

VULNERABLE WOMEN: A CRITICAL REFLECTION ON HUMAN RIGHTS DISCOURSE AND SEXUAL VIOLENCE

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I write as a historian by training, who is now working on gender, violence, and human rights in contemporary Africa. In this Essay, I hail the great interventions made by women's rights' activists and supporters in placing violence against women on the international human rights agenda, but examine critically the emphasis on female vulnerability in recent UN decisions and documents. I analyze the U.N. Security Council resolutions on the experiences of women in wartime and peace, particularly Resolution 1820. I suggest that an exclusive focus on sexual violence against women and girls limits our ability to understand the root causes of sexual violence, and to build different and sustainable futures for women and men. I explore the implications of the figure of the vulnerable woman for post-conflict reconstruction, arguing that an exclusive focus on sexual violence against women and children leads to the articulation of rights in ways that might actually hinder the objectives of human rights.

We live in awful and wonderful times. We all live with daily violence in our homes and cities. Women live with domestic violence in every country of our world.¹ Some citizens of the world live in wartime and deal with a level of terror that is hard to comprehend. Women in the eastern Democratic Republic of the Congo (DRC), for example, are being raped multiple times a day, with penises and with gun barrels.² In addition, we know of the systematic raping of women in the Balkan wars of the 1990s,³ of the rapes of women during the

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¹ See generally SALLY ENGLE MERRY, *HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE* (2006) (considering the universality of violence against women, and the challenges of and opportunities for translating human rights ideals into local contexts).

² Haleigh Hanlon, *Implications for Health Care Practice and Improved Policies for Victims of Sexual Violence in the Democratic Republic of Congo*, 10 J. INT'L WOMEN'S STUD. 64, 64-72 (2008).

³ See generally MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA (Alexandra Stiglmayer ed., Marion Faber trans., 1994).

Liberian civil war in the 1990s and early 2000s,⁴ of what women and children experienced in Sierra Leone,⁵ and of the horrors visited by the Lord's Resistance Army in Uganda.⁶

As Brownmiller's book, *Against Our Will*, documented decades ago, rape has always been part of war.⁷ But the law and society have tended to regard rape of women in wartime as an unfortunate by-product of war, something that cannot be helped, tied to men's uncontrolled sexual urges.⁸ We know of the terrors of the 1990s and today because of the work of women in these countries and outside who speak out against rape in wartime and seek to make it part of the human rights agenda.⁹ Thanks to the writings of authors such as Ronda Copelon, Catherine MacKinnon, Ruth Siefert, and others, we now have a much different understanding of rape of women in wartime and particularly with regard to genocide.¹⁰ These authors have discussed genocidal rape as a form of abuse tied to the attempted reproduction of particular ethnicities and the killing of others. They have shown how rape is not about lack of control but the very opposite: the controlled use of sex as a weapon.¹¹ They have argued that we must understand rape in wartime as connected to much wider patriarchal power relations.¹²

It is thanks to women's activism that violence against women has become part of the human rights agenda through various U.N. Security Council

⁴ Amnesty Int'l, *Liberia: No Impunity for Rape—A Crime Against Humanity and a War Crime*, AI Index AFR 34/017/2004, Dec. 14, 2004, at 2, available at <http://www.amnesty.org/en/library/info/AFR34/017/2004> (follow PDF hyperlink); see generally PEGGY J. JENNINGS & SHANA SWISS, WOMEN'S RIGHTS INT'L, STATISTICAL INFORMATION ON VIOLENCE AGAINST WOMEN DURING THE CIVIL WAR IN LIBERIA (2000), <http://www.womens-rights.org/Publications/IAOS2000.pdf>.

⁵ PHYSICIANS FOR HUMAN RIGHTS, WAR-RELATED SEXUAL VIOLENCE IN SIERRA LEONE: A POPULATION BASED ASSESSMENT 1 (2002), available at <http://physiciansforhumanrights.org/library/documents/reports/sexual-violence-sierra-leone.pdf>.

⁶ Amnesty Int'l, *Former Child Soldiers and Rape Victims Failed by Government*, Nov. 17, 2008, http://www.amnesty.org.uk/news_details.asp?NewsID=17950.

⁷ SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN AND RAPE* 31 (1975); see *id.* at 31–113.

⁸ *Id.* at 32–33.

⁹ See generally MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA, *supra* note 3 (documenting the rape of women during the genocide and conflict in Bosnia-Herzegovina, including interviews of women survivors and male rapists and academic commentaries on genocidal rape).

