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Wartime Rape; the Continuation of an Invisible War

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ABSTRACT

During the war and armed conflict rape and sexual violence are commonly used as illegal means to humiliate and suppress the opposite party. Mass rape during war turns into genocidal rape when committed to destroy, in whole or in part, a targeted group. The impact of rape is not only limited to the immediate effects of the physical attack but has long-lasting physical and mental consequences. Considering the long-term post-war effect of rape, it acts as a more powerful weapon than a bomb or a bullet. Even if the victim survives after wartime rape, death may eventually result from abandonment and deprivation, diseases such as AIDS, further violence and murder, suicide, or other self-harming behavior. Survivors require life-saving psychosocial support to recover from the psychological and social impact of the violence, which they are hardly provided. In comparison to their unending sufferings, they get very little attention from international humanitarian organizations. Extended application of International Humanitarian Law in post-conflict situations can redress the rape victims to overcome their hardships and trauma.

Keywords: *Wartime Rape, Genocidal Rape, Humanitarian Law, Conflict, War.*

I. INTRODUCTION

“Rape is one of the most underreported war crimes that there are. Women, if they survive the attack, rarely tell anyone else. We only hear of the most brutal incidences or the public ones that the whole community sees”, says Pablo Castillo-Diaz, a specialist on sexual violence in conflict for U.N. Women.²

Rape and Sexual violence are inevitable consequences of war which is as old as war itself. In the mid-1990s the world was shocked by stories of widespread and systematic sexual violence in the former Yugoslavia and Rwanda. Widespread rape of civilian women has also been documented in Bangladesh, Bosnia-Herzegovina, Sudan, East Timor, Uganda, Myanmar, Somalia and many other countries. Wartime rape has long remained insufficiently addressed by humanitarian responders, often because of their lack of expertise or their limited capacities when

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² Aryn Baker , Survivors of Wartime Rape Are Refusing to Be Silenced , Time, <https://time.com/war-and-rape> (last visited Oct 4, 2023)

also faced with people's immediate 'visible' needs for food, water, and/or shelter.³ Humanitarian organizations were possibly reluctant to engage on this issue because of its highly sensitive nature and the risk of being perceived as interfering with local customs or religious beliefs.⁴

First, this article will discuss the provisions of International Humanitarian Law which prohibits rape and any other forms of sexual violence during armed conflict. Second, it will illustrate the factors which turn wartime rape into genocidal rape. Third, the article will explain the fundamental principles of humanitarian laws which are violated by the action of wartime rape. Fourth, this study will narrate the suffering of the rape victims and its life-long physio-mental impacts on the survivors. Last but not least this article will narrate the necessity of implementation of International Humanitarian Law in post-war situations to ensure the wellbeing of the rape survivors.

II. CONCEPT OF RAPE AND GENOCIDAL RAPE

Rape, a specific form of sexual violence, is defined as "physically forced or otherwise coerced penetration, even if slight, of the vulva or anus, using a penis, other body parts or an object".⁵ Rape is one of the gravest attacks on human integrity, life, and dignity, from the perspective of the aggression itself, from the experience of the victim, or the consequences on the personal, relational, and social dimensions of life. Like mass violence or torture, genocidal rape appears to be sometimes planned and purposefully aimed at the annihilation of individuals, societies, and nations.⁶ As defined in the Convention on the Prevention and Punishment of the Crime of Genocide, genocide constitutes certain acts "*committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such*".⁷ Article 2 of the genocide convention describes "the crime of genocide" as an act where the intention to destroy a national racial, religious, or ethnic group. The convention does not include "rape" as an act of genocide but rape is one of the major ways of systematic destruction which is included in the definition of genocide. It has been established by several case laws that the continuing consequence and effect of rape have all the capacity to destroy a race, ethnic or religious group, or a nation,

³ Vincent Bernard & Helen Durham, Sexual violence in armed conflict: From breaking the silence to breaking the cycle, 96 *International Review of the Red Cross* 427-434 (2014).

