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DISENTANGLING WAR FROM MASCULINITY: A FRAMEWORK FOR COMBATTING
SEXUAL VIOLENCE IN CONFLICT

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ABSTRACT

Criminalizing sexual violence in conflict is not enough to effectively deter its strategic use. Legal constructs prohibit sexual violence in war through classification as a war crime, genocide, or crime against humanity. However, the use of sexual violence as a tool in conflict stems from longstanding norms of combat as an exclusively masculine endeavor. A fundamental shift in how we think about gender roles in war is required to effectively combat sexual violence as a tool of war by addressing underlying cultural norms that affect behaviors. War and armed conflict (and their celebrated virtues of strength, courage, and sacrifice) have long been entangled with norms of masculinity. Throughout history, women have traditionally been regarded as the ones to be safeguarded during times of conflict. Thus, women’s bodies become the prizes of war and sexual violence, a means of emasculating the enemy or claiming victory. These beliefs are so ingrained in historical concepts of war that they go almost unchallenged and insidiously reinforced. Sexual violence in armed conflict is thus a symptom of harmful cultural narratives about armed conflict. Curbing sexual violence as a tool of war and genocide will require consciously disentangling conflict from normative masculinity. Examples of historic and contemporary conflicts are provided here to connect strategic sexual violence to comparatively weak social and political empowerment of women at the situs of conflict. From this framework, the authors suggest that the international community has a responsibility to portray military power and strength as non-gendered or even through normatively feminine constructs. Normalizing the integration of women in combat as a valued social role is a means of disentangling normative masculinity and ultimately curbing the use of sexual violence as a tool of war.

Key Words: sexual violence, conflict, masculinity, gender norms, genocide, media, integration

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INTRODUCTION

Sexual violence in conflict is a persistent problem in need of solutions. This article proposes a novel framework to compliment current measures of discouraging the use of sexual violence in war. We first examine the prevalence of rape and sexual assault in armed conflict, especially conflicts in which genocidal or strategic sexual violence has occurred. We then suggest that one explanation for this prevalence is deeply ingrained normative masculinity entangled with norms of warrior ethos and military might. To effectively combat sexual violence as an available strategy, both for state decision-makers and individual soldiers, it is necessary to take steps to disentangle norms of war with norms of masculinity. The responsibility to do so falls on the states and entities most likely to engage in sexual violence in armed conflict. It falls on those with influence in the international community—great powers and modern war players—to notice the entanglement and take leading steps to neutralize and re-norm the expectations and acceptable behaviors of war.

I. NORMS PREDICT CONFLICT-RELATED SEXUAL VIOLENCE

Sexual violence has been defined to include (1) rape, (2) sexual slavery, (3) forced prostitution, (4) forced pregnancy, and (5) forced sterilization.⁴ Sexual violence is a subset of “gender-based crimes,” which includes all “crimes committed against individuals based on socially constructed norms of maleness and femaleness.”⁵ Sexual violence, and more specifically rape and forced pregnancy, have long been a part of war strategy.⁶ The term “strategy” means it is a rational calculation of the state or the tactical individual or group meant to achieve a goal.⁷ For example, by the 14th century, it was well-established that taking a city by siege meant its “women could be raped” and state leaders could rely on soldiers’ “lust for blood, spoil and women [as] a major incentive to . . . persevere in the rigors [of] a protracted siege.”⁸ For the preponderance of human history, women were considered men’s property and treated as the spoils of war because there existed no obligation to value an enemy’s property.⁹ With this history in mind, it is no surprise

⁴ Rosemary Grey, *Conflicting Interpretations for ‘Sexual Violence’ in the International Criminal Court: Recent Cases*, 29 AUSTRALIAN FEMINIST STUD. 81, 273-288 (2014); see also The International Criminal Court, *Elements of Crimes*, 2-30 (2013), <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>.

⁵ Hilmi M. Zawati, *The Challenge of Prosecuting Conflict-Related Gender-Based Crimes under Libyan Transitional Justice*, 10 J. OF INT’L LAW AND INT’L REL. 44-91 (2014).

⁶ LAURA SJOBERG, *GENDERING GLOBAL CONFLICT* 10-11, 185-186 (2013).

⁷ *Id.* at 178.

⁸ MAURICE H. KEEN, *THE LAWS OF WAR IN THE LATE MIDDLE AGES* 121-122 (1965).

⁹ Catherine N. Niarcos, *Women, War, and Rape: Challenges Facing the International Tribunal*

that even if deemed illegal in the eyes of global leaders, it is still not considered deviant.

