

THE ROLE OF REGIONAL ORGANIZATIONS IN REDUCING ORGANIZED RAPE

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Abstract

Organized rape in armed conflict is one of the most serious violations of human rights, which creates a clear crisis in the identity of the other party and solidifies the sense of bitterness of defeat. Rape in armed conflicts is thus different from that of others, which can have a negative impact on social and international peace and security. Conservative and racially conservative societies are also affected by systematic organized gang rape, which occurs systematically from parties to a non-international armed conflict or within the policy of the Aggressor State in the event of an international armed conflict. In contrast to the efforts made by the United Nations to curb organized rape, regional organizations have made little effort in this direction. The role of regional organizations in the framework of Chapter VIII of the UN Charter in reducing armed conflicts and protecting human rights, and in cooperation of the United Nations and the Security Council in the task of maintaining international peace and security. The European Convention on Human Rights has established a mechanism to monitor the extent to which individuals enjoy their rights and freedoms and the extent to which States parties respect them. The US Convention on Human Rights followed the same approach as the European Convention, but through the regulatory body of the American Commission on Human Rights and the American Court of Human Rights. Although women and children suffered systematic rape as a result of armed conflict on the African continent, the African Charter on Human Rights did not provide the necessary mechanisms to curb crimes of sexual violence, and the Arab Charter on Human Rights did not play a role in the face of organized rape. We therefore considered the adequacy of the provisions of the International Bill and the mechanisms of action of regional organizations in curbing the crimes of sexual violence, organized rape in particular in places of non- international armed conflict, and whether organized rape can be considered a violation of personal liberty and dignity. Or is it a crime against humanity? And other questions that can be raised, which we will try to answer in the context of this research.

Keywords: Organized Rape, Armed Conflicts.

1. Introduction

Organized rape is one of the most serious international crimes that have attracted the attention of the international community to its violation of basic human rights. The victim is raped in all forms of armed conflict whether internationally, internally, religiously, ethnically, nationally, or as a result of the combination of all these factors.

Women are being raped by men on both sides of the hostile and friendly forces, and even by the interference of those in the territories with the international mandate to maintain international peace and security. Reports have documented numerous cases of rape and other sexual assaults against women committed by members of the preserve peace belong to the U.N, and the main objectives of most of these crimes have been to mobilize felt of shame.

In past armed conflicts, rape has not only been a crime against women, but a terrible crime against men. It is the humiliation of a certain nation and abuse of the man as guardian of his wife.

If a man is forced to see the rape of a woman responsible for her as a form of psychological torture, the rape itself is understood as physical and psychological torture according to the rape victim's own belief and based on the report of the Preparatory Commission for the International Criminal Court and what will come out of the formula, the end of the draft text of the Elements of Crimes.

Thus sexual violence can be considered systematic rape as a form of torture as long as the perpetrator committed a sexual act of physical or psychological violence resulting from mental humiliation committed with the aim of showing aggression or causing physical and psychological harm to the victim or others.

It is no way to investigate organized rape without regional support to prosecute the perpetrators, so it was necessary to shed light on the role of regional organizations in curbing organized rape, which could contribute to the development of the legislative confrontation of these crimes. At the same time, the International Criminal Court (ICC) and the Statute of the International Criminal Court (ICC) have played a prominent role in criminalizing acts of sexual violence in all its forms and defining the main crimes of rape committed against women in international and non-international armed conflict.

Section I / Legislative Treatment of Organized Rape

National criminal laws did not protect women in wartime and did not restrict the means and methods of warfare that protect women who are not involved in hostilities. Regional organizations have no role in confronting this type of crime which are in flagrant violation of human rights norms and have not directly and effectively urged States and armed opposition groups to abide by the rules of international humanitarian law to respect non-combatants and to protect them with special criminal provisions.

This conduct leads to neglect women's personal experiences with the war and their protection from the dangers of armed conflict, especially the violence they are subjected to in particular, and has led to the failure of a number of countries to enact international human rights treaties that require states to prosecute or extradite criminals, of the principle of comprehensive legal validity or universal jurisdiction over crimes of genocide, crimes against humanity and war crimes, except in a few countries such as Belgium, which is one of the first countries that establish the principle of universal jurisdiction in a particular legal reality when,

under the 1993 law, six Belgian courts granted full legal jurisdiction to consider crimes and violations against international humanitarian law in accordance with the four Geneva Conventions and the Protocols thereto, regardless of the nature of the dispute or where the alleged acts were committed or by or against whom, including the nationality of the victim.