⁴ *Id.*

⁵ Etienne G. Krug, Linda L. Dahlberg, James A. Mercy, Anthony B. Zwi and Rafael Lozano, *World Report on Violence and Health*, WHO, Geneva, Ch 6,149 (2002), www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf (last visited Oct 4, 2023)

⁶ Richard Mollica, *Healing Invisible Wounds: Paths to Hope and Recovery in a Violent World*, Harcourt 63, 230 (1st ed. 2006).

⁷ Convention on the Prevention and Punishment of the Crime of Genocide 1948, art.2.

having the same effect as genocide.

It was the famous *Akayesu* judgment in the International Criminal Tribunal of Rwanda that defined rape as an *actus reus* of genocide, used as a “tool of war” to destroy a particular group.

⁸A rape victim of conflict in the Darfur region of the Sudan, remembers being told during her rape, “*We want to change the color of your children,*” which indicates forced impregnation as a tool of genocide.⁹

In *Musema Case* indication of genocidal intention was constructed from the utterances of the words, “*The pride of the Tutsis will end today*” and this incident of rape formed part of the genocidal conviction.

Further support for the theoretical possibility of genocide based on sexual valance is found in *obiter dicta* in the *Furundzija* judgment:

*The prosecution of rape is explicitly provided for in Article 5 of the Statute of the International Tribunal as a crime against humanity. Rape may also amount to [...] an act of genocide (art. 4), if the requisite elements are met, and may be prosecuted accordingly.*¹⁰

III. IHL PROVISIONS REGARDING RAPE AND SEXUAL VIOLENCE

Rape itself is explicitly prohibited under international humanitarian law governing both international and non-international armed conflicts. Several provisions of The Geneva Conventions of 1949 prohibited all types of attacks on the honor and dignity of women, and particularly prohibited rape, enforced prostitution, or any form of indecent assault. The following provisions prohibit rape and sexual violence during International Armed Conflict-

- Geneva Convention I, Art. 12(4) and Geneva Convention II, Art. 12(4)- Women must be treated with all consideration due to their sex.
- Geneva Convention I, Art. 12(4) and Geneva Convention II, Art. 12(4)- Prohibition of violence to the life, health, or physical or mental well-being of persons, in particular torture of all kinds, whether physical or mental, and prohibition of outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution, and any form of indecent assault or threats thereof.
- Additional Protocol I, Art. 76 - Women must be protected in particular against rape, forced

⁸ Russell-Brown, Sherrie L., Rape as an Act of Genocide, 21(2) Berkeley Journal of International Law, 350-352 (2003).

⁹ Protecting children born of sexual violence and exploitation in conflict zones: existing practice and knowledge gaps, Report of National Science Foundation, SES-0452742, (2004-2005), https://www.files.ethz.ch/isn/15144/Protecting_Children_Report.pdf (last visited Oct 4, 2023).

¹⁰ The Prosecutor v Anto Furundzija , IT-95-17/1-T, 172 (1998).

prostitution, and any other form of indecent assault.

- Geneva Convention III, Art. 14 - Women prisoners of war must be treated with all the regard due to their sex and must in all cases benefit from treatment as favorable as that granted to men.
- Geneva Convention IV, Art. 27- Women must be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.

The following provisions prohibit rape and sexual violence during Non-International Armed Conflicts-

- Geneva Convention I, II, III, IV; Common Art. 3 - Prohibition of outrages upon personal dignity, in particular humiliating and degrading treatment in non-international armed conflicts.
- Additional Protocol II, Arts.4(2)(a); (e)- The following acts against persons hors de combat are prohibited in non-international armed conflicts: violence to life, health, and physical or mental well-being, in particular, cruel treatment such as torture; outrages upon personal dignity, in particular, humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; and slavery.

