

# Women and war

by

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**F**requently today's conflicts are internal — fought within a country between different ethnic or political groups of the same “nationality” — rather than international, fought between countries and across borders. This has led to the civilian population becoming increasingly “caught up” in the conflict and/or targeted by the parties to the armed conflict as part of a deliberate strategy. War at home rather than abroad has had a major impact on women as members of the civilian population. Furthermore, women are increasingly taking up arms as members of the armed forces.

Much attention has been given in the past few years in academic debate and the media to sexual violence, particularly rape, inflicted upon women and girls during war, as well as the protection afforded to women under international humanitarian law. As conflicts have illustrated — and the media have reported — this attention is fully justified. However, it has tended to be confined to sexual violence and less attention focused on the other issues of the impact of armed conflict on women. This article aims to draw attention to the multi-faceted ways in which women experience armed conflict and, to a limited extent, to some of the activities of the International Committee of the Red Cross to assist and protect women.

## **Women taking part in hostilities**

Women have tended to be classified within a single category “women and children”, and as “vulnerable”. Yet women are not

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necessarily vulnerable and certainly have needs, experiences and roles in war that differ from those of children (although it must be stated that in many conflicts children are coerced into taking on adult roles). Women are actively engaging in many armed conflicts around the world and have played a part in wars throughout history.

It was the Second World War that highlighted their role primarily in reservist or support units (including work in munitions factories) in the German and British forces and, in the case of the Soviet Union, their direct participation in the fighting as members of all services and units “constituting 8% of the total armed forces”.<sup>1</sup>

Since then, women have assumed a much greater role and are more frequently joining the armed forces, voluntarily and involuntarily, performing both support and combatant roles. To give a few examples, in the United States military, “overall, 14% of active duty personnel are women”, and of the US forces who served in the 1990-1991 Gulf War, 40,000 were women.<sup>2</sup> It is estimated that a fifth of the Eritrean armed forces are female<sup>3</sup> and up to a third of the fighting forces of the Liberation Tigers of Tamil Eelam (LTTE) involved in the civil war in Sri Lanka are women.<sup>4</sup> The role of the female “suicide bombers” of the LTTE has also underscored the horrifying extent to which women are prepared to take action in that ongoing conflict. Ironically, much of their “success” in hitting targets can be attributed to the fact that as women they can often get closer to their objective — possibly due to a perception that they are more vulnerable and therefore less likely to carry out such attacks. “For many reasons, women are the preferred choice of secular groups when it comes to infiltration and strike missions. First, women are less suspicious. Second, in the conservative societies of the Middle East and South Asia, there is a

<sup>1</sup> See Françoise Krill, “The protection of women in international humanitarian law”, *IRRC*, No. 249, November-December 1985, pp. 337-363.

<sup>2</sup> Greg Siegle, “Women critical to success of US all-volunteer force”, *Jane’s Defence Weekly*, Vol. 31, No. 23, 23 June 1999.

<sup>3</sup> David Hirst, “Ethiopia: Human waves fall as war aims unfold”, *The Guardian*, 18 May 1999.

<sup>4</sup> Dexter Filkins, “Sri Lanka women at war”, *Herald Tribune*, 13 March 2000.

hesitation to body search a woman. Third, women can wear a suicide device beneath her clothes and appear pregnant.”<sup>5</sup> Women are as capable as men of perpetrating extreme violence.

Women are also “actively” supporting their menfolk in military operations — not by taking up arms but by providing them with the moral and physical support needed to wage war. Data collected in the course of the ICRC’s “People on War” survey<sup>6</sup> exemplify this, as for example an elder and religious leader in Somalia said: “I believe that those civilians and fighters belong to one family group, once the civilians are going with the fighters — doing things like cooking, treating them, and any other necessary thing... Whatever happens to the civilians is up to them. If they collaborate with the fighters, then what happens is up to them.” And it is not just Somalis that responded in this way, as one young man in Abkhazia stated: “Somebody can hold a submachine gun and somebody only a ladle. But it doesn’t mean a cook is less responsible than a soldier.”