¹⁰ See, e.g., Rhonda Copelon, *Surfacing Gender: Reconceptualizing Crimes Against Women in Time of War*, in MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA, *supra* note 3, at 197–218; Catherine MacKinnon, *Rape, Genocide and Women's Human Rights*, in MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA, *supra* note 3, at 183–96; Ruth Seifert, *War and Rape: A Preliminary Analysis*, in MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA, *supra* note 3, at 54–72.

¹¹ See, e.g., Seifert, *supra* note 10, at 55–56.

¹² *Id.*

resolutions,¹³ that the scope of what counts as sexual violence for the United Nations has widened,¹⁴ and that we now have increasing monitoring of gender-based violence around the world.¹⁵ The prosecution of rape as a war crime in the International Criminal Tribunal for the Former Yugoslavia and as a crime of genocide in the landmark 1998 *Akayesu* case in the International Criminal Tribunal for Rwanda, have also signaled to governments that the international human rights law community now takes gender-based violence against women seriously when it occurs in the context of genocide and in wartime.¹⁶

In this light, I want briefly to examine the two major Security Council resolutions which have emerged out of this new climate of attention to women's experiences in conflict, and which explicitly focus on women, peace, and security.¹⁷ Security Council passed Resolution 1325 in 2000, in the wake of the Balkan wars of the 1990s and the 1994 Rwandan genocide. It is a landmark document: the first resolution ever to focus on women, peace, and security. It notes that women and children are special victims of war, disproportionately represented among refugees and internally displaced people.¹⁸ It stresses the need for women to be involved in peacekeeping deliberations and reconstruction efforts and calls for gender mainstreaming in peacekeeping operations.¹⁹ Additionally, it calls for the Secretary General to ensure that there are more women staffers in "field-based operations"²⁰ as well as at "decision-making levels in conflict resolution and peace processes."²¹

Security Council Resolution 1820 of June 2008 extends the scope of Resolution 1325. It explicitly addresses sexual violence, and it links sexual

¹³ See, e.g., S.C. Res. 1325, pmbll., U.N. Doc S/RES/1325 (Oct. 31, 2000); S.C. Res. 1820, pmbll., U.N. Doc. S/RES/1820 (June 19, 2008).

¹⁴ See S.C. Res. 1325, *supra* note 13; S.C. Res. 1820, *supra* note 13 (expanding the scope of S.C. Res. 1325).

¹⁵ Audio recording: Global Impact of Gender Based Sexual Violence (first presenter, Yasmeen Hassan), Advancing the Consensus: 60 Years of the Universal Declaration of Human Rights, held by Emory University School of Law (Oct. 16–18, 2008) (<http://itunes.emory.edu> (follow "Emory on iTunes U" hyperlink; when iTunes opens, follow "Community" hyperlink; then click on "Advancing the Consensus" icon; then scroll to track 9 and click on "Get" button)).

¹⁶ See Sherrie L. Russell-Brown, *Rape as an Act of Genocide*, 21 BERKELEY J. INT'L L. 350, 374 (2003).

¹⁷ See S.C. Res. 1325, *supra* note 13, pmbll.; S.C. Res. 1820, *supra* note 13, pmbll.

¹⁸ S.C. Res. 1325, *supra* note 13, pmbll.

¹⁹ *Id.* pmbll., ¶¶ 2–5.

²⁰ *Id.* ¶ 4.

²¹ *Id.* ¶ 2. For a discussion of the implications of this resolution for transitional justice, see Fionnuala Ni Aolain & Elisha Rooney, *Underenforcement and Intersectionality: Gender Aspects of Transition for Women*, 1 INT'L J. TRANSITIONAL JUST. 338, 349–51 (2007).

violence against women and girls to threats to international peace and security.²² As such, it is a response to what appears to be a new threshold of sexual violence in the wars of the 2000s, as seen in Liberia, Sierra Leone, and the DRC. Resolution 1820 resolves that the U.N. Security Council should take steps to “address widespread or systematic sexual violence.”²³ Among various items, the resolution stresses the need for sexual crimes to always be excluded from any “amnesty provisions in . . . conflict resolution processes,”²⁴ and asks the Secretary General “to continue and strengthen efforts to implement the policy of zero tolerance of sexual exploitation and abuse in United Nations peacekeeping operations.”²⁵ Finally, it demands ongoing reporting on “situations of armed conflict in which sexual violence has been widely or systematically employed against civilians,” to develop benchmarks to help stop such violence and to make parties take “appropriate measures to protect women and girls from all forms of sexual violence.”²⁶

