

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
- ⌘ Ohambe et al (2004) Lack of alternative employment opportunities
- ⌘ 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