One of the most honest application was that the Rwandan case, which was accused of committing crimes described in Belgian law of 16 June 1993 as a serious violations of international humanitarian law, has allowed the Belgian judiciary to assert its jurisdiction over the offenses criminalized by this law even if committed in the course of an internal armed conflict and outside the territory of Belgium and without harming Belgian citizens.

Thus, the Belgian law is one of the most important national legislative instruments on serious violations and international law, the first of its kind, which makes Belgium the first country to specifically enter some serious violations of international humanitarian law committed in a non-international armed conflict as a (war crime).

In 1999, Belgium's legal capacity was extended to cover the crime of genocide and crimes against humanity under the 1999 Act. The Belgian legislator added genocide and crimes against humanity to the list of crimes that Belgian courts can exercise their comprehensive jurisdiction. In order to support the provisions of Article VII of the Rome Statute of the International Criminal Court, the Belgian legislature adopted in 1999 the definition of crimes against humanity enumerated in the Statute, which include acts of rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, any other form of sexual violence when committed as part of a widespread or systematic attack against any civilian population and knowing of the attack.

After the punishment for crimes against humanity was subject to a series of texts of an international character, especially those relating to the International Military Tribunal System in Nuremberg for the prosecution of the Second World War criminals related to the London Convention on 8 August 1945, the provisions on crimes against humanity became part of the French domestic law when the French legislator introduced texts relating to crimes against humanity under the law of December 16, 1992 amending the penal law in the first part of the second book under the title (crimes against humanity)³. These three types of crimes mentioned in the domestic legislative systems are not very different from what was mentioned in the statutes of the criminal tribunals for the former Yugoslavia and Rwanda which mentioned the crimes against humanity and crimes in violation of the laws and customs of war and the crimes of genocidal genocide without elaborating on the crimes of sexual violence and its various forms and standards of adaptation as crimes against humanity, war crimes or genocide, in contrast to the Rome Statute, which dealt with these crimes in more detail.

With the exception of some limited efforts by regional organizations to criminalize acts of rape committed in armed conflicts such as the Organization of African Unity (OAU) with respect to organized rape in Rwanda, there is almost complete absence of an influential role for those organizations with international legal personality to act under the legal basis provided by the articles of chapter VIII of the United Nations Charter in this direction .However, there are risks inherent in the international response of understanding violent crimes against women as an exceptional thing specific to that specific conflict and a key feature of some wars,

ignoring the long history of these egregious violations of the dignity of women and humanity.

A number of incidents of raped women can be mentioned in international and internal armed conflicts to illustrate this point, beginning with what happened in Rwanda to women who were victims of the civil war there and women in Kashmir who suffered rape and death under Indian military administration. As far as a civil war in South America was concerned, and during Peru's 12-year civil war, women were targets of brutal violence repeatedly committed by the parties to the armed conflict. Women were raped by government security forces and threatened, raped and killed by individuals Communist Party of Peru; the same women are often victims of violence on both sides.

Another example that has only recently raised serious regional attention is the continued and continuing rape of so-called "comfort women" by Japanese military personnel during the Second World War, which had witnessed horrifying numbers of organized rapes committed by the Red Army in Europe. Here it is clear that rape in war is not a matter of chance. The presence of wrong women is not only a matter of sex, but a matter of authority and control which is adopted according to the concepts of male soldiers and their male supremacy and according to the strength of the army lines of control and the cases of racial and class inequality between women.

In determining the main causes of sexual violence against women in armed conflict, it is possible to find a reason to criminalize such acts in criminal legislation or to increase penalties, two of which are applicable to organized rape in armed conflicts: rape of women is only violence aimed at the social group to which they belong as a humiliation to their group, especially that the complicated and complex emotions of hatred and superiority and ignorance of the mistakes of real or conceptual or national pride all emerge at the outbreak of armed conflict and is always expressed through the rape of women of the other side. The second reason lies in the link between state military and violence against women, where rape permits in the former Yugoslavia included a requirement for the recruitment of mercenary soldiers.

According to a study carried out under the supervision of many local organizations in areas that have suffered from armed conflict, it has become clear that many individuals who act violently in the war have never committed violence during peace. On the contrary, the causes of violence in peacetime are due to psychological, It involves psychopathological and psychopathological deviations to satisfy some of these illnesses the aggression develops and is clearly reflected on vulnerable groups in society, so the researchers focused on finding out the reasons why a man's habitual behavior is aggressive towards women in times of war. Assaulting a woman is an attack on her husband, father or son. A third opinion showed that rape raised military courage and felt that rape was a crime committed in peace and war and that giving women a taste of soldiers and mercenaries meant treating them as if they were not a human being but a mere goal or a war prize.