Furthermore, there are women endangered because of their presence amongst the armed forces but who are there completely against their will — abducted for sex or to cook and clean in the camp. During the period of their abduction — and often after — these women and girls can be in considerable danger from attack by the opposing forces as well as their abductors. The best known and wide-scale example of such abductions was that of the so-called “comfort women” in the Far East during the Second World War — a term which in no way encompasses the horrific nature of the ordeal to which these women were subjected during their detention by the Japanese military. In recent years, women and girls have also reportedly been abducted by the armed groups in other countries, such as Uganda.

<sup>5</sup> Dr Rohan Gunaratna, “Suicide terrorism: a global threat”, *Jane’s Intelligence Review*, April 2000.

<sup>6</sup> *The People on War Report: ICRC world-wide consultation on the rules of war*, ICRC, Geneva, 1999 (available on request from the

ICRC, Geneva, website [www.onwar.org](http://www.onwar.org)). — To mark the 50th anniversary of the 1949 Geneva Conventions the ICRC launched a consultation in 17 countries, 12 of which were or had been at war, giving the general public a chance to express their opinions on war.

Women have furthermore been under suspicion and targeted for the suspected or actual role of their menfolk, in order to get to the absent man by intimidating and attacking the woman.

Despite these examples of voluntary and involuntary participation of women in armed conflict as combatants and in support roles, some countries and cultures refuse the participation of women in combat roles in the armed forces. The majority of women experience the effects of armed conflict as part of the civilian population.

### **Women as members of the civilian population**

As members of the civilian population, women and girls — like men and boys — are subjected to innumerable acts of violence during situations of armed conflict. They often suffer the direct or indirect effects of the fighting, enduring indiscriminate bombing and attacks as well as a lack of food and other essentials needed for a healthy survival. Women invariably have to bear greater responsibility for their children and their elderly relatives — and often the wider community — when the men in the family have left to fight, are interned or detained, missing or dead, internally displaced or in exile. The very fact that many of the menfolk are absent often heightens the insecurity and danger for the women and children left behind, and exacerbates the breakdown of the traditional support mechanisms upon which the community — especially women — have previously relied. Increased insecurity and fear of attack often cause women and children to flee, and it is common knowledge that women and children constitute the majority of the world's refugees. But what of the women who do not flee?

Ironically, many women often do not flee the fighting — or the threat of hostilities — because they and their families believe that the very fact that they are women (often with children) will afford them a greater measure of protection from the warring parties. They believe their gender — their socially constructed role — will protect them. Therefore, women often stay to protect the family's property and livelihood; to care for the elderly, young and sick family members who cannot flee as they are less mobile; to keep their children in school (as education is such an important factor for many families and their future); to visit and support family members in detention; to search for

their missing family members; and even to assess the level of insecurity and danger in order to decide whether it is safe for the displaced family members to return. In fact, this perceived protection — that as a woman you will be safe — is often not the reality. On the contrary, women have been targeted precisely because they are women. The ICRC assisted, for example, large numbers of mostly elderly and frail women left behind in the former United Nations Protected Areas in Croatia (UNPAs, frequently referred to as the “Krajinās”). They had been left by their fleeing family members to protect the property and/or could not or would not leave their homes. Even these elderly — and often bedridden — women were not free from harassment and attack.

Women are often under direct threat from indiscriminate attack due to the proximity of the fighting. They have also been forced to harbour and feed soldiers, thus being exposed to the risk of reprisals by the opposing forces and placed in difficult and inappropriate situations: another mouth to feed on scant resources, and the personal safety of the woman and her children threatened. As one peasant woman in El Salvador eloquently stated in the “People on War” survey, “[it] was terrible, because if you didn’t sell tortillas to the guerrillas, they got mad, and if you didn’t sell to the soldiers, they got mad, so you had to collaborate with both sides.”<sup>7</sup>

Owing to the proximity of the fighting and/or the presence of the armed forces, women invariably have to restrict their movements; this severely limits their access to supplies of water, food, and medical assistance and their ability to tend their animals and crops, to exchange news and information and to seek community or family support.

Limited access to medical assistance can have an enormous impact on women, especially for reproductive and maternal health. Childbirth complications, arguably more likely in the stressful conditions of war, can lead to increased child and maternal mortality or sicknesses.

Women are all too often harassed, intimidated and attacked in their homes, while moving around their village and its environs and when passing checkpoints. A lack of identity documents — a problem

<sup>7</sup> *Supra* note 6.

experienced by many women who have lost, were previously never issued with or did not feel the need to have documentation in their own right — severely affects the personal security and freedom of movement of women, increasing their risk of abuse, including sexual violence.

