- I think in certain countries it is almost impossible due to the cultural context.
Respondent B	Healthcare professionals offering open discussion with the victim.
Respondent C	Create an environment of trust where victims feel comfortable to testify.
Respondent D	It depends on the context. It depends if you have anything to offer them after they have spoken about it. In general it would need an atmosphere of trust, kindness, and a relationship.
Respondent E	I would start by building up social conscience about it being an existent issue.

Both respondents A and D raise important considerations that cannot be tackled in such a broad study. Cultural contexts vary greatly, and so the only consistencies that can be drawn arise from the conflict setting. It has been proven in Chapter 2 that sexual violence in conflict is often carried out in very similar settings for very similar reasons. However, one society's acceptance of male victims

¹⁵⁸ Ibid, 4.

of sexual violence may differ from that of another society, particularly in those where homosexuality is criminalised compared to societies in which it is legal. Therefore, aid workers and NGOs can provide a consistency in the treatment of these individuals that could prove vital for their recovery. It is for this reason that they play such an important role in the rehabilitation of victims of sexual violence. As respondents B, C and E all stated, aid workers and NGOs can "open discussion", "create an environment of trust", and build a "social conscience" that can encourage male victims of sexual violence to speak out.

Finally, the respondents were asked what they thought the greatest obstacle was in reporting sexual violence that has taken place against men in conflict. They were provided with the following options:

- The social stigma attached to sexual violence
- The breakdown of masculinity associated with male victims of sexual violence
- The training of aid/field workers in recognising male victims of sexual violence
- International law that does not adequately address sexual violence against men
- Other

Four of the five respondents stated that they believed "the social stigma attached to sexual violence" was the greatest obstacle in reporting sexual violence against men. One (Respondent D) stated that "the breakdown of masculinity associated with male victims of sexual violence" was in fact the greatest obstacle. These results clearly show that in order to support male victims of sexual violence in conflict; in order for them to even identify themselves or be identified, and in order for perpetrators to be prosecuted, victims of sexual violence must be empowered, and no longer shamed.

3.4.3 Conclusions drawn from the survey

The answers provided by those surveyed support previously cited literature in suggesting that aid and medical workers are not adequately trained to spot the signs of sexual violence against men in conflict, leading to its failure to be reported. Not only do these individuals not receive training in this area, but they may not even be aware of the issue due to the lack of discussion surrounding it. Victims of sexual violence have their rights violated during the act itself, and then afterwards if they

are not brought justice before the law. The gender of male victims of sexual violence acts as a barrier in them achieving such reparations, as it is not even regarded that they could have their rights violated in such a way. It can be regarded throughout history that women have fallen victim to certain human rights abuses as a result of their gender. This study proves that the same can also happen to men. If those working in the humanitarian sector did not take a gendered approach to locating victims of sexual violence in conflict, all victims would be given an opportunity to seek reparations. While it is important to recognise when those of a particular gender identity are being systematically targeted as a result of their gender, this categorisation should only be used to provide them with more tailored support, and not to detract from their experiences.

4.

ADDRESSING SEXUAL VIOLENCE AGAINST MEN THROUGH INTERNATIONAL LAW

"While women, men, boys and girls can be victims of gender-based violence, women and girls are the main victims."

- Office of the United Nations High Commissioner for Refugees

4.1 Introduction

As has been explored, there is an evident omission in the identification of male victims of sexual violence. The stigmatisation of male victims leads to under-reporting of the crime, which ultimately means that it may not be prosecuted. Different bodies of international law approach the phenomena of sexual violence in varying ways- some taking a more gender neutral approach to others; as will be explored. Nonetheless, the issues that have been explored in chapters two and three ultimately highlight that, even if international law were perfectly equipped to prosecute these crimes and provide reparations for the victims, it would not be applied to all victims because many do not feel able to come forward and speak about the atrocities committed against them.

International law (IL) is applicable when prosecuting crimes that have taken place in international conflicts, and as such is ultimately the focus of this chapter. To constitute conflict-related sexual violence, according to a 2012 report of the UN Secretary-General, the sexual violence must occur "in conflict or post-conflict settings or other situations of concern and... has a direct or indirect nexus with the conflict or political strife itself, that is, a temporal, geographical and/or causal link."¹⁵⁹ International humanitarian law (IHL) regulates the conduct of warfare, while international criminal law (ICL) holds perpetrators accountable through ad hoc tribunals and the work of the International Criminal Court. While IHL treaties do not define the nexus of armed conflict, it has

¹⁵⁹ 'Conflict-Related Sexual Violence Report Of The Secretary-General' (United Nations General Assembly Security Council 2012) <<https://www.unodc.org/documents/frontpage/A-66-657.pdf>> accessed 11 March 2017.

been discussed in international criminal case law, including the case of *Prosecutor v. Kunarac*, in which the International Criminal Tribunal for former Yugoslavia Appeals Chamber judgement stated that: “The existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed.”¹⁶⁰

Although international human rights law (IHRL) acts as another branch of public international law, it focuses on the rights that can be claimed by individuals and groups against governments, and individuals are not bound to its treaties. Furthermore, IHRL allows for the derogation from human rights obligations under the International Covenant on Civil and Political Rights (ICCPR), which states that: “[i]n time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant.”¹⁶¹ It has been previously thought that while in IHL applies in times of conflict, IHRL should be regarded as the law of peace time. Nonetheless, as stated in the Judgement of *Prosecutor v Kunarac*:

Because of the paucity of precedent in the field of international humanitarian law, the Tribunal has, on many occasions, had recourse to instruments and practices developed in the field of human rights law. Because of their resemblance, in terms of goals, values and terminology, such recourse is generally a welcome and needed assistance to determine the content of customary international law in the field of humanitarian law. With regard to certain of its aspects, international humanitarian law can be said to have fused with human rights law.¹⁶²

Until relatively recently, the international community failed to adequately address rape.¹⁶³ As pointed out by Sivakumaran: "Even rape that fell very much within the competence of the international community was neglected, for example the tens of thousands of women who have

¹⁶⁰ *Prosecutor v Kunarac* [2001] ICTY Appeals Chamber (ICTY Appeals Chamber).

¹⁶¹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) Art 4.1.

¹⁶² *Prosecutor v Kunarac* [2001] ICTY Appeals Chamber (ICTY Appeals Chamber), para. 467.

¹⁶³ Sandesh Sivakumaran, ‘Male/Male Rape and the “Taint” of Homosexuality [2005] 27 Human Rights Quarterly 1276

been raped in each and every armed conflict."¹⁶⁴ As will be explored, general provisions under international law apply to male victims of sexual violence. As will be argued, the implementation of these provisions needs to be strengthened for these crimes to be prosecuted.

4.2 International Human Rights Law

Victims of sexual violence are denied the rights to life, liberty and security of person; freedom from slavery and from subjection to torture or cruel, inhuman or degrading treatment.¹⁶⁵ Sexual violence is carried out against men in conflict to break down the socially ascribed characteristics that are supposedly attached to their gender, yet it is also these distinctions that have led to male victims not receiving equal protection before the law; nor receiving access to an effective remedy, as outlined in Articles 2, 7 and 8 of the Universal Declaration of Human Rights. As a soft law instrument, the UDHR is not legally binding on states, so while it sets out the rights and freedoms that should be enjoyed by all, legally binding treaties and instruments will also be discussed in this section.

Men who are unable to seek medical care because of their gender are ultimately denied their right to "the enjoyment of the highest attainable standard of physical and mental health" as set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights which is legally binding to all States Parties.¹⁶⁶ Furthermore, this provides a violation of Article 2.2 which states that: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."¹⁶⁷

Human rights documents that recognise sexual violence do not include the accurate terminology to classify many of the types of violence that men experience. For example, castration may be classified as 'abuse' or 'torture', and this failure to label a specific violation means that "some men who experience sexual violence do not have words at their disposal to express their trauma

¹⁶⁴ Ibid.

¹⁶⁵ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) Art 3, 4 and 5

¹⁶⁶ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) Art 12.

¹⁶⁷ Ibid, Art 2.2.

precisely.”¹⁶⁸ International human rights law does not explicitly consider sexual violence against men, and is therefore by default exclusionary in the language used in treaties, conventions and declarations. In a recent study, Laura Stemple found that:

The international instruments that contain the most comprehensive and meaningful definitions of sexual violence exclude men on their face, reflecting and embedding the assumption that sexual violence is a phenomenon relevant only to women and girls. There are well over one hundred uses of the term “violence against women”—defined to include sexual violence—in U.N. resolutions, treaties, general comments, and consensus documents. No human rights instruments explicitly address sexual violence against men... “Gender- based violence” is used only to describe female victimisation, thereby leaving no room for a much-needed gender analysis of male rape.¹⁶⁹

As will be explored in further detail, the term 'gender-based violence' (GBV) is often used only to discuss violence against women in IHRL, as though the term 'gender' is synonymous with being a woman. This classification can be noted in many human rights documents that discuss GBV. For example, in its General Recommendation No. 19 (1992), the Committee on the Elimination of Discrimination Against Women defined GBV as: "A form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."¹⁷⁰ This classification of GBV eliminates men and their experiences of rape and sexual assault in conflict from certain protections under human rights law, and gives the impression that men cannot suffer from GBV. As has been outlined, men are raped and sexually assaulted in conflict because this act destroys the elements that are considered to constitute their masculine identity, contributing to the social stigma outlined in Chapter 2. It is thus undeniable that this violence is carried out to deconstruct socially ascribed characteristics of what it is to be a man, constituting gender-based violence. Similar terminology can be found in a UN General Assembly draft resolution, which states that States should: “Develop gender-sensitive supportive programmes and train health workers to recognise

¹⁶⁸ Lewis [2009] 9.

¹⁶⁹ Stemple [2009] 619.