Section II: Role of Regional Organizations in Activating the Principle of Non-Impunity

One of the most important objectives of the establishment of the International Criminal Court is to activate the principle of non-impunity of any criminal whatever his immunity, whatever his political status and whatever his nationality is , and whatever nationality of the victims are and the place of the

commission of the crime.

Swiss doctor Monica Hauser⁵ has founded her humanitarian organization "Medica Mondial" to work on victims of organized rape in the countries where these crimes took place. She began her work in Sarajevo, Bosnia 1992.

However, the regional organizations did not have an effective role in bringing many officials to justice, and not to intervene in cases of impunity for many military commanders who issued orders for such crimes against women and children.

For regional organizations, their efforts were limited to calling for the need to enforce international criminal justice in general to provide mechanisms and safeguards to prevent gross violations of human rights and to prosecute the perpetrators of the most serious crimes under international law. Despite the existence of principles adopted by the International Criminal Court system, it should guarantee the principle of non-impunity, but it has not been supported by regional organizations except in general cases, where regional efforts have remained stalled when no mechanism is available to follow up senior officials for the crimes they have committed and which are criminalized under international law and which fall under the jurisdiction of the International Criminal Court.

In a November 16, 2017 Human Rights Watch report entitled "Burma Rape of Rohingya Girls and Women¹ Rape was a prominent feature of the Burmese army's ethnic cleansing campaign against the Rohingya. The brutal violence of the Burmese army has left countless women and girls who have been brutally abused and traumatized," says Specialist Skye Wheeler. Instead of activating the principles that serve the principle of non-impunity, starting with the principle of the responsibility of leaders and rulers for crimes committed by forces subject to their control and actual control and the principle of complementarity and the principle of non-statute of limitations of international crimes and the beginning of international cooperation with the Court. However, regional organizations have not focused on the relationship between national jurisdiction and the jurisdiction of the International Criminal Court (ICC) on organized rape, and have not adopted effective mechanisms to highlight international cooperation with the International Criminal Court to follow up the perpetrators of collective and organized rape wherever they are in the territories of the various countries, while not denying the resort of the International Criminal Court to the regional organizations for obtaining the cooperation of the States Parties in the collection of evidence and hearing witness testimony. The regional organizations have not played a role in confronting the obstacles that impede the implementation of the principle of impunity, particularly the authority of the Security Council throughout the investigation and prosecution, as well as the establishment of the principle of non-impunity under Chapter VII of the UN Charter, which authorized the Security Council to take such coercive measures to the Attorney General's office in the International Criminal Court is a situation that threatens international peace and security, including mass and systematic rape, as long as it constitutes a form of sexual violence that is criminalized in the Statute of the International Criminal Court, especially as rape is common to other crimes such as forced pregnancy and forced prostitution, sexual slavery and other crimes of gender-based violence committed against women in armed conflict in two ways: The first concerns the systematic form of the commission of these crimes, namely that (the offense is committed as part of a widespread or systematic attack directed against a group of

civilian population) or in the context of the commission and the time of their occurrence (it issued in the context of an international armed conflict, or non-International and linked to it). If large-scale or systematic attacks mean sexual violence as a course of conduct that supports or strengthens the policy of a State or organization to commit such an attack, the context of the armed conflict is international or non-international. These crimes fall within the framework of a plan or policy or as part of a large- Like this (2) and does not necessarily the widespread commission of crimes of sexual violence measure statistically.

Thus, a single rape crime in time of war is sufficient to prosecute the perpetrator of a war crime and without having to prove that it occurred systematically or on a large scale, whether committed in accordance with a planned or widespread plan against a group of women and girls, it is appropriate to prosecute the perpetrator as a crime against humanity regardless of the context of their commission, whether in time of war or peace. There is no doubt that sexual violence in times of war is worse than sexual violence in times of peace, where it is accompanied by trauma and damage associated with violence of another kind: the loss or death of spouses or the loss of children and parents and the usual loss of home and property, thus losing women important social symbols In her life it creates a feeling of weakness, prominence and loss of belonging, which makes the situation of victims of rape and sexual violence in times of war a special situation that deserves special study and attention by the Security Council. Although rape in war differs from sexual assault in peacetime, the first one is often committed in a particular political context and often generates organized violence against women for political, racial, national or religious reasons, making it fit to be adapted as a war crime and a crime against humanity at the same time.

