SEXUAL VIOLENCE AGAINST MEN AND WOMEN IN WAR: A MASCULINITIES APPROACH

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INTRODUCTION

Sexual violence against men during war has occurred throughout history yet remains largely invisible. Following the mass rape of hundreds of thousands of women during armed conflicts in former Yugoslavia and Rwanda, feminist human rights advocates succeeded in persuadeing international tribunals to recognize sexual violence against women as a weapon of war, crime against humanity, and means of genocide. In each of these conflicts, men were also raped, castrated, and sexually assaulted, yet are largely absent from the international jurisprudence of gender violence during war. ¹ Despite its prevalence, sexual violence against men in armed conflict has remained largely hidden from view under human rights and international law and theory.

Reports of rape and sexual violation of male civilians, detainees, and combatants have surfaced in over 25 conflicts in the past two decades alone – including Congo, the former Yugoslavia, Sudan, El Salvador, Sierra Leone, East Timor, Sri Lanka, Iraq, Afghanistan, and Rwanda.² Like

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violence against women, sexual violence against men is nearly unspeakable in its brutality. The sexual violation of men has included both physical and mental abuse, including rape, castration, and forced incest or sex with other men. In former Yugoslavia, for example, male detainees were ordered by enemy commanders to perform oral sex upon another detainee, then hold his mouth to silence his screams while another male detainee bit off his testicles. Detainees in Sierra Leone were raped anally with sticks rubbed with chilies. In Abu Ghraib, United States military troops sexually abused Iraqi detainees, including *inter alia* keeping Muslim male detainees naked for several days, forcing them to masturbate themselves in front of others, arranging and photographing their naked bodies in sexually explicit positions, and sodomizing a detainee with a chemical light.

Sexual violence against male civilians and combatants is not an isolated aberration, but has occurred throughout history, across cultures and place. Persian armies, for example, carried plates filled with the penises of soldiers of the vanquished enemy, celebrating the symbolic and actual domination of the enemy. Despite its prevalence throughout time and across cultures, it is vastly under-reported. Male victims suffer great social
stigma and shame, fearing social ostracism if they seek treatment for the mental and physical consequences they suffer, including loss of sexual function and infertility. When it has been reported, international law has categorized the rape or sexual violation of men as ‘torture’ or ‘mutilation’ normalizing it as a natural, if unspoken, part of war, rather than defining it as rape or sexual violence.

The silence around male sexual violence during wartime raises critical questions about male bodies, gender, and power that have not been adequately addressed by feminist or human rights legal theorists. In this paper, I draw upon insights from masculinities theory to enrich the understanding of the nature and impact of sexual violence against men – and women - in war. Masculinities theory explores how social norms of masculinity create, enforce, and reproduce relations of power on multiple levels – between men as individuals; between men and women; and within larger social institutions such as the military, the workplace, the nation-state, and the global political order. Masculinity is not a fixed identity, but a social practice of gender that constructs men as masculine and heterosexual, defined in opposition to those men who are perceived as effeminate or homosexual, and women.

9 Sandesh Sivakumaran, Sexual Violence Against Men in Armed Conflict, 18 EUROPEAN J. OF INT’L LAW 253-276, 256 (2007)(“If the abuse is recognized, it may not always be seen as sexual violence for the issue is often buried under the rubric of ‘abuse’ or ‘torture’. Often times, castration is seen as ‘mutilation’ and rape as ‘torture’, a view that becomes apparent when reading reports of non-governmental and intergovernmental organizations.”).


11 Rosemary Grey and Laura J. Shepard, “Stop Rape Now?” Masculinity, Responsibility, and Conflict-related Sexual Violence,” MEN AND MASCULINITIES 1-21 (2012) (“[M]ale survivors are marginalized from academic scholarship on sexual violence in war. […] Little has been written about gendered meaning of sexual violence against men, what forms this violence takes, and how it relates to the broader conflicts in which such violence occurs.”)
“Violence is the single most evident marker of manhood,” writes Michael Kimmel. War is quintessentially masculine, where male violence against other men is normalized and sanctioned. Wartime rape of male and female victims functions as an actual and symbolic means of masculinized dominance between competing ethnic, national, and other collectives. As Sandeesh Sivakumaran observes, wartime sexual violence against men is about masculine domination and power just as it is for women -- both forms of violence involve similar constructions of masculinity and heterosexualized masculine domination. 12 To theorize rape and against men during war requires examining the relationship between male bodies, social constructions of masculinity, and the use of particular masculinities to achieve ethnic, national, and/or global power.

This paper uses masculinities theory to broaden and enrich the understanding of sexual violence against men – and women – during war. While feminist and human rights theories have laid an important foundation for the understanding of sexual violence in war, they have not adequately theorized sexual violence against men. Early feminist activists, such as Rhonda Copelon and the Women’s Caucus for Gender Justice, theorized wartime rape of women within the larger context of male violence against women.13 Recently, Janet Halley, Lara Stemple, and Bennett Capers have criticized this approach, arguing that it essentializes gender violence as male violence against women, rendering rape of men as “abnormal” and invisible, and foreclosing a gender analysis that takes the complexities of

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13 See Gerecke at p. 13 (observing that while early feminists assumed a connection between sex and gender, later feminist work claimed that gender is a performed identity and therefore expects that sexual violence may target both women and men)
male on male violence into account.\textsuperscript{14}

Postcolonial feminist theorists more recently have analyzed sexual violence against women within a social constructivist approach that considers the symbolic relationship between female bodies, and conflicts between local, ethnic and national groups.\textsuperscript{15} Scholars such as Niva Yuval-Davis have examined the use of women’s bodies as the embodied symbol of national and ethnic identities and boundaries.\textsuperscript{16} Under this approach, violence against women during armed conflicts is not simply a product of male sexual domination, but as a means of constructing and negotiating power between competing ethnic, religious, cultural, and national

\textsuperscript{14} Laura Stemple, \textit{Male Rape and Human Rights}, 60 HASTINGS L. J. 605, 606-07 (2009) (“[m]ale rape will only be curtailed when the perception of men broadens beyond one that sees men as a monolithic perpetrator class, making it impossible to understand sexual violence against men); \textit{Responsibility, and Conflict-related Sexual Violence, ” MEN AND MASCULINITIES 1-21 (2012); Rosemary Grey and Laura J. Shepard, “Stop Rape Now?” Masculinity, Responsibility, and Conflict-related Sexual Violence,” MEN AND MASCULINITIES 1-21 (2012(criticizing feminist accounts of sexual violence in war as “sex-specific” articulations that “function[] to normalize ‘sexual and reproductive violence against women, while simultaneously rendering similar violence against men abnormal or “exceptional.”). See also Bennett Capers, \textit{Real Rape Too}, 99 CAL. L. REV. 1259, 1264 (2011) (arguing that “rape has been gendered for too long” and that feminist scholars have responded to one form of subordination by replacing it with another that defines rape as male dominance over women and excludes male rape victims from consideration).

\textsuperscript{15} See, e.g., Doris E. Buss, \textit{Rethinking Rape as a ‘Weapon of War’}, 17:2 Feminist Legal Studies 145-163 (2009) (in conflicts such as the 1971 Bengali war or Ann the conflict in Yugoslavia, “rape narratives were deployed in different ways to construct shifting conceptions of national self-identity”); Cindy S. Synder, Wesley J. Gabbard, J. Dean May, Nihada Zulcic, \textit{On the Battleground of Women's Bodies: Mass Rape in Bosnia-Herzegovina}, 21(2) AFLLA 184-195 (2006) (“women's experience of rape in war, like the abuse of women's human rights, is often determined by the intersection of a variety of factors, such as age, race, class, religion, ethnicity, and nationality”; authors argue that the complexity of such factors needs to be explored); Joane Nagel, \textit{Ethnicity and Sexuality}, Annual Review of Sociology (2003) (discussing constructivist theories of sexuality, ethnicity, and nationalism); Sherri Russell-Brown, \textit{Rape as an Act of Genocide}, 21 BERKELEY J. INTERNATIONAL LAW 325 (2003) (noting the intersectionality of genocidal rape, and arguing for the acknowledgment “that genocidal rape is in fact a crime that implicates both gender and ethnicity and to understand that certain women are being raped by certain men for particular reasons.”).

collectives. 17 With some notable exceptions, these accounts similarly ignore sexual violence against male bodies.18

Focusing on men and masculinities theory leads us to understand three critical points.