¹⁷⁰ UN Committee for the Elimination of All Forms of Discrimination against Women, ‘General Recommendation No 19’ in ‘Note by the Secretariat, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies’ (29 July 1994) UN Doc HRI/GEN/1/Rev.1

gender-based violence and provide care for girls and women of all ages who have experienced any form of violence.”¹⁷¹

While the international human rights platform is flawed in defining GBV as violence against women, it also reverses this trend, to define violence against women as GBV. For example, in the Beijing Declaration and Platform for Action, violence against women is defined as: "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women."¹⁷² Using the phrase 'violence against women' interchangeably with GBV serves to exclude men from the narrative, dismissing the notion that men can be victims of sexual violence, and enhancing the feminisation and social stigma that male victims of sexual violence in conflict experience.

Human rights instruments that address sexual violence "do so with a breadth and depth that give the impression that sexual violence has been thoroughly explored and comprehensively addressed."¹⁷³ For example, the CEDAW Committee's General Recommendation No. 19 asks States to collect data on instances of sexual violence against women, and make counselling available through support services; completely overlooking the root causes of sexual violence, its widespread impact, or even the fact that men can also be victims.¹⁷⁴

In 2007, former UN Secretary-General Ban Ki Moon stated that: “In no other area is our collective failure to ensure effective protection for civilians more apparent ... than in terms of the masses of women and girls, but also boys and men, whose lives are destroyed each year by sexual violence perpetrated in conflict.” Nonetheless, a report of the Workshop on Sexual Violence against Men and Boys published by the Office of the United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict in 2013 noted that of the Security Council Resolutions 1325-2122 which focus on female victims of sexual violence, men are only mentioned once, in UNSCR 2106.¹⁷⁵ The resolution notes that: "Sexual violence in armed conflict and post-conflict situations

¹⁷¹ Stemple [2009] 620.

¹⁷² UN ‘Beijing Declaration and Platform of Action’, adopted at the Fourth World Conference on Women (27 October 1995) 41.

¹⁷³ Stemple [2009] 621.

¹⁷⁴ UN CEDAW ‘General Recommendation No 19’ (1994).

¹⁷⁵ UN, ‘Sexual Violence Against Men And Boys In Conflict Situations’ (2013) 7.

disproportionately affects women and girls, as well as groups that are particularly vulnerable or may be specifically targeted, while also affecting men and boys and those secondarily traumatised as forced witnesses of sexual violence against family members."¹⁷⁶ While this recognition could be viewed as progress, it is inadequate when viewed amongst the multitude of resolutions and treaties attesting that only women can be victims of sexual violence in conflict, and labelling men as perpetrators of this violence.

As argued by Stemple: "Male rape will only be curtailed when the perception of men broadens beyond one that sees men as a monolithic perpetrator class, and instead recognises that men and boys can and should also be a group entitled to rights claiming."¹⁷⁷ As long as IHRL fails to include men in these instruments, it continues to instil stereotypes and contributes towards the denial of basic human rights because of a person's gender.

4.3 International Humanitarian and International Criminal Law

4.3.1 The Development of ‘Sufficient and Adequate Rules’

In comparison to IHRL, international humanitarian and criminal law do provide “sufficient and adequate rules” to deal with sexual violence in conflict, as stated by the International Review of the Red Cross (IRRC) in 2014.¹⁷⁸ A brief historical analysis of these bodies of law will highlight just how much attitudes towards sexual violence have developed in a relatively short period of time. However, as will be demonstrated, it is not the lack of these rules that is the issue in prosecuting crimes of sexual violence against men in conflict, but their implementation that “needs to be strengthened to effectively eliminate or at least reduce the occurrence of sexual violence.”¹⁷⁹

4.3.1.1 Under International Humanitarian Law

International humanitarian law, otherwise known as the law of armed conflict, has achieved far greater developments in the field of sexual violence against men than IHRL. In 1863, the Lieber

¹⁷⁶ UNSC Res 2106 (24 June 2013) UN Doc S/RES/2106 1-2

¹⁷⁷ Stemple [2009] 635.

¹⁷⁸ International Review of the Red Cross ‘Sexual Violence in Armed Conflict’ (2014), 96 (894) 505.

¹⁷⁹ Ibid.

Code, the instruction dictating how soldiers in the American Civil War should conduct themselves, condemned “all rape” in Article 44, and stated in Article 47 that “crimes... such as... rape... are punishable.”¹⁸⁰ This document was used as the basis of The Hague Regulations, established at the turn of the twentieth century, in which Article 46 of both the 1899 and 1907 regulations provided that: “Family honour and rights... must be respected.”¹⁸¹

In the decade following the First World War, the 1929 Geneva Convention was drafted, with Article 3 holding that: “Prisoners of war are entitled to respect for their persons and honour. Women shall be treated with all consideration due to their sex.”¹⁸² This provided a “genteel phrasing” for the prohibition of sexual violence, including rape.¹⁸³ On 8 August 1945, the London Agreement and Charter was signed, laying the groundwork for the trials before the International Military Tribunal (IMT) at Nuremberg. A year later, the Tokyo Charter was produced as the basis for the IMT for the Far East in Tokyo. The charters claimed jurisdiction over crimes against peace, war crimes, and crimes against humanity. However, whilst “each military tribunal admitted and ruled upon evidence of rapes”, it has been argued that “the lingering legacy of the Nuremberg Tribunal remains one of presumed inattention to sex based crimes.”¹⁸⁴

The fourth Geneva Convention (GC), instated in 1949, was the first to address explicitly the civilian victims of armed conflict, with particular regard to rape and sexual violence. Article 27 of the fourth GC 'relative to the protection of Civilian Persons in Time of War' states that: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."¹⁸⁵ This sentiment is troubling when viewed through a modern lens for two reasons: first because it overlooks male and child victims of sexual assault and rape in war, but also because it equates the need to protect women with the need to protect their

¹⁸⁰ Francis Lieber, *Instructions For The Government Of The Armies Of The United States In The Field* (DVan Nostrand 1863) Art 44 and 47.

¹⁸¹ International Conferences (The Hague) ‘Hague Convention (IV) Respecting the Laws and Customs of War on land and Its Annex: Regulations Concerning the Laws and Customs of War on Land’ (adopted 18 October 1907, entered into force 26 January 1910) Art 46.

¹⁸² International Committee of the Red Cross (ICRC) ‘Geneva Convention Relative to the Treatment of Prisoners of War’ (27 July 1929) Art 3.

¹⁸³ Patricia Viseur Sellers, *The Prosecution Of Sexual Violence In Conflict: The Importance of Human Rights as a Means of Interpretation* (OHCHR 2009) 7.

¹⁸⁴ *Ibid.*

¹⁸⁵ International Committee of the Red Cross (ICRC) ‘Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War’ (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287/ 1958 ATS No 21

honour. Indeed, it has been pointed out that this language, which is also reflected in The Hague Regulations half a century before, "has a tendency to resurrect harmful stereotypes, including that a raped woman is 'disgraced'."¹⁸⁶ However, as outlined by The International Review of the Red Cross:

The notion of "honour" had a completely different connotation at the time. While they seem weak and symbolic today, notions of honour (as evidenced by the principle of chivalry, for instance) were considered highly important constraints in war and were at the core of IHL rules in 1949 and before.¹⁸⁷

It can be argued, therefore, that even the inclusion of the notion of honour was important in the recognition of the need to prosecute crimes of sexual violence in conflict. The expulsion of the discussion on honour from the Additional Protocols to the Geneva Conventions highlights that IHL is adapting to reflect current social norms and standards.

Article 75 of the Additional Protocol I to the Geneva Conventions uses gender-neutral language, as it prohibits: "Outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault."¹⁸⁸ However, Article 76 reinforces the idea that women are the only victims of rape, stating: "Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault."¹⁸⁹ Despite this, Article 4 of the Additional Protocol II to the Geneva Conventions guarantees: "Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:... (e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault" in non-international armed conflicts."¹⁹⁰

¹⁸⁶ Dustin Lewis, 'Unrecognized Victims: Sexual Violence Against Men In Conflict Settings Under International Law' [2009] 27(1) Wisconsin International Law Journal 23

¹⁸⁷ IRRC 'Sexual Violence' (2014) 512.

¹⁸⁸ International Committee of the Red Cross (ICRC) 'Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims in International Armed Conflicts (Protocol 1)(8 June 1977) 1125 UNTS 3, Art 75.

¹⁸⁹ Ibid, Art 76.

¹⁹⁰ Ibid, Art 4.

The adoption of some sex-neutral language in the Additional Protocols of 1977 highlights a move in international humanitarian law to accepting that anyone can be a victim of rape and sexual violence. The protocols "further enhanced protection against sexual violence in conflict settings."¹⁹¹

However, they have been criticised for "distinguishing sexual assaults from crimes of violence", and in doing so not reflecting that "sexual violence is in fact a violent crime."¹⁹²

As stated by the IRRC: "While the Geneva Conventions of 1949 and their Additional Protocols of 1977 may not be perfect in their approach to sexual violence, they provide the necessary protections from and prohibitions against rape and other forms of sexual violence", through expressly prohibiting rape, and encompassing rape and sexual violence in "less explicit provisions such as the prohibitions against cruel treatment and torture, outrages upon personal dignity, indecent assault and enforced prostitution, and those intended to ensure respect for persons and honour."¹⁹³ As will be demonstrated, whilst in theory IHL provides adequate protection for victims of sexual violence in conflict, in practice this is not adequate in protecting male victims.

4.3.1.2 Under International Criminal Law

The development of rape as an international crime, and crime against humanity, took its course homogenous to the developments of IHL post World War II.¹⁹⁴ An accumulation of pressure from women's campaign groups and knowledge of the atrocities committed in Rwanda and the Former Yugoslavia led to sexual violence officially being recognised under international criminal law for the first time in 1994. Both the ICTY and ICTR produced statutes that, in keeping with the Rome Statute, refer to rape as a crime against humanity.¹⁹⁵ Indeed, the jurisprudence of the ICTY was fundamental in setting out that: "The rape of women can constitute a war crime, a violation of the laws and customs of war, and a crime against humanity."¹⁹⁶ The Statute for the Special Court for

¹⁹¹ Lewis [2009] 24.

¹⁹² Ibid.

¹⁹³ IRRC 'Sexual Violence' (2014) 511.

¹⁹⁴ Sellers (2009) 10.