### Sexual violence in armed conflict

The conflict in Bosnia and Herzegovina brought world recognition for the issue of the rape of women as a means of warfare. The world was horrified to hear accounts of women held in order to rape and to impregnate them.

Rape, forced prostitution, sexual slavery and forced impregnation are violations of international humanitarian law and are now an undisputed part of the vocabulary of war. Not that they are “new” crimes. Who didn’t learn in their history lessons of marauding armies entering the conquered towns on a rampage of “looting and raping”?<sup>8</sup> But few of us were probably taught that “rape” was a crime and can never be justified as a means of warfare or show of power, as a reward for the victorious army or as a lesson for the vanquished unable to protect their womenfolk.

In many conflicts women have been systematically targeted for sexual violence — sometimes with the broader political objective of ethnically cleansing an area or destroying a people. From Bangladesh to former Yugoslavia, from Berlin in World War II to Nanking under Japanese occupation, from Vietnam to Mozambique, from Afghanistan to Somalia, women and girls have been the victims of sexual violence in armed conflict (this is also true for men and boys, although even less is known about the extent of this problem).

It is not possible to give anything but estimates as to the number of victims of sexual violence (female or male, adult or child), as not all victims survive, and the majority of victims will never report the violation against them. Reliable statistics are not easy to obtain, and

<sup>8</sup> On rape in war see in general Susan Brownmiller, *Against Our Will: Men, Women and Rape*, Simon & Schuster, New York, 1975. — Note that “looting and raping”, one a

property crime and the other a direct and violent attack on a person, are often linked together as violations in war.

those available are often based on the numbers of victims seeking medical help for pregnancy, sexually transmitted diseases or termination of pregnancy. The numbers of women seeking such assistance often become the basis upon which statistics are extrapolated. However, many women are generally too afraid to speak of their experiences for the very real fear of ostracism or retaliation by their family or community. Many also believe that no one can help them now that they have been violated. Moreover, the worst atrocities against the civilian and detainee populations (groups which are expressly protected under international humanitarian law) all too often occur when international organizations are not present to witness the violations, as was recently the case in Kosovo (during the period of the NATO air strikes), in Chechnya during the Russian military campaign, in rural areas of Sierra Leone and in numerous other conflicts around the world. Whilst recognizing that statistics on the numbers of victims of a crime like rape are invaluable in order to ensure effective support and assistance (the right help in the right places), statistics should not become the main issue. One person raped is one too many.

Sexual violence is a particularly brutal act against its victim. During the “People on War” survey undertaken by the ICRC in countries which had been or are still at war, one in nine of all respondents reported that they knew somebody who had been raped, and nearly as many reported that they knew somebody who had been sexually assaulted.<sup>9</sup> This is shocking. States have a duty to ensure the protection of and respect for all civilians and persons no longer taking part in hostilities.

The ICRC has long considered sexual violence as a war crime and a serious violation of international humanitarian law.<sup>10</sup> At

<sup>9</sup> *Supra* note 6.

<sup>10</sup> See in particular: Statement before the Commission for Rights of Women, European Parliament, Brussels, 18 February 1993: “Le CICR a dénoncé la pratique du viol commis par toutes les parties au conflit, comme les autres exactions commises à l'encontre des civils. Le viol est considéré comme un crime de guerre et

il est grand temps de trouver des solutions permettant de mettre un terme à ces pratiques inacceptables.” — Resolution 2 B of the 26th International Red Cross and Red Crescent Conference (Geneva, 1995): “[The Conference] (a) *expresses* its outrage at practices of sexual violence in armed conflicts, in particular the use of rape as an instrument of terror, forced

the 27th International Conference of the Red Cross and Red Crescent (Geneva, 1999), the ICRC expressed once more its concern at the occurrence of sexual violence in armed conflict and pledged to States and the Red Cross and Red Crescent Movement that it would place specific focus on making known to parties to armed conflicts the protection accorded to women by international humanitarian law, with emphasis on the issue of sexual violence.<sup>11</sup> The full implementation of international humanitarian law must become a reality, and the prime responsibility for achieving this rests with the parties to an armed conflict. They must observe the rules and take necessary action so that sexual violence does not occur, and they must bring the perpetrators to justice if such crimes are committed.