First, sexualized violence against men during war is not an isolated event but has occurred throughout history, across time, place, and culture. When it has been recognized under international law, it has been categorized as “torture” or “mutilation,” rather than as rape or sexual violence. As a result, it has been normalized under international law, assumed to be a natural part of the horrors of war, and shrouded in silence.

Second, the rape and sexual violation of men constructs and enforces actual and symbolic gendered power on several levels. Like violence against female victims, the male perpetrator/collective is masculinized and empowered while the male victim/collective is feminized and conquered. 19 Sexual violence against men in war can serve multiple functions: to construct ethnicity, national, and other forms of collective identity; to maintain and enforce the established gender order; to weaken, demoralize, and destroy collectives of people; and to both construct and

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19 See, e.g., Sivakumaran, supra. n. 1; Valorie K. Vojdik, Gender Outlaws: [add cite].
resist the dominance of transnational and global actors.  

Third, wartime sexual violence against men and women are not distinct phenomenon, but are inter-related and mutually constitutive. Both function as gendered tools to empower particular male groups within specific social spaces.

Fourth, sexual violence against men during war is not an aberrant result of the chaos of war, but rather is part of a larger social system that constructs male bodies as masculine, heterosexual, and dominant. Sexual violence against men occurs throughout a range of social institutions and spaces – including social institutions (such as schools, the workplace, prisons, and the military) and within larger systems of political and global power. From bullying of boys in schoolyards, to the sexual assault and harassment of men in the workplace, to the sexual humiliation of Muslim Arab men by U.S. military members in Abu Ghraib, violence against men is a means of asserting masculine domination against both men and women. Within these settings, sexual violence against men tends to be normalized, shaming its male victims and rendering the violence invisible.

Part I of this article discusses the prevalence of male-on-male sexual violence against men in war throughout history and across cultures. Part II draws upon masculinities theory to explain how wartime sexual violence against men functions (1) to valorize warriors as male and masculine, (2) to symbolically construct the male perpetrators as masculinized men while simultaneously feminizing the male victims, and (3) to weaken or destroy

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20 See Dubravka Zarkov, The body of the ‘other man: Sexual Violence and the Construction of Masculinity Sexuality and Ethnicity in Croatian Media, in Moser and Clark, eds., VICTIMS, PERPETRATORS OR ACTORS? GENDER, ARMS CONFLICT AND POLITICAL VIOLENCE, 78-79 (2001) (“When the male body is ethnic as well as male, the castration of a single man represents the castration of the entire ethnic group.”).

the community to which the victimized men belong. Violence against women and men during war are inter-related, reciprocal, and mutually reinforcing. Part III next broadens the analytical framework to locate male-on-male sexual violence during war within a larger continuum of masculinized violence within the military, schools, prisons, and other social institutions. The goal of this section is to demonstrate the multiple ways in which society normalizes male-on-male sexual violence and renders it invisible. Masculinities theory, I argue, is a valuable lens that enables us to recognize the gendered nature of violence against men that is too often ignored by law and society.

I. Sexual Violence Against Men During War: Prevalent Yet Invisible

A. Nature and Extent of Wartime Male Sexual Violence

Sexual violence against men has occurred throughout time and place. Phallic violence, both actual and symbolic, served to triumph victory of one armed group over the other. The castration and penile amputation of male prisoners and enemies has been documented in conflicts in Ancient Persia and Ancient Greece, and by Chinese, Amalekite, and Egyptian, and Norse armies. \(^{22}\) In some cultures, male corpses of enemy troops were mutilated with spears through the anus to simulate male rape and to

symbolize defeat.  

Anal rape of male captives likewise occurred throughout the ancient world.  

Sivakumaran observes that male sexual violence is present in Biblical accounts wherein “David took his men with him and went out and killed two hundred Philistines and brought back their foreskins.”  

During the last two decades, sexual violence against men has been documented in at least 25 armed conflicts throughout the world, including the Democratic Republic of Congo, Iraq, Sri Lanka, Chechnya, the Central African Republic, Iran, Iraq, Kenya, the former Yugoslavia, Rwanda, and Uganda.  

During the armed conflict in the former Yugoslavia, more than 50% of male detainees experienced sexual torture, including 80% of men at a concentration camp in Sarajevo.  

In El Salvador, 76% of male political detainees experienced sexual torture; 21% of Sri Lankan men treated at a London treatment center for torture reported sexual abuse during detention.  

In Liberia, 32.6% of male combatants experienced sexual violence. In Sudan, reported acts of sexual violence committed against men and boys include anal rape and sexual humiliation, as well as castration of young boys, especially in Darfur.  

23 Goldstein, id. at 358. Goldstein argues that the symbolic castration of the enemy continues today, citing President Lyndon Johnson describing U.S. casualties on Vietnamese soldiers during the Tet Offensive: “I didn’t just screw Ho Chi Minh. I cut his pecker off!”  

24 Goldstein, id. at 359.  

25 See Sivakumaran, supra, note 1 (citing 1 Samuel 18:27).  


27 Onyango and Hampanda, id. at 239.  


There is no generally accepted definition of male sexual violence during war.\textsuperscript{30} The International Criminal Court defines sexual violence broadly to encompass the commission of “an act of a sexual nature” committed “by force, threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power…. or by taking advantage of a coercive environment or such person’s … incapacity to give genuine consent.” \textsuperscript{31} The Rome Statute also expressly lists specific crimes of sexual violence that constitute crimes against humanity, including “[r]ape, sexual slaver, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.” \textsuperscript{32} Written in gender-neutral terms, the ICC encompasses sexual violence against men during conflict.

Sexual violence against men in conflict is a broad category that encompasses different forms of physical and mental abuse. \textsuperscript{33} It is recognized to include rape, both oral and anal; castration and/or sterilization; genital violence, including beatings and electric shocks aimed at the penis or testicles; forced incest; forced masturbation; forced nudity, often accompanied by threats or humiliation; and sexual slavery. \textsuperscript{34} Women

\textsuperscript{30} Sivakumaran, \textit{supra}, note 1 at 261.
\textsuperscript{33} Dustin A. Lewis argues that the subject demands “an appropriately broad definition,” suggesting the following: “any violence, whether physical and/or mental, carried out through sexual means or by targeting sexuality.” Dustin A. Lewis, \textit{Unrecognized Victims: Sexual Violence Against Men in Conflict Settings Under International Law} 27 WIS. INT’L L.J. 1,3 (2009). Such a definition allows for the inclusion of “‘both physical and psychological attacks directed at a persons sexual characteristics,’ while also encompassing ‘all serious abuses of a sexual nature inflicted upon the physical or moral integrity of a person by means of coercion, threat of force or intimidation in a way that is degrading and humiliating for the victim’s dignity.’” \textit{Id}. Oral and anal rape are included in this definition, including penetration with a penis, other body part, or an object. \textit{Id}. at 3.
\textsuperscript{34} Onyango, \textit{supra}, note 29.
as well as men have been perpetrators of male sexual abuse. In Sierra Leone, female combatants engaged in sexual violation of men.\textsuperscript{35} In the Congo, women were reported to have been involved in perpetrating 10% of the conflict-related sexual violence toward men.

