

ASR FORUM

The Case of Gender-Based Violence: Assessing the Impact of International Human Rights Rhetoric on African Lives

Introduction

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This special ASR forum, “The Case of Gender-Based Violence: Assessing the Impact of International Human Rights Rhetoric on African Lives,” grounds itself in the notion that gender relations (and, indeed, gendered social norms) can undergo significant transformation in zones of conflict or in other contexts of extreme socioeconomic and political instability.¹ Individuals actively reconfigure moral landscapes of power and sexuality amidst the everyday chaos, violence, and deprivation that constitutes the experience of war for most people, thereby formulating new normative frameworks of appropriately gendered norms for social interaction and sexual expression. These norms, of course, are rather dramatically cross-cut, for all actors involved, by an extensive list of factors that include one’s ethnolinguistic or religious affiliation, citizenship status, gender, and myriad other allegiances that are all too frequently brought to the fore by conflict or other forms of instability. War and instability, it seems, force individuals to think of themselves, and others, in ways that might not otherwise have seemed imaginable.

The case studies in this issue are based upon research in Rwanda, Congo, Uganda, South Africa, and Liberia. One unifying theme is the frequency with which human rights rhetoric divorces conflict-related gender-

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based violence from the peacetime normative framework.² The authors illustrate the cultural restrictions and patriarchal oppression that encourage violence within different dimensions of the socioeconomic and political context (home, culture, political authority, economy, and military), and they analyze gender-based violence as a form of structural violence. Nonetheless, as Sharon Abramowitz and Mary Moran caution us, gender-based violence in conflict and postconflict zones is not simply an enhanced version of “traditional” gender oppression. We would be severely remiss, the authors remind us, to read conflict and crisis as culture.

Another thread that weaves throughout the articles involves transactional sex, specifically in the form of the murky continuum that links commercial with criminalized sex. Jennie Burnet asks readers to consider “the degree to which all militarized sex encompasses this divide” (p. 112). In the context of South Africa, Judith Singleton discusses the significant gap between laws against rape and women’s lived experiences in townships, where the cultural practice of *lobola*—loosely translated as “brideprice”—is interpreted as granting men sexual access to their wives, irrespective of their consent. In the context of eastern Congo, Dunio P. Zongwe notes that both the state and the judiciary face significant financial limitations that inhibit their ability to successfully prosecute cases of gender-based violence. When the state finds itself so severely constrained, is it any surprise that transactional or survival sex is likely to become a strategy employed by women and girls with a limited menu of life choices at their disposal?

Articles featured in this special issue both complicate and underscore contemporary international human rights rhetoric, which holds that women and girls are disproportionately targeted for gender-based violence during and after conflict and comprise the majority of all victims (U.N. Resolution 1820, 2008).³ Many human rights researchers and practitioners concur with Major General Patrick Cammaert, former commander of the United Nations Peacekeeping Mission in the Democratic Republic of Congo (DRC), who noted that “it has probably become more dangerous to be a woman than a soldier in an armed conflict” (Cammaert 2008). Indeed, international human rights rhetoric and news reporting have increasingly focused upon gender-based violence in zones of conflict or other forms of instability. In a 2010 statement to the Security Council Margot Wallstrom, the U.N. Special Representative on Sexual Violence in Conflict, described the DRC as the “rape capital of the world” (BBC News 2010). This dubious distinction then replicated itself in myriad forms, with news reports describing the DRC as “the worst place in the world for women” (Kahorha 2011) and an article in a prominent public health journal reporting that forty-eight women are raped every hour in the DRC (Peterman, Palermo, & Bredenkamp 2011).

For women, who have long been invisible during and after conflict, human rights discourse can provide an opportunity to have their experiences recognized and their roles as survivors and agents of change on issues of

accountability and redress understood. The involvement of women in the design and operation of justice is crucial if the desired result is to condemn gender-based violations and ensure that recommendations for redress fully reflect their needs. Gender-sensitive approaches can reveal patterns of sexual and gender-based crimes and the greater impact of these violations on women. They can recommend gender-specific reparations and rehabilitation, and call for the repeal of discriminatory laws and policies.⁴ The practice of international human rights law, furthermore, provides the potential for individuals to recognize their rights to have crimes acknowledged by the state, potentially providing a gateway to healing, reconciliation, and justice. The International Criminal Court currently has open cases concerning twenty-five individuals who allegedly committed crimes in Libya, Kenya, Darfur, South Sudan, Uganda, the DRC, and the Central African Republic (Arieff et al. 2011). The Special Court for Sierra Leone is prosecuting individuals accused of committing gender-based violence in the region, most notably former President Charles Taylor of Liberia, and the International Criminal Tribunal for Rwanda continues to prosecute cases of gender-based violence that occurred during the genocide. The 2012 report of the U.N. General Assembly, which covers the period from December 2010 to November 2011, underscores the importance of ensuring that sexual violence does not continue in postconflict situations. A prominent example of such persistent violence is South Africa, where the reforms that have been enacted in the legal arena have been slow to be embraced by the general population. The tension between African domestic and customary law and international legal norms, a subject considered throughout the articles in this issue, highlights the complications of legal “reform” as the vehicle of survivor justice.