It is important to note the significant work of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, both of which have prosecuted and convicted perpetrators of sexual violence against women. In addition, the Rome Statute of the International Criminal Court (ICC) also explicitly mentions sexual violence as a war crime.<sup>12</sup> These are significant developments in the battle against impunity.

### Missing persons and widowhood

The conflict in Bosnia and Herzegovina (1993-95) put the plight of women and the survivors of sexual violence onto the world

prostitution and any other form of indecent assault; ... (c) *strongly condemns* sexual violence, in particular rape, in the conduct of armed conflict as a war crime, and under certain circumstances a crime against humanity, and *urges* the establishment and strengthening of mechanisms to investigate, bring to justice and punish all those responsible." — ICRC Update on the Aide-Memoire on rape committed during the armed conflict in ex-Yugoslavia, of 3 December 1992: "As never before in its history, the ICRC has spoken out forcefully against systematic and serious abuses committed against the civilian population in Bosnia- Herzegovina, such as... rape, internment, deportation,

harassment of minority groups..." The act of rape is an extremely serious violation of international humanitarian law. Article 27, para. 2, of the Fourth Geneva Convention states: "Women shall be especially protected against any attack on their honour, in particular rape, enforced prostitution, or any form of indecent assault."

<sup>11</sup> This pledge was announced by the President of the ICRC at the 27th International Red Cross and Red Crescent Conference (Geneva, 1999). See ICRC web site [www.icrc.org](http://www.icrc.org)

<sup>12</sup> See the ICRC's submission to the Preparatory Commission for the ICC regarding the determination of the elements of crimes. On file with the ICRC.



agenda. Besides sexual violence, this war (like many others before and since) was characterized by the separation of men from women and children — both a voluntary and involuntary separation. Men took up fighting roles, fled to third countries and safe areas, or were rounded up and detained and/or killed in large numbers. Often women stayed to try to find out the fate and whereabouts of their male relatives, or to protect their property, initially believing that the war would not be long and that they would be spared. However, all sides in this conflict failed to protect and spare the lives of civilian men, women and children. Although the majority of the dead or missing were men (and mostly men of military age, even though many were not part of the armed forces), women were also killed or are still unaccounted for. There are still 18,292 persons,<sup>13</sup> reported by their families to the ICRC, considered missing long after the end of the conflict. Of these, 91.7% are men and 8.1% are women.

The very fact that many women survive conflicts in which their menfolk have died or disappear has enormous implications. The wars in the former Yugoslavia and the genocide in Rwanda have highlighted the plight of widows and women desperately trying to ascertain the fate of their loved ones. The survivors of those wars — and others throughout the world — are now struggling to cope not only with the difficulty of providing an immediate livelihood or means of survival for themselves and their family, but also with the additional trauma and uncertainty of not knowing what will happen to them in the absence of their menfolk. Widows and relatives of missing men — fathers, sons and husbands — may well be left without any entitlement to land, homes and inheritances, social assistance and pensions, or even the right to sign contracts. They and their children can be subjected to violence and ostracism as a result of their status.<sup>14</sup>

All over the world, tens of thousands of women are searching for news about the fate of missing relatives, and this search

<sup>13</sup> In addition to these persons reported missing, the Bosnia-Herzegovina authorities believe that there are a further 10,000 persons unaccounted for.

<sup>14</sup> See ICRC website for report on ICRC workshop on “widowhood and armed conflict” held in November 1999, Geneva.

often goes on years after a conflict has ended. The inability to mourn and bury their loved ones has an enormous impact on the survivors and the coping mechanisms they adopt. Humanitarian law recognizes the need and right of families to obtain such information. The ICRC endeavours to find out about persons missing in relation to armed conflicts through the Red Cross family news network, visits to places of detention, enquiries in response to tracing requests and representations to the warring parties to clarify their fate. But all too frequently, parties to an armed conflict do not do enough in that regard, thereby prolonging the agony of war long after the fighting has ended. As one mother, whose son has been missing since 1991 as a result of the conflict in the former Yugoslavia, so tragically exclaimed: "There used to be a saying around here that the worst thing which can happen to someone is to bury their own child. It seems nowadays that there is something far worse — not knowing what happened to him at all."<sup>15</sup>

Women everywhere are showing enormous courage and resilience as survivors and as heads of households — a role many of them had little or no preparation for and which is made more difficult by the social constraints often imposed on women. Many women have taken up this challenge and resolutely set aside their trauma in order to go on living for their children.