¹⁹⁵ UN Security Council, 'Statute of the International Criminal Tribunal for the Former Yugoslavia' (as amended on 17 May 2002), 25 May 1993, Art 5(g) and UN Security Council 'Statute of the International Criminal Tribunal for Rwanda', 31 December 1993, Art 3(g).

¹⁹⁶ Mike Isaac, 'The Prosecution Of Sexual Violence Against Men In International Criminal Law' (*ILG*, 2016) <<https://ilg2.org/2016/02/11/the-prosecution-of-sexual-violence-against-men-in-international-criminal-law/>> accessed 8 March 2017.

Sierra Leone (SCSL) lists rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence as a crime against humanity, and further highlights outrages upon personal dignity, including humiliating and degrading treatment and rape.¹⁹⁷

The predecessors to the ICTY and ICTR, the Nuremberg and Tokyo Tribunals, had concluded over four decades prior to the Tribunals of the former Yugoslavia and Rwanda. While they had recorded “a significant amount of evidence of sex crimes committed during the war”, they did not pay attention to gender crimes in their judgements, and as such “the systematic rape and sexual slavery by the Japanese imperial army of as many as 200,000 former ‘comfort women’ was wholly ignored in the Tokyo trial.”¹⁹⁸ The sheer shock and horror attached to the atrocities committed in the Second World War meant that “waging aggressive war was considered the ‘supreme crime’ by the Nuremberg and Tokyo Tribunals”, despite the fact that “huge numbers of rapes”, sexual slavery and sterilisation experiments had taken place.¹⁹⁹ Strikingly, sexual violence was not explicitly mentioned in either the Nuremberg or Tokyo charters, despite acknowledgement during the trials of the levels to which these crimes took place, and the supply of evidence that was brought forward. Nonetheless, the ‘Nuremberg Principles’, guidelines created by the UN International Law Commission (ILC) in 1950 to determine the acts that constitute a war crime, established crimes against humanity as a concept in international criminal law that was vital in the prosecution of crimes of sexual violence by the ICTY and ICTR. While the ICTR was prominent in the conviction of crimes of sexual violence, the ICTR prosecutor “did not explicitly charge any crimes of sexual violence perpetrated against men”, and therefore its case law will not be the focus of this section.²⁰⁰ Similarly, the SCSL “failed to bring any charges for sexual violence committed against men”, despite the fact that “three of the four cases brought before the SCSL included acts of sexual violence against men.”²⁰¹ Whilst these tribunals set precedent for convicting acts of sexual violence in conflict, they have not contributed case law towards prosecuting sexual violations specifically against men.

¹⁹⁷ UN Security Council, ‘Statute of the Special Court for Sierra Leone’, 16 January 2002, Art 2(g) and Art 3(e).

¹⁹⁸ Kelly D. Askin, ‘A Decade Of The Development Of Gender Crimes In International Courts And Tribunals: 1993 To 2003’ [2004] 16 Human Rights Brief 11(3).

¹⁹⁹ Ibid.

²⁰⁰ Kapur and Muddell [2016] 19.

²⁰¹ Ibid.

Another aspect of the trials of the ICTY and the ICTR that was vital in the prosecution of sex crimes was the fact that seven of the eighteen judges were women, many of whom had expertise in dealing with gender crimes.²⁰² A particularly pertinent example of this can be seen in the ICTY case of Celebici, in which convictions of “grave breaches of the Geneva Conventions of 1949 under Article 2 of the Statute of the International Tribunal and of violations of the laws or customs of war under Article 3” were upheld for three of the four accused.²⁰³ One of the accused, Esad Landžo, had “forced two brothers to commit fellatio on each other in full view of other detainees, and placed a burning fuse around their genitals.”²⁰⁴ Significantly, the Court also held Zdravko Mucić, the camp commander, “guilty of these and other crimes committed by his subordinates”.²⁰⁵ The crimes were “qualified as grave breaches and violations of the laws and customs of war”, setting a legal precedent not only in “the adjudication of the rape charges committed by the deputy camp commander”, but because “rape was qualified as a form of torture”, the first judgement of its kind by an international criminal tribunal.²⁰⁶ This is significant because it established rape as a high level crime; the label of torture holding much weight in criminal proceedings. Furthermore, it is arguable that in defining these acts as torture, it may be easier for male victims to come forward and provide evidence under the label of a victim of torture as opposed to a victim of sexual violence. Particularly important to this groundbreaking case was Judge Florence Mumba, who had “previously served as a member of the UN’s Commission on the Status of Women and condemned rape as a war crime and urged its prosecution.”²⁰⁷ Despite the fact that it could be argued Judge Mumba’s focus was on female victims of sexual violence, her inclusive gendered approach meant that crimes against male victims were also prosecuted. Indeed, while the defence in the Appeal Trial argued that Judge Mumba was “predisposed to promote a common feminist agenda”, the Appeals Chamber dismissed these claims, noting that “Judge Mumba’s expertise in women’s issues and gender crimes made her exceptionally qualified to sit as a judge on cases adjudicating sexual violence.”²⁰⁸

²⁰² Askin [2004] 19.

²⁰³ *Prosecutor v. Delalic, Mucic, Delic and Landzo* (Judgement in Sentencing Appeals) (2001) IT-96-21-A.

²⁰⁴ 'Landmark Cases | International Criminal Tribunal For The Former Yugoslavia' (*Icty.org*, 2017) <<http://www.icty.org/en/in-focus/crimes-sexual-violence/landmark-cases>> accessed 12 June 2017.

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ Askin [2004] 18.

²⁰⁸ *Ibid.*

The ICTY was groundbreaking not only due to the attention that it paid to sexual violence, but because it was the first court to prosecute the crime of sexual violence against men. The landmark case of Duško Tadić, the former "Bosnian Serb Democratic Party's local board president deformed Kozarac" was the first "international war crimes trial involving charges of sexual violence" and was successful because it "proved to the world that the nascent international criminal justice system could end impunity for sexual crimes and that punishing perpetrators was possible."²⁰⁹ Among the counts of cruel treatment and inhumane acts that Tadić was convicted of, "The Trial Chamber found beyond reasonable doubt that Dusko Tadić was present on the hangar floor at the time of the assault upon and sexual mutilation of Fikret Harambasic, and that, through his presence, Dusko Tadić aided and encouraged the group of men actively taking part in the assault."²¹⁰ Whilst Tadić was found guilty of nine counts of crimes against humanity, his crimes did not constitute the ICTY's definition of rape at the time, which outlined that the act must: "Involve the sexual penetration of the vagina, the anus or the mouth of the victim by the penis or another object used by the perpetrator."²¹¹ In many cases of sexual violence against men in conflict, as has already been demonstrated, victims are forced to "perform sexual acts on each other", a type of assault coined by Sivakumaran as "enforced rape".²¹² In later trial cases, the scope for the definition of rape was expanded. For example, in *Prosecutor v. Cestic*, it was decided that the accused had to "[cause] the victim(s) to be sexually penetrated without their consent and [with the intent] that a sexual penetration occur[s]."²¹³

The ICTY cases are commendable for the fact that they acknowledged male victims of sexual violence, and tried individuals for some if not all of these offences. As stated by Stemple, this case law "which used gender-inclusive definitions of rape, laid influential groundwork for the ICC", and as such can be recognised as contributing towards the prosecution of sexual violence offences against both men and women today.²¹⁴ Indeed, Sivakumaran found that: "The most thorough investigation of sexual violence in armed conflict is that of the atrocities committed in the conflict

²⁰⁹ 'Landmark Cases ICTY' (*ICTY.org* 2017).

²¹⁰ *Ibid.*

²¹¹ Isaac (2016).

²¹² *Ibid.*

²¹³ *Prosecutor v. Cestic* (Plea Agreement) IT-95-10/1-PT.

²¹⁴ Stemple [2009] 643.

in the former Yugoslavia", which brought to light examples of male sexual violence that had not been vocalised before.²¹⁵

The Rome Statute of the International Criminal Court (ICC) is the treaty, adopted in 1998, which established the ICC. So far there are 124 States Parties to the Rome Statute, which established four international crimes: genocide, crimes against humanity, war crimes and the crime of aggression. The Statute "significantly expands the class of expressly enumerated crimes of sexual violence in international law, and does so in sex-neutral terms", classifying "rape, sexual slavery, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity" as crimes against humanity and/or war crimes.²¹⁶ The Court has jurisdiction "over persons for the most serious crimes of international concern" and may exercise its powers "on the territory of any State Party and, by special agreement, on the territory of any other State".²¹⁷ The Rome Statute provided the first definition of gender put forward in an international treaty, stating that: "For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above."²¹⁸ While this definition is flawed in its failure to consider those who may be gender non-conforming or transgender or intersexual people who do not identify as cisgender male or cisgender female, it can be seen as a progression from using 'gender' and 'gender based violence' interchangeably with 'women' and 'violence against women'.

The Rome Statute set out conditions that should be met when prosecuting crimes of sexual violence. For example, Article 43.6 outlines that:

This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court, and others who are at risk on account of

²¹⁵ Sivakumaran [2007] 25

²¹⁶ Lewis 24-25 ; UN General Assembly, 'Rome Statute of the International Criminal Court' (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6, Art 7.

²¹⁷ UN General Assembly, 'Rome Statute' (1998) Art 1, Art 4.2.

²¹⁸ Ibid, Art 7.3.

testimony given by such witnesses. The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.²¹⁹

Similarly, the 'Rules of Procedure and Evidence' for the ICTY and ICTR provided provisions for dealing with victims of sexual assault, including that the Registrar would provide qualified staff to: "provide counselling and support for them, in particular in cases of rape and sexual assault", a rule that was adopted in 1994.²²⁰

Article 54(1) (b) of the Rome Statute also compelled prosecutors to:

Take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender... and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children.²²¹

As has been portrayed, male victims of sexual violence in conflict are often greatly stigmatised by their communities, and even by aid workers and in international human rights law. Providing these additional elements of protection to them encourages more men to come forward and discuss the crimes committed against them. Articles 68(3) and 76(2) of the Rome Statute further outline the inclusion of victims in both participation and sentencing, making the ICC perhaps the most well equipped court to counter secondary victimisation, a phenomena that will be discussed in the next section.²²² Its sex-neutral terminology, classification of rape in the most serious categories, and its widespread jurisdiction mean that the Rome Statute provides the authority and the capability to prosecute crimes of sexual violence and rape against men. The Court has jurisdiction over "the most serious crimes of concern to the international community as a whole", which are listed as "the crime of genocide, crimes against humanity, war crimes, the crime of aggression."²²³ Rather than recognising rape as a crime against a woman's or family's honour, the Rome Statute recognises rape

²¹⁹ Ibid, Art 43.6.