In the wake of these significant international developments and their implications for local practice, articles featured in this special issue represent new frameworks for understanding the complex intersections between international human rights rhetoric and African lives. All of the authors explore the means by which proscriptive gender norms, ethnoreligious and political affiliations, and militarism fuel violence that disproportionately affects women and girls, documenting what the feminist researcher Cynthia Cockburn (2011) terms “the continuum of violence” that women face from the bedroom to the battlefield. In addition, while the vast majority of attention paid to gender-based violence focuses upon women and girls in conflict or postconflict zones, there is growing interest in how sexual minorities (the lesbian, gay, bisexual, transgender, “queer” community) and men become targets of such violence as well. The articles included here cover the persistence of such gender-based violence in both conflict and postconflict zones.

The article by the legal scholar Dunia P. Zongwe, “The New Sexual Violence Legislation in the Congo” (37–57), unravels the legal thread running from the commission of massive sexual violence in the eastern provinces of

the Congo since 1996 to the enactment of liberal legislation in 2006 known as “the law of shameful acts.” Zongwe describes how the new Congolese rape law is progressive, liberal, gender-neutral, and in keeping with international law. He goes on to identify barriers to justice for survivors, some of which include resource limitations, institutionalized corruption, and a lapse in legislative drafting that puts in doubt the authority of courts to use the new rape law effectively. According to his close reading of the sexual violence amendments to the penal code, the government has provided a framework on the basis of which the state and survivors can initiate prosecution of rape and all manner of sexual violence. However, Zongwe recognizes that prosecution alone will not heal survivors of the societal trauma of rape. He concludes that civil society must also look for solutions from outside the law and care for the survivors and their communities.

Judith Singleton’s article, “The South African Sexual Offences Act and Local Meanings of Coercion and Consent in KwaZulu Natal” (59–75), examines South Africa’s Sexual Offences Act (2007) and the influence of Western human rights ideology and vocabulary on the discourse about sexual coercion and consent. Her article critically engages the often tense relationship between law and social change in regard to rape and sexual violence, examining the murky space between the law as text and the lived experience of girls and women. It finds a gaping chasm between the two, despite the development of education programs by nongovernmental organizations (NGOs) to promote human rights rhetoric and cultural universalism in the eighteen years that have passed since the country’s first democratic elections. Her ethnography, conducted in the Zulu township of Mpophomeni, examines the wide disparity between state discourses about coercion and consent and local beliefs and practices. It focuses on two local practices—*ukushela*, loosely translated as courtship practices, and *lobola*—within the larger context of the Sexual Offences Act. She describes how the South African state uses human rights discourse as a mechanism of power to shape and control the daily experiences of its citizens and how the proponents of South Africa’s new democracy often ignore how poor young women and men understand the rape and violence that they encounter on a daily basis. She calls for more ethnographic work to provide more insight into sexual violence in South Africa, because the law cannot change behavior if the social context that influences sexual coercion does not change as well.

In “Locating Neocolonialism, ‘Tradition,’ and Human Rights in Uganda’s ‘Gay Death Penalty’” (77–95), Kristen Cheney notes the complex ways in which U.S. evangelical influence on Ugandan politicians and prominent religious leaders resulted in an Anti-Homosexuality Bill that mandated the death penalty for those found guilty of “aggravated homosexuality” (defined as a same-sex act in which one of the participants is a minor, HIV-positive, disabled, or a “serial offender”). The bill was shelved because of an international human rights outcry, although it was reintroduced in 2012 with life imprisonment as the ultimate penalty.

Cheney argues that despite a well-documented history of sexual diversity in Africa, claims that homosexuality is “un-African” are being used in Uganda to justify exclusion and violence against members of the LGBTQ (or LGBTI—lesbian, gay, bisexual, transgendered, and intersex) community. She employs discursive analysis of public media, exposes cultural logics, and reveals contradictions in Uganda’s widespread opposition to homosexuality, citing U.S. evangelical influence, postcolonial amnesia of tradition, fertility concerns, and human rights exceptionalism as drivers of the moral panic over sexual diversity. She concludes with a call to action for more scholarship about African sexuality in general as a way to promote the progressive aspects of African traditional and modern cultural logics, such as acceptance of diversity and support for fundamental human rights.