In Syria, government forces have perpetrated sexual violence against men in detention. Reports of sexual abuse document government forces anally raping male detainees, with broken coke bottles, holding a man’s legs apart and beating his genitals, and rape of boys. A member of the Political Security branch reported, “There is torture, but there is also rape for the boys. We would see them when the guards brought them back to the cell. It’s indescribable. You can’t talk about it. One boy came into the cell bleeding from behind. He couldn’t walk. It was something they just did to the boys. We would cry for them.”\textsuperscript{36}

Sexual violence against men in Bosnia and Herzegovina occurred primarily in detention camps and included rape, forced rape and incest, castration, and multiple forms of genital violence, including circumcision, electric shocks to the scrotum, amputation of the penis, and other forms of sexual mutilation.\textsuperscript{37} In Uganda, men were anally raped, “forced to penetrate holes in banana trees run with acidic sap, to sit with their genitals over a fire, to drag rocks tied to their penis, to give oral sex to queues of soldiers, to be penetrated with screwdrivers and sticks.”\textsuperscript{38}

Prisoners have been forced to sexually brutalize one another, as exemplified by a documented incident that occurred in a Serbian detention

\textsuperscript{37} Megan Geracke, \textit{Explaining Violence in Conflict Situations: Preliminary Finding from Bosnia and Herzegovina, Rwanda and Sierra Leone}.
\textsuperscript{38} Will Storr, \textit{The rape of men}, THE OBSERVER, July 16, 2011 (based upon interviews of Makerere University’s Refugee Law Project and interviews with male victims of rape in Uganda).
camp where a commander ordered two Bosnian prisoners to assault and castrate another Bosnian prisoner. The report to the International Tribunal for the Former Yugoslavia documented that:

G and Witness H had been forced to pull Jasmin Hrnic’s body about the hangar floor they were ordered to jump down into the inspection pit, then Fikret Harambasic, who was naked and bloody from beating, was made to jump into the pit with them and Witness H was ordered to lick his naked bottom and G to suck his penis and then to bite his testicles. Meanwhile a group of [Serbian] men in uniform stood around the inspection pit watching and shouting to bite harder. All three were then made to get out of the pit onto the hangar floor and Witness H was threatened with a knife that both his eyes would be cut out if he did not hold Fikret Harambasic’s mouth closed to prevent him from screaming; G was then made to lie between the naked Fikret Harambasic’s legs and, while the latter struggled, hit and bite his genitals. G then bit off one of Fikret Harambasic’s testicles and spat it out and was told he was free to leave. Witness H was ordered to drag Fikret Harambasic to a nearby table, where he then stood beside him and was then ordered to return to his room, which he did. Fikret Harambasic has not been seen or heard of since.39

This episode illustrates the use of forced rape of other detainees as a form of sexual violence during war. Each of the Bosnian detainees, as Dustin A. Lewis argues, is a victim as opposed to a perpetrator of sexual violence, having been forced by enemy commanders to rape and castrate another male detainee.40 The practice of forcing men to rape family

39Id. (citing Prosecutor v. Tadic, Case No. IT-94-1-T, Opinion and Judgment, P 206 (May 7, 1997)).
40Lewis, supra, note 34; see generally Sandesh Sivakumaran, Male/Male Rape and the “Taint” of Homosexuality, 27 Human Rights Quarterly 1274 (2007) the “taint” of engaging in homosexuality, regardless of the presence of coercion is, in many countries,
members is also common in war. In Bosnia, fathers and sons were forced to rape each other; fathers and brothers were forced to rape their female relatives. During the occupation of Nanking during World War II, fathers were forced to rape their daughters and brothers to rape their sisters. In Sierra Leone, “the rebels have forced civilians to commit incest, one of the biggest taboos in any society.” Forced incest and rape in front of family members violates fundamental cultural, social, and religious norms, compounding the sense of powerlessness and humiliation. As Carpenter argues, “it is likely that such acts are deeply humiliating, violating private space, the sanctity of family relationships, and other cultural norms.”

Much of the abuse of men and boys occurs in detention. In Syria, government forces have perpetrated sexual violence against men in detention. Reports of sexual abuse document government forces anally raping male detainees, with broken coke bottles, holding a man’s legs apart and beating his genitals, and rape of boys. A member of the Political Security branch reported, “There is torture, but there is also rape for the boys. We would see them when the guards brought them back to the cell. It’s indescribable. You can’t talk about it. One boy came into the cell bleeding from behind. He couldn’t walk. It was something they just did to the boys. We would cry for them.”

Sexual violence against men in Bosnia and Herzegovina occurred primarily in detention camps and included rape, forced rape and incest, transmuted to victims forced into homosexual conduct with others, thereby subjecting them to anti-sodomy laws in their respective countries.

41 R. Charli Carpenter, Recognizing Gender-Based Violence Against Civilian Men and Boys in Conflict Situations, SECURITY DIALOGUE, 37, 95 (2006).
42 Id.
43 Id.
44 Id.
castration, and multiple forms of genital violence, including circumcision, electric shocks to the scrotum, amputation of the penis, and other forms of sexual mutilation. 46 In Uganda, men were anally raped, “forced to penetrate holes in banana trees run with acidic sap, to sit with their genitals over a fire, to drag rocks tied to their penis, to give oral sex to queues of soldiers, to be penetrated with screwdrivers and sticks.” 47

In another form of sexual abuse, men and boys are frequently abducted for use as sexual slaves or child soldiers. In the Eastern territories of Congo, 20.3% of men reported being held as sexual slaves by opposition forces. 48 In a study in Liberia, 16.5% of male combatants were forced to be sexual servants. 49 Boys in Uganda and Afghanistan have been abducted for use as child soldiers and sex slaves. Human Rights Watch documented a number of cases involving the abduction, exploitation, and rape of boys by regional Afghan commanders and other members of the armed forces. The Afghan practice of “bacha baazi (boy play),” in which boys are kept and used for sexual entertainment, is common. 50

Experts agree that the prevalence of sexual violence against men is vastly under-reported. 51 Post-conflict initiatives to address sexual violence have typically been focused on female victims, sending the message that

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46 Megan Geracke, Explaining Violence in Conflict Situations: Preliminary Finding from Bosnia and Herzegovina, Rwanda and Sierra Leone,
51 Wynne Russell, Sexual Violence Against Men and Boys, 22 SEXUAL VIOLENCE, FMR 27.
women are the victims of sexual violence and discouraging men from seeking treatment or reporting their own rape and sexual violation. Some health care workers fail to recognize men as victims. One therapist at the Centre for Psychotrauma in Croatia said she “had not believed that men could be raped until one night a male victim was brought for treatment naked and bleeding from the anus.”

In approximately 70 countries, homosexuality is a crime and male victims are even more reluctant to file a report the police, who are often perceived to anti-homosexual. In these places, a victim of rape by another man can be found guilty of engaging in homosexuality, a crime punished by the law. As Sandesh Sivakumaran explains, “[t]he difference between the term ‘male/male rape’ and the term ‘homosexual rape’ is not merely a semantic one…[the term ‘homosexual rape’] has been ‘irrevocably tainted by years of use in a pejorative sense.’” The taboo against homosexuality in many places discourages male victims from reporting rape.

Sexual violence against men in wartime also results in serious health and sexual consequences. Survivors experience shame, guilt, anger, anxiety, suicidal thoughts, and disinterest in sex. Health workers report victims who have suffered from sexual transmitted infections, including HIV, genital infections, sexual impotence, swollen testicles, and abscesses.
and ruptures of the rectum. Male survivors of rape have been found to be more likely than female survivors to suffer from depression, substance abuse, and to commit suicide. Men who have been victims of castration or genital mutilation have even higher rates of suicide and depression.