²²⁰ ICTY Rules of Procedure and Evidence, Rule 34 IT/32/Rev.50 (2015).

²²¹ UN General Assembly, 'Rome Statute' (1998), Art 54.1 (b).

²²² Ibid, Art 76.2.

²²³ Ibid, Art 5.

as a crime against the individual, detailing the "dual violation" of: "(1) of an individual's physical or mental integrity and (2) of an individual's sexual autonomy."²²⁴ This is beneficial both for the eradication of stigma against female victims, and the inclusion of men as victims. Article 7(1)(g) of the ICC Statute sets out that "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity" can constitute crimes against humanity; while section 3 reinforces that the term gender "refers to the two sexes."²²⁵

The Article was praised in the ICTR 'Best Practices Manual', due to the fact that it establishes that "voluntary consent is impossible and the element of non-consent should be presumed by the law."²²⁶ It is extremely important that coercion is deemed to be guaranteed in the context of genocide, crimes against humanity and war crimes. As has been discussed in previous chapters, male victims of sexual violence are often stigmatised because it is argued that they must have wanted to be raped or assaulted, otherwise they would have fought back. Making voluntary consent impossible means that these accusations can hold absolutely no weight.

Kelly Askin has praised the work of the ICTY and ICTR for the contribution they, in particular, have made to the prosecution of sexual violence. She stated that:

In the Yugoslav and Rwanda tribunals, rape and other forms of sexual violence have been successfully prosecuted as rape, torture, enslavement, persecution, cruel treatment, inhuman treatment, inhumane acts, wilfully causing great suffering, and outrages upon personal dignity. The cases have confirmed that males and females can be raped; that a person convicted of rape does not have to be the physical perpetrator; that forcible vaginal, anal, or oral sex constitutes rape; and that rape can be committed by foreign objects, such as guns, sticks, and broken bottles. They prove that the rape of a single victim is worthy of prosecution as a war crime and that persons can be held criminally responsible for sex crimes as individuals and superiors.²²⁷

²²⁴ Lewis [2009] 20.

²²⁵ UN General Assembly, 'Rome Statute' (1998), Art 7.3.

²²⁶ International Criminal Tribunal for Rwanda, 'Prosecution Of Sexual Violence: Best Practices Manual For The Investigation And Prosecution Of Sexual Violence Crimes In Post-Conflict Regions: Lessons Learned From The Office Of The Prosecutor For The International Criminal Tribunal For Rwanda' (Office of the Prosecutor of the International Criminal Tribunal for Rwanda 2014) 59 <http://w.unictr.org/sites/unictr.org/files/legal-library/140130_prosecution_of_sexual_violence.pdf> accessed 14 May 2017.

²²⁷ Askin [2004] 19.

What is made abundantly clear in the criminal proceedings of the ICTY and ICTR in particular, is that crimes of sexual violence, whether committed against men or women, must be considered through a gendered lens. There is more to the selection of a victim of sexual violence in conflict than a barbaric desire to cause pain, suffering, and the destruction of human dignity. Victims are chosen because of their gender, and it is this aspect that must be focused upon for crimes to be prosecuted and victims to seek reparations.

4.4. Implementation

4.4.1 Sexual Violence as a Form of Gender-Based Violence

The implementation of international law with regards to sexual violence will only be truly effective when gender-based violence (GBV) is regarded universally as a crime that can be committed against all human beings. As detailed in the UN Inter-Agency Standing Committee's Guidelines for Gender-based Violence Interventions in Humanitarian Settings, gender-based violence is:

An umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e. gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty. These acts can occur in public or in private.²²⁸

The document outlines that the term 'GBV' is most often used to describe the inequalities faced between men and women, referring to the United Nations Declaration on the Elimination of Violence Against Women (DEVAW), which states that violence against women constitutes: "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women."²²⁹ While the document "has expressed its concern that the term (GBV) is used interchangeably with the term 'violence against women', it appears to contradict this sentiment in other aspects of the text.²³⁰ For example, it states that: "Special attention should be given to females due to their documented greater vulnerabilities to GBV, the overarching

²²⁸ 'Integrating Gender-Based Violence Interventions' (2015) 5.

²²⁹ Ibid.

²³⁰ Hennessey and Gerry [2012] 17.

discrimination they experience, and their lack of safe and equitable access to humanitarian assistance."²³¹ Indeed, the use of the term in IHRL should be approached with some caution, for it is interchangeably used to discuss violence only against women.

As argued by Carpenter, “the gender-related harms men and boys face in conflict situations”, including “sexual mutilation, forced conscription, detention, (and) sex-selective massacre” should constitute GBV and be addressed in the gender-mainstreaming process.²³² He goes on to argue that: “International efforts to deal with gender-based violence among conflict-affected populations are characterised by a striking absence of attention to violence that targets men and boys”; instead the focus on men highlights their role as the perpetrators of sexual violence.²³³

While there is no question that investigating GBV against females is of vital importance, placing its importance above investigating GBV against men is harmful in the sense that it downplays the experiences of male victims, and the crimes committed against them. It is far more productive to assert that GBV is a pressing issue that must be addressed when it is committed against both women and men, for men also experience "overreaching discrimination" and a "lack of safe and equitable access to humanitarian assistance", as has been outlined in previous chapters. Further evidence of the minimisation of the importance of investigating SGBV against men can be found in the Expanded Definition of Sexual and Gender-Based Violence used by the UNHCR, which states that: "While women, men, boys and girls can be victims of gender-based violence, women and girls are the main victims."²³⁴ Categorising male victims of SGBV as secondary to female victims fails to address the issue at hand- that while the reasons why SGBV is committed against men and women vary, all victims must be recognised and supported, and efforts should be made to stop such suffering being carried out against anyone; protecting every individual's indivisible and inalienable human rights.

²³¹ 'Integrating Gender-Based Violence Interventions' (2015) 5.

²³² R. Charli Carpenter, 'Recognizing Gender-Based Violence Against Civilian Men And Boys In Conflict Situations' (2006) 37 Security Dialogue, 5.

²³³ Ibid.

²³⁴ United Nations High Commissioner for Refugees, 'Sexual And Gender-Based Violence Against Refugees, Returnees And Internally Displaced Persons: Guidelines For Prevention And Response' (2003) 11 <<http://www.unhcr.org/3f696bcc4.pdf>> accessed 2 July 2017.

As argued by Hennessey and Gerry, the focus on women and children as victims of sexual violence in conflict has "resulted in an international legal blind spot that needs to be addressed."²³⁵ Lewis suggests that an appropriate way for the international community to protect male victims of sexual violence in conflict would be to: "Incorporate men explicitly into international instruments pertaining to sexual violence, and promote a jus cogens norm that encompasses all forms of sexual violence against women and men."²³⁶ Stemple points out that: "The term 'gender' has become virtually synonymous with women-specific issues or concerns", ultimately meaning that the "gender-specific needs of men are rarely discussed."²³⁷ This argument has certainly divided opinions, as whilst some believe that the inclusion of men overshadows issues that predominantly appear to affect women, others believe that reframing 'sexual gender based violence' would have positive implications for both men and women.²³⁸

A sex-neutral definition of GBV can be taken from Article 18 of the Vienna Declaration and Programme of Action, which states that:

Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated. This can be achieved by legal measures and through national action and international cooperation in such fields as economic and social development, education, safe maternity and health care, and social support.²³⁹

While it is important to recognise the gendered reasons that lead to the perpetration of SGBV, using the term gender-based violence as interchangeable with violence against women overlooks the many male victims, and provides the negative implication that women are always victims. Indeed, it is not the actus reus of the crime that distinguishes gender-based violence, but the mens rea- the intention to target a victim because of their perceived gender, and the socially ascribed norms that have been constructed around that gender. As highlighted in chapter two, men are targeted with

²³⁵ Hennessey and Gerry [2012] 4.

²³⁶ Lewis [2009] 2.

²³⁷ Stemple [2009] 628.

²³⁸ Ibid, 629.

²³⁹ UN General Assembly, Vienna Declaration and Programme of Action, (12 July 1993), A/CONF.157/23, Art. 18.

sexual violence in conflict to diminish the notion that they are brave, strong, and can protect their communities.

Despite the fact that the Rome Statute "widened the scope of sexual violence addressed in international criminal law" while using gender neutral language, its case law does not always "reflect the gendered nature of crimes against men and boys."²⁴⁰ For example, while the Prosecutor in the ICC case of *Prosecutor v. Kenyatta* sought to prosecute forced circumcision under the remit of sexual violence, the Pre-Trial chamber refused this, stating that: "The chamber is of the view that not every act of violence which targets parts of the body commonly associated with sexuality should be considered an act of sexual violence."²⁴¹ This statement, communicated in 2012, indicates a true lack of understanding of the types of crimes of sexual violence committed against men in conflict. It is particularly disappointing when considering that the ICC Prosecutor's request to investigate "Kenyan 2007-2008 post-election violence" was successful due to there being "reasonable grounds to believe that the defendants were criminally responsible" for violations including "at least six cases of forcible circumcision."²⁴² In the context of this case, the circumcision was carried out to "make men boys" to humiliate and stigmatise the Lou ethno-political community, and yet the ICC chose to ignore the gendered reasons behind why the crimes were committed.²⁴³

It is vitally important that GBV is perceived through a lens that allows victims of any gender to be encompassed. As has been demonstrated, IHRL is largely responsible for the use of the term GBV interchangeably with violence against women, while IHL and ICL use far more gender-inclusive terminology. Nonetheless, there is certainly an issue that while any body of international law states that only Women can be victims of GBV, justice will be unreachable for the majority of male victims. As has been expressed, there is an intrinsic link between IHRL and IHL, with Sellers stating that: "This paper concludes that all international judicial forums, akin to the ICC's substantive and procedural mandate, must at a minimum, comply with human rights law and ensure that women and girls have equal access to justice under humanitarian norms and that such access be

²⁴⁰ 'RLP- Written Evidence' (2015).