The second thing is the knowledge of the offender that his crime is part of this systematic attack or large-scale or have the intention to do so as far as crimes against humanity or to be aware of the factual circumstances that prove the existence of war or armed conflict as far as serious violations of the four Geneva Conventions of 1949, and to the third article in particular, which constitutes a minimum measure applicable to all armed conflicts, including armed conflicts not of an international character(5).The difference in the degree of this science or the facts does not change the content of the crimes and does not deprive them of its ruling, where not only the knowledge of the culprit and absolute certainty, but also the uncertainty. In addition to allowing rape and various types of sexual violence to be analyzed through different visions of regional and even international organizations, sexual violence under certain circumstances can be considered as a means of committing genocide as long as genocide means "acts of murder of members of a group or causing serious bodily or mental harm to them or deliberately subjecting them to living conditions or to impose measures aimed at preventing childbearing within it or forcibly transferring their children to another group with the intent to destroy that national, ethnic, racial or religious group as such, in whole or in part".

Rape, forced pregnancy, sexual slavery, forced sterilization, forced prostitution and genital mutilation are all effective means of causing serious harm to women who reach death or use these crimes to create conditions aimed at destroying victims, destroying their families or their reproductive and reproductive capacity, especially in cases where women women's rights defenders are targeted in armed conflicts because of their political activity.

The example of the rape of women is what happened in the Democratic Republic of the Congo and after the human rights situation worsened since the resumption of the conflict in August 1998, where women bore the burden of the conflict from both the governmental and non-governmental parties. Several victims of torture were subjected to rape and various forms of sexual violence. On 10 July 1997, the case of Padeba Liliane, who was detained, beaten and sexually assaulted by 17 persons from the Alliance of Democratic Forces for the Liberation of the Congo-Zaire (AFDL), she was accused of having an affair with a soldier of the Zairian armed forces.

As a result of Amnesty International's documented widespread torture of women detained on criminal charges and suspected women who were arrested or arrested in accordance with the International Criminal Court or arrested after conviction where they were initially detained by national authorities, found it necessary to include them all in the Statute of the International Criminal Court which is necessary and effective measures, including keeping women separate from men.

Section III: The Role of Regional Organizations in Activating the Rules of Protection of Organized Rape Victims

It is assumed that the regional organizations have an active role in consolidating the provisions of the Standing Statute of the International Criminal Court and the effective implementation of the mechanisms of investigation, procedures or rules of evidence that are essential to ensure the prosecution of perpetrators of sex crimes after many international conferences have successfully mobilized those efforts to cover these items using the precedents and decisions of the International Criminal Court for the former Yugoslavia and the International Criminal Court for Rwanda as well as recent reforms in some domestic legal systems.

The attempt by these organizations to reform Article 68 of Part VI of the Standing Statute of the International Criminal Court on the protection of victims and witnesses and to ensure their participation in criminal trials, namely that there is no real and effective mechanism to prevent organized rape before it occurs and to find effective and non-exclusive solutions to those subsequent remedies for the commission of such crimes by requiring the Chambers to take appropriate and necessary measures to conduct any part of the trial in secret sessions or to allow the presentation of evidence by electronic or other special means to protect the victims and witnesses physical and psychological security, integrity, dignity and privacy, as well as allowing victims of women to present their concerns and views at any stage of the proceedings deemed appropriate and appropriate by the Court and as long as the presentation and consideration of such views and concerns do not in any way interfere with the rights of the accused and the requirements of a fair and impartial trial.

Thus, it is clear that the rights granted to the victims and witnesses set out in Article 68 are an exception to the principle of public hearings. Therefore, special protection measures must be taken for victims and witnesses of organized rape to be applied during the investigation and trial stages. The regional organizations did not play an active role in devoting the protection provided for in article 68 of the Rome Statute, which came in other articles and articles, the first of which is the fifth part of the legal system concerning the investigation and prosecution and the justice required by the prosecutor to take appropriate measures to ensure the

seriousness of the investigation And prosecute perpetrators of crimes, especially crimes of sexual violence or one of the forms of gender-based violence against women. It is necessary to emphasize what is stated in article (69) of the sixth section concerning the evidence and in so far as it is necessary to take into consideration a number of matters when determining the relevance and acceptability of any evidence, including the evidentiary value of evidence or any breach or damage that may result from this evidence and assess the weakness and strength of witness testimony.