Formative sociologists consider rape a product of social structure and find that in many cases, those who rape do consider it a spoil or reward for their efforts within society.¹⁰ In many cultures, men are taught to expect a certain level of access to the female body and justify the force of that access.¹¹ All the while, social structure prepares women to be legitimate victims of rape and men to be legitimate in victimizing.¹² What is and is not considered deviant is wholly reliant upon how a culture views behavior. Emile Durkheim posits that societies forge values consensus, which is upheld through collective approval or disapproval, thereby fostering social solidarity. According to Durkheim, illegality alone does not suffice to deem a behavior deviant; rather, it is the solidarity within a culture that steers a behavior towards deviance.¹³ In cases of rape there are far more historical accounts of cultural acceptance than disapproval, especially when rape occurs during war.¹⁴

II. RATIONALES AND PREDICTORS OF SEXUAL VIOLENCE

When we discuss masculine norms in the military, this involves ideals of toughness imbued into the norms of war.¹⁵ It also encompasses honor ideology inside a culture with or without war. Men take on the role of protector; women that of the protected. Such ideology predisposes men not only to violence but has been found the strongest predictor of sexual violence against women.¹⁶ Cultures wherein social status, property, and privileges are designated to men hold an increased likelihood of sexual violence as well.¹⁷

for the Former Yugoslavia, 17 HUM. RTS. Q. 649, 659 (1995); Ludovica Poli, *Criminalizing Rape and Sexual Violence as Methods of Warfare*, in *WAR CRIMES AND THE CONDUCT OF HOSTILITIES: CHALLENGES TO ADJUDICATION AND INVESTIGATION* 136-152 (Edward Elgar Publishing et al. eds., 2013).

¹⁰ Diana Scully & Joseph Marolla, *'Riding the Bull at Gilley's': Convicted Rapists Describe the Rewards of Rape*, RAPE AND SOC'Y 58-73 (2018).

¹¹ Louise Du Toit, *Introduction: Meanings of Rape in War and Peace*, 38 PHILOSOPHICAL PAPERS 3, 285-305 (2009).

¹² Kurt Weis & Sandra S. Borges, *Victimology and Rape: The Case of the Legitimate Victim* 8 ISSUES CRIMINOLOGY 71 (1973).

¹³ Emile Durkheim, *The Rules of Sociological Method*, SOC. THEORY RE-WIRED 9-14 (2023).

¹⁴ Dorothy Q. Thomas & Rachel E. Ralph, *Rape in War: Challenging the Tradition of Impunity* 14 SAIS REV. 1, 81-99 (1994).

¹⁵ SJOBERG, *supra* note 3, at 2-8, 185-186.

¹⁶ Elin Bjarnegard, Karen Brouneus, & Erik Melander, *Honor and Political Violence: Micro-level Findings from a Survey in Thailand*, 51 J. OF PEACE RSCH. 6, 748-761 (2017).

¹⁷ Valerie M. Hudson & Andrea Den Boer, *A Surplus of Men, a Deficit of Peace: Security and Sex*

Communities where there exists an excess of men, the likelihood of sexual violence also increases: “When bare branches congregate, the potential for more organized aggression increases substantially.”¹⁸ One could argue that in war, where women are absent or rarely seen in the field of combat, the bare “branch syndrome” intensifies. Motives for sexual violence also extend to a *gendered* message that begs humiliation of a group, state, or nation’s women with the distinct goal of symbolizing superiority.¹⁹ Ethnicity too, plays a part in the targeting of sexual violence during conflict. The Sexual Violence in Armed Conflict (SVAC) international dataset reveals ethnicity to be the primary basis for targeting, and state actors, rather than rebel groups or militias, are the most prevalent perpetrators.²⁰ Patterns such as masculine cultural domains, honor ideology, and ethnic targeting suggest that international norms indeed play a significant role; it is not limited to a small subset of rogue rebel factions deciding to engage in sexual violence. Such acts occur within formal military organizations, often involving the deliberate targeting of women from ethnic or religious groups.

Sexual violence has not only been weaponized as a state-sanctioned tactic against adversaries, but also used against their own people to further the objectives of war. Japan recently apologized for its implementation of forced prostitution of more 200,000 “comfort women” in World War II.²¹ Nazi leader Joseph Goebbels instructed soldiers that men must be trained for war and the “woman for the recreation of the warrior.”²²

Access to women’s bodies can be realized against civilians on or near the battlefield as a strategy against the enemy. Veterans of the Vietnam War have been documented describing rape of civilians as “standard operating procedure.”²³ It may also be realized upon return from combat. The widely celebrated symbol of Allied victory over Japan (“V-J Day”) captures a male combatant seizing upon an unsuspecting nurse in Times Square, New York, physically grabbing, groping, and

ratios in Asia's Largest States 26 INT’L SECURITY 4, 5-38 (2002).

¹⁸ *Id.* at 15.

¹⁹ Laura Sjoberg, *Seeing Sex, Gender, and Sexuality in International Security* 70 INT’L J. 3, 434, 441 (2015).

²⁰ Dara Kay Cohen & Ragnhild Nordas, *Sexual Violence in Armed Conflict: Introducing the SVAC Dataset, 1989- 2009*, 51 J. OF PEACE RSCH. 3, 418-428 (2014).

²¹ Etsuro Totsuka, *Commentary on a Victory for "Comfort Women": Japan's Judicial Recognition of Military Sexual Slavery*, 8 PAC. RIM L. AND POL’Y J. 1, 47, 52 (1999).

²² 1 KELLY D. ASKIN, *WAR CRIMES AGAINST WOMEN: PROSECUTION IN INTERNATIONAL WAR CRIMES TRIBUNALS* 49 (1997).

