



5-2019

Intervening in Wartime Rape: Lessons from Bosnia and Herzegovina and Guatemala

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<https://doi.org/10.33015/dominican.edu/2019.HONORS.ST.08>

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Salinger, Liv, "Intervening in Wartime Rape: Lessons from Bosnia and Herzegovina and Guatemala" (2019). *Honors Theses*. 49.

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Abstract

Rape and sexual violence has been a part of war throughout history. Wartime rape that occurred during the 20th century was often marked by public spectacle and brutality, which caught the attention of the world in new ways. Scholars, policymakers and the general public now consider how militaries and armed groups use rape as a tool of ethnic cleansing and genocide, meaning that this form of violence is used to hinder the health and growth of the enemy population. This study draws upon feminist literature, humanitarian intervention discourse, and international relations literature to develop a feminist intersectional framework with which to view international responses and interventions in cases of wartime rape. To conduct a qualitative multi-case study, this study reviews organizational reports and findings by truth commissions, international entities, and state actors for the conflicts in Guatemala from 1960 to 1996 and in Bosnia and Herzegovina from 1992-1995. This study finds that without a feminist and intersectional framework, interventions are likely to fail to effectively support and seek justice for survivors of wartime rape, to prosecute perpetrators, and to change the culture of silence that discourages survivors from seeking justice. The findings of this study have implications for international policy, and recommendations that future research into wartime sexual violence expand their frameworks to be more intersectional.

Document Type

Honors Thesis

Degree Name

Bachelor of Arts

Department

Political Science and International Studies

First Reader

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Second Reader

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Keywords

sexual violence, conflict, humanitarian intervention, intersectional, gender conflict, DEI

Subject Categories

Eastern European Studies | Gender and Sexuality | International Relations | Latin American Studies | Models and Methods | Peace and Conflict Studies | Political Science | Politics and Social Change | Quantitative, Qualitative, Comparative, and Historical Methodologies | Race and Ethnicity | Social and Behavioral Sciences

INTERVENING IN WARTIME RAPE:
Lessons from Bosnia and Herzegovina and Guatemala

By

Olivia Salinger

Submitted in Partial Fulfillment of the
Requirements of the Department of Political Science
and the Honors Program
Dominican University of California
2019

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Abstract

Rape and sexual violence has been a part of war throughout history. Wartime rape that occurred during the 20th century was often marked by public spectacle and brutality, which caught the attention of the world in new ways. Scholars, policymakers and the general public now consider how militaries and armed groups use rape as a tool of ethnic cleansing and genocide, meaning that this form of violence is used to hinder the health and growth of the enemy population. This study draws upon feminist literature, humanitarian intervention discourse, and international relations literature to develop a feminist intersectional framework with which to view international responses and interventions in cases of wartime rape. To conduct a qualitative multi-case study, this study reviews organizational reports and findings by truth commissions, international entities, and state actors for the conflicts in Guatemala from 1960 to 1996 and in Bosnia and Herzegovina from 1992-1995. This study finds that without a feminist and intersectional framework, interventions are likely to fail to effectively support and seek justice for survivors of wartime rape, to prosecute perpetrators, and to change the culture of silence that discourages survivors from seeking justice. The findings of this study have implications for international policy, and recommendations that future research into wartime sexual violence expand their frameworks to be more intersectional.

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Acknowledgements

I am forever grateful for the many people who have helped me throughout my year-long journey to complete my senior thesis. My academic advisor and professor for my senior thesis class, Alison Howard, was a constant source of guidance throughout the research and writing process. My first reader, Professor Jordan Lieser, brought new frameworks of analysis to my attention that I had never considered before, and his guidance was invaluable to me during the second semester of writing this thesis. My second reader, Wallace Harvey, gave me the confidence to push through the daunting editing phase, and I greatly appreciate his words of encouragement. The turning point in bringing my topic from the general to the specific came during a passionate discussion with my good friend Brenna Foley. Sometimes, all I needed to do was rant about the hard times, and I'm grateful to my fellow classmates for working through the stressful parts of this process with me. My co-workers and regular customers at the Marin Coffee Roasters, my part-time job, were always supportive of me through the good times and the hard times, and I'm especially grateful to Michael Burns for covering so many shifts when I needed extra time to research, write and edit. I also owe thanks to the staff of Aroma Café for letting me do my work for seven hours straight on more than one occasion, sometimes in actual tears because of the depressing nature of my topic. My parents, Jo Jewell and David Salinger, were constantly giving me words of encouragement and support, for which I'll always be grateful. Finally, and most importantly, my wonderful husband Murtadha Alsaihati was with me every step of the way, and always told me, "you can do it." To everyone named here and those unnamed, I'm grateful for you all, and I couldn't have done it without you.

I. Introduction

“Not one day passes that I haven’t said something about it. That means it is on my mind all the time. I can’t understand [...] All I worry about now is that I’m neat, that I’m not filthy, and I pray to dear Allah to keep me sane, to keep me aware and reasonable, so that I can communicate normally with people.” Zumra, a rape survivor from Srebrenica, Bosnia and Herzegovina¹

During wartime, militaries use the strategies at their disposal to achieve their goals. One would reasonably expect militaries to use strategies such as negotiation, insurgency, counter-insurgency or various other tactics, but militaries and armed groups are capable of using horrifying acts to achieve their ends. Kidnapping, murdering, raping and forcibly disappearing the enemy, both combatants and civilians, are amongst these strategies. Wartime rape, in particular, has long-lasting consequences not only for the victim, but also for entire communities and cultural ideologies.² While rape and sexual violence have been linked to war throughout history and international awareness of these actions has evolved with increased public awareness about the mass rapes in Nanking in 1938 and the Japanese military’s rapes of Korean comfort women between 1932 and 1945, the civil war in Bosnia and Herzegovina from 1992-1995 and the conflict-related sexual violence that took place during the war redefined how rape is used by militaries as a tool for genocide.

This study seeks to answer the question, how can post-war solutions to wartime rape be most effective? This study assumes that these post-war solutions must achieve two goals to be effective: 1) to obtain justice and recovery for victims, 2) to change the culture that makes wartime rape possible. The use of “culture” here refers to local,

¹ Selma Leydesdorff, “Narratives of Survivors of Srebrenica,” in *Women and Genocide*, ed. Elissa Bemporad and Joyce W. Warren (Bloomington, IN: Indiana University Press, 2018): 262.

² Radhika Coomaraswamy, “Human Security and Gender Violence,” *Economic and Political Weekly* 40, 44/45 (2005): 4730. <http://www.jstor.org/stable/4417359>.

national and international shame, silence, and stigma surrounding wartime rape that discourages survivors from seeking justice and allows perpetrators to enjoy impunity. This environment of silence and impunity emboldens armed groups to continue to use wartime rape as a strategy of war because they know there will be few, if any consequences for their actions. This study first reviews feminist and non-feminist literature on wartime rape in order to synthesize a theoretical framework on the nature of wartime rape. It then highlights the current debates and perspectives within the literature on humanitarian intervention to contextualize wartime rape to a response-based perspective. Finally, it discusses studies on gender inequality and sexual violence within feminist international relations to provide reasoning for how wartime rape has wide-scale, long-term effects on the international community, and explain why the international community should place a higher priority on responding to cases of wartime rape. The literature review sheds light on essential background questions: Is wartime rape an inevitable aspect of war? Can post-war solutions be effective without victim narratives? Can the environment of silence that usually exists in these societies sustain effective post-war solutions? What is the international community's responsibility to step in to "solve" cases of wartime rape? Answering these questions helps to formulate effective responses to occurrences of sexual violence during conflict. It should be noted that this study is not considering prevention strategies except when they coincide with practical post-war solutions to wartime rape. This is because this study specifically seeks to assess the responses to sexual violence during conflict after it occurs and understand what kind of elements go into an effective response.

For ease of understanding, some key terms within this study must be defined. Wartime rape is phrased throughout various studies as “war rape” or “sexual violence during conflict,” and refers to a strategy used by militaries and other armed actors within a conflict (i.e. guerrilla organizations, paramilitary groups, non-government armed forces) that uses forced sexual acts, which include sterilization, to achieve the goals of the actor. While wartime rape is not viewed within this study as an extension of non-war rape, there are authors cited within this study that hold this view. Some authors that are included have a stated, or implied, view of rape within a wartime context that soldiers rape as a reward for their conquests, hereafter referred to as a “spoils of war” view of the subject. These views are included within this study to show the change in the discourse on this subject over time as well as to answer existential questions about the nature of rape within the context of conflict, such as whether rape is inevitable in war. Furthermore, wartime rape can affect men, women and children of various ethnicities and socioeconomic backgrounds. It is important not to forget the male victims of wartime rape, as is sometimes the case in literature concerning sexual violence. However, the majority of victims of wartime rape are female, and feminist theorists have showed that even when men are victims of sexual violence during conflict, the social and military systems that perpetuate wartime rape are most often patriarchal in nature.