Article 147 of the Geneva Convention IV designates "willfully causing great suffering or serious injury to body or health," "torture," and "inhuman treatment" as war crimes and as grave breaches of the Conventions.¹¹ As the International Committee of the Red Cross (ICRC) has recognized, rape constitutes "willfully causing great suffering or serious injury to body or health" and thus should be treated as a grave breach of the Convention. The ICRC also has stated that 'inhuman treatment' should be interpreted in light of Article 27 of GC IV and its specific prohibition against rape.¹² This interpretation was reinforced by the U.S. State Department in its recent statement that rape is a grave breach of the Geneva Conventions and should be prosecuted as such.¹³ The Conventions specify that governments are obliged to find and punish those who are responsible for grave breaches and to make those accused available for trial. It is also stated in Rome Statute that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence as well as outrages upon personal dignity, in particular humiliating and degrading treatment, are war crimes in both

¹¹ Theodor Meron, Rape as a Crime Under International Humanitarian Law, 87(3) American Journal of International Law 424, 436 (1993).

¹² Oscar M. Uhler, Henri Coursier, Commentary on the Geneva Conventions of Aug12, 1949, Vol. IV, 598 (1958).

¹³ Rape in War: Challenging the Tradition of Impunity, <https://www.hrw.org/legacy/womendocs/rapeinwar.htm> (last visited Oct 4, 2023).

international and non-international armed conflicts.¹⁴

IV. AN UNLAWFUL TACTIC OF WAR VIOLATING PRINCIPLES OF HUMANITARIAN LAW

Sexual violence in armed conflict, particularly rape, is sometimes qualified as a ‘weapon of war’ and/or as a ‘method of war’.¹⁵ The United Nations General Assembly resolution states, for example, that “this heinous practice [rape and abuse of women] constitutes a deliberate weapon of war in fulfilling the policy of ethnic cleansing”.¹⁶ Under IHL, a generally accepted definition of ‘weapon’ does not exist. Generally ‘weapon’ refers to an object, material, instrument, mechanism, device, or substance that is used to kill, injure, damage, threaten, or destroy.¹⁷ If such a definition is accepted, it is clear that the characterization of rape or other forms of sexual violence as a weapon of war is inaccurate from a strict IHL perspective.¹⁸ In contrast, a ‘method of warfare’ is generally understood as how a weapon is used,¹⁹ or as any specific tactical or strategic way of conducting hostilities that is intended to overwhelm and weaken the adversary.²⁰ Sometimes, sexual violence is resorted to as a tactical or strategic way of overwhelming and weakening the adversary, either directly, or indirectly by hurting the civilian population perceived as supporting the enemy. This is particularly the case when it is carried out systematically and covered by the chain of command. It is in this sense that sexual violence may sometimes have been referred to as a ‘method of warfare’. The lawfulness or unlawfulness of certain weapons or methods of warfare depends ultimately on their indiscriminate nature, and on whether they cause superfluous injury unnecessary suffering, or a combination thereof.²¹ The action of rape violates all the four fundamental principles of IHL i.e. the principle of humanity, the principle of distinction, the principle of proportionality, and the principle of military necessity. Rape and sexual violence cannot be qualified as lawful weapon or method of warfare, because it causes unnecessary or ‘superfluous’ injury, as the person against whom

¹⁴ Rome Statute of the International Criminal Court, ISBN No. 92-9227-227-6, arts 8(2)(b)(xxi); (xxii); 8(2)(c)(ii); 8(2)(e)(vi).

¹⁵ UNGA Res. 48/143 (1993); UN Doc. A/RES/48/143; Office of the High Commissioner for Human Rights, Rape: Weapon of War, www.ohchr.org/en/newsevents/pages/rapeweaponwar.aspx (last visited Oct 4, 2023); UNICEF, Sexual Violence as a Weapon of War, www.unicef.org/sowc96pk/sexviol.htm (last visited Oct 4, 2023) ; Kate McGuinness, Rape as a Weapon of War, *Huffington Post* (2012), www.huffingtonpost.com/kate-mcguinness/rape-as-a-weapon-of-war_b_2202072.html (last visited Oct 4, 2023).

¹⁶ UNGA Res. 48/143 (1993); UN Doc. A/RES/48/143.

