Women, rape and warfare: A gendered critique of Just War theory and the immunity principle.

A case study of the Democratic Republic of Congo

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Introduction

- Historically rape has been used as a systematic weapon of war
- Received widespread attention during the 1990s

- International humanitarian law

- Just war theory: jus ad bellum and jus in bello
- Non-combatant immunity - no intrinsically heinous means, such as rape, are to be employed

- Complex and systemic - pre-existing gender relationships
Aim of the paper

- Globalization, hegemonic masculinity, hyper-capitalism
- (Re)order building project of international law (macro)
- The military institution in the DRC, rape laws of the Congo, women’s position in Congolese society (meso)
- Individual soldiers use rape to reassert lost hegemony (micro)
- Just peace
Rape in the DRC

- Overview of the conflict (see handouts)

- ‘Rape capital of the world’, hundreds and thousands of women and girls have been raped

- Despite peace agreements, rape and sexual violence continues
- Gang rape, followed by torture

- Military clashes, terrorise/punish civilians, provide gratification
Gender and just war theory

- Women are not protected under the immunity principle

- ‘it is now more dangerous to be a woman than to be a soldier in modern conflict’ (UN Force Commander for the Eastern DRC cited by Canning 2010 p.849).

- Charli Carpenter (2005) Women benefit disproportionately
- Sjoberg (2006b) Illusion

- Rape is used by both local and international armed forces in the DRC
Macro level

- Transnational corporations compete for access and control over the extraction of minerals

- Companies exploit economic opportunities in marginalised parts of the world - directly or indirectly contribute to the continuation of the conflict

- International Law does not deter sexual violence in the DRC

- Criticisms of the aims of IL – does not recognise the gendered harms caused by wartime rape
Meso level

- Militarized rape and the construction of masculinity

- Women are disproportionately disadvantaged socially and economically - reflected in laws and customs

- Rape is an attack on the woman’s body, her community and her husband

- Rape laws of the Congo: incompatible with IL, lack of convictions
Micro level

- Hegemonic masculinity - physical, social and economic power
- Congolese men fail to live up to this ideal

- ‘Noncatastrophic masculinity’ turns to hypermasculinity to resolve this tension (Leatherman, 2011)

- Rape restores lost hegemony – men acquire tokens (women) and wealth (minerals)

- Baaz and Stern (2009) Soldiers of the FARDC
- ‘The provider’ and ‘The sexually potent fighter’
Empathetic war-fighting

- Gendered analysis of sexualized violence in warfare
- The immunity principle is too depersonalized, feminists focus on real people’s lives

- Sjoberg (2006a) empathetic war-fighting - UN and NGO’s

- Just war theory is incomplete without jus post bellum – just peace

- Feminists - establish a ‘gender just political order at the end of war’ (Sjoberg, 2006a:81)
Just peace

- Transnational corporations are committing state-corporate crimes and crimes against humanity

- IL needs to adopt a feminist (re)order building project which aims to ‘put women and gender first’ (Dixon, 2001:718) (macro)

- War crimes trials and the tightening of rape laws in the Congo in line with IL (meso)

- Gender relationships, hegemonic masculinity, women and femininity, the military and militarization, gender discrimination (meso and micro)
Conclusion

- Leatherman (2011) gender advocacy must be both moral and policy advocacy.

- Structural forms of injustice and the networks of power relations that enable sexual violence as a weapon of war.

- An ethics of care means:
  - ‘...that we care about each other as fellow members of a community and also of the global community...an ethics of care emphasizes persons as relational and interdependent’(Leatherman, 2011p. 175).
Conclusion

- A feminist ethics of war (Sjoberg, 2006a) and an ethics of care (Leatherman, 2011) can reformulate the non-combatant immunity principle.

- Focus on the realities of women’s lives during wartime.

- Wood (2009) rape is not inevitable in war.

- DRC - strengthen efforts to ending rape and sexual violence.

- Punish all those guilty for committing and perpetuating this form of gender-based violence in the DRC.