²³ *Id.* at 50 (*citing* SUSAN BROWNMILLER, *AGAINST OUR WILL, MEN, WOMEN AND RAPE*, 107 (1975)).

kissing her.²⁴ In Bosnia and Croatia, where over 12,000 women were systematically raped during the 1992-1995 wars, perpetrators remain unpunished. Acknowledgment of responsibility has bounced around from blame on rogue psychopaths, poor unit oversight, propaganda by othered ethnic or religious leaders, or regrettable excess of war. While the evidence remains that thousands of women were raped, the excuses persist.²⁵

Hence, sexual violence in conflict becomes normalized - not only as a method to achieve the objectives of war, but also as a convenient evasion of responsibility when accountability is pursued by International Courts. States seem more prone to justifications for using sexual violence in conflicts rather than seeking reasons to avoid or accountability for its occurrence. We propose that the meaningful participation of women in conflict and combat can resolve not only the incidence of rape, but also uphold accountability when it has occurred.

III. NORMS ARE LINKED TO THE ABSENCE OF WOMEN IN COMBAT

Gender Equality. Research has shown that gender inequality in general is a reliable predictor of both conflict and sexual violence. Mary Caprioli and colleagues offer some of the initial structural examinations at the national level concerning conflict and find that higher levels of domestic gender equality are inversely associated with the severity of violence in war.²⁶ Studies also indicate that women's involvement in both peace negotiations and civil society contribute to more durable peace outcomes and lower likelihood of violence.²⁷ Through

²⁴ Audrey Reeves, *Kisses at the Memorial: Affective Objects, US Militarism and Feminist Resistance at Sites of Wartime Memory*, 6 CRITICAL MIL. STUD. 3-4, 306-322 (2020).

²⁵ Maja Zuvella, *Bosnia War Rape Victims Suffer in Silence, Wait for Justice*, REUTERS, (Dec. 18, 2012), <https://www.reuters.com/article/bosnia-rape-idINDEE8BI03N20121219/>; HUMAN RIGHTS WATCH, *Bosnia: Landmark Verdicts for Rape, Torture, and Sexual Enslavement*, (Feb. 22, 2001), <https://www.hrw.org/news/2001/02/22/bosnia-landmark-verdicts-rape-torture-and-sexual-enslavement>; Thomas & Ralph, *supra* note 11, at 81-99.

²⁶ Mary Caprioli, *Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict*, 49 INT'L STUD. Q. 2, 161-178 (2005).

²⁷ Jana Krause, Werner Krause, & Piia Braenfors, *Women's Participation in Peace Negotiations and the Durability of Peace*, 44 INT'L INTERACTIONS 6, 985-1016 (2018); Amanda Metcalfe, Anastasia Hueffner, & Josephine M. Suss, *Beyond Inclusion through Female Empowered Leadership: Status and Strategy in Iceland*, 39 GENDER ISSUES 4, 455-477 (2022); Amanda Metcalfe, Shane Soboroff, & Christopher P. Kelley, *Social and Leadership Processes within the Kurdish Women's Freedom Movement*, 10 RES MILITARIS 2, 1-19 (2020); Marie O'Reilly, Andrea Ó. Súilleabháin, & Thania Paffenholz, *Reimagining Peacemaking: Women's Roles in Peace Processes* (2022), https://cvekenya.org/media/library/Reilly_et_al_2015_Reimagining_Peacemaking_Womens_Roles_in_Peace_Processes.pdf; Susanne Schaftenaar, *How (Wo)men Rebel: Exploring the Effect of Gender*

indirect strategies for preventing sexual violence, women play a crucial role in norms that reduce violence in general, thereby contributing to a reduction in conflict-related rape.

Masculine Norms in Conflict. While women have participated in armed conflict for thousands of years, their involvement is most often in a supporting role and insulated from the full dangers of combat. Combat experience for women is extremely rare throughout history. According to recent NATO reports, women's active-duty participation in non-conscription militaries is still quite miniscule, ranging from .3 to 20 percent with combat participation much lower.²⁸ When women have been permitted to participate in combat and share in the burden of risking their lives to protect others, it is often because of permission granted by men and in situations of dire need.²⁹ Limiting women's participation to supporting or logistical roles implies their relegation to a gender in need of protection, fostering an arrangement where, in exchange for protection, women are expected to provide access to their bodies.³⁰ The less witness of women shouldering the burdens of combat, the greater the debt owed in the form of women's bodies as prizes. As women are absent from combat, so too is accountability for those war crimes committed against them.

Norms messaging occurs at the hands of our own elite U.S. leaders. In 1980, the U.S. Marine Corps Commandant stated that women in combat would be an "enormous psychological distraction for the male who wants to think that he's fighting for that woman somewhere behind...it tramples the male ego [and] you've

Equality on Nonviolent and Armed Conflict Onset, 54 J. OF PEACE RSCH. 6, 762-776 (2017); Laurel Stone, *Women Transforming Conflict: A Quantitative Analysis of Female Peacemaking* (Aug. 24, 2014).