This study reviews responses by the international community to the wartime rape that occurred during the Guatemalan Civil War of 1960 to 1996, and the Bosnian War of 1992 to 1995. This study is primarily focusing on the aftermath of conflicts, and terms like “post-war actions,” “solutions,” and “interventions” refer to the actions that are taken in the wake of a conflict in which military groups used rape as a strategy. This study

notes that effective actions attempt to achieve two ends: to secure justice for the victims, and to hold perpetrators accountable. Justice for victims may include reparations in the form of compensation; recovery for physical, emotional and psychological trauma; and support in sharing narratives of their trauma. Because so many cases of wartime rape go unpunished with perpetrators enjoying impunity, this study seeks out post-war actions that work to change this standard. This study finds that responses to wartime rape are most effective when they are carried out with a feminist, intersectional framework that takes into account identity-based factors such as ethnicity, socioeconomic status, socio-political identity, religion, sexual orientation, and gender identity. Because these factors are often highly relevant to conflicts, as they were in both the Guatemalan civil war and the Bosnian War, responses to wartime rape that occur during such conflicts must be formulated around them. When responses to wartime rape fail to use this approach, survivors get left behind, perpetrators continue to experience impunity for their crimes, and the culture of silence that stigmatizes rape victims continues unchallenged.

II. Literature Review

Perspectives on Wartime Rape

Literature on wartime rape often utilizes feminist theory, though not always. In the past two decades, scholarship on this subject has moved from an emphasis on victim narrativization and women's roles in the context of wartime rape to a more response-based approach that centers intersectionality. Throughout this progression, there are several points of contention. This section discusses how scholars over time have defined wartime rape in different ways, whether or not rape is inevitable in war, how to approach

victim narrativization, the role of women in both contexts of survivors and responders to wartime rape, and how intersectional theory can be used to develop deeper and more meaningful responses to wartime rape.

No discussion of rape during conflict would be complete without mentioning Iris Chang's 1997 *The Rape of Nanking*, a best-selling non-fiction account of the 1937-1938 mass rape and murder in the Chinese city, Nanjing. Chang's motivation for publishing her book, which was met with international praise (with the notable exception of the Japanese government's negative reaction), was to shed light on a brutal massacre of the World War II era that had been largely ignored and forgotten by the international public.³ Chang provides perspective of the massacre from the perspective of the survivors, the perpetrators, as well as the international community, choosing to allow the reader to develop their own narrative based on the accounts given. Because the priority of this book was to spread awareness of the Nanjing Massacre, Chang doesn't explicitly use social theory to explain why the violence occurred. Instead, she highlights how the militarization of Japanese society in the years leading up to the Sino-Japanese War densensitized male soldiers to mass killing, rape, and torture: "The molding of young men to serve in the Japanese military began early in life, and in the 1930s the martial influence seeped into every aspect of Japanese boyhood."⁴ Thus, Chang implicitly points to the masculinization of war as some reasoning for wartime rape. In response to some authors who had pointed to general Japanese culture and religion for the Rape of Nanking, Chang states, "no race or culture has a monopoly on wartime cruelty."⁵

³ Iris Chang, *The Rape of Nanking* (New York, NY: Basic Books, 1997), 14.

⁴ Chang, *Rape of Nanking*, 29.

⁵ Chang, *Rape of Nanking*, 55.

When it comes to discussion on wartime rape that is more explicit about how to view the issue through a theoretical framework, the points of contention begin with a definitional divide. Wartime rape differs from rape during peacetime in a number of fundamental ways. Some view wartime rape as an extension of non-war rape made more extreme by the violent circumstances of war. This argument can be summarized as thus: soldiers commit atrocious acts during war because they want to commit these acts as individuals, and the environment and atmosphere of war (in which violence is acceptable, in which society is not expected to function normally, and in which the norms of society are expected to be broken) allows these individuals to act more freely than they do during peacetime. Ronit Lentin (1999) classifies this argument as the *transgressive* argument, which is contrasted against the *militarism* argument.⁶ The latter argues that sexual violence during times of war occurs because male exceptionalism requires an elevation of ‘our’ women and a degradation of ‘theirs.’ Lentin disagrees with both of these arguments, instead positing that women’s bodies become physical territory during war to be conquered and destroyed.

While the nature of feminist discourse often leads to important critiques and realizations about wartime rape, Lentin acknowledges that these discourses can be too generalizing at times. Equating victims of wartime rape to women excludes men and children who are victims of rape by military, as well as women who perpetuate and support wartime rape. However, it would be misguided to deny that rape as military strategy is not gendered. Lentin first considers feminist discourses on wartime rape and engages with explanations for why it occurs and what causes militaries to use rape

⁶ Ronit Lentin, “The Rape of the Nation: Women Narrativising Genocide,” *Sociological Research Online* 4, 2 (1999): 1.1-4.10. <http://www.socresonline.org.uk/4/2/lentin/html>.

strategically. She problematizes the consideration of wartime rape as a form of sexual violence, arguing that this explanation ‘eroticizes’ the act. Instead, scholars should consider wartime rape gendered violence that intersects with ethnicity and nationality. Furthermore, Lentin argues, “wartime rape must ultimately be seen as the rape of the nation,”⁷ that raping “the enemy’s women” is never solely about sex, or power over women, but is about taking enemy territory. Lentin pushes for victim narrativization as a vital feminist strategy to allow both survivors and the nation to heal from the trauma of genocide and the gendered violence that results from it.

Julie Hastings (2002) also places emphasis on victim narrativization. She examines the lack of survivors’ narratives on wartime rape, focusing exclusively victims of state-sponsored rape during the Guatemalan Civil War. After finding that studies on the wartime rape during this period often lacked first-hand accounts by the survivors, Hastings conducted interviews in Guatemala and refugee camps elsewhere to try to include this lost narrative. Often, interviewees would speak of the violence as something that happened to others, and there was a lack of personal accounts of the violence. While many researchers have pointed to local communities’ cultures of shame, self-blame, guilt, and silence surrounding wartime rape (Di Lellio 2016, Clark 2016, Chu 2017, Lentin 1999), Hastings argues that researchers must look beyond local cultural ideology about rape to the international socio-political *testimonio* discourse, a Latin American cultural discourse that conveys accounts of personal suffering that is told by individuals but representative of collective experience. State-sponsored rape “did not conform to the

⁷ Lentin, “The Rape of the Nation,” 5.

strategic, political claims through which the *testimonio* genre was constructed.”⁸

Additionally, Hastings argues that,

“Governments, including that of the United States, have routinely denied political asylum to survivors of state-sponsored rape because it is not considered a political crime. Consequently, Joseño survivors have little political incentive to offer their personal *testimonios* of wartime rape. To do so would entail the risk of being set apart as gendered victims rather than as political victims and hence excluded from the category of legitimate refugee.”⁹

Nancy Farwell (2004) continues the tradition of emphasizing victim narrativization, but moves to a more response-based approach by focussing equally on women as responders to wartime rape. She names direct intervention, scholarship, advocacy, documentation and fundraising as methods female activists have used to show solidarity with survivors and develop feminist responses to conflict-based sexual violence.¹⁰ She also takes a strong position that rape in war is not inevitable, and that the implications of this belief have severe consequences.¹¹ Scholars who accept rape during war as inevitable mischaracterize why wartime rape occurs, Farwell argues. This mischaracterization goes back to the common misunderstanding that wartime rape is less about military strategy and more about sexual power dynamics, the “spoils of war” type of view. Farwell worries that “accepting rape as an inevitable aspect of armed conflict can lead to condoning it and thereby to an overt strategy that utilizes rape as a weapon of

⁸ Julie A. Hastings, “Silencing State-Sponsored Rape in and Beyond a Transnational Guatemalan Community,” *Violence Against Women* 8, 10 (2002): 1156. doi: 10.1177/107780102236531.

⁹ Hastings, “Silencing State-Sponsored Rape,” 1156.

¹⁰ Nancy Farwell, “War Rape: New Conceptualizations and Responses,” *Affilia* 19, 4 (2004): 389. doi: 10.1177/0886109904268868.

¹¹ Farwell, “War Rape,” 589.

war.”¹² She also defines war rape as “an act of aggression by one nation or faction against another,”¹³ rather than rape that occurs within the military.

Eileen Zurbriggen (2010), on the other hand, finds a conceptual link between rape and war. She first outlines how rape is correlated with war “at a macro level,” citing ancient texts that discuss the two in conjunction, how there are high rates of rape (specified in the study as being against women) within the U.S. military, how communities that lack frequent conflict have been shown to lack frequent rape, and how spousal rape may be more common amongst military families than non-military families.¹⁴ The reason that rape and war are so connected, Zurbriggen explains, is that each “require many elements of traditional masculine socialization in order to be possible.”¹⁵ While this study examines war and rape within the context of traditional masculinity in great detail, it doesn’t examine wartime rape as a phenomenon separate from non-war rape, and makes little mention of rape as a military strategy. What it does say is that war as it is waged currently and as it has been waged historically depends on traditional masculine elements to be effective. The implications are thus,

“A society that trains its members (whether male or female) to eschew the values of traditional masculinity (including toughness, aggression, tolerance of violence, respect for hierarchy, restricted emotionality, dominance and power, and self-reliance) will not be able to train soldier to kill, nor to wage war effectively.”¹⁶

Furthermore, Zurbriggen emphasizes prevention as a strategy to reduce rape, which to her is the best-case scenario due to her view that rape in war is inevitable. She recommends

¹² Farwell, “War Rape,” 589.

¹³ Farwell, “War Rape,” 591.