¹⁷ ICRC, *A Guide to the Legal Review of New Weapons, Means and Methods of Warfare: Measures to Implement Article 36 of Additional Protocol I of 1977*, ICRC, Geneva, 9 (2006).

¹⁸ *Jose Fonseca Najera v. The State of Texas*, 03-96-00189-CR (1997).

¹⁹ Yves Sandoz, Christophe Swinarski, Bruno Zimmermann, *Commentary on AP I*, Art. 51, ICRC, (1987).

²⁰ Marco Sassòli, Antoine Bouvier and Anne Quintin, *How Does Law Protect in War?*, ICRC, Geneva 280 (2011).

²¹ The Hague Regulations 1907, art 23(e); Additional Protocol I of 1977, arts 35(2), 51(4)(b) (c). ICRC Customary Law, Rules 70, 71.

it is committed is already hors de combat. The characterizations of rape as a ‘weapon of war’ or a ‘method of warfare’ are nowadays very common, but these terms are usually resorted to in a non-technical way to attach a particular stigma to the crime of rape and to indicate that rape is not just a by-product of war – that it is not just committed opportunistically or randomly, but may be part of a strategy.²² Considering the legality based on fundamental principles of IHL, it will be more accurate to characterize wartime rape as an unlawful policy, tactic, or strategy during armed conflict.

V. INSTANCES OF WAR TIME RAPE AROUND THE GLOBE

History of wartime rape can be found in many past incidents in different parts of the world. During World War II, for example, Moroccan mercenary troops fought with Free French forces in Italy on terms that "included license to rape and plunder in enemy territory."²³ Nazis raped Jewish women despite soldiers' concerns with ‘race defilement’ and raped countless women in their path as they invaded the Soviet Union.²⁴ More recent history provides further evidence of wartime rape. Pakistani soldiers fighting to suppress Bangladesh's independence, which was declared in 1971, terrorized the Bengali people with night raids during which women were raped in their villages or carted off to soldiers' barracks.²⁵ Similarly, Turkish troops participating in the 1974 invasion and occupation of Cyprus were notorious for the widespread rape of women and girls. In one instance, twenty-five girls who reported their rapes by Turkish soldiers to Turkish officers were then raped again by those officers.²⁶ In Bosnia, a woman's religion or nationality, as well as her gender, makes her a target for rape and countless women have been attacked and brutally raped.²⁷ In Peru, the rape of women by security forces was common practice in the armed conflict between the Communist Party of Peru-Shining Path and government counter-insurgency forces. In 1992, Human Rights Watch documented more than forty cases of rape of women committed by soldiers during interrogation, in Peru's emergency zones, or the course of security force sweeps and massacres.²⁸ Rape by the security forces in Peru is strongly determined by race and class; rape victims are overwhelmingly poor and brown-

²² Laura Smith-Spark, How Did Rape Become a Weapon of War? , BBC News, <http://news.bbc.co.uk/2/hi/4078677.stm> (last visited Oct 4, 2023).

²³ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Basic Books, New York, 133 (1977).

²⁴ Susan Brownmiller, *Against Our Will: Men, Women and Rape*, Bantam Books, New York, ISBN 0-671-22062-4, 46-51(1975).

²⁵ *Id.* at 78-87.

²⁶ Report of the Council of Europe on Human Rights in Cyprus, 121-22 (1980).

²⁷ Helsinki Watch, *War Crimes in Bosnia-Herzegovina: Volume II* , New York, Human Rights Watch, 163-165 (1993).