### Displaced women

As previously stated, women and children make up the majority of the world's refugees and displaced persons. Fleeing and living in displacement creates numerous problems for women around the world, and ironically often exposes women to enormous risks. Women generally flee taking few possessions with them and many become separated from family members. Displacement may well force women to become reliant on support from the local population in the area to which they are displaced, or on assistance from international and non-governmental organizations. They often have to travel long

<sup>15</sup> Quoted from "The issue of missing persons in Bosnia and Herzegovina, Croatia and

the Federal Republic of Yugoslavia", *ICRC Special Report*, 1998.

distances in their search for water, food, firewood, and for traditional foods and herbs for medicines for themselves and their families. During this search women frequently risk attack and injury from fighting, mines and unexploded ordnance, as well as sexual abuse, especially rape.

Women display tremendous strength and resourcefulness in the coping mechanisms they adopt in trying to ensure their own survival and that of their family. However, women in camps for displaced persons are frequently vulnerable, especially when they are the head of the household, widows, pregnant women, mothers with small children and elderly, for they have to shoulder all the daily responsibilities for survival which consume enormous amounts of time and energy. Furthermore, they may be overlooked by camp authorities and organizations providing assistance because in many cultures women are not in the public sphere and often do not have their own identity documents, and because the special needs of women have not been taken into account. For example, pregnant women need greater access to health services and larger food rations. Women with children are also particularly concerned about their children's education and often have to find the means to pay for clothes and books, then must cope with increased workloads if their children are at school.

Women in situations of displacement also invariably lack the privacy needed to maintain their personal hygiene and dignity. As they have to share living quarters, washing and toilet facilities with many people (and which are frequently easily accessible to men), many women are forced to choose between maintaining personal hygiene and maintaining their dignity and security.

For these reasons, women need to be actively included in the planning, implementation and evaluation of activities carried out and assistance distributed.

The ICRC assisted almost five million persons displaced by armed conflict in 1999. In the year 2000, it is working to protect and assist internally displaced persons in 31 countries throughout the world. In many of these countries, women have been specifically consulted by the ICRC as to what assistance should be distributed to whom, for example, to find out what would best meet the needs of households headed by women.

### Women in detention

Women are also detained as a result of conflict, often in worse conditions than men. This is primarily due to the fact that the majority of detainees are men, and there are few prisons or places of detention solely for women. In many cases women detainees are consequently housed in the men's prison and, since they are fewer in number, their section is usually the smallest and lacks adequate sanitary and other facilities.

The existence of a separate prison for women can also lead to problems. As women generally constitute only a minority of detainees, few prisons are built specifically for them. This means that the nearest women's prison may be situated far from their home, and that by being sent there they are separated from their family and the support that families provide.

People in detention often rely heavily on their relatives to visit them and bring additional food and other items (medicines, clothes, toiletries, etc.). Women often suffer from a lack of family visits and therefore their family's support. There are many reasons for this: the remoteness of the place of detention, insecurity for visitors, relatives unwilling or unable (because they are displaced, have disappeared or are missing) to come, or lack of money to pay the travel costs.

Furthermore, women detainees often have the added concern of their children's well-being, either because young children are detained with them and are being raised in difficult conditions or because they have been separated from their children and are uncertain as to who is raising them and how. Even where a family member has taken over responsibility for the children, this enforced separation can be very difficult for women to bear.

Women also have specific needs which they find it hard to meet in detention. For instance, women and girls of menstruating age often have problems in obtaining suitable sanitary protection, regular access to sanitary facilities (toilets and washing areas) and appropriate clothing to deal with their menstruation in a manner that preserves their health and dignity.

Both men and women are often subjected to maltreatment, including sexual violence, whilst in detention. For women, there

is a serious risk of pregnancy and gynaecological problems, and fear of the consequences these may have both for their life in detention and after their release, when they return to their families and communities.