²⁴¹ *Prosecutor v Kenyatta* [2012] International Criminal Court, Statement 265.

²⁴² Kapur and Muddell [2016] 20.

²⁴³ *Ibid*, 21.

free from gender-based discrimination.”²⁴⁴ There is a danger, therefore, that in its implementation beyond the setting of the ICC and the international criminal tribunals, GBV will be taken as read in IHRL, that it is an issue affecting only women. If there were an internationally agreed-upon definition of GBV, it could be viewed as a crime that can be committed against men and women, those who do not conform to a set gender and those who are transgender, allowing protection and recognition to all victims.

4.4.2. Legal Protection of Male Victims of Sexual Violence in Practice

Domestic systems do not provide adequate support for victims of sexual violence. The Refugee Law Project has found that: "90% of men in conflict-affected countries were in situations where the law provided no protection for them if they became victims of sexual violence: 62 states (representing almost two-thirds of the world's population) only recognised female victims of rape; 67 states criminalised men who reported abuse committed against themselves; and in 28 states only males were recognised as perpetrators of sexual violence."²⁴⁵

Lewis also argues that the issue of sexual violence against men "has received relatively short shrift in international conventions, the jurisprudence of international tribunals, and the writings of learned publicists."²⁴⁶ As has been highlighted, while the ICTY has succeeded in giving the issue of sexual violence against men in conflict international attention, this is not adequately implemented across domestic systems and in customary law, and is not even reflected in the case law of the ICTR and the SCSL. Sexual violence still holds a great stigma whether the victim is male or female, and male victims and their communities still feel that men cannot be raped, highlighting an international failure to stress the widespread existence of these crimes.

The stigmatisation of male victims of sexual violence often takes the form of homosexualisation, as explored in chapter two, and this can stem from the country's own stance on homosexuality, reflected in municipal law. In countries that criminalise male-male sexual behaviour, victims can be deterred from speaking about the crime committed against them for fear of criminalisation. Indeed, seven of the eighty-six countries and six provinces that criminalise consensual adult same-sex

²⁴⁴ Sellers (2009) 10.

²⁴⁵ 'Sexual Violence in Conflict' (2015-16) 10.

²⁴⁶ Lewis [2009] 1.

sexual relations provide the death penalty as punishment.²⁴⁷ Due to this criminalisation, male-male rape may in theory be more likely to be prosecuted in these countries, however the risk of punishment deters victims from reporting these crimes. A study carried out by Lewis has found that: "Male victims of same-sex sexual violence who live in countries where male-male sexual behaviour is proscribed as a criminal violation enjoy greater legal protection in wartime than in peacetime."²⁴⁸ Furthermore, in countries that criminalise male-male sexual relations, there is often no distinction made between consensual and non-consensual contact.²⁴⁹ This is the case in Uganda, where a male victim of rape may be prosecuted for taking part in the sexual act even though it was against his will. This conviction contributes towards the homosexualisation of the victim, thus stopping men from reporting these crimes.²⁵⁰ The Ugandan penal code fails to recognise men as victims of rape, choosing to only site women in its legislation.²⁵¹ If a male victim did want to bring a case of rape before the Ugandan court, it would have to be tried under 'ordinary assault' or 'unnatural offences', labels that do not provide adequate reparations for the crimes committed.²⁵²

Regional instruments aimed at prohibiting sexual violence focus on women as the victims- a practice that is damaging both in the way that it stereotypes the role of women, and ignores male victims in conflict. Indeed according to Dolan, around 70 countries do not recognise male victims.²⁵³ Article 5(2) of The American Convention on Human Rights (1969), Article 5 of the African Charter on Human and People's Rights (1981) and Article 3 of the European Convention on Human Rights (1950) all prohibit torture and degrading treatment. However, in articles that discuss sexual violence, each regional mechanism focuses on women as victims.

The 2005 Protocol to the African Charter on the Rights of Women in Africa asked State Parties to: "enact and enforce laws to prohibit all forms of violence against women including unwanted or

²⁴⁷ Ibid, 19.

²⁴⁸ Ibid, 6.

²⁴⁹ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 8.

²⁵⁰ Ibid.

²⁵¹ *Gender Against Men* (2008).

²⁵² *Gender Against Men* (2008).

²⁵³ 'Sexual Violence in Conflict' (2015-16) 67.

forced sex whether the violence takes place in private or in public”.²⁵⁴ In 2006, countries in the African Great Lakes Region implemented a Protocol on the 'Prevention and Suppression of Sexual Violence against Women and Children'.²⁵⁵ Furthermore, in 2011 the Council of Europe introduced the 'Convention on Preventing and Combating Violence against Women and Domestic Violence', omitting male victims from its discussion. In the Explanatory Report to the Convention, it is stated that: “The provision contained in paragraph 2 on the scope of the Convention encourages Parties to apply this Convention also to domestic violence committed against men and children. It is therefore up to the Parties to decide whether to extend the applicability of the Convention to these victims.”²⁵⁶ The report also states that “reliable data is relatively scarce” in relation to male victims, suggesting that this absence of information was reason enough to exclude men from the Convention, allowing States Parties to discern whether they were important enough to include.²⁵⁷ Taking inspiration from the non-binding UN declaration DEVAW, these charters reflect the exclusionary definition of GBV found to frequent IHRL.²⁵⁸

Customary international humanitarian law, according to the International Committee of the Red Cross (ICRC) Customary Law Study, “prohibits rape and other forms of sexual violence” in conflict situations.²⁵⁹ The study “catalogues practice of international humanitarian law collected for the purpose of the study of customary international humanitarian law.”²⁶⁰ It outlines national legislation with regard to IHL, for example stating that: “Under Bangladesh’s International Crimes (Tribunal) Act, the ‘violation of any humanitarian rules applicable in armed conflicts laid down in the Geneva Conventions of 1949’ is a crime.”²⁶¹ The document outlines all national practice, in the form of military manuals, and national legislation on the subject of rape and other forms of sexual violence. A review of these lists highlights some interesting data. To begin with, there are thirty-three military

²⁵⁴ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Adopted 2005) (African Charter).

²⁵⁵ Hennessey and Gerry [2012] 17.

²⁵⁶ 'Explanatory Report To The Council Of Europe Convention Against Women And Domestic Violence' (Council of Europe 2011) 4 <<https://rm.coe.int/16800d383a>> accessed 2 June 2017

²⁵⁷ Ibid, 1,

²⁵⁸ Gloria Gaggioli, ‘Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law’ (2014) *International Review of the Red Cross* 96 (894), 520.

²⁵⁹ International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules, above note 36, Rule 93.

²⁶⁰ Ibid, xxiii.

²⁶¹ Ibid, 70.

manuals in total that discuss military conduct in relation to sexual violence. Of the thirty-three, twenty-five refer only to women, and of these, ten discuss taking away the honour of the victim. For example, the UK Military Manual states that “women must be specially protected against any attack on their honour, in particular against rape, enforced prostitution or any form of indecent assault.”²⁶² Nonetheless, it must be pointed out that this particular Manual was published in 1958, and indeed most of the Manuals were produced before the conclusion of the ICTY and ICTR, and the coming into force of the ICC Statute in 2002, suggesting that they were yet to be influenced by this case law. Indeed, the national legislation outlined in the study in relation to rape and other forms of sexual violence takes a far more gender-neutral approach. Of the forty-two pieces of national legislation cited, only seven specifically refer to women, while thirty-five are gender neutral. Six of these pieces of national legislation directly refer to the ICC Statute in defining war crimes, while eight refer to the Geneva Conventions of 1949 in stating criminal sanctions that would be imposed. It can therefore be argued that to a great extent Customary IHL prohibits rape and sexual violence through the treaties, conventions and case law developed in IHL and ICL.²⁶³ Nonetheless, it is notable that only forty-two pieces of national legislation exist in the ICRC study. Furthermore, as only five pieces of national case law are cited in the study, it is arguable that the protections provided in IHL and ICL are not adequately used by national courts prosecuting war crimes, meaning that ultimately male victims of rape are not being protected nor provided with reparations. There is a vast gap between the provisions relating to the prosecution of sexual violence and their implementation on a domestic and international level, which must be filled if victims are to be provided with adequate reparations.

4.5 Conclusions

Despite the developments in IHL and ICL with regard to the prosecution of crimes of sexual violence and rape in conflict, even against male victims, there are many for whom the trauma and stigmatisation of the crime is too much for them to come forward and speak out about the atrocities. The issue of secondary victimisation, which can be defined as: “the victim-blaming attitudes, behaviours, and practices engaged in by community service providers, which results in additional

²⁶² Ibid, 2196 point 1609.

²⁶³ Ibid, above note 36, Rule 93.

trauma for sexual assault survivors” affects both men and women, deterring them from speaking about the crimes committed against them in such a public setting.²⁶⁴

As discussed in chapter two, sexual violence against men is both perpetrated and subsequently not reported because of the stigma of homosexualisation and feminisation. Lewis has argued that: "To reduce and prevent sexual violence against men in conflict settings international law should be interpreted, applied, and enforced in ways that delegitimise the prejudicial and discriminatory conceptions of gender, sex, and (homo)sexuality that fuel such violence in the first place."²⁶⁵ This can be achieved by using a definition of GBV that encompasses all victims. Every human being has the right to dignity, and gender-based violence is an attack on the very core of human dignity. Instead of viewing the perpetrators and victims of sexual violence through the binary lens of gender as two distinct, disconnected categories of male and female, the international community must seek to understand why sexual violence is inflicted in conflict. Different aims are sought by perpetrators who subject women to sexual violence and those who attack men. Thus, it is these aims that must be addressed by the international community when considering GBV. Not only would this make international law more inclusive of male victims, but it would also give scope for the transgender community to be included.