²⁸ Women's Rights Project/Americas Watch, *Untold Terror: Violence Against Women in Peru's Armed Conflict*, New York, Human Rights Watch (1992).

skinned. In the violent struggle between Indian security forces and Muslim insurgents in the north Indian state of Jammu and Kashmir, Human Rights Watch recorded numerous rapes by Indian security and militant groups. In Burma in 1992, rape was used as a part of a campaign to drive the Rohingya out of the country, and government soldiers raped Rohingya women identifying their victims by their sex and their ethnic affiliation.²⁹ In Kenya, of the 192 rapes of Somali refugees documented from February to March 1993, 187 involved women, four were against children.³⁰ In Iraq ISIS has openly codified a system of sexual slavery so repugnant that the world has reacted with outrage rarely seen in other incidences of wartime rape. In August 2014, ISIS attacked the northern Iraqi region of Sinjar, taking thousands of women and children from the Yezidi religious minority as sex slaves.

VI. RECOGNIZING WAR TIME RAPE AS WAR CRIME AND CRIME AGAINST HUMANITY

Rape can constitute a war crime or a grave breach of the Geneva Conventions amounting to a crime against humanity. Individual rapes that function as torture or inhuman treatment themselves constitute grave breaches of the Geneva Conventions. When rape does occur on a mass scale or as a matter of orchestrated policy, this added dimension of the crime is recognized by designating and prosecuting rape as a crime against humanity.³¹

Although the Genocide Convention does not include rape as an act of genocide, it has been defined as a crime against humanity in Article 7 of the Rome Statute. Crimes against humanity may arise where crimes like murder, enslavement, or other inhumane acts are committed on a mass scale on the civilian population. The concept of crimes against humanity, unlike that of war crimes, allows for the prosecution of mass crimes committed by a state against its nationals and thus provides a means for the international community to attack mass rape where it occurs in internal conflicts.³² Rape was recognized as a crime against humanity in the aftermath of World War II³³ and again, in 1993, in the United Nation's statute for the international tribunal to try war crimes committed in the former Yugoslavia.

Customary international law demands that crimes against humanity must be punished. International consensus, however, currently recognizes that the duty and power to

²⁹ Thomas, Dorothy Q. and Regan E. Ralph., Rape in War: Challenging the Tradition of Impunity, 14(1) *The SAIS Review of International Affairs* 82-99 (1994).

³⁰ Women's Rights Project/Africa Watch, *Seeking Refuge, Finding Terror: The Widespread Rape of Somali Women Refugees in North Eastern Kenya*, New York, Human Rights Watch, 2 (1993).

³¹ Theodor Meron, Rape as a Crime Under International Humanitarian Law, 87(3) *American Journal of International Law* 424- 427 (1993).

³² Helsinki Watch, *War Crimes in Bosnia-Herzegovina*, Vol II, New York, Human Rights Watch 394-397(1993).

³³ Howard S., *Documents on Prisoners of War*, International Law Studies, U.S. Naval War College, Vol. 60, 853 (1979).

prosecute these crimes rests only with the state in whose borders the crimes are committed and not with an international tribunal nor with the domestic courts of any other country.³⁴ When there is no international treaty or a mechanism to prosecute crimes against humanity to an international court, crimes against humanity should be prosecuted by the nation in which the crime occurred.

VII. IMPACTS OF WAR-TIME RAPE

Jeanna Mukuninwa, a 28-year-old woman from Shabunda, in the Democratic Republic of Congo, expressed her feelings “... at least with a bullet, you die. But if you have been raped, you appear to the community like someone who is cursed. After rape, no one will talk to you; no man will see you. It’s a living death”.³⁵ A few major impacts of wartime rape are discussed below-

1. Physical Disruption

Survivors often require immediate, life-saving health care, including comprehensive clinical management of rape to manage injuries, administer medication to prevent sexually transmitted infections, including HIV, and prevent unwanted pregnancies.³⁶ Physical consequences include injuries, abrasions, burns, and abdominal or chest trauma.³⁷ Sexually transmitted infections such as HIV/AIDS can also occur. Acute or chronic pain can result from physical violence or other internal or psychosomatic trauma. Pain can be located in a specific region, such as the genital, anal, or abdominal region, or it can be general, with no specific location. Long-term after-effects of sexual violence also include infertility, vesicovaginal fistulae, and an increased incidence of subsequent health problems.³⁸

2. Consequences on Mental Health

The consequences can include severe and long-term effects not only on an individual’s physical health (including the risk of contracting sexually transmitted diseases or developing unwanted pregnancies) but also on their mental health.³⁹ Psychological and mental health consequences of sexual violence may include distress, self-blame, feelings of isolation, and poor self-esteem;

³⁴ Diane F. Orentlicher, *Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime*, 100 YLJ, 2537, 2594, 2593 (1991).

