Chapter 4

Distinct Aspects of Systematic Sexual Violence as a Weapon of War and Their Implications for the Victims' Needs in Transitional Justice

ABSTRACT

This chapter explores the distinct aspects of these crimes to understand the nature and extent of the needs of the victims in post-conflict settings. The analysis draws upon the growing body of empirical studies around the complexity of the victims' experiences during and after conflicts and the direct social consequences of these crimes on affected communities. This analysis helps the author to understand and explain the implications of the unique nature of sexual violence as a weapon of war for the needs of victims. The discussion in this chapter suggests that what makes the phenomenon of widespread and systematic sexual violence distinctive from ordinary crimes is the way in which these crimes destroy the social fabric of families and communities, thereby setting the scene for a general social collapse within affected communities. It indicates how the complex realities of victims of such crimes and their legacy in affected communities result in more acute and extensive needs for the victims and affected societies compared with victims of other crimes committed in conflict situations.

INTRODUCTION

Using rape as a weapon of war destroys the fabric of society from within and does so more effectively than do guns or bombs. Melanne Verveer, The US State Department's Ambassador-at-Large for Global Women's Issues. [1]

Rape and other acts of sexual violence are today widely acknowledged as weapons of war. In its Resolution 1820 (2008) on acts of sexual violence against civilians in armed conflicts, the United Nations (UN) Security Council noted that '….women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group'.[2] As it will be discussed in this Chapter, a significant amount of empirical studies and reports reveal how these practices have become a viable part of military strategies directly used to achieve clearly defined political or military ends. Further, as the jurisprudence of the international (ised) criminal tribunals indicates, the nature of sexual violence as a weapon reflects one of the most brutal aspects of modern warfare. In this way, judges of the Special Court for Sierra Leone (SCSL)[3] in *Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, known as the Revolutionary United Front (RUF) case[4] noted for instance that the manner in which sexual violence have been used by RUF 'portray a calculated and concerted pattern on the part of the perpetrators to use sexual violence as a weapon of terror'.[5]

Armed conflicts provide a fragile environment for sexual violence. As Marsh, Purdin and Navani have rightly observed, these crimes are increasingly being committed in warfare settings than in non-conflict affected areas (M. Marsh, S. Purdin and S. Navani, 2006). Horrific data on systematic sexual violence as a weapon in modern conflicts back up this assertion, and such violence even continues to be inflicted on a massive scale in current conflicts. As discussed in chapter Two, these practices of extreme violence have been described in international criminal tribunals' jurisprudence as inhumane acts constitutive of torture[6], acts of genocide or ethnic cleansing to destroy a specific group[7] or to change the ethnic make-up of the next generation by purposely impregnating the victims.

For the most part, the focus of the international criminal justice institutions namely the ICC[8], the *ad hoc* international criminal tribunals for the former Yugoslavia[9] and its sister for Rwanda[10], and to some extent the international(ised) criminal institutions has been on crimes committed in the

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