Furthermore, it is arguable that the legal definitions used to prosecute sexual violence in conflict influence how likely victims are to speak out about the crimes committed against them. In both the contexts of IHRL and IHL/ICL, sexual violence can be approached through general provisions such as the prohibition of torture, and with legal labels that automatically assign the crime to the category of sexual violence, for example SGBV or rape, rather than, for instance, being prosecuted as ‘outrages upon personal dignity’. The re-categorisation of these crimes with labels that do not hold in-built prejudices may help to eliminate the stigmatisation of victims. In Catharine MacKinnon’s 2006 book entitled ‘Are Women Human? And Other International Dialogues’, she argues that redefining rape as a violation of human rights under torture would draw on the “recognised profile” of torture, giving the rape of women international recognition.²⁶⁶ By the same vein, using these

²⁶⁴ Rebecca Campbell and Sheela Raja, 'The Sexual Assault And Secondary Victimization Of Female Veterans: Help-Seeking Experiences With Military And Civilian Social Systems' (2005) 29 *Psychology of Women Quarterly*.

²⁶⁵ Lewis [2009] 2.

²⁶⁶ Catharine A. MacKinnon, *Are Women Human? And Other International Dialogues* (Harvard University Press 2006) 17.

internationally recognised and accepted terms may reduce the stigma for male victims, encouraging them to report the violence committed against them.

Whilst IHL and ICL provide the most comprehensive protection for male victims of sexual violence in conflict, there are clearly still steps that need to be taken to fully understand the crimes, and provide adequate reparations. Nonetheless, this cannot be achieved if male victims feel unable to come forward and speak about the crimes committed against them. Therefore, progress must be made in relation to every level of interaction that male victims have- from on a personal level in their communities and with humanitarian workers, to a national and international level through NGOs, IGOs, Municipal and International Law. ICL provides some means to prosecute sexual violence, but due to factors such as prejudices and stigmatisation, it appears that these tools are not used effectively.

5.

CONCLUSION

"Sexual violence in conflict represents a great moral issue of our time. This crime, in its utter destruction of the individual and the pervasive way in which it undermines the prospects for peace and development, casts a long shadow over our collective humanity."

- Select Committee on Sexual Violence in Conflict, Report of Session 2015-16, The House of Lords

Perpetrators of sexual violence in conflict use it as a weapon to ravage both individual and collective identities. The United Nations outline the 'five Ps'- five consequences that they have identified that result from sexual violence against men in conflict.²⁶⁷ These are: "physical, psychological, psycho-sexual, psycho-social, and political", implications, transcending the individual to "create domestic and social dysfunction."²⁶⁸ Alongside the aforementioned social stigma and ostracism that men who experience sexual violence may suffer, they may also encounter the following: loss of sexual function and infertility,²⁶⁹ marital problems, social withdrawal, loss of interest in work, inexplicable outbursts of anger, and alcohol and drug abuse.²⁷⁰

While both male and female victims experience physical and psychological trauma, and both hold a reluctance to report these crimes due to "psychological distress, depression, difficulties with intimate relations, social stigma, marginalisation and isolation, inability to engage in particular livelihoods, and lack of legal redress", social constructions of masculinity, feminisation and homosexualisation provide an additional layer in preventing men from reporting these crimes.²⁷¹ Male survivors question their masculinity, their sexuality and fundamentally their identity. In the

²⁶⁷ UN, 'Sexual Violence Against Men And Boys In Conflict Situations' (2013) 5.

²⁶⁸ Ibid.

²⁶⁹ Vojdik [2013] 924.

²⁷⁰ Lewis [2009] 16.

²⁷¹ UN 'Working With Men And Boy Survivors' (2012) 4.

pursuit of peace and stability, communities who rely on men as leaders, who deem sexual relations between men a taboo subject, tend to turn a blind eye to male victims.²⁷²

Even when presented with the opportunity to speak about their experiences, male survivors of sexual violence in conflict take a long time to do so, and many remain silent. One study of male survivors in a therapy group in Croatia noted:

In the MCHR therapy group, specifically advertised for male survivors of sexual torture, none of the men who showed up would initially admit to having suffered sexual torture themselves; they claimed they had come on behalf of friends. It was only after some time that group members acknowledged they had been tortured. In the ICRT group, none of the survivors mentioned sexual torture during intake interviews. Other types of torture were discussed relatively openly, but sexual torture was not broached until later in therapy, according to the therapists.²⁷³

Similarly, Eunice Owiny, a Psychological Counsellor for the Refugee Law Project in Uganda, questioned:

How can a man admit before a counsellor that he was sexually violated? It is very difficult, it takes a lot of courage, it takes patience, it takes time, so sometimes they will tell you other stories of what they have gone through but somehow you get a gut feeling that they are not saying something. A man is not supposed to share out his problems, they often say 'a man is not supposed to cry he should be able to stand the heat of every problem' now that is something that men think is their personal problem and they should not bring it out.²⁷⁴

Fundamentally, the issues that men face in reporting sexual violence in conflict are a direct result of "destructive stereotypes of femininity and masculinity, as well as... equally destructive prevailing social norms that denigrate homosexuality."²⁷⁵ It is therefore vitally important that being female, homosexual, or both, is not equated to being weak, is no longer stigmatised, and that organisations

²⁷² Ibid, 5.

²⁷³ Oosterhoff, Zwanikken and Ketting [2004] 74.

²⁷⁴ *Gender Against Men* (2008).

²⁷⁵ Lewis [2009] 8.

and institutions begin to normalise the idea of men as victims of sexual violence. A cultural shift is needed for men to feel as though they too are adequate victims, although this is specific to each case study and setting, as cultural values and traditions are vast and adaptive. Explanations of why sexual violence against men is not reported cannot be generalised, as there are a number of variations, such as culture, to take into consideration. However, links can be found between studies and accounts, across populations and in different countries. Therefore, in taking the wide approach to male victims of sexual violence in conflict, it has been possible to trace recurrent themes as to why men do not report sexual violence, including social ostracism and shame as a result of emasculation, feminisation and homosexualisation.

Scholars, organisations and institutions who point to women as the 'usual' victims of sexual violence reflect the binary approach to gender, and in doing so place women in the role of the victim and men in the role of the perpetrator. Identifying that most women are victims discredits male victims, as though their experiences are less traumatic and less unthinkable because not as many other men have been in that situation. No victim of sexual violence, whether they identify as male or female, whether they are a transgender male or female, should be discredited for their experience. Taking a truly gender-neutral approach to sexual violence in conflict, where gender is not the greatest concern, would see more victims come forward about the crimes committed against them. While it is important, in addressing GBV, to ascertain the reasons why this violence is committed against a particular group of people, this categorisation should not be used in determining who is worthy of help.

Gender roles are so rigidly defined in conflict that they prove extremely difficult to break from. Indeed, the Refugee Law Project highlights that prevention programmes "deal almost exclusively with men and boys as actual or potential perpetrators who need to engage in conscious behavioural and attitudinal modification to ensure prevention of SGBV against women and girls."²⁷⁶

Nonetheless, it cites that of the male refugees arriving in Uganda from the DRC, 1/3 are victims of sexual violence.²⁷⁷ In order for any progress to be achieved in reporting and dealing with sexual violence against both men and women, organisations need to take a gender-neutral approach. Categorising men as perpetrators and women as victims is damaging for a multitude of reasons: it ignores individuals' own gender identity, enforcing unnecessary and unwanted labels, and removes

²⁷⁶ 'RLP- Written Evidence' (2015).

²⁷⁷ Ibid.

the agency of women while putting forward the notion that men cannot be victims of sexual violence. As outlined in Chapter 2, men and boys are silenced by the opinions that their families, societies and culture impart on what it means to be a man, and to be masculine. Unfortunately, these views are only entrenched by a large number of the organisations that victims come into contact with. With so many opposing voices, it is no wonder that many male victims choose not to tell anyone that they have been raped or sexually assaulted.

The importance of addressing sexual violence against women and girls must not be downplayed. According to UN Women, an estimated 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner at some point in their lives.²⁷⁸ The purpose of this study is not to criticise the attention given to sexual violence against women, but to reveal that the gendered approach to human rights means that many have their rights denied. Indeed, it was the UN's "belated response" to the women's movement that led to them framing sexual violence as a women's issue.²⁷⁹

Ultimately, when dealing with sexual violence in conflict, gender is a barrier for both men and women, allowing organisations and institutions to turn a blind eye to the human rights abuses of many victims.

On 19 June 2016, the International Day for the Elimination of Sexual Violence in Conflict, UN Deputy Secretary-General Jan Eliasson said:

Sexual violence is unique in often stigmatising the victim, rather than the perpetrator of the crime. We must take this into account as we design support for survivors. Social and economic reintegration support is imperative... We must also give support for men and boys who have suffered sexual violence and live with life-long traumas.²⁸⁰

²⁷⁸ 'Facts And Figures: Ending Violence Against Women' (*UN Women*, 2017) <<http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>> accessed 9 June 2017.

²⁷⁹ Stemple [2009] 627.

²⁸⁰ Shift Shame, Stigma From Victims To Perpetrators Of Sexual Violence In Conflict, Deputy Secretary-General Tells Panel Commemorating International Day | Meetings Coverage And Press Releases' (*UN.org*, 2016) <<https://www.un.org/press/en/2016/dsgsm983.doc.htm>> accessed 12 April 2017.

It would therefore appear that sexual violence against men is increasingly on the radar of key players in the international human rights field, although this is yet to be adequately reflected in international human rights cannons. As stated by Hennessey and Gerry:

The overwhelming focus of these efforts on women and girls simply does not do justice to the suffering of male victims. Significantly, the most clearly gender-neutral language has come in the Secretary-General's reports, rather than from treaties which represent the authority of binding law.²⁸¹

If male victims of rape in conflict situations are to be encouraged to come forward about the crimes committed against them, international human rights law must adequately and legitimately recognise them as victims. The dismissal of men as victims only fuels the social stigma attached to male victims of rape and sexual violence in conflict, and denies the indivisibility and inalienability of human rights. Indeed, GBV violates many principles under both international human rights and international criminal and humanitarian law, including: "The protection of civilians even in situations of armed conflict and occupation, and their rights to life, equality, security, equal protection under the law, and freedom from torture and other cruel, inhumane or degrading treatment".²⁸²

In 2014, the ICTR Office of the Prosecutor released a best practices manual on 'The Prosecution of Sexual Violence Crimes in Post-Conflict Regions', which set out to: "Deliver real and meaningful justice to the countless children, women, and men who have been and continue to be subjected to these grave crimes."²⁸³ The manual outlines a 'Global Strategy' for prosecuting sexual violence, which states that: "Any global strategy must recognise that sexual violence is committed not only against women but also against children and men. It must make particular provision for the investigation and prosecution of all of these crimes."²⁸⁴ It outlines the following elements, which "are critical" to the success of the strategy: "Integration, practice-based manuals and ongoing professional development, diversity and gender parity, comprehensive system for managing victim

²⁸¹ Hennessey and Gerry [2012] 16.