Rape or castration of male detainees or male prisoners of war remains deeply invisible. With the exception of Abu Ghraib, the sexual abuse of male detainees is well-hidden from the public. Consider the media coverage during the Balkans conflict of rape of male and female victims. While rape of females was well-documented, “a war rape of a man was never a major story in the press, nor castration in a war camp on the evening television news.”

In Syria, reports of rape of men by government forces have been publicized, but the majority of headlines in news reports refer to the rape of women and girls. One example of disparate coverage is a Human Rights Watch news report from June 6, 2012. The by-line reads “Security Forces Also Attacked Women and Girls in Raids on Homes,” despite reports that the Syrian government forces have also sexually tortured men and boys.

II. Invisibility of Male Rape Under International Criminal Jurisprudence and Theory

Despite its prevalence throughout ancient and contemporary history, male-on-male sexual violence is largely invisible in international criminal jurisprudence and theory. The international community has focused much

59 Id.
60 Id.
61 Zarkov, supra note ___ at 72.
attention on sexual violation against women and girls during armed conflict, but has largely ignored sexual violence against men and boys. As Stemple argues, gender violence has largely become conflated with ‘male violence against women in war.’

During the past two decades, feminist and human rights advocates have mobilized for the criminalization of rape under international law. Rape has always been considered a violation of international law. Under the 1947 Geneva Conventions and the 1977 Additional Protocols, however, rape was not designated a “grave breach” or a crime of violence against women’s bodily integrity, but rather an attack on women’s “honour.” Article 27 of the Geneva Convention Relative to the Protection of Civilian Person in Times of War provided that, “[w]omen shall be specially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.” By focusing on the harm to women’s honor, international law conceptualized wartime rape of women not as a harm to women’s physical or sexual autonomy, but rather as a harm to her value to her husband, family, or community.

Following the widespread and highly publicized rape of tens of thousands of women during the Balkans conflict, feminists such as Rhonda Copelon, Catherine MacKinnon, and the Women’s Caucus for Gender Justice sought to redefining the harm of wartime rape of women, reconceptualizing it from a crime of ‘honour’ to a means of war and crime

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63 Del Zotto and Jones, ‘Male-on-Male Sexual Violence in Wartime, [add] (arguing that analyses of sexual violence in war has been defined as “limited exclusively to female victims (as far as direct assaults are concerned, at least) and male perpetrators.”)
64 Stemple, supra note 2 at 606-607.
66 Engle, id.
against humanity. 68 Largely as a result of this sustained advocacy, the International Criminal Tribunal for the former Yugoslavia (ICTY) recognized sexual violence as a distinct crime of war and a crime against humanity, a human rights violation constituting part of a widespread or systematic attack on a civilian population based upon ethnic, national, racial, political, or religious grounds.69 The International Criminal Tribunal for Rwanda (ICTR) went further and recognized that rape could constitute an act of genocide. In Prosecutor v. Jean-Paul Akayesu, the Rwandan Tribunal defined rape as a weapon of war and can constitute an act of genocide, a violent act by members of one group against another group as a means to destroy that group. In Akayesu, the Tribunal found an individual guilty of genocide on the basis, inter alia, of acts of rape and sexual violence. 70 The ICTR found that “[t]he rape of Tutsi women was systematic and was perpetrated against all Tutsi women and solely against them.” 71 Finding that “in most cases, the rapes of Tutsi women … were accompanied with the intent to kill those women,” the ICTR found that rape was a means of genocide in the Rwandan conflict. 72

Both tribunals were the first to prosecute wartime rape as a crime against humanity. The ICTR, in Prosecutor v. Akayesu, broadly defined sexual violence as “any act of a sexual nature which is committed on a

70 Prosecutor v. Akayesu, supra note 73; see also Sherri Russell-Brown, Rape as an Act of Genocide, 21 Berkeley J. International Law 325 (2003) (discussing the intersectional analysis employed by the Rwandan Tribunal in recognizing rape as genocide).
72 Akayesu, supra, note 73 at para. 733.
person under circumstances which are coercive.” 73 Significantly, the ICTR affirmed that “sexual violence is not limited to physical invasion of the human body, but may include acts which do not involve penetration or even physical contact.” 74 In many, though not all of their other decisions, the ICTR and ICTY have relied upon the broad definition of sexual violence in Akayesu in a number of judgments of war crimes suspects charged with rape and sexual violence. 75

The Rome Statute of the International Criminal Court, adopted in 2000, criminalizes rape and many other forms of sexual violence that occur in armed conflict, defining sexual violence as a crime of war and crime against humanity. 76 The definition of sexual violence is broad – defined as “any sexual act” committed by force, threat of force, or lack of consent. 77 The ICC uses gender-neutral language to define sexual violence, and incorporates a specific list of conduct that meets the definition.

In addition to the criminalization of sexual violence in war, feminist advocates raised the awareness of the international community about the specific harms to women during war. United Nations Security Council Resolution 1325, adopted in 2000, called upon all parties to armed conflict “to take special measures to protect women and girls from gender-based

73 Prosecutor v., Case No. ICTR-96-4-T, Judgment, para. 688 (Sept. 2, 1998).
74 Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, para. 598 (Sept. 2, 1998). For example, in Akayesu, the Tribunal considered the acts of undressing of a female student and forcing her to do gymnastics naked in a public courtyard to constitute sexual violence. Id. at para. 688.
77 See supra note __.
violence.”  

The Resolution expresses concern “that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict … and increasingly are targeted by combatants and armed elements.”

Wartime rape and sexual violence against men and boys has been largely absent or marginalized in international criminal jurisprudence.”

While the international tribunals for the former Yugoslavia and Rwanda documented rape and sexual violence against men, the prevalence of male rape and sexual violence was ‘an open secret’, documented in the ICTY and by international aid workers. The Report of the U.N. Commission of Experts charged with investigating sexual violence during the Balkans conflict evidences numerous incidences of the rape of male victims. The Report documented castrations of men “performed through crude means, such as forcing one internee to bite off another’s testicles, and tying one end of a wire to the testicles and the other end to a motorcycle, then using the motorcycle to yank off the testicles.”

Another report by the Special Rapporteur of the Commission on Human Rights included testimony of a witness who had observed “the corpses of 15 young men whose genitals had been mutilated.” Health workers in refugee camps and post-conflict

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79 Id.


81 Pauline Oosterhoff, Prisca Zwanikken, Evert Ketting, Sexual Torture of Men in Croatia and Other Conflict Situations: An Open Secret, 12(23) Reproductive Health Matters 68-77, REPRODUCTIVE HEALTH MATTERS.


83 Id.

84 Report on the situation of human rights in the territory of the former Yugoslavia
zones in the former Yugoslavia and other conflict locations similarly reported incidents of male victims of sexual violence by men.  

International criminal courts, however, have not focused serious attention on male victims. The ICTY trials, for example, documented the use of sexual violence against men in the former Yugoslavia. In The Prosecutor v. Dusko Tadic, the defendant was convicted of various abuses against detainees, including ordering two male detainees to perform oral sex on a third male detainee and bite off his testicles. In Prosecutor v. Delalic et al., four defendants were convicted for the acts of subordinates, including placing burning fuse cords around the genitals of male detainees and forcing two detainees to perform oral sex on each other. ICTY judgments also found that male detainees were subject to sexual assaults, including ramming a police truncheon into the anus of a male detainee, and incidents involving forcing male prisoners to perform oral sex on each other, often in front of other prisoners or commanders. In Prosecutor v. Cesic, a Serbian commander forced two Muslim brothers to perform oral sex on each other, sometimes in front of other prisoners.

None of these ICTY decisions, however, specifically found these

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87 IT-96-21-T, Prosecutor v. Delalic et al., Trial Chamber Judgment, Nov. 16, 1998 at [24] and [26].