²⁸ NATO INDIAN MINISTRY OF DEFENSE, *Infographic: Military Women Remain in the Minority*, STATISTA DAILY DATA (Sept. 23, 2021),

<https://www.statista.com/chart/25840/women-as-share-of-active-duty-military-personnel>.

²⁹ Leisa D. Meyer, *Creating G.I. Jane: Sexuality and Power in the Women's Army Corps during WWII*, 18 FEMINIST STUD. 3 (1996) (discussing the public relations balancing act necessary to permit women to serve in the Women's Army Corps and Women's Army Air Corps due to prevailing gender, sexuality, and power norms). "The process of creating a category of 'female soldier' was defined by these interactions between Wacs, the army hierarchy (which was often divided along gender lines), and public opinion. The reformulation and reconstruction of gender and sexual norms involved in this process did not end with the war but is still going on today. Women's service continues to be circumscribed by debates over the contradictory concepts of "woman" and "soldier" [...]. *Id.* at ¶ 37.

³⁰ *Id.*; see also Robert B. Westbrook, "I Want a Girl, Just Like the Girl that Married Harry James": American Women and the Problem of Political Obligation in World War II, 42 AM. Q. 4, 587-614 (1990).

got to protect the manliness of war.”³¹ In 2011, former Secretary of the Navy, John Lehman, publicly reminisced about pre-scandal days before the Navy removed “swagger” and “confidence” from the Navy’s aviation culture and replaced it with a focus on integrating women.³² The concept of a “warrior,” both anciently and modernly, is normatively male-gendered. It is defined in a way that equates virtues—bravery, fearsomeness, experience, and physical strength—with manliness.

Modern-day depictions of the most prized combat roles have been characterized by military historians and commentators as “hypermasculine.”³³ This extends to international strategies for dealing with conflict.

IV. MASCULINE NORMS IN INTERNATIONAL RELATIONS

Laura Sjoberg underscores gendering in international relations, which involves the application of gender norms to the functioning of social and political institutions that result in more violent state responses.³⁴ Joanne Tickner notes the pervasive male dominance in global national security and military power, asserting that international political systems, while currently entrenched in masculine norms, possess future potential to influence behavior less fixated on violence.³⁵

In the military context, femininity has consistently been positioned as the opposite of the traditional warrior archetype and as an alternative to conflict resolution. To be normatively feminine is weakness, compassion, dependence, and kindness.³⁶ “[F]or the warrior hero, to falter is female.”³⁷ With this in mind, global leaders have been charged with the responsibility of norm re-alignment and a trend in feminist foreign policies. Prominent feminist international relations theorists, the United Nations, and 107 countries with current Women Peace and Security (WPS)

³¹ Angie Robertson, *Sexual Assault: The Dark Side of Military Hypermasculinity*, AIR UNIV. 8 (2016), <https://apps.dtic.mil/sti/pdfs/AD1037607.pdf>.

³² Rowan Scarborough, *Lehman rocks Navy with Complaints about Political Correctness*, WASH. TIMES (Sept. 18, 2011), (last visited Sept. 30, 2023), <https://www.washingtontimes.com/news/2011/sep/18/lehman-rocks-navy-complaints-about-political-correctness/>.

³³ MICHAEL W. HANKINS, FLYING CAMELOT: THE F-15, THE F-16, AND THE WEAPONIZATION OF FIGHTER PILOT NOSTALGIA 2-3, 33, 49-50, 200 (2021).

³⁴ SJOBERG, *supra* note 3, at 192.

³⁵ Jo Ann Tickner, *Gender in International Relations: Feminist Perspectives on Achieving Global Security*, J. OF AM. HIST. 15-16, 42 (Dec. 1993).

³⁶ *Id.* at 85.

³⁷ Rachel Reit, *The Relationship Between the Military's Masculine Culture and Service Members' Help- Seeking Behaviors* (May 2017) (unpublished Doctoral thesis, Marquette University) (on file with ProQuest Dissertations Publishing, Marquette University).

action plans have charted a path forward, placing significant emphasis on gender equality in the name of national security.³⁸ Feminist foreign policy considers external approaches that promote gender equality and the empowerment of women.³⁹ Central to both strategies are the meaningful participation of women in all realms of conflict and peacekeeping. The U.S., unfortunately, has not aligned itself to a feminist foreign policy despite the commitments of its neighbors, Mexico and Canada to do so.

V. CRIMINALIZATION IS INSUFFICIENT

Sexual violence was only recently recognized as a war crime.⁴⁰ The 1907 Hague Convention codified the first international recognition of sexual violence as a crime in conflict, but only indirectly as a violation of “family honor.”⁴¹ The first clear and explicit international prohibition against gender-based crimes in conflict (rape, enforced prostitution, or any other form of indecent assault) was Article 27(2) of the Fourth Geneva Convention of 1949.⁴² Article 76(1) of the 1977 Additional Protocol I (AP I) expanded the protection to all civilians, including a party to a conflict’s own population.⁴³ When use of rape and other gender-based crimes in conflict were finally criminalized in the mid-20th century, they were framed as crimes against honor, reinforcing the norm of women as protected property.⁴⁴ Such honor ideology keeps women outside the realm of combat and at the status of needing protection. Once again, an ideology that nearly always predicts sexual violence and continues to circulate in the context

³⁸ See U.S. WHITE HOUSE, *Memorandum on Promoting Accountability for Conflict-Related Sexual Violence*. WHITE HOUSE (Nov. 28, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/28/memorandum-on-promoting-accountability-for-conflict-related-sexual-violence/>.