²⁸² 'Integrating Gender-Based Violence Interventions' (2015) 16.

²⁸³ ICTR, 'Best Practices Manual' (2014) iii.

²⁸⁴ *Ibid*, 10.

and witness safety and ensuring access to counselling and medical treatment."²⁸⁵ This proves that individuals and organisations can work to help male victims come forward so that national and international courts can hear their stories and prosecute these crimes. This strategy draws together all of the elements highlighted in Chapters 2, 3 and 4 that could help to ensure that sexual violence is condemned under the law and victims are given justice.

The following recommendations would help to protect the human rights of male victims of sexual violence in conflict:

- Working to eradicate homophobia and gender inequality would help to ensure that victims of sexual violence do not face stigmatisation,²⁸⁶
- Providing training and information to humanitarian workers would allow more victims to be located and would encourage them to speak out about the crimes committed against them,
- Un-gendering victimhood would benefit both women and men who are victims of conflict,²⁸⁷
- Decriminalising homosexuality would ensure that male victims come forward to discuss these abuses,
- Taking a gender-inclusive approach in international human rights law would reaffirm that men can be victims of sexual violence, helping them to speak out about the abuses committed against them, and making humanitarian actors more aware of its prevalence,²⁸⁸
- Developing a universally accepted, gender-inclusive definition of GBV would also reaffirm male victimhood,
- We must seek to prosecute crimes under customary international humanitarian law wherever possible, encouraging States to play their part in this.

In 1986 Susan Estrich noted that: “[i]n some respects, the situation facing male rape victims today is not so different from that which faced female victims about two centuries ago.”²⁸⁹ In 2007, Sivakumaran noted that this had not changed.²⁹⁰

²⁸⁵ Ibid, 10-11.

²⁸⁶ Lewis [2009] 6.

²⁸⁷ Stemple [2009] 635.

²⁸⁸ Ibid, 638.

²⁸⁹ Susan Estrich, *Real Rape* (Harvard University Press 1986) 108.

²⁹⁰ Sivakumaran [2007] 253.

Ultimately, it is hoped that this study will contribute to the scarcely discussed issue of sexual violence against men in conflict, providing information as to why men are attacked, why they feel unable to come forward about these experiences, and why they are not given adequate reparations by organisations, institutions and in international law. Gender should never define whether or not we allow human rights abuses to occur, and a person's dignity should not be torn away due to preconceived, out-of-date notions about their role in society.

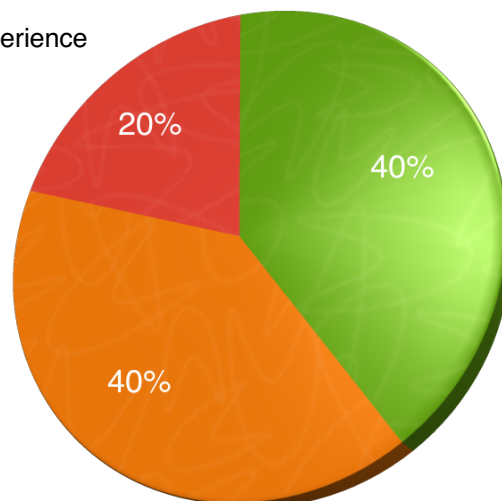
6. CHARTS AND TABLES

Figure 1.0

Respondent	Gender Identity	Job Title/ Previous Job Titles	Regions worked in	Organisations worked for	Have they trained field workers?
A	Male	Humanitarian Aid Worker	Africa, Asia and the Pacific, Europe and Central Asia	PAH, PIN, IMC	Yes- In Management and Security
B	Male	Psychiatrist working with refugees from different countries of origin (Afghanistan, Bosnia, Chechnya, Iran, Iraq, Kosovo, Somalia, Syria, Turkey)	Europe and Central Asia	United Nations	Yes- Training seminars on 'psychiatric disorders in refugees' for Field Workers
C	Male	Human Rights Expert, Monitor, Reporting officer and Gender Focal Point	Europe and Central Asia, Middle East	European Union	Yes- Trained Police Officers working as Human Rights and Gender Officers
D	Female	Head of NGO treating people without health insurance or difficult access to public health system	Africa, Europe and Central Asia	Caritas, Hilfswerk Austria	No
E	Female	Human Rights Officer	Americas, Europe and Central Asia	United Nations, Amnesty International, OSCE Mission in Kosovo	No

- Always
- Most of the time
- Sometimes
- Rarely
- No Experience
- Other

Figure 2.0



BIBLIOGRAPHY

Askin K, 'A Decade Of The Development Of Gender Crimes In International Courts And Tribunals: 1993 To 2003' (2004) 11 Human Rights Brief

Brownmiller S, *Against Our Will: Men, Women And Rape* (Faucet Columbine 1975)

Campbell R and Raja S, 'The Sexual Assault And Secondary Victimization Of Female Veterans: Help-Seeking Experiences With Military And Civilian Social Systems' (2005) 29 Psychology of Women Quarterly

Carpenter R, 'Recognizing Gender-Based Violence Against Civilian Men And Boys In Conflict Situations' (2006) 37 Security Dialogue

DelZotto A and Jones A, 'Male-On-Male Sexual Violence In Wartime: Human Rights' Last Taboo?' [2002] Paper presented to the Annual Convention of the International Studies Association (ISA) <<http://adamjones.freesevers.com/malerape.htm>> accessed 5 March 2017

Dolan C, *Social Torture: The Case Of Northern Uganda, 1986-2006* (1st edn, Berghahn 2011)

Estrich S, *Real Rape* (Harvard University Press 1986)

Gaggioli,G, 'Sexual violence in armed conflicts: A violation of international humanitarian law and human rights law' (2014) International Review of the Red Cross 96 (894)

Hennessey T and Gerry F, 'International Human Rights Law And Sexual Violence Against Men In Conflict Zones' [2012] Halsbury's Law Exchange

Isaac M, 'The Prosecution Of Sexual Violence Against Men In International Criminal Law' (*IntLawGrrls*, 2016) <<https://ilg2.org/2016/02/11/the-prosecution-of-sexual-violence-against-men-in-international-criminal-law/>> accessed 8 March 2017

Javaid A, 'Feminism, Masculinity and Male Rape: Bringing Male Rape Out of the Closet' [2016] 25(3) *Journal of Gender Studies* 283-293 <http://dx.doi.org/10.1080/09589236.2014.959479> accessed 17 February 2017

Johnson K and others, 'Association Of Combatant Status And Sexual Violence With Health And Mental Health Outcomes In Postconflict Liberia' (2008) 300 *JAMA*

Kapur A and Muddell K, 'When No One Calls It Rape: Addressing Sexual Violence Against Men And Boys In Transitional Contexts' [2016] International Centre for Transitional Justice <https://www.ictj.org/sites/default/files/ICTJ_Report_SexualViolenceMen_2016.pdf> accessed 19 March 2017

Lewis D, 'Unrecognized Victims: Sexual Violence Against Men In Conflict Settings Under International Law' [2009] 27(1) *Wisconsin International Law Journal*

Lieber F, *Instructions For The Government Of The Armies Of The United States In The Field* (DVan Nostrand 1863)

MacKinnon C, *Are Women Human? And Other International Dialogues* (Harvard University Press 2006)

O'Brien C, Keith J and Shoemaker L, 'Don'T Tell: Military Culture And Male Rape.' [2015] 12(4) *Psychological Services*

Oloya O, *Child To Soldier: Stories From Joseph Kony's Lord's Resistance Army* (University of Toronto Press 2013)

Oosterhoff P, Zwanikken P and Ketting E, 'Sexual Torture Of Men In Croatia And Other Conflict Situations: An Open Secret' (2004) 12 *Reproductive Health Matters*

Sellers P, *The Prosecution Of Sexual Violence In Conflict: The Importance of Human Rights as a Means of Interpretation* (OHCHR 2009)

Sivakumaran S, 'Male/Male Rape and the "Taint" of Homosexuality [2005] 27 Human Rights Quarterly 1276-1306

Sivakumaran S, 'Sexual Violence Against Men In Armed Conflict' (2007) 18 European Journal of International Law 253-267

Stemple L, 'Male Rape and Human Rights' [2009] 60(605) Hastings Law Journal 605-647

Tewksbury R, 'Effects of Sexual Assaults on Men: Physical, Mental and Sexual Consequences' [2007] 6(1) International Journal of Men's Health 22-35

Vojdik V, 'Sexual Violence Against Men And Women In War: A Masculinities Approach' [2013] 14(923) Nevada Law Journal

Weeks J, *Sexuality And Its Discontents: Meanings, Myths And Modern Sexualities* (Taylor & Francis 1985)

Zarkov D, 'The Body Of The Other Man: Sexual Violence And The Construction Of Masculinity, Sexuality And Ethnicity In Croatian Media', *Victims, Perpetrators or Actors? Gender, Armed Conflict, and Political Violence* (Zed Books 2001)

MEDIA SOURCES

'Facts And Figures: Ending Violence Against Women' (*UN Women*, 2017) <<http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>> accessed 9 June 2017

Gender Against Men (Refugee Law Project 2008)

Kelly N, 'Aid Workers And Sexual Violence: Survivors Speak Out' *The Guardian* (2017) <<https://www.theguardian.com/global-development-professionals-network/2017/feb/17/aid-workers-and-sexual-violence-survivors-speak-out>> accessed 10 April 2017