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acts to be crimes of rape or sexual violence. In Tadic, the ICTY convicted four commanders from the Bosnian Omarska detention camp for having inflicted a "hellish orgy of persecution." The majority of the detainees were male and the prosecution alleged that both female and male prisoners were beaten, tortured, raped, and sexually assaulted. In presenting the charges, the ICTY did not categorize the rape or castration of male detainees as “rape” which by itself constituted a crime against humanity under ICTY statutes, but rather as examples of "great suffering or serious injury to body or health," "cruel treatment," and "inhumane acts." In contrast, the ICTY specifically charged the rape of a female detainee as “rape” and “forcible sexual intercourse.”

The Special Court for Sierra Leone is one exception in which an international criminal tribunal successfully prosecuted sexual violence against men committed by the Revolutionary United Front (RUF). In Prosecutor v. Sesay et al. The Trial Chamber found that the RUF troops committed gender-based acts against men and boys “as part of a reign of terror,” including slitting the sexual organs of male captives, forcing male abductees to rape female abductees, forced nudity of male captives, and forcible recruitment of boys as child soldiers.

In cases in which acts of sexual violence and rape of men have been recognized by the International Tribunals, international law has tended to categorize sexualized violence against men not as “gender-based violence,”

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91 Del Zotto and Jones, supra note __ at __.
92 Del Zotto and Jones, id.
but as “torture,” “abuse,” or “degrading treatment,” particularly where the violence is directed at male detainees and prisoners of war. It results in a failure to provide humanitarian assistance and medical treatment for male victims of rape and other forms of sexual abuse. The failure to characterize sexual abuse of men during war as sexual or gender-based violence obscures the sexualized nature of the conduct and the gendered meanings of sexual violence against men. Even more importantly, it serves to normalize the deliberate use of rape and sexual violence by armed forces.

The United Nations, nevertheless, has begun to recognize the prevalence of sexual violence against men during war. The UN Secretary-General reported in 2009 that “[w]hile women and girls are particular targets and are the majority of the victims of sexual violence, the case-law of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the Special Court for Sierra Leone (SCSL) also bears testimony to the use of sexual violence against men.” UN Security Resolution 1888, adopted that same year, addresses sexual violence of civilians during wartime and uses gender-neutral language that include both male and female victims of wartime violence. This shift has at least begun to address concerns that international law originally addressed sexual violence.

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96 See, e.g., Carpenter, supra n. 43 at 95 “while the humanitarian assistance community has taken strides in addressing the physical and psycho-social needs of female rape survivors, it has been noted that services for male survivors of such violence in conflict situations are nearly non-existent”.

97 Report of the Secretary-General pursuant to Security Resolution 1820 (2208), S/2009/362, paras. 3 and 6.

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in war as an issue that solely affected women and girls.

Even so, rape of men during wartime has not been adequately theorized, nor captured the attention of gender or human rights advocates to the same extent as violence against women. 99 Further, the conceptualization of violence against women and men has proceeded separately, in separate academic silos that, with a few exceptions, fail to theorize their inter-relationship within a larger, gendered social sphere.

The early feminist campaign to recognize rape and sexual violence as a crime of war focused exclusively on female victims. Some scholars have begun to criticize the feminist campaign to criminalize rape in a war as grounded in notions of male dominance and female subordination. These critics argue that the campaign to recognize sexual violence against women in wartime rested upon gendered narratives that essentialize men as perpetrators and women as victims. 100 According to these critics, this approach disallows consideration of male rape or a gender analysis that takes into account the complexities of male on male violence. 101 Grey and Shepard, for example, argues that feminist claims that wartime sexual violence disproportionately affects women “suggests that sexual violence

99 See Sivukumaran, Sexual Violence, supra n. ___ and Sivukurmaran, Lost in Translation, supra n. ___; Valerie Oosterveld, a leading feminist scholar and advocate for female victims of wartime violence, acknowledges that international criminal law is “still rather undeveloped in its understanding of sexual violence and, more broadly, gender-based violence directed against men and boys during times of war or other widespread or systematic violations.”

100 See, e.g., Laura Stemple, Male Rape and Human Rights, 60 HASTINGS L. J. 605, 606-07 (2009) (“[m]ale rape will only be curtailed when the perception of men broadens beyond one that sees men as a monolithic perpetrator class, making it impossible to understand sexual violence against men); Responsibility, and Conflict-related Sexual Violence, ” MEN AND MASCULINITIES 1-21 (2012); Rosemary Grey and Laura J. Shepard, “Stop Rape Now?” Masculinity, Responsibility, and Conflict-related Sexual Violence,” MEN AND MASCULINITIES 1-21 (2012).

101 Stemple, id. at 635 (“[a]ssumptions that real men are sexual aggressors and never victims promote harmful perceptions about the ‘one’ way to be a man. They can justify violent behaviors as an archetypal manifestation of maleness[.]”)
against men is somehow separate from broader gendered power dynamics while sexual violence against women is symptomatic of these dynamics.”

Halley goes so far as to assert that, “This framing [of female universalism] reproduces in reverse the blind-spotted moral vision that it contests. … [I]t involves a - to me absolutely chilling - indifference to the suffering and death of men.”

Bennett Capers similarly criticizes feminist dominance theorists for excluding the rape of men from consideration. While his article discusses the law of rape in the United States, he includes rape of men in war within his larger analysis. He writes that, “in arguing for reform, many feminist scholars have inadvertently legitimized and contributed to the very gender distinctions of which they have been so critical. In response to one form of subordination, they have entrenched another.”

While scholars have explored the relationship between gender and the law as it impacts women, there has not been a similarly rigorous consideration of male bodies, gender, and the use of sexual violence as a weapon of war. The growing recognition of the sexual violation of men during war provides the opportunity to broaden the relationship between sexual violence, constructions of gender, and the negotiation of power during armed conflict.

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103 Halley, supra, note ___ at ___.
104 I. Bennett Capers, Real Rape Too, 99 California Law Review (2011). Capers argues, “[R]ape law has been gendered for too long. Originally, it was gendered in a way that tilted the scales to benefit men: men as fathers, men as husbands, and men as rapists. Feminists were right to point out the sexism inherent in traditional rape laws in this country. Though many, including Catharine MacKinnon, were wrong to view rape as solely a mechanism of male domination of women.”
105 I. Bennett Capers, supra, note ___.
106
The campaign by international feminist activists to recognize rape of women as a war crime was motivated in large part by the desire to “make women’s rights human rights.” 107 Hilary Charlesworth and others argued that international law failed to take seriously crimes of violence against women during armed conflict, rendering sexual violence against by military troops invisible and outside the law of armed conflict. Their success in persuading international law to recognize wartime rape of women as a crime against humanity and instrument of genocide shifts the social meaning of rape from an individual attack on a woman’s honor, to a criminal act of war and crime against humanity.

Sexual violence against men during war has been even more hidden and stigmatized than rape of women, normalized as torture or an unlawful deviation from the rules of war that is arguably to be expected as part of the horrors of war. Many of the male victims of wartime rape are detainees and/or prisoners of war. Sexual violence that occurs in detention against male detainees or enemy combatants occurs within the walls of detention camps, hidden from public view. The sexual abuse of Iraqi detainees in Abu Ghraib, for example, would have remained hidden except for the actions of U.S. troops in photographing and emailing some of the incidents, which violated military policy. Unlike female or male civilians, who are considered “innocent” victims, victims of rape who are combatants or detainees may be perceived as less worthy of protection.

As argued below, it is time to recognize and theorize the rape and sexual violence against male victims as similarly gendered violations of the human rights of men and to condemn such crimes as crimes against humanity and means of genocide, just as international law has done for female victims.