³⁹ UNITED NATIONS WOMEN, *Feminist Foreign Policies: An Introduction*, UN WOMEN IN BRIEF (Sept. 2022), https://www.unwomen.org/sites/default/files/2022-09/Brief-Feminist-foreign-policies-en_0.pdf.

⁴⁰ Patricia V. Sellers, *Rape Under International Law*, in *WAR CRIMES: THE LEGACY OF NUREMBERG*, 159- 161 (1999); Kelly D. Askin, *Prosecuting Wartime Rape and Other Gender-Related Crimes under International Law: Extraordinary Advances, Enduring Obstacles*, 21 *BERKELEY J. OF INT’L L.* 2, 288-350 (2003); Jonathan M.H. Short, *Sexual Violence as Genocide: The Developing Law of the International Criminal Tribunals and the International Criminal Court*, 8 *MICH. J. OF RACE AND L.* 2, 503-528 (2003).

⁴¹ Askin, *supra* note 36, at 295; Ludovica Poli, *Criminalizing Rape and Sexual Violence as Methods of Warfare*, in *WAR CRIMES AND THE CONDUCT OF HOSTILITIES: CHALLENGES TO ADJUDICATION AND INVESTIGATION*, 136-152, 138 (Fausto Pocar et al. eds.) (2013).

⁴² Poli, *supra* note 38.

⁴³ *Id.*

⁴⁴ *Id.* at 138-140.

of war, while women as capable fighters remain unseen.⁴⁵

Unfortunately, the passage of time under criminalization has not made an appreciable difference in the prevalence of state-sanctioned sexual violence in war. In 2011, in Libya, accounts emerged of military leaders encouraging the use of mass rape and sexual torture, including Moammar Qaddafi himself authorizing rape of Libyan rebel women and ordering anti-impotence drugs for soldiers and mercenaries.⁴⁶ Due to the social and cultural valuation of a woman's sanctity, use of rape was chosen among many options because it inflicted great harm to the individual victim and her community.⁴⁷ According to women interviewed in Iraq shortly after the Yazidi genocide, the concept of control, dominance, governing policies, or what is commonly referred to as "the system," were the cause of over two thousand Yazidi women being forced into sexual slavery.⁴⁸

These systemic notions are likewise responsible for the establishment of norms that permit child marriage, legal marital rape, and honor killings. Use of rape as a political and strategic weapon of war has been well-documented in the civil wars in former Yugoslavia, Rwanda, Sierra Leone, and other conflicts at the turn of the 21st century.⁴⁹ Current conflicts in Sudan and Ukraine, are marked by frequent incidents of rape while reports detail instances of sexual violence, employed by military leaders as a symbolic means of local conquest to humiliate, intimidate, terrorize, and punish.⁵⁰ Presuming that states endeavor to abide by international laws, one might expect the strategic use of sexual violence in conflict to decrease with rising criminalization. As of today, this does not appear to be the case.

Even in times of peace, incidents of sexual scandal surface, often attributed to cultural factors. In 2011, former U.S. Secretary of the Navy, Sean O'Keefe, stated in response to the U.S. Navy's 1991 Tailhook convention sexual assault

⁴⁵ Valerie M. Hudson & Andrea Den Boer, *A Surplus of Men, a Deficit of Peace: Security and Sex Ratios in Asia's Largest States*, 26 INT'L SEC. 4, 5-38 (2002); Caprioli, *supra* note 23; Valerie M. Hudson, et al., *The Heart of the Matter: The Security of Women and the Security of States*, 33 INT'L SEC. 3, 7-45 (2009); SJOBERG, *supra* note 3, at 192.

⁴⁶ Zawati, *supra* note 2.

⁴⁷ *Id.*

⁴⁸ Metcalfe, et al., *supra* note 24.

⁴⁹ Zawati, *supra* note 2, at 50.

⁵⁰ Laurel Wamsley, *Rape has Reportedly Become a Weapon in Ukraine, Finding Justice may be Difficult*, NAT'L PUB. RADIO (Apr. 30, 2022), <https://www.npr.org/2022/04/30/1093339262/ukraine-russia-rape-war-crimes>; UNITED NATIONS, *Rape by Sudan's RSF Militia Used to 'Punish and Terrorise' Warn Rights Experts*, UN NEWS (Aug. 17, 2023), <https://news.un.org/en/story/2023/08/1139847>; UNITED NATIONS, *Ukraine: Rape and Torture by Russian Forces Continuing, Rights Experts Report*, UN NEWS (Sept. 25, 2023), <https://news.un.org/en/story/2023/09/1141417>.

scandal, “We know that the larger issue is a cultural problem which has allowed demeaning behavior and attitudes toward women to exist.”⁵¹ In other words, the Tailhook mass sexual assault event committed by members of the U.S. Navy’s combat aviation subculture was a direct result of unchallenged and legitimized norms specific to combat. Prevalence of rape in war, and even within the day-to-day operations of active duty service,⁵² illustrate that the status of women does not necessarily change with the whims of policy and combat remains durably influenced by norms that tolerate rape.