¹⁴ Eileen L Zurbriggen, “Rape, War, and the Socialization of Masculinity: Why Our Refusal to Give Up War Ensures that Rape Cannot be Eradicated,” *Psychology of Women Quarterly* 34 (2010): 538. SAGEJournals.

¹⁵ Zurbriggen, “Rape, War,” 538.

¹⁶ Zurbriggen, “Rape, War,” 544.

that militaries use stricter rules of engagement to “create boundaries and to ensure that violence is directed only toward the enemy, rather than more diffusely.”¹⁷ When considering Lentin’s positioning of wartime rape as rape of the nation, and Farwell’s perspective that war rape is an act of aggression between nations, this strategy loses its relevancy, because the identity of “the enemy” is extended to civilians, particularly women.

Victoria Sanford, Sofia Alvarez-Arenas and Kathleen Dill (2016) extend the argument that militaries seek to conquer and destroy women’s bodies through sexual violence as a method to destroy territory. After calling the argument that war rape is an extension of non-war rape “no longer a tenable theory,”¹⁸ they argue that the work of feminist research, human rights advocates, international investigative bodies and international courts have reframed the issue of wartime rape to centre on how militaries use women’s bodies as “an important site of war, which makes sexual violence an integral part of wartime strategy.”¹⁹ Sanford et al. acknowledge the role of neo-colonialism in Latin America when considering the Guatemalan Civil War as a case of wartime rape, writing, “Power in Guatemala is a racialized phenomenon and the symbolic superiority of white and *ladino* men over the Maya was a catalyst for genocidal violence.”²⁰ The recognition of Latin America’s colonial legacy engages with Hastings’ consideration of *testimonio* discourse, and evolves the victim narrativization discourse to be more sensitive to larger historical trauma.

¹⁷ Zurbriggen, “Rape, War,” 545.

¹⁸ Victoria Sanford, Sofia Duyos Alvarez-Arenas, and Kathleen Dill, “Sexual Violence as a Weapon during the Guatemalan Genocide,” in *Women and Genocide*, ed. Elissa Bemporad and Joyce W. Warren (Bloomington, IN: Indiana University Press, 2018), 209.

¹⁹ Sanford, “Sexual Violence,” 209.

²⁰ Sanford, “Sexual Violence,” 214.

More recent literature is increasingly moving towards a response-based approach that utilizes feminist intersectional theory as a framework for discussing and responding to cases of wartime rape. Nicola Henry (2016) points out that a lack of a strong theoretical framework could be the reason that it's difficult for feminist scholars to agree on the structural context of wartime rape, and suggests that using intersectionality would help bridge the divides that exist between different areas of research, such as between gender inequality, victimization and imperialism. Henry defines intersectionality as "the study of the cross-cutting hierarchies of power or 'intersections' (interconnections/relationships) between disadvantage, discrimination, and oppression on the basis of race, class, and sex."²¹ To further strengthen consensus of why cases of wartime rape occur and what should be done in response, Henry emphasizes the need for stronger documentation. This recommendation moves beyond strict victim narrativization and pushes governments and the international community to participate in narrativizing rape in war. Scholars that develop new methods of theorizing wartime rape can better inform practical prevention and responses to the violence.²² Lailatul Fitriyah (2016) extends the argument in favor of an intersectional approach, which she defines as "an approach that views an individual's experience of sexual and gender-based violence as resulting from multi-layered facets of socio-political, economic, cultural and religious oppressions, in addition to sexual and gendered violence."²³ Using an intersectional framework strengthens a researcher's ability to listen to survivor's narratives without

²¹ Nicola Henry, "Theorizing Wartime Rape: Deconstructing Gender, Sexuality, and Violence," *Gender & Society* 30, 1 (2016): 51. doi: 10.1177/0891243215608780.

²² Henry, "Theorizing Wartime Rape," 53.

²³ Lailatul Fitriyah, "Intersectionality, sexual and gender-based violence and humanitarian intervention," *Horn of Africa Bulletin* 28, 2 (2016): 17.

imposing personal ideas of their experiences.²⁴ Fitriyah continues the movement towards a response-based approach in recommending that humanitarian interventions utilize intersectional theory.

Feminist researchers that move beyond theory and into fieldwork experience a number of obstacles when working with survivors of wartime sexual violence. In order for any large-scale interventions to take place in situations where sexual violence during conflict occurs, human rights organizations and the international community need to be aware of it first. Therefore, the first step of the intervention process is the collection and distribution of information that wartime rape and sexual violence is taking place, but this can be difficult to accomplish when local communities ostracize survivors for speaking about the violence that they experienced. For this reason, Anna Di Lellio (2016) points out that women's advocacy groups and networks were the first to document the sexual violence occurring during the conflict in Kosovo because of their intimate connection to the region and culture and their sensitivity in working with survivors.²⁵ Rather than work with these groups in addressing the violence that was occurring, however, Di Lellio writes that NATO's intervention into Kosovo silenced women's perspectives and advocacy for survivors of sexual violence, while the United Nations' intervention ignored women activists.²⁶ The importance of protecting survivors who tell their stories then is connected to protecting and working with organizations and networks that are supporting

²⁴ Fitriyah, "Intersectionality," 17.

²⁵ Anna Di Lellio, "Seeking Justice for Wartime Sexual Violence in Kosovo: Voices and Silence of Women," *East European Politics and Societies and Cultures* 30, 3 (2016): 622. doi: 10.1177/0888325416630959.

²⁶ Di Lellio, "Seeking Justice," 623.

survivors of wartime rape. Lentin concurs,²⁷ arguing that because wartime rape is so traumatic for victims to speak of, interventions and responses to wartime rape must work to preserve the memory of the crimes that happened while offering victims justice and rehabilitation.

Di Lellio also writes that in recognizing how ethnic conflict intersects with sexual violence, researchers and interventions can better understand how to help victims recover from the violence that occurred. To achieve this, however, Di Lellio argues in favor of a constructivist model. Constructivism can be translated into practice by centering interventions as human rights projects that “is sensitive to political change and to mutable, sometimes contradictory, priorities over time.”²⁸ In doing so, interventions can leave behind the problematic dichotomies that too often guide them (i.e. victims being torn between tradition and modernity when speaking out; the fiction that all victims are women and all perpetrators are men) and be more focused on supplying victims with what is needed at each point in the transition from violence to peace. Di Lellio warns that such interventions fail in this approach when they are packaged as vessels for truth, reconciliation and justice, as these values are inflexible to the changes that often occur over time in a post-violence area. Finally, Di Lellio echoes Hastings’ problematizing of the local-international dichotomy in which local cultures are typically held solely responsible for the culture of shame and stigma survivors face, while building upon Farwell’s encouragement for women to lead responses to wartime rape:

²⁷ Ronit Lentin, “The Rape of the Nation: Women Narrativising Genocide,” *Sociological Research Online* 4, 2 (1999). <http://www.socresonline.org.uk/4/2/lentin/html>.

²⁸ Di Lellio, “Seeking Justice,” 624.

“I [suggest] that the inclusion of women and their agendas, as well as the struggle by women’s networks to obtain inclusion, makes for greater effectiveness of transitional justice as a human rights project in general.”²⁹

Humanitarian Intervention

Considering the literature on humanitarian intervention helps to explain how the international community can effectively intervene in cases of wartime rape. Theorists and researchers within humanitarian intervention literature debate about when humanitarian intervention should be used, what level of force should be exercised in interventions, and who the intervening actors should be.

The most important point of contention within humanitarian intervention literature for the purpose of this study is what such interventions should look like regarding responses to human rights abuses, the deliverance of humanitarian aid, and the use of force. In the war in Bosnia, the international community didn’t intervene until late in the conflict, and the United States didn’t send troops until the war had ended. The outrage that the human rights abuses of the war generated largely prompted the United Nations peacekeeping force (UNPROFOR), and therefore a significant part of the intervention was focused on delivering humanitarian aid to those in need. However, the intervention’s lack of force eroded public confidence in it, as Robert DiPrizio writes, “UNPROFOR was to use force only for self-defense or in defense of convoys under its protection, not to protect civilians.”³⁰ While the intervention was effective in delivering humanitarian aid in the form of food and clothing, as well as rebuilding infrastructure and designating safe havens, UNPROFOR sometimes hindered the ability of other groups to persuade the Serbs to end the war. DiPrizio argues that the failure of the international

²⁹ Di Lellio, “Seeking Justice,” 624.

³⁰ Robert C. DiPrizio, *Armed Humanitarians* (Baltimore, MD: The John Hopkins University Press, 2002): 14.

communities' interventions was due to their unwillingness to use force to protect civilians. To reiterate, Di Lellio argues that the intervention was ineffective in protecting survivors of sexual violence because of its failure to work with women's advocacy groups and networks. The limitations within humanitarian intervention literature become clear here, because while DiPrizio follows the line of reasoning that the intervention in Bosnia didn't work hard enough to protect civilians, the lack of a gender-based or intersectional framework leaves out the victims of violence that Di Lellio writes about.