107 Patricia Sellers,
II. Making Men Visible as Victims of Sexual Violence During War: A Masculinities Approach

The invisibility of male sexual violence against men reflects not the weaknesses in feminist theory, but the power of social constructions of masculinity that define men as powerful, sexually dominant, and heterosexual. In real life, social constructions of masculinity function to shame male victims of rape and sexual violence. “Real” men, according to this gendered script, are not raped. Male victims are shamed and stigmatized as weak and effeminate, unable to protect themselves from male aggression. 108 One man who was abducted during the conflict in the Congo and used as a sexual slave for opposing forces, raped repeatedly, explained that after he reported the abuse, members of his village derided him for losing his masculinity, calling him “a bush wife” and ostracizing him from his community. 109 The failure of men to report sexual violence is a consequence of the stigma, fear of rejection or disbelief by others. 110 The shame and stigma for men, some argue, appear to be even greater for men than women. 111

Rather than erase gender or male dominance from the analysis of wartime sexual violence against men, the better approach is to broaden the notion of gender in international law to include the social construction of masculinity that privileges some men, while disadvantaging women and most men. Drawing upon dominance and social constructivist theories, this approach broadens the class of victims to include men as well as women,

108 Oosterhoff, supra note 58; Del Zotto and Jones, supra, note 2 at 606.
109
111 Buss, supra n. ___ at 18.
integrating theories of dominance and social constructivists theories of gender, ethnicity, and nationalism.

Focusing on the use of masculinized social practices, including the construction of manhood and masculinity within armed conflict, provides a basis for understanding and addressing violence against both men and women in war. Analyzing the use of wartime sexual violence as a masculinized social practice central to warfare helps explains violence against both men and women. Rather than analyze rape of men as separate and distinct from rape of women, this section argues that sexual violence toward men and women are related and mutually reinforcing, operating within particular social systems of gender that privilege and empower masculinity as male and heterosexual.

Rather than constitute a category of identity, masculinity is a social practice, created by and through men and the opposition to femininity. As R. W. Connell argues, masculinity is “simultaneously a place in gender relations, the practice through which men and women engage that place in gender, and the effects of these practice in bodily experience, personality, and culture.” Masculinities theorists posit that masculinity is not fixed, but rather relational and contingent, varying across time and place.

In practice, masculinity is constructed “in front of, and for the benefit of, other men and against femininity.” As French sociologist Pierre Bourdieu explains, “manliness must be validated by other men, in its reality as actual or potential violence, and certified by recognition of membership of the group of ‘real men.’” A critical insight of masculinities theory is the tenant that masculinity is never quite attained by

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112 Connell, id. at 68.
115 Bourdieu, id. at 52.
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any individual man. 116 Within groups of men, including armed militias, rituals and social practices are used to test the masculinity of individual men while simultaneously reinforcing the solidarity of the group. 117 The use of sexual violence against men and women during war is a means to dominate the enemy that is specifically sexual and gendered. 118

Within militaries and armed groups, warriors are constructed as male and masculine. 119 As Joshua Goldstein argues in War and Gender, war and gender are reciprocal: warriors are constructed as masculine, and masculinity is constructed through war. 120 Despite the social construction of warriors as masculine, war does not come naturally to men or women. “War is hell,” as General MacArthur said. 121 In World War II, approximately one-quarter of evacuated troops were not physically injured, but were overwhelmed by battle, “shaking, or stunned, unable to hear or talk.” 122

Research indicates that the military specifically trains military recruits (male and female) to be “masculine” and violent in order to create soldiers who are willing to kill to protect the nation or other collective group. 123 The violent masculinity promoted by militaries is often contrary

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117 Bourdieu, supra, note 107 at 52;
118 Rosemary Wood, (“One result of such practices is that soldiers then represent the domination of the enemy in a gendered way, leading to the use of specifically sexual violence against enemy women and, occasionally, against enemy men who are dominated through male rape and castration.”)
119 David J. Morgan, Theater of War: Combat, the Military, and Masculinitites, in THEORIZING MASCULINITIES 165 (1994)(“Despite far-reaching political, social, and technological changes, the warrior still seems to be a key symbol of masculinity.”)
120 Goldstein, supra note 7 at 264-72.
121 Goldstein, supra, note __ at 5-6.
122 Id.
123 See, e.g., Dina Francesca Haynes, Fionnaia D. Ni Aolain, Naomi Cahn, Masculinities and Child Soldiers in Post-Conflict Societies, in Ann McGinley and Frank Rudy Cooper, MASCULINITIES AND THE LAW: A MULTIDIMENSIONAL
to the human values in society, requiring institutional practices to continuously enforce such norms.\textsuperscript{124} Because gender is separate and distinct from biological sex, female soldiers as well as male soldiers are socialized to exhibit this militarized aggressiveness, thus explaining the participation of female soldiers in sexual violence against male detainees.

To induce soldiers to fight, the military compels recruits (male or female) to prove their masculinity. Through a range of social and institutional practices, militaries typically construct masculinity as the opposite of femininity.\textsuperscript{125} In the U.S. military, for example, a variety of rituals and practices compel males to prove their social identity as men through both the symbolic and actual enactment of a hypermasculinity that denigrates women.\textsuperscript{126} Drill sergeants humiliate recruits by calling them “pussies,” “sissies,” or “fags.” Cadence calls often denigrate women or celebrate male sexual domination of women. At the Naval Academy in the late 1980s, the glee club favorite tune was “The S&M Man,” sung to the tune of “The Candy Man”: “Who can take a chain saw/Cut the bitch in tow/Fuck the bottom half/and give the other half to you.”

Because masculinity is defined as heterosexual, other military rituals and practices employ male on male sexual violence to construct masculinity as dominant.\textsuperscript{127} In 1994, ABC broadcast videotapes document sad-sexual

\textsuperscript{125} See, e.g., Mady Weshler Segal, Military Culture and Military Families, in Mary Fainsod Katzenstein & Judith Reppy, eds., ZERO TOLERANCE: DISCRIMINATION IN MILITARY CULTURE 251, 256 (1999).
\textsuperscript{126} See generally Valorie K. Vojdik, Reframing the Exclusion of Women from Combat, 57 ALABAMA L. REV. 303, 340-345 (analyzing social practices that construct militaries as masculine).
\textsuperscript{127} See generally Valorie K. Vojdik, The Invisibility of Gender in War, 9 DUKE J. GENDER, LAW, AND POLICY 261 (2002) (discussing the masculinized construction of
hazing practices in the elite Marine Corps silent drill team, during “Hell Night,” which was the culmination of a grueling training program. The videos showed a team leader painting military shoe polish on the genitals of a new drill team member. A recent study by the Veterans Administration disclosed that more than 22,500 male veterans treated by the VA -- one out of every 100 -- reported being sexually "traumatized" by peers or superiors during their military careers.

The masculinization of soldiers, both male and female, explains the involvement of female troops in the rape and sexual violation of men in Abu Ghraib, in which female soldiers participated in the sexual abuse and humiliation of Muslim male Iraqi detainees. Women also perpetrated sexual violence in war, against both men and women. Women were in command positions in the Bosnian conflict, Rwanda, and Sierra Leone. In Sierra Leone, women either perpetrated or were observers in roughly a third of the total rapes. Further, reports indicated that female rebels diverged from typical Sierra Leone gender norms by “acting more violent than their male counterparts.”

Throughout history, militaries have feminized the enemy as a means of constructing themselves as masculine and motivating troops to fight. The feminization of the enemy is both symbolic and actual. Goldstein offers numerous examples of the “symbolic castration” of the enemy continues, such as statements made by President Lyndon Johnson describing U.S. casualties on Vietnamese soldiers during the Tet Offensive: “I didn’t just

male recruits in the U.S. military).

Stemple, supra, note 2.