Positive developments are occurring while global leaders are beginning to exemplify accountability for conflict-related rape. Recently, the White House released a memorandum affirming the nation's refusal to accept conflict-related sexual violence as an acceptable consequence of armed conflicts.⁵³ The memorandum recognizes that the most effective approach to preventing such violence lies in advancing global gender equity and equality.⁵⁴ The stated international policy outlines a commitment to utilizing all available tools, including legal, policy, diplomatic, and financial measures, to deter such violence.

Emphasizing the need to break the cycle of impunity, the policy also underscores the importance of providing essential services to survivors.⁵⁵ This memorandum represents a positive stride forward, fostering accountability and challenging prevailing societal gender norms that contribute to conflict-related sexual violence.⁵⁶ The memorandum delineates specific actions, including enhancing the capabilities of U.S. executive agencies to actively collaborate with civil society.⁵⁷ Additionally, it advocates for the formation of coalitions with “like-minded nations” to promote accountability. This marks the initiation of an international paradigm shift in state behavior, moving away from traditional

⁵¹ Melissa Healy, *Pentagon Blasts Tailhook Probe, Two Admirals Resign*, L.A. TIMES, (Sept. 25, 1992), <https://www.latimes.com/archives/la-xpm-1992-09-25-mn-1182-story.html>.

⁵² See DEPARTMENT OF DEFENSE, *Sexual Assault Prevention and Response, Fact Sheet: Fiscal Year 2022 Department of Defense Annual Report on Sexual Assault in the Military* (2023), https://www.sapr.mil/sites/default/files/public/docs/reports/AR/FY22/FY22_Annual_Report_Fact_Sheet_Reference_Copy.pdf

⁵³ U.S. White House, *Memorandum on Promoting Accountability for Conflict-Related Sexual Violence*, WHITE HOUSE, (2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/28/memorandum-on-promoting-accountability-for-conflict-related-sexual-violence/> (last visited Apr. 21, 2024).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

masculine norms towards values centered on care and collaboration. The United States is the first country in the world to sign into law the Women Peace and Security Bill (2017) that requires a national strategy for both the integration of women into meaningful security positions and decision-making roles surrounding conflict, as well as ensured protection of women, girls, and boys during and after crisis.⁵⁸

VI. THE RESPONSIBILITY TO UNTANGLE GENDERED NORMS LIES WITH GLOBAL INFLUENCERS

Global powers have an obligation under international law to refrain from using or condoning sexual violence as a strategy of war. The Rome Statute of the International Criminal Court provides “it is the duty of every state to exercise its criminal jurisdiction over those responsible for international crimes,” including gender-based crimes.⁵⁹ Many of the sources criminalizing gender-based conduct require states to prevent the crime’s commission. For example, Article I of the Genocide Convention requires states involved in a conflict to “prevent and punish” genocide.⁶⁰ The International Criminal Tribunal for the former Yugoslavia (ICTY) interpreted the prohibition against rape to include “a duty to prevent the commission of an act, to take precautionary measures.”⁶¹

Finally, the United States recently committed to international oversight with a 2022 memorandum on Promoting Accountability for Conflict-Related Sexual Violence.⁶² Furthermore, prohibiting the use of genocide, war crimes, torture, slavery, and crimes against humanity are regarded as customary norms, or *jus cogens*, and thus have universal jurisdiction and enforcement authority.⁶³ While these norms are well-established, the legal enforcement of gender-based crimes has been scant. The International Criminal Court’s Yugoslav and Rwandan Tribunals in the early 2000s successfully prosecuted sexual violence as tools of genocide, crimes against humanity, and crimes of war,⁶⁴ which, for the first time,

⁵⁸ Women, Peace, and Security Act of 2017, Pub. L. No. 115-68, 131 Stat. 1202 (2017).

⁵⁹ Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/C.1/L.76, Preamble (July 17, 1998) [hereinafter Rome Statute], available at 37 I.L.M. 9 (1998), or <http://www.un.org/icc>.

⁶⁰ Askin, *supra* note 37, at 291 n.17.

⁶¹ Poli, *supra* note 38, at 136-152; NOËLLE QUÉNIVET, *SEXUAL OFFENSES IN ARMED CONFLICT & INTERNATIONAL LAW*, 46 THE MIL. L. AND THE L. OF WAR REV. 2, 448-449 (2007).

⁶² U.S. WHITE HOUSE, *Memorandum on Promoting Accountability for Conflict-Related Sexual Violence*, WHITE HOUSE (Nov. 28, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/28/memorandum-on-promoting-accountability-for-conflict-related-sexual-violence/>.

⁶³ Askin, *supra* note 37, at 293.