Carrie Booth Walling (2013) approaches the failure on the part of the international community to effectively intervene in the war in Bosnia from the perspective of confusion within the United Nations and the international community regarding how the conflict should have been viewed. This conflict raised fundamental questions for the United Nations and the international community regarding how to intervene in complex conflicts when all sides are culpable for violations of human rights, and where claims to sovereignty were unclear. Walling discusses three major stories that emerged as a way of understanding the war: the *intentional story* described an external conflict in which Serbians were the main aggressors, joined at times by Croats and Bosnian Muslims, the latter of whom were the target of Serbia's campaign of aggression in the form of ethnic cleansing. The *inadvertent* story characterized the war as triangular—that is, in which all parties (Serbs, Croats and Bosnian Muslims) were aggressive towards each other—and in which sovereign authority was indeterminate. Finally, the *complex* story described a situation in which the war had “multiple underlying causes—some of them structural and others behavioural—and even multiple forms (both a civil war and an inter-state conflict) that led to inadvertent deaths and elite-

organized human rights violations.”³¹ In this version of the story, sovereignty was contested. Walling argues that because the cause of the war was so highly contested by the international community, the United Nations and other intervening actors could not decide how best to intervene in the conflict, which made granting the use of force highly controversial.

Interventions operate within theoretical frameworks. When these frameworks are too broad and don’t consider the victims and perpetrators of violence through an intersectional lens, certain practices that look like solutions can make matters worse for those experiencing violence. Humanitarian interventions often implement safe havens where victims of violence can supposedly receive medical support, humanitarian aid and protection from violence. In reality, the use of safe havens is sometimes taken advantage of by groups who sought to continue the mass rape of women, as one survivor of wartime rape during the Bangladesh Liberation War recounted.³² After escaping confinement where she was brutally raped by Pakistani soldiers, this survivor was lured into a brothel that was disguised as a safe haven for victims of rape. In the war in Bosnia, the United Nations designated the small town of Srebrenica a UN Safe Area that was guaranteed protection by UN peacekeepers. Yet the peacekeepers’ lack of sufficient arms and preparedness for long-term protection of the town and its inhabitants led to Srebrenica falling into Serb hands in 1995, leading to the massacre of 7,749 people, along with the

³¹ Carrie Booth Walling, *All Necessary Measures* (Philadelphia, PA: University of Pennsylvania Press, 2013), 98.

³² Bina D’Costa, “Birangona: Rape Survivors Bearing Witness in War and Peace in Bangladesh,” in *Women and Genocide*, ed. Elissa Bemporad and Joyce W. Warren (Bloomington, IN: Indiana University Press, 2018): 163.

mass rape of the town's inhabitants.³³ Humanitarian interventions must utilize intersectional frameworks in order to prevent creating more human rights abuses on top of those that are already occurring in a conflict.

Feminist International Relations

Sexual violence in conflict has long-term socio-political consequences for local, national, and international communities. Feminist international relations discourse offers a macro lens to consider these consequences. Mary Caprioli (2001) builds on international relations literature as well as feminist literature to argue that states with higher levels of domestic gender inequality are more likely to exhibit violence abroad.³⁴ When sexual violence during conflict is effectively addressed, it can improve gender equality in the long term. Interventions that sufficiently protect survivors of wartime rape and grant them justice empower survivors to speak out and can potentially lessen the stigma surrounding sexual violence during conflict.

Radhika Coomaraswamy (2005) further contextualizes how sexual violence during conflict has severe consequences for society. The trauma of victims' experiences can lead to unemployment, a lack of social and economic mobility and even a lack of physical mobility, as only 18% of women in Bangladesh feel comfortable leaving their homes by themselves. Coomaraswamy notes, "Living in anticipation of violence [...] makes women search out men for protection rather than companionship and makes women dependent and vulnerable. Fear then socializes women to conform to the very

³³ Selma Leydesdorff, "Narratives of Survivors of Srebrenica," in *Women and Genocide*, ed. Elissa Bemporad and Joyce W. Warren (Bloomington, IN: Indiana University Press, 2018): 251.

³⁴ Mary Caprioli and Mark A. Boyer, "Gender, Violence, and International Crisis," *The Journal of Conflict Resolution* 45, 4 (2001): 504. <http://www.jstor.org/stable/3176309>.

ideological norms that ensure their subordination.”³⁵ While the international bodies have spelled out recommendations for addressing violence against women, such as through CEDAW and the UN declaration on violence against women, the changes in many countries’ policy framework has not had a significant effect on the local level, which is the most crucial level for change to occur. While important changes have been made at the national and legal levels in south Asian states, such as Pakistan, Bangladesh, Sri Lanka and more, Coomaraswamy points out that “violence against women can only be combated if there is a healthy partnership between women’s groups and the state apparatus [...] Fighting violence against women will only succeed if it is done through the lens of human rights, protecting the rights and dignity of the woman survivor while ensuring a fair trial for the perpetrator.”³⁶

Within the literature and debate surrounding sexual violence during conflict, there exists a gap of studies that consider how effective state, intergovernmental and nongovernmental responses have been in supporting survivors through rehabilitation and reparations, reducing impunity for perpetrators, and changing the culture of violence that surrounds wartime rape. This study fills the void of research on practical responses to wartime rape and makes recommendations for incorporating a more intersectional framework into post-conflict actions.

III. Theoretical Framework

Wartime rape is often phrased as being a weapon of war, which situates the act as part of military strategy. Feminist discourse on wartime rape has theorized many different causes of rape being used as military strategy, which often depend on the conflict during

³⁵ Coomaraswamy, “Human Security,” 4730.

³⁶ Coomaraswamy, “Human Security,” 4730.

which it occurs.³⁷³⁸³⁹ Japanese soldiers used Korean “comfort women” to situate the enemy woman as territory to be exploited and humiliated; Serbian soldiers used rape and forced sterilization as a way to suppress unwanted ethnicities during the war in Bosnia and Herzegovina from 1992-1995; Guatemalan soldiers raped Maya women as a tool for genocide during the Guatemalan Civil War in the latter half of the twentieth century. As the international community became more aware of wartime rape, feminist scholars increasingly warned against simplifying the issue in terms of gender, ethnicity, socioeconomic status, and other social factors. For example, when womanhood is equated to victimhood, women who perpetuate or support wartime rape are excluded from the conversation, as are men and children who are victims of wartime rape. Still, it is useful to point out the patterns that occur in cases of wartime rape, which can be generalized to four main points: first, that militaries and other groups within a conflict use rape as a strategic weapon to achieve various ends, which depends not only on the military’s strategic goals, but also their capability; second, that victims often face shame in their communities, which can range from the victim becoming a social outcast in subtle ways to being forcibly removed from their families and communities; third, that perpetrators largely enjoy immunity, and punishment tends to be slow and ineffective when it even occurs, and finally, that international discourse on wartime rape tends to underrepresent victim narratives, which is in large part due to the obstacles that victims face in coming forward to share their stories. This essay seeks to understand what factors make interventions and post-conflict actions that address wartime rape most effective. The hypotheses are as follows:

³⁷ Lentin, “The Rape of the Nation,” 5.

³⁸ Farwell, “War Rape,” 591.

³⁹ Henry, “Theorizing Wartime Rape,” 51.

H₁: Interventions into conflicts where wartime rape occurs are most effective when they are inclusive to a feminist and intersectional framework to avoid leaving out and silencing survivors.

H₂: Post-conflict actions to address conflict-related sexual violence are most effective when they seek to grant reparations to victims of conflict-related sexual violence, prosecute perpetrators of conflict-related sexual violence, and change the culture of silence that discourages victims from telling their stories.

IV. Methodology

This study employs a multi-case study methodology to understand the post-conflict actions that were taken in two cases of wartime rape that occurred in Guatemala and in Bosnia and Herzegovina. As Kirby and Kuehnast note, most of the studies into wartime rape are focused on individual cases that occur in a single region.⁴⁰ While these studies offer in-depth analysis and commentary on the violence that occurred, they tend to lack a comprehensive view on the subject that can be generalized to other regions. This makes it difficult for research into sexual violence in conflict to drive policy, since solutions that may work in one region may not work in a different region that has conflict driven by a completely different history. Although the two cases of the Guatemalan civil war (1960-1996) and the war in Bosnia-Herzegovina (1992-1995) experienced their most violent periods during very different time periods on opposite sides of the world, a comparison of these two cases presents a useful addition to the literature on wartime rape and interventions into it. For one, both of these cases were influenced by the Cold War, which meant both that each conflict as well as the responses to them were highly influenced by the ideological conflict between capitalist democracy and communism. This fills a lack of case studies that examine conflicts in different parts of the world

⁴⁰ Paul Kirby and Kathleen Kuehnast, "What Do We Really Know About Wartime Rape?" *Foreign Policy* (2014), <https://foreignpolicy.com/2014/12/10/what-do-we-really-know-about-wartime-rape/>.

finding patterns of what worked and what didn't work in very different conflicts and recommends that future research have a more policy-driven framework.

This study utilizes qualitative data of first- and second-hand accounts of sexual violence during the conflicts. Sexual violence in this study includes rape, forced pregnancy, and forced sterilization or abortion; sexual slavery and forced prostitution are excluded from this study to restrict its focus. To measure the effectiveness of interventions and post-conflict actions that address wartime rape, this study reviews organizational reports on these actions and reports by truth commissions that addressed sexual violence during war.