³⁵ *supra* note 2.

³⁶ Report of the United Nations secretary-general, *Conflict Related Sexual Violence*, S/2019/280 (March 29, 2019) <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/report/s-2019/280/Annual-report-2018.pdf> (last visited Oct 4, 2023).

³⁷ WHO, *Health Consequences: Understanding and Addressing Violence against Women*, Geneva (2012) WHO/RHR/12.43.

³⁸ Paul Bouvier, *Sexual violence, health and humanitarian ethics: Towards a holistic, person-centered approach*, 96 (894) *International Review of the Red Cross*, doi:10.1017/S1816383115000430, 565–584 (2014).

³⁹ *supra* note 3

behavioral disorders, including sleeping or eating disorders, such as anorexia; substance abuse or high-risk sexual behavior; and mental disorders including depression, traumatic syndromes such as post-traumatic stress disorder (PTSD), anxiety disorders including loss of speech or hearing, and suicidal ideation, suicide attempts and other forms of self-harm, potentially resulting in death.⁴⁰ Many rape victims experience fear and terror as well as mixed feelings of confusion and indignity, anger and incapacity, guilt and shame toward themselves, their family, and their deeper aspirations and spiritual beliefs.⁴¹

3. Dehumanization Effect of Rape

The philosopher Mari Mikkola considers rape as a paradigm case of dehumanization. She defines dehumanization as “an act or a treatment ...which is an indefensible setback on our legitimate human interests, and constitutes a moral injury”.⁴² Sometimes rape causes repudiation or conjugal separations, during or after the conflict. Rape may represent a break, a potential rupture in the person’s genealogy, and the path of filiations and generations. In armed conflicts, this conjugal dimension takes particular importance, and in some instances may be part of the intention behind acts of sexual violence.⁴³

4. Social Death of Rape Survivors

The social consequences may be dramatic, forcing victims into isolation due to the shame and stigma that are too often associated with such violence and due to the fear of rejection or reprisals.⁴⁴ Many describe themselves as being dead as being humanly, morally lifeless. *“This was just the first of many incidents in which I felt as if I was experiencing things posthumously”*, writes Susan Brison, who survived rape and near-murder. She adds, *“I felt as though I’d somehow outlived myself.”*⁴⁵ Many victims no longer feel like they are themselves they feel like strangers to themselves and their bodies, to their personal lives and their community.⁴⁶ They feel soiled, having lost their dignity and their value as humans, and that they are not part of humanity anymore. This state is often aggravated by a massive reaction of denial from family and friends.⁴⁷ Victims are isolated, alone, and misunderstood, in a world that has

⁴⁰ WHO, Mental Health and Psychosocial Support for Conflict-Related Sexual Violence: 10 Myths, Geneva, WHO/ RHR/HRP/12.17 (2012).

⁴¹ *supra* note 38

⁴² Mari Mikkola, Dehumanization’, in Thom Brooks (ed), *New Waves in Ethics* , Palgrave Macmillan, Basingstoke, 128–149, 141 (2011).

⁴³ Evelyne Josse, They Came with Two Guns: The Consequences of Sexual Violence on the Mental Health of Women in Armed Conflicts, 92 (877) *International Review of the Red Cross* 177–195 (2010).

⁴⁴ *supra* note 40

⁴⁵ Susan Brison , *Aftermath: Violence and the Remaking of a Self* , Princeton University Press, Princeton, NJ 8 (2002).

⁴⁶ *supra* note 38

⁴⁷ *supra* note 45.

become insecure, violent, and threatening for them. At the social and community levels, sexual violence may radically transform social relationships and result in cultural annihilation.⁴⁸ Due to the breaking of all familial and social links, some victims are left with no means of subsistence and face economic challenges for the survival of themselves and their families.