⁶⁴ *Id.* at 288.

demonstrated that the international community is willing and able to enforce gender-based crimes in wartime. Even where criminal jurisdiction over perpetrators and strategists does not attach, global powers have a moral obligation to counteract conflict related to sexual violence. An obvious shortfall of this moral obligation is when United Nations peacekeepers, often deployed to prevent or stop genocide, engage in rape of civilian victims.

Reports of rape by U.N. peacekeepers in west Africa emerged in 2002-2003,⁶⁵ and Bosnia in 1995.⁶⁶ The reports caused the U.N. Secretary General to issue specific rules of conduct prohibiting behaviors such as sexual exploitation for services.⁶⁷

Significant transformation has taken place concerning key policies such as the Rome Statute, aimed at deterrence. Nevertheless, gendered constructs persist in shaping and defending the notion of the warrior ethos.⁶⁸ Warrior traits remain grounded in shared hardship, sacrifice in the face of danger, physical strength, and proper use of authority.⁶⁹ The argument is that the new professional warrior can only succeed if it is linked to “traditional” military culture and “hard values on the battlefield.”⁷⁰ Defining warrior ethos in terms of tradition is problematic. The suggestion arises that women whose access to combat has only recently expanded, may never completely embody the warrior ethos. Nonetheless, participation in battle acts as a deterrent to any substantial evolution of this ethos.⁷¹ A lack of full integration reinforces that women, while not sharing in the burdens and risk of war, are instead prizes for the men.

If gender subordination permeates military and political strategy so insidiously, perhaps viewing strategy through a feminist or gender lens is necessary. Feminist literature promotes embracing emotion, such as empathy and

⁶⁵ Anthony J. Miller, *Legal Aspects of Stopping Sexual Exploitation and Abuse in U.N. Peacekeeping Operations*, 39 CORNELL INT’L L. J. 1, 72 (2006).

⁶⁶ HUMAN RIGHTS WATCH, *Bosnia-Herzegovina: The Fall Srebrenica and the Failure of U.N. Peacekeeping* (1995) (last visited Jan. 24, 2024), <https://www.hrw.org/legacy/summaries/s.bosnia9510.html>.

⁶⁷ Miller, *supra* note 59.

⁶⁸ David W. Buckingham, *The Warrior Ethos*, NAVAL WAR COLLEGE (1999) (last visited Sept. 26, 2023), <https://apps.dtic.mil/dtic/tr/fulltext/u2/a366676.pdf>.

⁶⁹ *Id.* at 5.

⁷⁰ *Id.* at 17.

⁷¹ *Id.*; see also Justin Fishel, *Military Leaders Lift Ban on Women in Combat Roles*, FOX NEWS (Jan. 24, 2013) (last visited Sept. 26, 2023), <https://www.foxnews.com/politics/military-leaders-lift-ban-on-women-in-combat-roles>; Denise M. Mull, *Rushing to Failure? Impacts of a Gender-Neutral Military on Combat Effectiveness*, AIR WAR COLL. (Feb. 16, 2016) (unpublished Masters thesis on file with Air University), <https://apps.dtic.mil/sti/tr/pdf/AD1012765.pdf>.

concern for others, and collaborating first in response to conflict.⁷² Promoting equitable participation, respecting differences, and encouraging women's involvement in conflict and peace settings can challenge the prevailing (masculine) notion that states only succeed through competition and domination.⁷³ Embracing integration is a forward path and the United States has already taken proactive steps in that direction.

VI. COMBAT INTEGRATION

The opportunity for women to share in combat burdens is a very recent development. Many of the world's great powers have only within the past few decades integrated women in combat roles. For example, in the Israel Defense Force in 1976, only 30% of all military roles were open to women but by 1997, the numbers had risen to 78%.⁷⁴ In the United States, combat roles for women were opened in 2016 while they had been outright banned just two decades earlier.⁷⁵ The trend of opening combat roles to women stems from changing public attitudes about equality and evolving ideas of military effectiveness.⁷⁶

Opening combat roles is also motivated by realist necessity. China is actively recruiting women to fulfill military readiness-driven quotas of combat and special operations roles in the People's Liberation Army (PLA).⁷⁷ Although, China's strategy is likely motivated by the realist goal of meeting an end-strength, rather than liberal values for gender equality. Similar trends are now occurring in Ukraine with conscription opening to women.

An exemplar of norm defiance is the Sun Ladies, a female Yazidi militia group in Iraq, consisting of survivors who have endured ISIS captivity.⁷⁸ They have been actively involved in fighting against ISIS and working to rescue Yazidi women and

⁷² SJOBERG, *supra* note 3, at 5-6, 192-195.

⁷³ *Id.*; see also FIONA ROBINSON, *GLOBALIZING CARE: ETHICS, FEMINIST THEORY, AND INTERNATIONAL RELATIONS* 113-133 (1999). See generally KATHLEEN B. JONES, *COMPASSIONATE AUTHORITY: DEMOCRACY AND THE REPRESENTATION OF WOMEN* (1993).

⁷⁴ Ricardo Tarrasch et al., *Psychological Aspects of the Integration of Women into Combat Roles*, 50 *PERSONALITY AND INDIVIDUAL DIFFERENCES* 2, 305-09 (2011).