This study reviewed organizational reports and documents by state, intergovernmental, and non-governmental actors about responses to the conflicts in Guatemala and in Bosnia. In measuring effectiveness, this study takes notes the extent to which the document discusses sexual violence during conflict, if at all; the framework through which sexual violence during conflict is discussed and whether an intersectional lens is used (that is, if the document discusses sexual violence during conflict in the context of ethnicity, socioeconomic background, and other identity-based factors); and whether the documentation recommends to:

1. Provide aid, rehabilitation, and/or reparations to survivors of sexual violence
2. Prosecute perpetrators of sexual violence
3. Introduce long-term strategies to change the culture of silence surrounding sexual violence during conflict

Because many of the reports used within this study have been written in the last two decades and follow-up reports are still on-going, it's not possible at this time to measure whether the recommendations made have been carried out and the extent to which they've been effective in meeting their goals. Therefore, the effectiveness of responses to

sexual violence during conflict are measured based on the recommendations they make and the framework through which they discuss the violence that occurred.

V. Historical Overview of Case Studies

Guatemala's Civil War: 1960-1996

Latin America's longest civil war in recent memory raged for 36 years and is estimated to have taken the lives of more than 200,000 people. The majority of the violence was perpetuated against Guatemala's indigenous populations, and according to the Historical Clarification Commission (CEH), the Guatemalan government committed 90% of the deaths, disappearances, and human rights violations during the war.⁴¹ The roots of this conflict stretch back to Guatemala's colonialist history, which uprooted the region's indigenous social structures and replaced them with a capitalist socio-economic order based on forced labor. Even after Guatemala declared independence from its Spanish colonizers in 1821, the legacy of colonialism persisted through military dictatorships whose power remained in the landed oligarchy. This legacy was challenged in 1944 with the election of a civilian government led by Juan José Arévalo and Jacobo Árbenz Guzmán, who championed left-wing land reforms. This threatened the interests of international corporations and investors, including the United States. In 1954, the U.S. Central Intelligence Agency launched a coup d'état against President Árbenz, installing a military dictatorship led by right-wing Carlos Castillo Armas, who immediately began silencing leftist movements and undoing the leftist reforms of the previous decade. These

⁴¹ Daniel Rothenberg, *Memory of Silence: The Guatemalan Truth Commission Report* (The United Nations: Commission for Historical Clarification, 1999).

actions sparked a failed left-wing revolt against the government in November 1960, which triggered the civil war.⁴²

Throughout the 1960s, rebel forces formed different groups and movements that opposed the U.S.-backed military dictatorships because of their authoritarian leadership and corruption. The *Movimiento Revolucionario 13 Noviembre* (MR-13), the Rebel Armed Forces (FAR), and the Edgar Ibarra Guerrilla Front (FGEI) were amongst the most influential insurgency movements during the beginning of the war, and became increasingly militarized as the Guatemalan Armed Forces responded with counterinsurgency actions that the U.S. government supplemented with military assistance.⁴³ For the United States, this conflict presented an opportunity to carry out the aims of the Cold War to dispel communist movements within Latin America. Thus, counterinsurgency efforts were high stakes for U.S. foreign policy.

For the indigenous populations in Guatemala, the leftist insurgency movements were often perceived as a form of hope for empowering their communities and bringing about economic reform to end their marginalization. However, the Guatemalan military viewed this support as a great threat and focussed its counterinsurgency efforts upon indigenous communities, one of the most prominent being the Ixil ethnic enclave in the Quiche province. Declassified CIA documents show that the U.S. government was well aware of the violence against civilians in these communities, which are discussed later.⁴⁴

⁴² “Timeline: Guatemala’s Brutal Civil War,” *PBS News Hour*, Mar 7, 2011. Retrieved from https://www.pbs.org/newshour/health/latin_america-jan-june11-timeline_03-07.

⁴³ “Guatemala,” *The Center for Justice and Accountability*, Accessed Jan 4, 2019. Retrieved from <https://cja.org/where-we-work/guatemala/>

⁴⁴ Kate Doyle and Carlos Osorio, “U.S. Policy in Guatemala, 1966-1996,” *The National Security Archive*, Retrieved from <https://nsarchive2.gwu.edu//NSAEBB/NSAEBB11/docs/>

These years of the early 1980s were the most violent period of the war. Romeo Lucas Garcia's regime from 1978 to 1982 escalated counterterror military actions against guerrilla insurgencies that prompted urban protests and contention within the government. Garcia's 1981 Operation Ceniza increased violence against indigenous civilians in the countryside, during which the Guatemalan army destroyed and burned villages, crops, animals and any means of survival for the victims. These actions unintentionally increased sympathy for the guerrilla movements, which worsened relations between the military and Garcia's regime.⁴⁵ In 1982, General Efraín Ríos Montt staged a coup d'état against Garcia, after which Montt strengthened power by eliminating his opponents within the government. The new regime launched a new counterinsurgency program, Victoria 82, which sought to destroy the guerrilla movements through scorched earth tactics while offering government welfare and assistance to civilians as incentive to abandon support for the insurgency. While the massacres took place, the Guatemalan military took women and girls as sexual slaves and used weaponized rape as part of their counterinsurgency tactics. The death toll rose considerably during the regimes of Garcia and Montt. The number of extrajudicial killings rose from 100 in 1978 to more than 10,000 in 1981. During Montt's scorched earth campaign, the CEH estimated that over 70,000 indigenous people were killed or forcibly disappeared.⁴⁶

The remainder of the war saw a decrease in military violence largely due to the international pressure triggered by the publication of *I, Rigoberta Menchú*, a memoir written by an indigenous activist whose father had died in during a rebellion against the

⁴⁵ Jack Guy, "Guatemalan War: A Brief History of Latin America's Longest Civil War," *Culture Trip*, 19 Jan 2018. Retrieved from <https://theculturetrip.com/central-america/guatemala/articles/guatemalan-war-a-brief-history-of-latin-americas-longest-civil-war/>

⁴⁶ Rothernberg, *Memory of Silence*.

military. General Mejía Victores, who gained power in 1983, introduced democratic reforms within Guatemala in response to the international attention on the human rights violations being committed by the military. With the international community putting political and economic pressure on Guatemala to improve its human rights record, democratically-elected civilian governments rose to power, however, they often still delegated power to the army.⁴⁷ The 1993 election of Human Rights Ombudsman Ramiro de León Carpio invigorated the peace process, which was being brokered by the United Nations. The Guatemalan National Revolutionary Unity (URNG) transitioned from a guerrilla organization to a political party, and signed agreements with the government on human rights, resettlement of displaced persons, historical clarification and indigenous rights from 1994 to 1995. In 1996, newly-elected President Álvaro Arzú signed a peace accord with the URNG that officially ended the civil war. In the aftermath of the war, investigations into human rights abuses, including the UN-mandated CEH, estimated that over 200,000 people had been killed or disappeared, and that the Guatemalan military was responsible for 93% of the human rights violations, while the insurgents were responsible for 3%. The CEH also found that 83% of the victims of violence were Maya.⁴⁸

The aftermath of the war has led to increased international awareness of the human rights violations during the Guatemala civil war, though post-conflict actions have been viewed as too little, too late for survivors. This is especially true for the case of a group of women who have been called the Sepur Zarco Grandmothers. The village of Sepur Zarco was the site of systematic rape of indigenous Q'eqchi' women by the

⁴⁷ "Guatemala," *CJA*.

⁴⁸ Rothernberg, *Memory of Silence*.

Guatemalan military from 1982 to 1988.⁴⁹ These women, whose husbands were killed, detained or forcibly disappeared, were forced into sexual slavery and were used as domestic servants by soldiers. The age of these survivors is a clear testament to the lack of effective actions taken to help survivors; one woman, Demecia Yat de Xol was 28 at the time that she was forced into sexual slavery. At the time of the Sepur Zarco trial in Guatemala's High-Risk Court in 2016, Demecia was 61 years old. This case was the first time any national court had ruled on charges of wartime sexual slavery, and the court noted that systematic rape was used as a deliberate strategy by the Guatemalan military. While this trial was groundbreaking in many ways, it serves as a reminder that survivors of sexual violence during the Guatemalan civil war have had to wait 33 years before receiving a semblance of justice.

The Bosnian War: 1992-1995

As the Guatemalan civil war was nearing a close, a different conflict rooted in ethnic tensions was just beginning on the other side of the world in the former Yugoslavia region. Also an internal conflict, the Bosnian War was further complicated by the triangular nature of the fighting. The events leading up to the war were marked by the end of the Cold War, which led to the breakup of the communist state Yugoslavia. The entire Balkans region had experienced tensions among different ethnic groups throughout the twentieth century, and these tensions played out between three main ethnic groups in Bosnia and Herzegovina: Muslim Bosnians, also known as Bosniaks, who made up about 44% of the population; Serbs, who made up 32.5%, and Croats, who made up 17%. The

⁴⁹ "Sepur Zarco: In pursuit of truth, justice, and now reparations," *UN Women*, 22 Oct, 2017. Retrieved from <http://www.unwomen.org/en/news/stories/2017/10/feature-guatemala-sepur-zarco-in-pursuit-of-truth-justice-and-now-reparations>

other 6% described themselves as Yugoslav.⁵⁰ Each ethnic group harbored resentments against the others, and these tensions were made explicit as each nationality had the chance to establish their own independent states as the Cold War drew to a close.