In 1999, the ICRC visited more than 225,000 detainees around the world, including some 6,300 women and more than 450 girls under 18 years of age. The majority of these women and girls were detained in relation to an armed conflict or situation of political violence. As a general rule, the ICRC registers persons detained in relation to an armed conflict or other form of political violence, in particular prisoners of war, security detainees or civilian internees. It visits them (speaking to them in private without the presence of guards or authorities) to assess their conditions of detention and treatment. With the consent of the detaining authorities, it provides non-food assistance in the form of sanitary and hygienic requisites, such as sanitary protection for women, clothes, buckets, cooking pots and recreational items, as well as medical supplies (to the medical services).

### The protection of women in international humanitarian law<sup>16</sup>

Ever since its inception, international humanitarian law has accorded women general protection equal to that of men.<sup>17</sup> At the same time the humanitarian law treaties recognize the need to give women special protection according to their specific needs. This protection is enshrined in the four Geneva Conventions of 12 August 1949 for the Protection of War Victims and their two Additional Protocols of 8 June 1977. The Conventions and Protocols protect women (and men) as members of the civilian population not taking part in an armed conflict. Women (and men) as members of the armed forces are also protected when captured by the enemy. Some of the key provisions of this law are outlined below.

<sup>16</sup> See in general Krill, *op. cit.* (note 1).

<sup>17</sup> International humanitarian law is not the only body of law relevant to situations of armed conflict, human rights law is also

applicable. These two bodies of law should not be seen as mutually exclusive, and their methods of implementation should be seen as complementary.

*The law of international armed conflicts*

Women who have taken an active part in hostilities as combatants are entitled to the same protection as men when they have fallen into enemy hands. The Third Geneva Convention relative to the Treatment of Prisoners of War stipulates that prisoners of war shall be treated humanely at all times. Besides this general protection, women are also afforded special protection based on the principle outlined in Article 14, paragraph 2, that “women shall be treated with all the regard due to their sex”. This principle is followed through in a number of provisions which expressly refer to the conditions of detention for women in POW camps, e.g. the obligation to provide for separate dormitories for women and men<sup>18</sup> and for separate sanitary conveniences.<sup>19</sup> The principle of differentiated treatment for women also resulted in provisions relating to the separate confinement of women from men and the immediate supervision of women by women.<sup>20</sup>

Women (and men) who, as members of the civilian population, are taking no active part in hostilities are afforded protection under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and under Additional Protocol I. Women are in general protected against abusive treatment by the parties to the armed conflict and also against the effects of the fighting. They are entitled to humane treatment, respect for their life and physical integrity, and to live free from torture, ill-treatment, exactions and harassment. In addition to this general protection, women are afforded special protection under the said Convention and Protocol I, which stipulate that “[w]omen shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution or any form of indecent assault”.<sup>21</sup>

International humanitarian law also lays down special provisions for pregnant women and mothers of small children (generally considered to be children under seven years of age). It stipulates that

<sup>18</sup> (Third) Geneva Convention relative to the Treatment of Prisoners of War, Art. 25(4).

<sup>19</sup> *Ibid.*, Art. 29(2).

<sup>20</sup> *Ibid.*, Arts 97 and 108, Additional Protocol I, Art. 75(5).

<sup>21</sup> (Fourth) Geneva Convention relative to the Protection of Civilian Persons in Time of War, Art. 27(2). See also Additional Protocol I, Arts 75 and 76.

they shall “benefit by any preferential treatment to the same extent as the nationals of the State concerned”,<sup>22</sup> pregnant women and nursing mothers “shall be given additional food, in proportion to their physiological needs”,<sup>23</sup> pregnant women and mothers with dependent infants who are detained or interned should have their cases considered with the utmost priority,<sup>24</sup> and maternity cases must be “admitted to any institution where adequate treatment can be given”.<sup>25</sup>

Women are also protected, as members of the civilian population, against the effects of the hostilities, and there are rules which impose limits on the use of force. In the conduct of hostilities the parties to an armed conflict must “at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives”.<sup>26</sup>

*The law on non-international armed conflicts*

Women (and men) who take an active part in the hostilities in a non-international armed conflict do not have prisoner-of-war status when they fall into enemy hands. However, in such a case they are entitled to the fundamental guarantees afforded by Article 4 of Additional Protocol II relative to the Protection of Victims of Non-International Armed Conflicts. Basically, they are entitled to the same protection as men, but they also have a right to special treatment.