⁷⁵ Julie Collins-Dogrul & Jaimis Rebecca Ulrich, *Fighting Stereotypes: Public Discourse About Women in Combat*, 44 *ARMED FORCES & SOC'Y* 3 (2017).

⁷⁶ *Id.*

⁷⁷ Elsa Kania, *Holding Up Half the Sky? (Part 1)--The Evolution of Women's Roles in the PLA*, 16 *CHINA BRIEF* 1 (Oct. 4, 2016) (last visited Sept. 23, 2023), <https://jamestown.org/program/holding-half-sky-part-1-evolution-womens-roles-pla/>.

⁷⁸ Janine Di Giovanni, *How Yazidi Women are Fighting Back Against ISIS*, *VOGUE MAG.* (Oct. 26, 2016), <https://www.vogue.com/article/sun-ladies-yazidi-women-isis-genocide-sexual-enslavement>.

girls from captivity.⁷⁹ The group was formed in 2015 and has received training and support from the Kurdish Peshmerga forces. They have been praised for their bravery and determination in the face of extreme adversity, and they continue to be a symbol of resilience and strength for the Yazidi community. “The Sun Ladies, born out of the 2014 genocide, have not yet entered combat or fought on the front lines, but they stand ready to do so and they talk in the gritty manner of soldiers willing to give up their lives if they have to.”⁸⁰ The opening of combat roles to women represents an opportunity to shape attitudes about women and flip the narrative from the protected to the protector.

VII. AN IMAGERY APPROACH

Military culture is “the assumptions, ideas, norms, and beliefs, expressed or reflected in the symbols, rituals, myths, and practices, that shape how an organization functions [...] that give meaning to its members.”⁸¹ “Symbolic productions organize and sustain military organization.”⁸² Symbolic productions include imagery and other tangible artifacts. Artifacts have meanings that can differ within cultural categories and levels.⁸³ The longer that norms persist or go unchallenged, the more ingrained and insidious they become. Thus, unchallenged cultural norms are self-reinforcing.

Women are underrepresented in war media. This reinforces stereotypes of men as protectors and women as protected.⁸⁴ Beliefs about groups can be changed by adding positive status information to individuals in low-status groups or by making low-status individuals appear to be legitimate candidates for high-status roles.⁸⁵ Depicting women as warriors and protectors may help to reduce the monopoly of masculine normativity in the war context.

Examining the broader landscape of women's contributions and leadership, a link emerges between women's increased roles in leadership and the promotion of attitudes towards women's equality and the reduction of sexual violence in conflict. Research highlights that female leaders often adopt a more transformational

⁷⁹ *Id.*; see also Metcalfe, Soboroff, & Kelley, *supra* note 24.

⁸⁰ Di Giovanni, *supra* note 72.

⁸¹ PETER MANSOOR AND WILLIAMSON MURRAY, *THE CULTURE OF MILITARY ORGANIZATIONS*, 1 (2019).

⁸² JAMES BURK, *THE ENCYCLOPEDIA OF VIOLENCE, PEACE, AND CONFLICT*, 447 (1999).

⁸³ Peter J.S. Lee, *This Man's Military: Masculine Culture's Role in Sexual Violence*, AIR UNIV. PRESS (2016), <http://aupress.au.af.mil>.

⁸⁴ Julia T. Wood, *Gendered Media: The Influence of Media on Views of Gender*, *Gendered Lives: Communication, Gender, and Culture*, 231-244 (1994).

⁸⁵ Jeffrey W. Lucas, *Status Processes and the Institutionalization of Women as Leaders*, *AM. SOCIO. REV.*, 464-480, 466 (June 2003), <http://www.jstor.org/stable/1519733>.

leadership style that emphasizes collaboration and positive influence.⁸⁶ Leadership by women more often incorporates assertive compassion, empowering teams, and fostering trust. Women leaders often express capabilities of vulnerability and empathy, deviating from traditional masculine norms of strength and violence. This challenges the stereotype that compassion is weakness. However, despite these benefits, conflict continues to be portrayed through a normatively masculine lens and the counter narrative of normative femininity in conflict is absent.

The underrepresentation of women in warfighting roles perpetuates entrenched beliefs. Images that recognize combat contributions counter traditional norms. For example, a picture of a pregnant pilot challenges stereotypes about women's role and perceived limitations in combat. Imagery may also, unfortunately, reinforce harmful norms. The U.S. Air Force Academy's "Bring Me Men" sign persisted for more than twenty years after women entered the service academy and has been criticized as helping to perpetuate a hypermasculine culture.⁸⁷ The impact of imagery and messaging on cultural norms is likely an underutilized and underappreciated means of challenging underlying perceptions that contribute to the acceptance of sexual violence in conflict.

⁸⁶ Alice H. Eagly & Linda L. Carli, *The Female Leadership Advantage: An Evaluation of the Evidence*, 14 THE LEADERSHIP Q. 6, 807-834 (2003).

⁸⁷ Robertson, *supra* note 28, at 8.