Based on the above, victims will be able to participate in the appropriate stages of proceedings and trials as specified in the Statute. Their participation will be important not only to protect the rights of the victim at different stages of the trial but also to provide recovery for both the victim and the community. The Statute provides in other locations for the participation of the victim in certain cases specified in the hearing to obtain special authorization or authority for the Prosecutor to enforce the continuation of a particular investigation in accordance with the third paragraph of Article 15, or when the court is asked to issue a decision on the question of jurisdiction or admissibility in accordance with the third paragraph of Article (19), or before the Court issues orders for compensation under Articles (75) and (79).

Finally, we should discuss the text of the fourth paragraph of Article (68) of the Statute concerning the delegation of the Victims and Witnesses Unit established under Article 43 of the Basic Law, and to adopt effective mechanisms for the protection of witnesses and victims who appear before the court and others at risk due to witness testimony by providing advice to the Prosecutor and the Court on appropriate protection measures, security arrangements and appropriate advice and assistance.

After intensive mobilization of efforts by women's organizations and women's rights organizations supported by two judges at the International Criminal Court for the former Yugoslavia(5)and the International Criminal Court of Rwanda The Judges have adopted important rules, procedures and evidence to protect victims and ensure proper treatment of sexual offenses during the trial.

There is a need to examine and analyze evidence that presented before the International Criminal court of the former Yugoslavia (ICTY) and Rwanda that the victims of most sexual crimes are reluctant to talk about their experiences and feel deeply hurt and exposed to serious security, psychological and medical concerns. The International Criminal Court for the former Yugoslavia (ICTY) confessions in the prosecution case against Tadech have argued that rape and sexual assault against women have devastating and permanent harm to the victim and that traditional court proceedings exhaust and drain their psychological state before trial, during and after it and it may reach the approach of experience with a second case of rape.

Regional organizations on the occasion of the presentation of organized rape cases should review the most important violations considered by the international criminal tribunals, notably the "Tadech" case when the International Criminal Tribunal for the former Yugoslavia recognized that a fair trial not only meant that it was fair to the accused, but also the fair treatment of prosecution and witnesses, which requires that the accused be found guilty in a fair and legitimate manner and also prove his innocence in the sense that a trial that arouses fear in the same witnesses and prevents the proper presentation of the evidence is an unfair trial.

When the accused is prevented from presenting papers in which he is defending himself and at the same time the situation is unfair to the victim and witness women who may experience repeated psychological trauma, revenge and even death due to participation in the judicial process.

As is the case with every item related to systematic rape, it is necessary to stand against the views of the opposition to curb the systematic rape of women and children, especially when the objections raised by some member states of the League of Arab States on the need to take special measures to protect women from sexual violence and gender-based violence and previous attempts to exclude sexual violence from any form of special protection through war crimes and crimes against humanity or to attempt to make them secondary cases to be considered in cases of torture or inhuman treatment of males.

2. Conclusions

We have concluded that the crime of systematic rape in times of war is one of the forms of mass violations of human rights, especially those that take the form of war strategies. In an effort to reduce sexual violence in times of armed conflict, it became clear to us that the bodies responsible for monitoring and defending human rights have succeeded and with the support of some regional organizations in this direction more than organizations concerned with armed conflicts and we believe that the suppression or defeat of sexual violence it cannot be the outcome of one day of work by regional organizations. Therefore, in our study, we made sure that our research leads to clear practical proposals and to planning an appropriate policy to reduce organized rape and to make specific recommendations in the field of criminalization and punishment.

First

Regional organizations should take appropriate policy and decision-making measures that express the condemnation of violence against women in general and of organized rape in particular, and refrain from invoking any traditional or custom that may impede their work as follows:

Ensure gender sensitivity in order to include issues addressing violence against women in the context of the administration, facilitation and implementation of the criminal justice system and promote an active and visible policy that seeks to incorporate a gender perspective into policies and programs before decisions are taken to conduct an analysis of their impact on women.

Stand behind the Security Council and urged him to issue his decisions to address organized rape under Chapter VII of the Charter to ensure the strength to support its implementation.

Second

Encourage female victims and to assist them in filing and following up on official complaints, holding conferences and workshops in this field, facilitating these procedures and empowering them or enabling other parties to initiate legal proceedings against organized crime.

Third

Urging countries to enact legislations on crimes against humanity, and the serious violations of international humanitarian law committed in armed conflicts and enacting provisions addressing various forms of sexual violence.

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