'Landmark Cases | International Criminal Tribunal For The Former Yugoslavia' (*Icty.org*, 2017) <<http://www.icty.org/en/in-focus/crimes-sexual-violence/landmark-cases>> accessed 12 June 2017

Shift Shame, Stigma From Victims To Perpetrators Of Sexual Violence In Conflict, Deputy Secretary-General Tells Panel Commemorating International Day | Meetings Coverage And Press Releases' (*UN.org*, 2016) <<https://www.un.org/press/en/2016/dsgsm983.doc.htm>> accessed 12 April 2017

Storr W, 'The Rape Of Men: The Darkest Secret Of War' (*The Guardian*, 2011) <<https://www.theguardian.com/society/2011/jul/17/the-rape-of-men>> accessed 22 February 2017

They Slept With Me (Refugee Law Project 2011)

'UN News - UN Forum Highlights Plight Of Male Victims Of Sexual Violence In Conflict' (*UN*, 2013) <<http://www.un.org/apps/news/story.asp?NewsID=45532#.WMkFp8tHmfB>> accessed 28 May 2017

OFFICIAL PUBLICATIONS

'Explanatory Report To The Council Of Europe Convention Against Women And Domestic Violence' (Council of Europe 2017) <<https://rm.coe.int/16800d383a>> accessed 2 June 2017

'Refugee Law Project - Written Evidence' (*Data.parliament.uk*, 2015) <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/sexual-violence-in-conflict-committee/sexual-violence-in-conflict/written/21715.html>> accessed 1 May 2017

Select Committee on Sexual Violence in Conflict, 'Sexual Violence in Conflict: A War Crime' (House of Lords 2015-16) <https://www.publications.parliament.uk/pa/ld201516/ldselect/ldsvc/123/123.pdf> accessed 10 January 2017

Select Committee On Sexual Violence in Conflict, 'Written And Oral Evidence' (House of Lords 2015)

REPORTS

Amnesty International, 'Mass Rape: Time For Remedies' (Amnesty International 2004) <http://www.amnesty.eu/static/documents/DRC_main.pdf> accessed 5 April 2017

'Conflict-Related Sexual Violence Report Of The Secretary-General' (United Nations General Assembly Security Council 2012) <<https://www.unodc.org/documents/frontpage/A-66-657.pdf>> accessed 11 March 2017

Guidelines For Integrating Gender-Based Violence Interventions In Humanitarian Action, Reducing Risk, Promoting Resilience And Aiding Recovery' (Inter-Agency Standing Committee 2015) <http://gbvguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines_lo-res.pdf> accessed 10 May 2017

International Criminal Tribunal for Rwanda, 'Prosecution Of Sexual Violence: Best Practices Manual For The Investigation And Prosecution Of Sexual Violence Crimes In Post-Conflict Regions: Lessons Learned From The Office Of The Prosecutor For The International Criminal Tribunal For Rwanda' (Office of the Prosecutor of the International Criminal Tribunal for Rwanda 2014) <http://w.unictr.org/sites/unictr.org/files/legal-library/140130_prosecution_of_sexual_violence.pdf> accessed 14 May 2017

International Review of the Red Cross 'Sexual Violence in Armed Conflict' (2014), 96 (894)

Office of the United Nations Special Representative of the Secretary- General on Sexual Violence in Conflict, 'Report Of Workshop On Sexual Violence Against Men And Boys In Conflict

Situations' (United Nations 2013) <<https://ifls.osgoode.yorku.ca/wp-content/uploads/2014/01/Report-of-Workshop-on-Sexual-Violence-against-Men-and-Boys-Final.pdf>> accessed 28 March 2017

'Syria: Sexual Assault In Detention' (*Human Rights Watch*, 2011) <<https://www.hrw.org/news/2012/06/15/syria-sexual-assault-detention>> accessed 11 April 2017

United Nations High Commissioner for Refugees, 'Sexual And Gender-Based Violence Against Refugees, Returnees And Internally Displaced Persons: Guidelines For Prevention And Response' (2003) <<http://www.unhcr.org/3f696bcc4.pdf>> accessed 2 July 2017

United Nations High Commissioner for Refugees, 'Working With Men And Boy Survivors Of Sexual And Gender-Based Violence In Forced Displacement' (2012) <<http://www.refworld.org/pdfid/5006aa262.pdf>> accessed 8 May 2017

SELECTED CASE LAW

Prosecutor v. Cesic (Plea Agreement) IT-95-10/1-PT

Prosecutor v. Delalic, Mucic, Delic and Landzo (Judgement in Sentencing Appeals) (2001) IT-96-21-A

Prosecutor v Kenyatta [2012] International Criminal Court, ICC-01/09-02/11

Prosecutor v Kunarac [2001] ICTY Appeals Chamber (ICTY Appeals Chamber) IT-96-23 & 23/1

TREATIES, DECLARATIONS, RESOLUTIONS AND TREATY BODIES

ICTY Rules of Procedure and Evidence, Rule 34 IT/32/Rev.50 (2015)

International Committee of the Red Cross (ICRC) Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287/ 1958 ATS No 21

International Committee of the Red Cross (ICRC) Geneva Convention Relative to the Treatment of Prisoners of War (27 July 1929)

International Committee of the Red Cross (ICRC) 'Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims in International Armed Conflicts (Protocol I)(8 June 1977) 1125 UNTS 3

International Committee of the Red Cross (ICRC) 'Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims in International Armed Conflicts (Protocol II)(8 June 1977) 1125 UNTS 609

International Conferences (The Hague) 'Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land' (adopted 18 October 1907, entered into force 26 January 1910)

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Adopted 2005) (African Charter)

UN 'Beijing Declaration and Platform of Action', adopted at the Fourth World Conference on Women (27 October 1995)

UN Committee for the Elimination of All Forms of Discrimination against Women, 'General Recommendation No 19' in 'Note by the Secretariat, Compilation of General Comments and

General Recommendations Adopted by Human Rights Treaty Bodies' (29 July 1994) UN Doc HRI/GEN/1/Rev.1

UN General Assembly, 'Rome Statute of the International Criminal Court' (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6

UN General Assembly, Vienna Declaration and Programme of Action, (12 July 1993), A/CONF.157/23

Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR)

UNSC Res 2106 (24 June 2013) UN Doc S/RES/2106

UN Security Council, 'Statute of the Special Court for Sierra Leone', 16 January 2002, Art 2(g) and Art 3(e).

UN Security Council, 'Statute of the International Criminal Tribunal for the Former Yugoslavia' (as amended on 17 May 2002), 25 May 1993

UN Security Council 'Statute of the International Criminal Tribunal for Rwanda', 31 December 1993, Art 3(g)

ANNEXE 1

Sexual Violence Against Men in Conflict

Thank you for giving your time to complete this short survey. I am a Master's Student at the European Inter-University Centre for Human Rights and Democratisation, writing my thesis on reporting sexual violence against men in conflict. The information that you provide will be used in the chapter of my thesis that explores the extent to which those who come into contact with victims of war have dealt specifically with the subject of sexual violence against men. Your confidentiality is important, and this survey shall remain completely anonymous. If you would like to access the final results, please send me an email and I will be happy to send them to you. I appreciate your contribution- if you have any questions or comments please contact me:

meglawrence705@gmail.com

* Required

1. Current Job Title (please provide a short description of your role). *

2. To which gender identity do you most identify? *

Female

Male

Transgender Female

Transgender Male

Gender Variant/Non-Conforming

Prefer not to answer

Other:

3. How long have you worked in your current position? *

3a. Before this, did you carry out any other roles relating to human rights training? (Please state role and length of position) *

4. In which regions have you carried out work? * Check all that apply.

Africa

Americas

Asia and the Pacific Europe and Central Asia Middle East

Other:

5. Which organisations have you worked for in this time? * Check all that apply.

United Nations Oxfam

Action Aid

Red Cross

Care International

Concern Worldwide

MSF

Response International

Amnesty International

IRC

Other:

6. Have you been involved in training field workers? (If no, move on to question 7). *

Yes

No

6a. If so, please briefly describe this work.

6b. Did you organise training specifically related to sexual violence?

Yes

No

Some

6c. If so, did you speak about men as victims of sexual violence during this training?

Yes

No

6d. If you answered yes, please briefly describe this training.

6e. If you answered no, please briefly explain why.

7. Do you work in conflict management/human rights monitoring? (If no move on to question 9).

Yes- Conflict Management

Yes- Human Rights Monitoring

No

I have worked in both

Other:

7a. If yes, how regularly do you come into contact with the issue of sexual violence?

Often

Sometimes

Rarely

Never

Other:

7b. In particular, how often do you come into contact with the issue of sexual violence against men?

Often

Sometimes

Rarely

Never

Other:

8. If at all, how is the issue of sexual violence against men in conflict dealt with in your role?

9. Do you think more could be done within your line of work to support male victims of sexual violence in conflict? *

Yes

No

10. Please explain your answer. *

11. In your experience, do you think that it is easy to identify male victims of sexual violence in conflict? *

Always

Most of the time

Sometimes

Rarely

Never

I have no experience with this issue

Other:

11a. Please give reasons for your answer.

12. Do you think there are adequate processes in place to support males who have been victims of sexual violence in conflict? *

Mark only one oval.

Yes

No

Somewhat

I am not aware

Other:

12a. Please explain your answer- if yes, please explain the processes. If no, please explain what you think should be done. *

13. What do you think could be done to encourage males who have been victims of sexual violence in conflict to speak about what happened to them? *

14. What do you think the greatest obstacle is in reporting sexual violence that has taken place against men in conflict? *

The social stigma attached to sexual violence

The breakdown of masculinity associated with male victims of sexual violence
The training of Aid/ Field Workers in recognising male victims of sexual violence
International law that does not adequately address sexual violence against men
Other

15. Any further comments?

16. Thank you for your time. The results of this survey are anonymous. How would you like to proceed? *

Check all that apply.

I am happy to be contacted with any follow-up questions

I would like to receive the results of the survey

I would like no further contact

17. If you are happy to be contacted or would like to receive the survey results, please leave your email address here. Please note that this will not implicate your anonymity.