Cohen, id.
screw Ho Chi Minh. I cut his pecker off!” 133 In another example, a U.S. pilot flying sorties during the first Iraq war exclaimed, “I cold-smoked the bitch!” 134

Male rape of enemy men similarly functions as a gendered tool of war that to actually and symbolically disempower the enemy. The actual enactment of rape and sexual violence against male combatants and detainees is a means of feminizing the enemy while constructing the military perpetrators as masculine. 135 Sexual violence against male bodies functions as a gendered means to attack the larger collective that the particular victim (male or female) represents, such as an ethnic, religious, or political groups. 136 Like the body of the woman who is raped by the enemy group, the body of the male victim functions as the corporeal embodiment of the group, whether it be an ethnic or religious group, the state or nation, or other collective identity. 137 The sexual violation of men, then, represents the vanquishment of the collective itself. 138 At the same time, it constructs the perpetrator as uber-masculine and his group as dominant. As Charli Carpenter explains, rape during war functions to “invert gendered constructio of protector/protected roles, with the aim of terrorizing entire societies.” 139 Like mass rape of women in the Congo or the former

133 Goldstein, supra note 7 at 358.
134 Id.
135 See, e.g. Onyango, supra note 29 (“During war, notions of masculinity Socially constructed notions of gender and sexuality can also provide motivation for perpetrators to commit sexual violence against men in armed conflict settings. For example, leaders often tell soldiers that to be a real man is to assert a militaristic, masculine dominance and emasculate other men. Sexual violence against the perceived enemy, either male or female, is one way of expressing this notion of masculinity.”)
137 Id.
138
139 R. Charli Carpenter, Recognizing Gender-Based Violence Against Civilian Men and
Yugoslavia, sex violence against men actually and symbolically represents (and accomplishes) the destruction of the "other" group. Like the rape of women in war, the rape of men thus can be seen to be a constitutive act of genocide.

Sexual violence against men by combatants similarly masculinizes the perpetrator while feminizing the enemy men who are violated. The rape of men during war is not about sexual desire but rather masculine domination. When men are raped, they symbolically lose their gender identity as men, who are socially constructed to dominate, and are feminized and socially constructed as the female victim. The rape of men turns the male into a victim, a symbolic woman who is sexually violated by the male perpetrator through rape. Further, the male victim of rape loses one of the basic attributes of masculinity – his ability to protect his family and community. If a man cannot protect himself from rape by enemy forces, he cannot protect himself, let alone the women and children in his community.

Sexual violence, and particularly gang rape, is used as a means to recruit and socialize male combatants in conflicts involving forced recruits of men. Rape of men is also used by armed groups of men as a means to punish those men who refuse to join a militia or refused to participate in killing. In Rwanda, for example, Hutu male combatants sexually assaulted other Hutu men who would not join in the killing. Groups that recruit

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140 Sivukaran, *supra*, note 1.

141 *Id.*

142 See, *e.g.*, Onyango, *supra* note 29 (“Men who become helpless and are overpowered by other males may be judged to have failed in their masculine duty. Therefore, compared with female survivors, males become more stigmatized, ashamed with their situation, and less likely to report the incident or seek help.”)

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144 Doris Buss, *supra* note __, at 28 (discussing research revealing sexual assault of
new members through forcible means, such as abduction, “face a central dilemma; namely, such groups must create a coherent fighting force out of a collection of strangers, many of whom had to be abused in order to compel them to join.”\textsuperscript{145} Male rape women during war is a well-recognized practice of armed groups and militaries; it functions to constructs and enforces group cohesion within armed groups. \textsuperscript{146} Human Rights Watch, for example, has documented the use of gang-rape to bond male recruits during the civil war in Sierra Leone. Gang rape also functions to solidify a group and to increase morale. A study by Anna Maedl of gang rape by men of women in the Congo confirmed evidence that rapes were perpetrated as a military activity by heavily armed, hierarchically structured groups. Female victims reported a hierarchical structure within the group, with one member giving orders or one of the perpetrators as a superior of the others. The study documents that in the Congo, gang rape of women by armed groups was an inherent part of the groups’ conduct.\textsuperscript{147}

As Goldstein explain, rape is used to “control a chaotic and fearsome external world while proving manhood and toughness to one’s buddies within the military ‘family.’” The acceptance of sexual violence within a military, especially in small units, creates conformity and status within the group that repeatedly encourages impunity.\textsuperscript{148} Gang rape by

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\textsuperscript{145} See Anna Maedl, \textit{Rape as Weapon of War in the Eastern DRC? The Victims’ Perspective}, 33(1) Human Rights Quarterly (128-147 (2011) “(Additionally, some authors have suggested that gang rapes serve internal group purposes. They could establish hierarchy within armed groups, \textit{i.e.} the highest man in the hierarchy rapes a woman first and so on, and they are thought to increase male group bonding through the common experience of rape and to overcome moral barriers through group pressure. The data suggests that armed groups organize and act together to rape civilian women.”); Rosemary Wood, \textit{supra}, note __.

\textsuperscript{147} Maedl, \textit{supra} note __ at 141.

\textsuperscript{148} Goldstein, \textit{supra}, note 7.
groups of men is a collective act of humiliation and dominance that “seals [their] allegiance in atrocity.” 149 It is the specific taboo against rape and sexual violence that are used to create group cohesion. 150 Consider the description of the use of gang rape by an elite Serbian military group, the White Eagles, during the Balkans conflict:

White Eagles have made rape a gesture of group solidarity. A man who refuses to join the others in rape is regarded as a traitor to the unit, and to his Serbian blood. Sometimes, that impulse to bond with the male group becomes a kind of perverse inflaming energy inciting to rape. Lust is only a subsidiary drive. … The rape is proof of commitment to the unit’s fierceness. A young man willing to do hideous things has subordinated his individual conscience in order to fuse with the uncompromising purpose of the group. A man seals his allegiance in atrocity. 151

The use of rape of women to build in-group cohesion and loyalty similarly applies to rape of men.

Mass or gang rape in wartime also functions as a tool of warfare against the enemy, used to terrorize the enemy population. Numerous experts report on the use of sexual violence as spectacle, in which troops publicly rape and sexually violate women to instill fear and terror among civilians and empowers the perpetrators. The gang rapes functioned to terrorize entire communities. Most of the gang rapes included multiple victims who were simultaneously raped, as well as beaten, killed, or


150 Gerecke, supra, note __ at 53 (“The specific taboo attached to sexual violence (rather than violence by combatants in general) was a useful way to create group cohesion, creating a “brotherhood in guilt.”)

151 Id.
abducted. In the majority of cases, the rapes occurred in view of others, including others who were forced to watch, such as the victims’ husbands and children. 152 In two instances, female victims were forced to sexually abuse others. 153 During the Rwandan genocide, bodies of victims that were mercilessly “left spread-eagle[d] . . . as a reminder of the brutality and power of the genocide’s perpetrators.” After a gang rape of a woman in the Congo, militiamen deliberately mutilated her genitals before sending her back to her village.