The rise of Serbian leader Slobodan Milošević in the 1980s intensified the tensions, especially that of Serbian aggression against Croats and Bosniaks. When the 1990 elections in Bosnia formed a coalition government split between Serb, Croat and Bosniak parties, Bosnian Serbs sought to secede and seek self-determination.⁵¹ When Bosniak leader Alija Izetbegović declared Bosnia an independent state and withdrew his signature from the coalition agreement in 1992, Bosnian Serb leader Radovan Karadžić and his party broke away from government, forming their Republika Srpska. Bosnian Serb armed forces launched a bombardment of the capital of Bosnia, Sarajevo in May 1992. The Serbian forces expanded their offensive to Bosniak-dominated towns and used forced displacement, massacres, torture, and systematic rape to expel Bosniaks. These actions were later described as ethnic cleansing.

While it's important to stress that the violence during the Bosnian War was perpetuated on all sides of the conflict against all sides, the majority of violence was by Bosnian Serbs against Bosniaks. Part of the reasoning for this was that the Bosniak armed forces were severely ill fortified, while the Bosnian Serb armed forces were backed by the stronger Yugoslav army. One of the most brutal incidences of violence committed against Bosniaks by Bosnian Serbs was the Srebrenica Massacre of 1995. By this point in the war, the United Nations had sent peacekeeping forces to protect towns that were still

⁵⁰ Matjaž Klemenčič, Mitja Žagar, *The Former Yugoslavia's Diverse Peoples: A Reference Sourcebook*, ABC-CLIO, Inc.: Santa Barbara, CA. 2004.

⁵¹ "Chronology – What Happened During the War in Bosnia?" *Reuters*, 21 Jul, 2008. Retrieved from <https://www.reuters.com/article/idUSL21644464>

under control of the Bosnian government, which were Srebrenica, Zepa and Gorazde. The peacekeeping effort had been perceived as largely ineffective due to their mandate not to use force to protect civilians, only to protect humanitarian aid. Despite the U.N. calling Srebrenica a safe haven, Bosnian Serb forces were able to overwhelm the town in July 1995. The Bosniak civilians were separated and the women and girls were sent away, many of whom would be raped by Serbian soldiers. The remaining boys and men were killed or transferred to mass killing sites. The death toll is estimated to be over 7,000.

Wartime rape was used during the Bosnian War by Serb forces as a weapon of genocide and a form of ethnic cleansing against Bosniaks. Sites of rape ranged from the public, to the homes of both the victims and the perpetrators, to designated rape camps, such as the Partizan Sports Hall, where Bosniak women were held and raped multiple times until made pregnant, so as to disrupt Bosniak lineage as well as to demoralize and terrorize their communities. Perpetrators also sought to humiliate the victims of sexual violence, such as in the cases of women who were raped in front of their families, as well as cases of men who were forced to have sexual relations with other men, who in some cases were their own fathers or sons. Public rapes were used to instil fear and often occurred as part of the looting and destruction of enemy territory. Finally, rape was used as a form of torture to extract information from the victims. The U.N.-established Commission of Experts reported that some Serb soldiers said they had been forced to rape during the war, which supports the claim that systematic rape was used as a military strategy by the Serb forces.⁵²

⁵² *Final Report of the Commission of Experts*, United Nations Security Council, S/1994/674, 27 May 1994.

The Srebrenica massacre combined with the later Serbian capture of Zepa prompted the international community into stronger action that led to the end of the war. After initial U.N. peace agreements failed to be accepted by the Serbs, NATO assisted Bosniak and Croat forces to bomb the Serb forces. This assault combined with U.N. economic sanctions against Serbia led Milošević to finally enter into peace negotiations. In November 1995, Izetbegović, Milošević and Croat President Franjo Tudjman signed the Dayton Peace Agreement, which divided the country into Republika Srpska and the Federation of Bosnia and Herzegovina. The Dayton accord increased Bosnian Serb territory from 46% to about 49%, Bosniak territory (which includes Sarajevo) from 28% to 30%, and decreased Bosnian Croat territory from 25% to 21%.⁵³

The estimated death toll during the Bosnian War has been subject to controversy, ranging from as low as 25,000 to as high as 329,000. The International Criminal Tribunal for the former Yugoslavia (ICTY) found during its research that the estimated death toll was 104,732. Of those killed, Bosniaks experienced the highest death toll at 68,101.⁵⁴ Established by the U.N. and located in the Hague, Netherlands, the ICTY sought to prosecute perpetrators of war crimes committed during the Yugoslav wars. Milošević was initially indicted in 1999 for crimes against humanity committed in Kosovo, and charges of genocide in Croatia and Bosnia were added a year later. Radovan Karadžić was also indicted for charges of genocide and crimes against humanity, though he was in hiding until his arrest in 2008. Other perpetrators of violence were also charged during the Tribunal. The ICTY was heralded as a step away from impunity towards accountability

⁵³ Office of the Spokesman, Summary of Dayton Peace Agreement on Bosnia-Herzegovina, University of Minnesota Human Rights Library, Nov 30 1995.

⁵⁴ Zwierchowski, Jan & Tabeau, Ewa (1 February 2010). "The 1992–95 War in Bosnia and Herzegovina: Census-based multiple system estimation of casualties undercount" (PDF). Households in Conflict Network and the German Institute for Economic Research. Retrieved 17 May 2015.

and justice for war crimes and genocidal violence, and established wartime rape as a form of torture and a crime against humanity.

VI. Findings and Analysis

The United States had a much more active role in the Guatemalan civil war than it did in the Bosnian War, so CIA documents regarding the U.S. policy in Guatemala during its internal armed conflict are reviewed within this study to show how the U.S. perspective on human rights violations during the war changed over time. Six declassified CIA documents from 1982 to 1991 were reviewed to demonstrate this change in perspective. A 1982 secret cable shows the CIA's support for the Guatemalan military at the time when it was committing some of the worst human rights violations of the war.⁵⁵ This cable describes how any resistance shown to the army led to the assumption that the entire town or village was aligned with the Guerrilla Army of the Poor (EGP), and was subsequently destroyed. Empty towns and villages were also assumed to be aligned with insurgency movements, and were destroyed as well. An ending comment in this document makes clear the U.S. position on the Guatemalan military's actions: "the well-documented belief by the army that the entire Ixil population is pro-EGP has created a situation in which the army can be expected to give no quarter to combatants and non-combatants alike."⁵⁶ Even when presented with reports on human rights violations by outside organizations such as Amnesty International, WOLA/NISGUA, and the Guatemalan Human Rights Commission, the CIA proclaims in a 1982 confidential cable that "a concerted disinformation campaign is being waged in

⁵⁵ Central Intelligence Agency, "Counterinsurgency Operations in El Quiche", *The National Security Archive*, Feb 1982.

⁵⁶ Central Intelligence Agency, "Counterinsurgency."

the U.S. against the Guatemalan government by groups supporting the communist insurgency in Guatemala; this has enlisted the support of conscientious human rights and Church organizations which may not fully appreciate that they are being utilized.”⁵⁷ This cable claims that the human rights violations that are outlined in the organizational reports never occurred, and that the majority of atrocities were, in fact, committed by the guerrillas.

A 1989 CIA secret cable appears more aware of human rights violations but still absolves the Guatemalan military from most of the blame, writing, “regarding the role of the military in human rights violations, the possibility cannot be ruled out, but there are no signs of official military involvement in [...] cases actively under investigation.”⁵⁸ A 1990 Department of State secret cable instructs the U.S. embassy to seek a meeting with President Cerezo to inform him of the halt of U.S. military aid.⁵⁹ This action is due to the murder of an American citizen, Michael DeVine, for which the U.S. government feels is not being taken seriously enough by the Cerezo government. This document shows that despite being fully aware of human rights violations being perpetuated against Guatemalan civilians, the U.S. government didn’t cut off military support until the violence reached a U.S. citizen. The document’s description on the NSA Archive notes that even after overt military aid to the Guatemalan military was halted in 1990, secret

⁵⁷ Central Intelligence Agency, “Analysis of Human Rights Reports on Guatemala by Amnesty International, WOLA/NISGUA, and Guatemalan Human Rights Commission,” *The National Security Archive*, Oct 1982.

⁵⁸ Central Intelligence Agency, “The D-2 Conducts Human Rights Investigation,” *The National Security Archive*, Nov 1989.

⁵⁹ Department of State, “Stop Delivery of Military Assistance to Guatemala,” *The National Security Archive*, Dec 1990.