Persons not taking part in such a conflict are protected by Article 3 common to the four Geneva Conventions. While it contains no special provision on the protection of women, this rule establishes fundamental guarantees for the treatment of all persons not taking part in the hostilities. Furthermore, Additional Protocol II stipulates in general terms that “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault” are forbidden.<sup>27</sup> Protocol II also provides for special treatment of women who are arrested, detained or interned in relation to the hostilities. In such cases, “except when men and women

<sup>22</sup> Fourth Geneva Convention, Art. 38.

<sup>23</sup> *Ibid.*, Art. 89.

<sup>24</sup> Additional Protocol I, Art. 76(2).

<sup>25</sup> Fourth Geneva Convention, Art. 91.

<sup>26</sup> Additional Protocol I, Art. 48.

<sup>27</sup> Additional Protocol II, Art. 4(2)(e).

of a family are accommodated together, women shall be held in quarters separated from those of men and shall be under the immediate supervision of women".<sup>28</sup>

Women as members of the civilian population are also protected against the effects of hostilities in non-international conflicts. Article 13 of Protocol II stipulates that "the civilian population as such, as well as individual civilians, shall not be the object of attack".

### Honour in international humanitarian law

Article 27 of the Fourth Convention uses the term "honour" when referring to the special protection conferred by international humanitarian law on women against attacks like "rape, enforced prostitution, or any form of indecent assault". In recent years, some writers have voiced concern about the use of the word "honour" in relation to sexual violence, in that it fails to recognize the brutal nature of rape and uses instead a "value" term to define the interest to be protected rather than the woman herself, and for embodying the notion of women as property.<sup>29</sup>

The question of honour — a term which is also used in other articles of the Geneva Conventions and not only in those pertaining to women — demands more examination than can be done in such a general article, covering so many aspects of women and war. However, to briefly touch upon this issue, honour is a code by which many men and women are raised, define and lead their lives. Therefore, the concept of honour is much more complex than merely a "value" term. But to a certain extent the concerns outlined above are valid. It is unfortunate that the language used by States fifty years ago, when the Geneva Conventions were written, links violations of a sexual nature with a woman's honour. This could lead to the question whether it is the honour of the woman international humanitarian law

<sup>28</sup> *Ibid.*, Art. 5(2)(a).

<sup>29</sup> See in particular Catherine N. Niarchos, "Women, war and rape: challenges facing the International Tribunal for the former Yugoslavia", *Human Rights Quarterly*, Vol. 17,

1995, pp. 671-676, and Judith Gardam, "Women, human rights and international humanitarian law", *IRRC*, No. 324, September 1998, pp. 421-432.



wants to protect or whether it is the woman herself? The answer is clearly the latter.

If one looks at Article 27 as a whole it is clear that the law grants “protected persons, in all circumstances, respect for their persons (...) They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof...”. This protection is conferred on both men and women, adult and child, and was intended to be as broad as possible encompassing all acts of violence and threats thereto. The second paragraph of this provision, referring to special protection for women, aims to strengthen this protection by highlighting sexual violence. However, linking sexual violence and honour has made it seem to some that this provision is less about a physical protection for women and more about a value judgement. Since the Geneva Conventions were drafted, law and language have evolved, as Article 76 of Additional Protocol I clearly shows. The 156 States parties to this Protocol<sup>30</sup> attest to its universality. Article 76 confers protection to women in the power of a party to the conflict (a broad field of application). It states that “[w]omen shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.” There is no mention of the term “honour”.

In conclusion, the Geneva Conventions and Additional Protocols stipulate that *women* must be respected and protected against rape, enforced prostitution or any form of indecent assault. In order to strengthen their protection, it is this part of the law which must be emphasized, disseminated and enforced during situations of armed conflict. For its part, the ICRC has pledged that over the next four years it will focus its particular attention on this very issue.<sup>31</sup>

### Recent ICRC initiatives

The ICRC initiated a study in 1998 to better identify the ways in which women are affected by armed conflicts, and to

<sup>30</sup> As at 15 May 2000.