Sexual violence against men in war is not merely about abusing an individual person, nor the aberrant action of a single deviant actor. The use of sexual violence against men in war, as Sivakumaran argues, is about masculine domination and power just as it is for women. 154 Rape and sexualized violence against women in war is not merely an attack against one woman, nor the aberrant act of a single deviant. As feminist advocates have long argued, the sexual violation of women can constitute a weapon of war. This intersectional approach argues that women are raped not solely because they are women but because they are members of particular ethnic groups. The rape of a woman by an enemy-combatant during armed conflict constitutes the actual and symbolic degradation of her community. Rape masculinizes the perpetrators, who physically and sexually violate and dominate the woman and symbolically, her community. 155 At the same time, rape emasculates the enemy men, who have been unable to protect the women of their group or their community – both fundamental aspects of

152 Maedl, supra note __ at 143. Maedl reports that “[i]n 68.2 percent of instances of gang rape, the victims reported that others saw how they were raped, and 22.7 percent stated that others were forced to watch them being raped. In 13.6 percent of the cases the victim’s husband had to watch; for another 13.6 percent, the victim’s children had to watch.” 153 Maedl, supra note __ at 144. 154 Sivakumaran, supra, note 1. 155 See Zarkov, supra note __.
masculine identity. 156

Male and female bodies used to construct competing masculinities.157 Narratives about rape, and the use of rape by certain groups, were used by competing collectives to construct conceptions of national identity during conflict, including the 1971 Bengali war and the conflict in former Yugoslavia.158 The sexual violation of one group of women thus symbolically accomplishes the violation of the enemy, constructing the members of the perpetrators’ group as masculine and the members of the enemy group as feminine. A report of sexual violence in eastern Democratic Republic of Congo states that the use of sexual violence to defeat a community is “the ultimate display of power and dominance . . . used by the opposing force to signify the weakness and inadequacy of the men in the targeted social grouping of a community. These men absorb this message, perceiving their inability to protect women against assault as their own final humiliation in the war.”

Male survivors may suffer from even more stigma and marginalization than women as a result of masculine social norms.159 The stigma and shame of male victims of rape is arguably greater than that for women.160 Rape against women often is perceived and stigmatized as deeply shameful, particularly in social or religious communities that seek to

156 Del Zotto and Jones, supra, note __.
158 See Zarkov, supra note __; Moojande, supra at note __. See also Alison, supra note __.
159 Onyango, supra note 31.
160
regulate women’s sexual “purity” as a symbol of male honor. However, the rape of women does not subvert social constructions of women, which typically define women as dependent and in need of protection. Men who are raped have been sexually violated against their will, unable to have protected themselves from the violence of other men. The experience of rape as victimization thus conflicts with the social construction of masculinity, which typically defines men to be strong, dominant, and heterosexual. The victimization of men through rape or sexual violence repositions them as powerless, not dominant. Symbolically, men who are raped lose their gender identity, becoming feminized and victims of male sexual power.

Some argue that masculine norms are heightened during wartime, when men are expected to take up arms and protect members of their family and social collective. This arguably heightens the shame and stigma of rape for male victims in war. Male victims who believe their victimization is incompatible with their masculinity, Sivukaram observes, may consider his inability to protect himself and his community as “a shattering personal failure.” One male survivor of rape reports that he was taken by rebels into the forest and gang raped eleven times one night, along with other male prisoners. Despite medical treatment, he still bleeds when he walks. He refuses to tell his brother about the rapes, even when his brother asks what is the matter, because “I fear he will say, ‘Now my brother is not a man.’”

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161 Sivukaram, supra., note 1.
162 Id.
IV. Future Directions: Situating Wartime Sexual Violence Against Men Within a Continuum of Violence Used to Construct Masculinities Throughout Society

The sexualized violation and humiliation of men during war is a gendered social practice that is not unique to armed conflict. The use of sexualized violence against particular groups of men is part of a continuum of regulatory social practices that construct and empower particular, hegemonic masculinities within social institutions. From bullying in school, to workplace sexual harassment, to sexualized violence within the military, sexual violence against men functions to regulate men as masculine and heterosexual. Like rape of men during war, the use of sexual violence is largely hidden from view, often silenced by the shaming of its male victims or normalized within society and the law. 164

Michael Higdon explores the prevalence and use of bullying against boys and LGBTQ youth in school as a gendered practice that punishes those who do not conform to gender expectations. 165 Bullying is highly gendered conduct, targeting boys more than girls, and enforcing hegemonic notions of masculinity. 166 Bullies are often described as “physically strong, aggressive, dominating and impulsive,” highly prized masculine qualities. 167

Ironically, boys who bully are often highly regarded by their peers, making it difficult for victims to report and normalizing violence

164 See Sivukaram, supra, note 2.
166 Id. at 837.
167 Id.
against gender nonconforming boys. Hegemonic masculinity is “as much about [men’s] relation to other men as it is about relation to women.” Kimmel explains that homophobia “is a central organizing principle of our cultural definition of manhood. Homophobia is more than the irrational fear of gay men, more than the fear that we might be perceived as gay.”168 It is a fear that other men will recognize that men are not as masculine as they pretend. This fear of being labeled homosexual is one reason that boys and men will not stand up for other men who are being sexually harassed or bullied.169 Moreover, it compels men to enact exaggerated masculine behaviors and to project attitudes that women and gays are “the other” with whom men can compare themselves in order to establish their own manhood.”170

Male-on-male rape in prison is largely ignored by modern society, as Bennett Capers argues in Real Rape Too.171 Capers notes that such difficulty stems from the victim fearing being perceived as “weak, homosexual, or both” by reporting the rape.172 Like the rape of men in war, rape of men in prison is not about sexual desire but power and male dominance. According to Capers, “most perpetrators of prison rape identify as heterosexual, engaged in heterosexual sex prior to prison, and return to heterosexual sex after prison.”173 Like male victims of wartime rape, male

169 See Ann McGinley, Creating Masculine Identities: Harassment and Bullying “Because of Sex, 79 COLORADO LAW REVIEW 1151 (2008).
170 Id.
171 Bennett Capers, Real Rape Too, 99 Calif. L. Rev. 1259, 1261 (2011). Capers notes that such rape has even permeated mainstream popular entertainment, citing HBO’s Oz as a television program that has incorporated male-on-male rape into the pathos of its entertainment. Id. at n19.
172 Id. at 1266 (citing Sandesh Sivakumaran, Male/Male Rape and the “Taint” of Homosexuality, 27 HUM. RTS. Q. 1274, 1289 (2005)).
173 Id. at 1268.
prisoners face similar fears of stigmatization, shame, and of being incorrectly labeled as homosexual.\textsuperscript{174} Like wartime rape, prison rape has not been aggressively prosecuted. Even when rape is reported, “[p]rosecutors, faced with limited resources, rarely devote those resources to prosecuting Even though the victim did not consensually engage in homosexual activity, the mere fact that he did, under whatever circumstances, is feared to impugn him as a homosexual.\textsuperscript{175}

These forms of masculinized violence toward men have been largely hidden in our society, often enforced by the shame and stigmatization that male victims suffer as a result of social scripts that value dominance and heterosexualized power in men. As more attention is focused on male victims of rape and sexual violence in war and other contexts, it is important to consider the gendered nature of such violence. Just as importantly, is to be cognizant of the ways in which masculinity intersects with race, ethnicity, sexual orientation, religion, and disability. In the future, reframing male on male violence needs to take into account the interlocking systems of gender, race, ethnicities, sexual orientation, and other systems that construct difference. Masculinities theory is an extremely useful tool to illuminate the multidimensional nature of violence against both men and women in society.

CONCLUSION

Rape and sexual violence against men is not an aberration unique to war, but is part of a continuum of violence against men in societies. It is invisible because its victims are shamed and stigmatized as somehow less

\textsuperscript{174} Id.
\textsuperscript{175} Id.
“masculine” than their perpetrators or, because of their racial, ethnic, religious, or other status, are somehow less deserving of protection. Like the rape of women, the rape of men is a gendered social practice that constructs and enforces masculinity as heterosexual, dominant, and often violent.

It is time that we recognize the inter-relatedness of sexual violence against women and men during war. The male body, like the female body, is used as a symbol for the larger collective, particularly in times of conflict. Sexual violence against men needs to be analyzed as a gendered practice that is deployed as a means to assert the power of other collectivities, including ethnic, racial, local, and national groups vying for power. The sexual violation of all bodies, male or female, is a crime against humanity that international law must punish and prevent.