In “Situating Sexual Violence in Rwanda (1990–2001)” (97–118), Jennie Burnet outlines the complexities of sexual violence in the 1994 Rwandan genocide by situating it in the political economy and cultural history of the region. She explores the range of sexually violent acts that occurred in Rwanda not only during the genocide, but also throughout the violent conflicts of the 1990s. Burnet argues that focusing solely upon sexual violence committed by Hutu perpetrators against Tutsi victims ignores the problem of female sexual consent, obscures the contradictions of sexual violence in the context of violent conflict, and denies female agency in the realm of sexual relationships. In zones of conflict and instability (what Sharon Abramowitz and Mary Moran call “the relatively new, but normal, space of violence” [p. 126]), African girls and women face a continuum of risks in which they may become targets of sexual violence as part of efforts to intimidate their community, or they may engage in what Burnet, citing Aretxaga (1997), describes as the “choiceless decisions” involving sexual encounters with soldiers. Her article illustrates how some women and girls initiate sexual relationships out of desire, as a means to secure their own or their families’ survival, or because they face such a “choiceless decision,” whereby other options either do not exist or are much less desirable. Finally, Burnet argues, the focus on sexual violence in the genocide detaches the question of female sexual consent from the cultural-historical context and political economy of poverty that structure women’s agency and limit their options. The assumption that European or North American models of sexual consent are relevant to other contexts ignores significant differences in the social construction of sexuality and marginalizes emic cultural models.

In “International Human Rights, Gender-Based Violence, and Local Discourses of Abuse in Postconflict Liberia” (119–46), Sharon Abramowitz and Mary Moran draw on three years of ethnographic work on postconflict humanitarian intervention in Liberia to consider the process whereby global human rights efforts in the area of gender-based violence interact with local debates over kinship, entitlement, personal rights, and social responsibility. The authors share Liberian narratives, complaints, and efforts to regulate social norms and behavior in regard to gender-based violence in the

presence of an ongoing international human rights discourse. The authors expose the process, multiple discourses, and dialectics of power involved in “the problem of gender-based violence” and illustrate how the view of this crime changes shape as it moves between Liberians, governmental ministries, and nongovernmental organizations responsible for implementing global mandates. These authors see the encounter between activists from nongovernmental organizations and Liberian populations as creating fruitful alliances and opening new discursive and social spaces of possibility and action. However, they describe the way the notion of “culture” as an explanation for local recalcitrance or for the failure of NGO interventions has taken hold and become normative among certain groups of Liberian women who work closely with the international community and nongovernmental organizations. They claim that this tendency ignores the historical legacy of Liberian women in authority, and represents an abandonment of existing institutions for gender equity and protection in favor of the new discourse. They envision an alternative process by which vernacularization can work productively in both directions, with communities and activists cooperating to reclaim institutions that supported women’s economic security and political agency in the past, while adapting them to the changing national legal context of the present. They also imagine a postconflict space of humanitarian intervention in which global human rights rhetoric is itself changed by these interactions with locally defined concepts of justice to build order and security without placing the roles of kin and citizen in opposition to each other.

One conclusion that we draw from all of the articles is that integrating feminist perspectives and practices into international responses to conflict-related sexual violence, as well as a decentering of feminist approaches from white middle-class women and toward indigenous women and other women of color, would enhance a broader acceptance of survivor justice. In addition, as Kristin Bumiller says, “human rights strategies should seek to empower women through forms of political action that support victim’s individual sovereignty, rather than reliance on state powers of surveillance and punishment (2006:135). Feminist scholarship is in place to move the international human rights policy and international criminal law in a new direction, both methodologically and substantively. Acknowledging the limitations of state power and criminalization is a first step in tailoring human rights standards to the particulars of each individual country, ethnic group, or regional situation.

This *ASR* Forum aims to promote more research on gender-based violence in Africa. The authors represent experienced and committed researchers, and they seek to ensure that the many aspects of gender-based violence in Africa are addressed from the perspective of different disciplines and cultures. This effort, we hope, will lead to prevention and service provision that is informed by sound research and evidence.

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Notes

1. The idea for this special issue originated in 2009 at the Five College Women's Research Center (FCWRC) at Mount Holyoke College, where Tonia St. Germain was investigating the prosecution of sexual violence by the International Criminal Tribunals for Rwanda and the former Yugoslavia. Ralph Faulkingham (now the editor emeritus of *ASR*) made a presentation to the FCWRC Research Associates about journal publishing, and the authors of this article had recently

agreed to edit special issues on gender-based violence in conflict and postconflict zones for *Wagadu: A Transnational Women's and Gender Studies Journal*. Ralph suggested that we consider doing the same for *ASR*, and this issue is the product of that collaboration and the wonderful work of the *ASR* editorial team, including Sean Reading, Ella Kusnetz, and the anonymous reviewers. We also want to thank the authors for their tireless investigation into the subject and their commitment to justice for all survivors.

2. Some scholars use the term “sexual and gender-based violence”; we consider sexual violence a form of gender-based violence and as such decided to use the more inclusive term “gender-based violence.” In 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which states a clear commitment to what has become known as “gender-based violence”: that is, any act or threat that targets an individual or group upon the basis of their gender (U.N. General Assembly 1979).
3. Male survivors are often unrecognized and receive little care or protection. Sexual violence against men includes rape, sexual torture, sexual humiliation, and sexual slavery. Men and boys are even less likely to report sexual abuse than women for fear of stigmatization, but also for lack of care and protection under the law. Some countries do not include male victims in their legal definitions of sexual violence.
4. See Basu (2003); Desai (2002); Ferree and Tripp (2006); Merry (2006).