CIA funds continued to be delivered to the Guatemalan armed forces in the following years, and were only cut off once they were made public.⁶⁰

A 1991 Department of State confidential cable states that the Guatemalan government has met, or is working on meeting, the human rights targets set by the U.S. government.⁶¹ The benchmarks described are as follows:

Benchmark 1: Progress on the Devine case

Benchmark 2: Santiago de Atitlan Massacre

Benchmark 3: ICRC Agreement and Registry of Detainees

Benchmark 4: Executive help to the Ombudsman

Benchmark 5: Periodic meetings between the executive and human rights groups and activists

Other human rights objectives:

General objective A: Make police accountable for abuses

General objective B: Establish consistent police leadership distinct from the military

General objective C: Reform the criminal justice system

There is no mention in this document of any sexual violence during the conflict, nor is there mention of violence perpetuated by the Guatemalan military against indigenous populations, which further demonstrates the lack of a feminist framework within U.S. policy in Guatemala. In a 1993 Department of State secret cable, the Clinton administration's ambassador to Guatemala, Marilyn McAfee, was concerned that the pressure the United States government had exerted on the Guatemala government to improve its human rights record is alienating the Guatemalan military.⁶² This sheds a light into some reasons that members of the U.S. government, however sympathetic they may have been to victims of human rights violations, failed to acknowledge the worst of the violence and put

⁶⁰ Kate Doyle and Carlos Osorio, "U.S. Policy in Guatemala, 1966-1996," *The National Security Archive*, Retrieved from <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB11/docs/>

⁶¹ Department of State, "GOG Meets Most FMF Human Rights Benchmarks: Time for "Small Steps" in Response to Big Ones," *The National Security Archive*, Nov 1991.

⁶² Department of State, "Concerns Over the Military," *The National Security Archives*, Feb 1992.

appropriate pressure on the Guatemalan military to improve its human rights record. From these documents, it's clear that U.S. actions in Guatemala were severely ineffective in standing against violence perpetuated by the Guatemalan military against the indigenous population. These documents also make an important case that acknowledgement of human rights violations by powerful international actors is a vital first step of any response to the violence that can lead to justice.

The U.N.-mandated Historical Clarification Commission conducted an in-depth investigation into the human rights violations in 1994, including wartime rape that occurred during the Guatemalan civil war.⁶³ Though the findings of the truth commission are considered to be the most accurate description of military-sanctioned violence during the conflict, researchers and activists have criticized the tone of reconciliation present throughout the report.⁶⁴ This report does meet some standards that make it an effective response to wartime rape. The commission states that its purpose was to withhold judgment and only report on and clarify events of the war. It begins by discussing the sources of the conflict, concluding that Guatemala's colonial history of racism, authoritarianism and exclusion was largely to blame. In discussing the rise of guerrilla movements, the commission finds that guerrillas aimed to increase their military strength in undemocratic ways, and holds the guerrillas partly responsible for the increase of political intolerance and polarization. The commission provides reasoning for the acts of terror committed during the war:

⁶³ Rothenberg, *Memory of Silence*.

⁶⁴ Rachel Hatcher, "Truth and Forgetting in Guatemala: An Examination of *Memoria Del Silencio* and *Nunca Mas*," *Canadian Journal of Latin American and Caribbean Studies* 34, no. 67 (2009): 148.

“The terror created was not just a result of the acts of violence or the military operations; it was also generated and sustained by other related mechanisms, such as impunity for the perpetrators, extensive campaigns to criminalize the victims and the forced involvement of civilians in the causal sequence leading up to the actual execution of atrocities.”⁶⁵

While sexual violence is not mentioned during this point, it lends logic to why the armed forces used sexual violence, as well as the CEH’s point about how victims were criminalized to turn them into legitimate victims. Sexual violence was an extremely efficient form of criminalization due to the cultural stigma surrounding sexuality. Raping women and girls turned them into outcasts in their own communities, which made it easier to legitimize violence against them. By delegitimizing, stigmatizing and destroying the dignity of the victims, the army signaled to indigenous communities “the exercise of their rights as citizens could mean death.”⁶⁶ For rape victims, this “death” took the form of being abandoned by families and communities. Although the CEH goes on to briefly discuss the toll to women and rape of women committed largely by the armed forces against Mayan women, the level of analysis into why this atrocity occurred is more absent than in discussions into other forms of violence.

After outlining the human rights violations that occurred, the CEH discusses reconciliation and the memory of truth. It discusses how reconciliation has been embraced by some parts of the government, and outlines its recommendations, which largely center on preserving the memory and securing justice for victims while also strengthening democracy and peace within Guatemala. “The CEH is convinced that construction of peace, founded on the knowledge of the past, demands that those affected by the armed confrontation and the violence connected with it are listened to and no

⁶⁵ Rothenberg, *Memory of Silence*.

⁶⁶ Rothenberg, *Memory of Silence*.

longer considered solely as victims, but as the protagonists of a future of national harmony.”⁶⁷ The CEH makes little mention of how victims of violence responded, if it at all, to the idea of reconciliation and democratic peace. Since the truth commission’s investigation, researchers have argued that the CEH fell short in holding the army sufficiently responsible for the crimes it committed. The CEH reports that the army was responsible for 85% of the violence during the war, while the guerrillas were responsible for only 3%, yet the report points out violence on both sides disproportionately and displays a tone of reconciliation throughout the report.⁶⁸ Without a stronger focus on survivors of wartime rape, responses cannot be effective in making recommendations that focus on rehabilitation and reparations for survivors, as well as prosecution for perpetrators.

The United Nations Human Rights Commission’s (UNHRC) universal periodic review of human rights in Guatemala utilizes a framework that is gender-based and sometimes intersectional. It reviews the steps that Guatemala has taken in regards to furthering its human rights policies and actions, while noting areas where the state can continue to improve. Discrimination against and the rights of indigenous people is mentioned in the review twice, while laws on femicide (the gender-based murder of women and girls) and approaches to reduce violence against women and increase female empowerment is mentioned eight times, though issues specifically pertaining to indigenous women is not mentioned in this review. While these specific statements regarding violence against women and discrimination of indigenous peoples are important to acknowledge, Guatemala does not acknowledge the wartime rape that

⁶⁷ Rothenberg, *Memory of Silence*.

⁶⁸ Rothenberg, *Memory of Silence*.

occurred during the civil war period. It is only later, when other states and organizations have a chance to make their recommendations heard that instances of wartime rape is brought up. Amnesty International points to the CEH recommendation No. 47, which relates to the prosecution and punishment for perpetrators of crimes under international law committed during the internal armed conflict.

“Amnesty International was concerned at the refusal of the military to release key documents relating to the military operations conducted during the internal armed conflict [...] Amnesty International called upon Guatemala to ensure that no one responsible for crimes under international law was granted an amnesty, and to implement the judgment of the Constitutional Court of 2011 relating to consultations with indigenous peoples.”⁶⁹

A report made by Amnesty International goes into further detail about the Guatemalan army’s refusal to comply with a judicial order regarding the declassification of documents regarding military operations during the Guatemalan civil war. While the army released part of the documents that were ordered to be declassified, documents from the most violent period of the war, 1980-1985, were not among those released.⁷⁰ Even the documents that have been declassified have not been indexed, summarized or systematized, and are only available for public use in their physical forms in the offices of the army’s Joint Chiefs of Staff in Guatemala City. The army’s refusal to release military documents from 1980-1985 has grim consequences for its progress on improving human rights. Leaving the international community unaware of the extent of the human rights violations that occurred during the internal armed conflict allows the Guatemalan military to avoid taking full responsibility for its actions, and therefore does not give

⁶⁹ UN General Assembly, “National Reported Submitted in Accordance With Paragraph 5 of the Annez to Human Rights Council Resolution 16/21: Guatemala,” *Human Rights Council, Working Group on the Universal Periodic Review*, 28th Session, Nov 2017.

⁷⁰ “Guatemala: Briefing to the UN Committee Against Torture,” *Amnesty International*, 50th Session, May 2013.

policymakers the opportunity to introduce reform to prevent such occurrences from happening again, because they would not know exactly what happened. It also perpetuates the culture of impunity that prevents survivors of sexual violence from receiving reparations and rehabilitation. For all of the progress that [seems to] have been made with regard to Guatemala's human rights image, the problems outlined by Amnesty International show that international pressure and investigation has not proved effective enough to change the culture of impunity surrounding the wartime rape that occurred during the Guatemalan civil war's most violent period.

Responses to the wartime rape that occurred during the Bosnian War have been markedly different than those to wartime rape in Guatemala, largely because of increased international awareness of the sexual violence in Bosnia. The narratives of public rape and rape camps shocked and horrified the international community, leading to more robust calls for intervention into the conflict than before. During a panel discussion presented at the Tenth Annual Whittier International Law Symposium in 1993, Jane Olson, co-chair of Human Rights Watch California, said, "The most important response to [the human rights abuses in Bosnia] in human terms might have been, *but has not been*, some form of effective intervention" (emphasis mine).⁷¹ The reason for a lack of effective intervention in the early conflict continues to be debated, but there tends to be agreement^{72,73} that the publicizing of the narratives of human rights abuses became a catalyst for finally organizing a humanitarian intervention. Still, as has been previously

⁷¹ Jane Olson, Lois Fielding, Holly Burkhalter & Douglas Cassel Jr., *Bosnia, War Crimes, and Humanitarian Intervention*, 15 Whittier L. Rev. 445 (1994). Available at https://scholarship.law.nd.edu/law_faculty_scholarship/306.

⁷² DiPrizio, *Armed Humanitarians*, 14.

⁷³ Walling, *All Necessary Measures*, 98.

noted, the intervention that occurred was not viewed as effective because of its inability to protect civilians due to its mandate that negated the use of force.