<sup>31</sup> The ICRC has committed itself for the next four years to increase its dissemination of knowledge of the protection which should

be accorded to women and girl children, especially with regard to sexual violence, among parties to armed conflicts throughout the world. *Supra* note 11.

determine whether its own response could be improved. The study, which will be concluded this year, aims to: (1) identify the needs of women, including their access to basic goods and services such as food, water, shelter and health care; (2) draw up a realistic and comprehensive picture of ICRC activities in favour of women affected by armed conflict, and assess whether these activities adequately respond to the needs identified; and (3) examine international humanitarian law, in order to assess the extent to which it provides adequate coverage of the needs identified. Information has been provided by ICRC delegations around the world, as well as firsthand information provided by war-affected women themselves through the "People on War" survey, adding an invaluable dimension to the study.<sup>32</sup> The ICRC plans to present an initial draft of it to practitioners and experts later this year. On the basis of the study's findings, the ICRC will formulate guidelines to enhance the protection and assistance of women affected by armed conflict. This ICRC initiative was supported at the 27th International Red Cross and Red Crescent Conference, held in Geneva in 1999, by States party to the Geneva Conventions and by the International Red Cross and Red Crescent Movement.<sup>33</sup>

Furthermore, the pledge made at the International Conference renewed the ICRC's commitment to the effective protection of women.<sup>34</sup> This pledge is intended not only to promote the respect to be accorded to women and girl children affected by armed conflict, but also to make sure that the specific needs of women and girls are appropriately assessed in the ICRC's own operations. ICRC delegations around the world have been instructed to focus increased attention upon the needs of women affected by armed conflict and to adapt where necessary the ICRC's activities and programmes to ensure that they are met.

This study, the planned guidelines and the pledge made by the ICRC are parts of a long-term commitment to better assist and protect women in armed conflict. The ICRC hopes that these

<sup>32</sup> *Supra* note 6.

<sup>34</sup> *Supra* note 11.

<sup>33</sup> Resolution 1: Plan of Action for the years 2000-2003, 27th International Red Cross and Red Crescent Conference (Geneva, 1999).

initiatives will lead to more effective implementation in future of the protection conferred upon women by humanitarian law. However, the prime responsibility rests with the parties to an armed conflict, namely to observe the rules, and with States, namely to bring the perpetrators of violations of these rules to justice.

### Conclusion

War, whether international or non-international, causes extreme suffering for those caught up in it. Women experience war in a multitude of ways — from taking an active part as combatants to being targeted as members of the civilian population specifically because they are women. But war for women is not just rape — fortunately many women do not experience this heinous violation; it is also separation, the loss of family members and the very means of existence, it is injury and deprivation. War forces women into previously unaccustomed roles and necessitates the development of new coping skills.

Today more than ever, States and parties to an armed conflict must do their utmost to uphold respect for the safety and dignity of women in wartime, and women themselves must be more closely involved in all the measures taken on their behalf. Every State bound by the treaties of international humanitarian law has the duty to promote the rules protecting women from any form of violence in war, and should crimes occur, to bring the perpetrators to justice. If women have to bear so many of the tragic effects of armed conflict, it is not primarily because of any shortcomings in the rules protecting them, but because these rules are all too often not observed. The general and specific protection to which women are entitled must become a reality. Constant efforts must be made to promote knowledge of and compliance with the obligations of international humanitarian law by as wide an audience as possible and using all available means. The responsibility for improving the plight of women in times of war must be shared by everyone.

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## *Résumé*

### **Les femmes et la guerre**

par CHARLOTTE LINDSEY

*Si la population civile est trop souvent la cible principale des hostilités, notamment lors des conflits armés non internationaux, les femmes, elles, sont régulièrement les victimes les plus durement affectées. Les traités de droit international humanitaire contiennent des dispositions spéciales destinées à protéger les femmes dans la guerre, en particulier contre les actes de violence sexuelle. L'auteur de cet article élargit le débat pour examiner également la situation de la femme en sa qualité de mère ou de chef de famille, car, lorsque les hommes sont au combat, ce sont les femmes qui assurent la survie de la famille et de la communauté. Les dispositions des Conventions de Genève et de leurs Protocoles additionnels sont passées en revue, tant pour les conflits armés internationaux que non internationaux. Pour conclure, l'auteur donne une information intermédiaire sur l'étude y relative, en cours d'élaboration au CICR, à la demande de la XXVII<sup>e</sup> Conférence internationale de la Croix-Rouge et du Croissant-Rouge.*