5. Trauma Caused by Unwanted Pregnancy

Sexual violence results in multiple consequences for survivors and their families, including unwanted pregnancies. Pregnancy following sexual violence often occurs in the context of shock, trauma, horror, and confusion; it may add a further traumatic experience, and aggravate suffering and feelings of helplessness and despair.⁴⁹ Mothers of children born of wartime rape bear the burden of being ostracized by their community.⁵⁰ Many women and girls who have become pregnant as a result of rape have had to abandon their family and community and move to another place to survive. Among those who kept the child, many have faced ostracism and severe poverty; some have been killed by their families or committed suicide.⁵¹

VIII. IMPLEMENTATION OF IHL IN POST-CONFLICT SITUATION

During armed conflict, International Humanitarian Law ensures protection for the victims of the war and provides a strong framework for humanitarian access and activities. Once the armed conflict ends and application of IHL generally stops except in certain cases but obligations under International Human Rights Law remain. In reality impact of war may sustain years after years of ending of war. In the aftermath, the effects of the conflict are still vivid and require a humanitarian response to ensure a true transition toward peace and the end of human suffering as a result of the conflict.⁵² Even when all armed conflict has ended, several IHL provisions are still relevant and applicable in the aftermath about people deprived of their liberty, or the obligation to care for the wounded and sick.⁵³ Following the heat of battle, the prohibitions of murder, rape, and other sexual violence, torture, cruel treatment, outrages upon personal dignity, hostage-taking, corporal punishment, mutilation, and experimentation, serve to outlaw acts that are foreseeable in the bleakest post-combat scenarios.⁵⁴ One of the essential obligations in the aftermath is caring for the wounded and sick which includes access to mental and physical

⁴⁸ *supra* note 6, at 66.

⁴⁹ *supra* note 38.

⁵⁰ *supra* note 36

⁵¹ *supra* note 38.

⁵² Emilie Charpentier, When hostilities end but suffering remains: the necessary continuation of humanitarian activities in the aftermath, *Humanitarian Law and Policy* (2022).

⁵³ *Id.*

⁵⁴ Ramin Mahnad, Kelisiana Thynne, Silenced guns do not mend lives: what does the law say about human suffering at the end of conflict?, *Humanitarian Law and Policy* (2022).

health services and access to post-rape and other care related to sexual violence in armed conflict.⁵⁵ States and humanitarian organizations must safeguard basic fundamental human rights such as the right to life of all war victims including rape survivors. Providing necessary medical treatment to recover physical and mental problems caused by rape, counseling the victims and their family members, taking responsibility for the war babies, and rehabilitation to normal social life can redress the trauma of rape victims to some extent. International humanitarian organizations along with state and non-state actors can provide humanitarian assistance to protect the rape victims through the implementation of IHL in post-conflict situations.

IX. CONCLUSION

Among all other victims of the war, rape victims are the worst sufferer because their sufferings are not only limited to the period of war rather it extends to the post-war period. In comparison to their unending sufferings, they get very little attention from international humanitarian organizations. While limited services for post-rape medical and psychosocial care may be available in some urban centers, such services are typically less available in rural areas and access to medical and psychosocial support for survivors of acute humanitarian crises is extremely limited. In periods of armed conflict, survivors often do not seek care as a result of threats to their lives, stigma, community pressure, or the lack of availability or awareness about services.⁵⁶ Survivors also require life-saving psychosocial support to recover from the psychological and social impact of the violence, which they are hardly provided. States shall take adequate measures to stop the continuation of the invisible war that every rape victims are going through. If needed humanitarian assistance should be allowed from international organizations to give them proper treatment and counseling. Extended application of International humanitarian law in post-conflict situations can redress the victims of wartime rape victims implementing the basic principles of humanity.

⁵⁵ *Id.*

⁵⁶ *supra* note 36