While there was increased attention to the narratives of survivors of wartime rape in Bosnia following the conflict, some survivors felt taken advantage of. News reporters, journalists and scholars asked many women about their stories and recounted them in articles, books and documentaries. Clark reflects that while many non-governmental organizations based in the Balkan region (including Tuzla-based Snaga Žene) connected her with victims who were willing to tell their stories, other organizations were wary of reporters.⁷⁴ One told Clark that “neither she nor any of the women in her association would speak to me unless I was willing to pay them because they had been misused too many times in the past.”⁷⁵ These reflections give a rare glimpse into how survivors of wartime rape view the international community’s responses. Unfortunately, according to the those interviewed by Clark, such responses have fallen short of centering survivors.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)’s concluding observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina, published in 2013, shed a light into how the interventions of the Bosnian war were ineffective in long-term protection of survivors of wartime rape. Every point of concern for CEDAW is related to the failure to grant justice and compensation for survivors, as well as the failure to hold perpetrators accountable for their crimes during the war. These concerns are outlined below.

- a) The slow pace of prosecutions and very low level of conviction rates of perpetrators of sexual violence, which result in pervasive impunity,

⁷⁴ Janine Natalya Clark, “Working with Survivors of War Rape and Sexual Violence: Fieldwork Reflections from Bosnia-Herzegovina,” *Qualitative Research* 17, 4 (2017): 425. doi: 10.1177/1468794116671987.

⁷⁵ Clark, “Working with Survivors,” 428.

- despite the implementation of the 2008 national war crimes prosecution strategy;
- b) The inadequate definition, as both the State and entity levels, of acts of sexual violence as war crimes and crimes against humanity, in particular the elements of the crime of rape, which are not in line with international standards; the large number of cases at the district and cantonal levels, at which rape continues to be prosecuted as an ordinary crime, without taking into account the dimension of armed conflict; and the parallel applicability of different criminal codes, resulting in inconsistent jurisprudence and lenient sentencing practices;
 - c) Long delays in adopting measures to address the needs of a large number of women victimized by the conflict;
 - d) The lack of adequate victim reparation in war crimes trials, where victims are being referred to initiate separate civil proceedings, while such claims can be submitted and ruled upon during criminal proceedings;
 - e) The deficiencies of witness protection measures in cases prosecuted at the district and cantonal levels, where the law on witness protection programme is not applicable;
 - f) Women's inadequate and unequal access to compensation, support and rehabilitation measures for violations suffered during the war, such as enforced disappearances. These measures include sustained psychological and medical support as well as financial and social benefits, which are regulated differently in the entities;
 - g) The lack of measures taken to address the systematic stigmatization faced by women victims of wartime sexual violence, which hampers their access to justice and social reintegration.⁷⁶

Essentially, these remarks show that each indicator of an effective intervention measured in this study (justice for survivors of sexual violence, prosecution of perpetrators, and changing the culture that makes sexual violence during war possible) has not been met. That the remarks mention the 2008 war crimes prosecution strategy as being ineffective furthermore shows that post-conflict non-intervention responses have also failed to meet the above indicators of effectiveness. Yet, the Committee's recommendations to remedy these concerns do not mention revising policy and legal frameworks to use intersectional approach, nor do they recommend working more closely with women's advocacy groups

⁷⁶ United Nations, Convention on the Elimination of All Forms of Discrimination against Women, *Committee on the Elimination of Discrimination Against Women: Concluding observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina*, 2013.

and networks, the importance of which scholars such as De Lellio and Clark have stressed.

The Human Rights Watch Global Report on Women's Human Rights discusses occurrences of wartime rape in conflicts all over the world. In its comments on the wartime rape that occurred during the Bosnian War, it discusses that the reasoning behind increased international attention to Bosnia may be attributable to efforts by women's movements to condemn rape as a weapon of war and push for an end to impunity for perpetrators.⁷⁷ The HRW conducted interviews of survivors, who spoke on their attackers' confidence in the impunity they would likely enjoy following their crimes. The report then makes separate recommendations for governments and for the international community. To governments, the HRW recommends that:

1. All incidents of wartime rape be fully investigated, prosecuted and punished;
2. That military and civilian authority should publicly condemn wartime rape and emphasize their intention to prosecute and punish incidents;
3. Include in military training explicit bans against the use of rape and make clear a no-tolerance policy of rape within the armed forces;
4. Reform the legal framework on domestic laws against rape, specifically,
 - a. "to classify in their legal codes a rape as a crime against women's physical integrity and not as an offense against individual or community honor;
 - b. to ensure that discriminatory attitudes about female rape victims neither prevent serious investigation of rape nor undermine rape's equitable prosecution; and
 - c. to ensure that medical and legal services provided by the state for the purpose of investigating rape are available to all women when and where they are needed;"
5. Exercise jurisdiction to investigate any occurrences of wartime rape that occur within their state; and
6. Support the efforts of international tribunals to investigate and prosecute wartime rape as a war crime.⁷⁸

⁷⁷ "The Human Rights Watch Global Report on Women's Human Rights," *Human Rights Watch*, Aug 1995: 10.

⁷⁸ "Human Rights Watch Global Report," 95.

To the international community, the HRW recommends continued support for international legal framework that defines wartime rape as a crime against humanity and a war crime, as well as recommended that the U.N. increase investigations into wartime rape and reform the training of peacekeepers to make explicit that all forms of sexual violence are prohibited and will be investigated and punished.⁷⁹ These recommendations go the farthest of any other report reviewed in this study, and as such is the most effective response to sexual violence during conflict. Still, while the HRW report makes clear recommendations to change the culture of silence and stigma surrounding wartime rape within communities as well as outlining clear methods to reverse the culture of impunity for perpetrators, it does fails to outline how governments can work to bring rehabilitation and reparations to survivors.

VII. Conclusion

This study sought to understand the effectiveness of international responses to wartime rape during the Guatemalan civil war and the Bosnian war. The hypothesis that such responses were most effective when they utilized a feminist, intersectional framework that centered factors of identity was supported by the data, although as governmental documents continue to be declassified and reports are followed up on, this study can be replicated to describe how recommendations made by these responses have or have not been met. Much of the research that has been conducted in post-conflict areas that experienced wartime rape has focused on publicizing victim narratives, but has not gone far enough to recommend actions to provide rehabilitation and reparations for survivors of wartime rape. Educating judges, prosecutors and lawyers on gender equality

⁷⁹ “Human Rights Watch Global Report,” 96

law, as recommended by CEDAW's 2013 report, does not go far enough in improving how wartime rape is viewed and approached on an internal legal level. Similarly, the recommendation that Bosnia and Herzegovina "increase women's awareness of their rights and the remedies available to enable them to seek redress in cases of gender-based discrimination"⁸⁰ fails to acknowledge the role that communities and families play in silencing victims. If this culture of violence is not acknowledged, survivors of conflict-related sexual assault continued to be discouraged in seeking justice for the crimes they experienced. While the Committee does later recommend that the state encourage women to report domestic violence and de-stigmatize victims, it's not clear how this de-stigmatization can be practically implemented, and the fact this recommendation doesn't extend to conflict-related sexual violence hinders the ability for this recommendation to be implemented in a way that reaches all victims of sexual violence.

Throughout the review of these reports, it has become clear that when there is no acknowledgement of wartime rape, survivors suffer and perpetrators enjoy impunity for their crimes. The Guatemalan army's refusal to release military documents from 1980-1985 has grim consequences for its progress on improving human rights. Leaving the international community unaware of the extent of the human rights violations that occurred during the internal armed conflict allows the Guatemalan military to avoid taking full responsibility for its actions, and therefore does not give policymakers the opportunity to introduce reform to prevent such occurrences from happening again, because they would not know exactly what happened. It also perpetuates the culture of impunity that prevents survivors of sexual violence from receiving reparations and

⁸⁰ United Nations, *Concluding observations*, 5.

rehabilitation. For all of the progress that [seems to] have been made in regard to Guatemala's human rights image, the problems outlined by Amnesty International show that international pressure and investigation has not proved effective enough to change the culture of impunity surrounding the wartime rape that occurred during the Guatemalan civil war's most violent period.

This study was limited in scope, and could have explored more cases to come to a more refined conclusion. It also lacked the time and resources to conduct interviews with people involved in past interventions to gain a better understanding of how the interventions were set up. Still, the recommendations of this study can be expanded upon to contribute to policy that may prevent wartime rape from being as prevalent as it is. The majority of the research on wartime rape focuses on how and why it happens, but not enough has sought to understand how seemingly unrelated solutions may have an effect on the outcomes of conflict-related sexual violence. For example, after the war in Bosnia, many survivors were pushing for humanitarian aid, such as medical support, food, and housing. Future research should look at how this type of aid may affect the gender norms of a community to change the culture of silence surrounding sexual violence.

Additionally, more research must be done to understand how military groups can change internal norms to prevent sexual violence during conflict from becoming a military strategy. Finally, while researchers are increasingly calling for a change in international legal frameworks to call wartime rape a crime against humanity, or a war crime, more research must be done to understand how this type of framework can be put in place on an international scale.

For too long, wartime rape has gone unacknowledged by governments and the international community. The consequences of this have been felt hardest by survivors, who often can't speak about their experiences when the world is not listening. Survivors' stories must be used not as shocking displays of the worst of humanity, but as a call to action to support people who have gone through so much pain and trauma. The international community has a duty not to let survivors become grandmothers before they see justice. There is a duty to respond with action, and to do so effectively.

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