The rhetoric of the resolutions, particularly 1820, has important implications for women’s status in international law and in the spaces of post-conflict reconstruction. Attention to rhetoric is important because people putting programs in place around the world refer to these documents, as well as others in the international arena, to help craft human rights language, even as local actors seek to insert some of their own meaning into that language.²⁷

The language of the resolutions gives me pause. Even given the pioneering nature of the documents, I wonder whether the language and concepts employed by the resolutions in fact help to reproduce older gender stereotypes that frustrate the overarching desire to bring about a sustainable peace for all citizens. Again, I want to emphasize that I write here as an academic, rather than as someone who has to work with what is realistically possible at the U.N. Here, I think it is very helpful to have people who work with and in the U.N. to reflect on how such resolutions are passed and the constraints involved.²⁸ I make this point to prod us all to think about the benefits of a particular focus, the rape of women in war time, and what gets silenced by such choices. For

²² S.C. Res. 1820, *supra* note 13, ¶ 1.

²³ *Id.*

²⁴ *Id.* ¶ 4.

²⁵ *Id.* ¶ 7.

²⁶ *Id.* ¶ 15.

²⁷ See MERRY, *supra* note 1, at 134–78; HARRI ENGLUND, PRISONERS OF FREEDOM: HUMAN RIGHTS AND THE AFRICAN POOR 47–69 (2006) (discussing tensions between the local and the international interpretation of rights).

²⁸ See MERRY, *supra* note 1, at 36–71.

example, this focus provides no space to think about the rape of men, nor to think about how forcing a man to rape a woman can be understood as a form of gender based violence.

First, the Resolutions maintain the focus on the public sphere and the realm of the state, which poses a problem for the inclusion of important women's issues in international human rights law.²⁹ Sexual violence only enters the space when men do it in the public sphere of war.³⁰ Silence regarding the private sphere has particular resonance when one is talking of sexual relations. The documents are generally silent on the links between sexual violence in peacetime and that during war.³¹ As Northern Ireland and South Africa have shown, having women in great numbers in legislatures does not necessarily change rates of sexual violence against women post-conflict, unless systematic attention is given to the underlying gender structures that brought about such violence.³²

Second, Resolution 1820 resuscitates a subject or identity with a very long historical life: the vulnerable woman needing protection. This notion of the

²⁹ See Donna Sullivan, *The Public/Private Distinction in International Human Rights Law*, in WOMEN'S RIGHTS, HUMAN RIGHTS: INTERNATIONAL FEMINIST PERSPECTIVES 126 (Julie Peter & Andrea Wolper eds. 1995).

³⁰ See Inés Alberdi, Exec. Dir., UNIFEM, Statement on behalf of UN Action at the UN-IPU Hearing: Towards Effective Peacekeeping and the Prevention of Conflict: Delivering on Our Commitments (Nov. 20, 2008), available at <http://www.stoprapienow.org/advocacyResources.html> (scroll to "Speech by Executive Director of UNIFEM, Inés Alberdi, on behalf of UN Action Against Sexual Violence in Conflict") ("We need to be clear that this resolution addresses sexual violence in conflict situations, not sexual violence in general. The latter is a criminal justice problem, which needs to be addressed by each country's police and judicial systems. But when sexual violence is widespread and used systematically against civilians for military or political gain, it is a matter for the Security Council.").

³¹ See generally THE AFTERMATH: WOMEN IN POST-CONFLICT TRANSFORMATION (Sheila Meintjes, Anu Pillay, & Meredith Turshen eds., 2001) (study on women, violence, and post-conflict).

³² There is a vast literature on the failure of international human rights law to attend to domestic violence. See, e.g., Karen Knop, *Why Rethinking the Sovereign State is Important for Women's International Human Rights Law*, in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 154 (Rebecca J. Cook ed., 1994) (arguing that the statist model of international human rights is insufficient to address issues of women's human rights); Celina Romany, *State Responsibility Goes Private: A Feminist Critique of the Public/Private Distinction in International Human Rights Law*, in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 85 (Rebecca J. Cook ed., 1994) (arguing that international human rights law's focus on the public sphere is ineffective with regard to domestic violence). The reluctance of various international and regional bodies to take on the issue of domestic violence is a widespread phenomenon. For example, while the Southern African Development Community recently adopted the Protocol on Gender and Development, which promotes women's rights, the document "does not refer explicitly to domestic violence, and it still doesn't oblige states to introduce legal provisions that criminalise marital rape." Nada Ali, *The Costs of Marital Rape in South Africa*, OPEN HOUSE, Aug. 18, 2008, <http://blogs.independent.co.uk/openhouse/2008/08/the-costs-of-ma.html>.

vulnerable woman has existed at least since the Enlightenment.³³ One could say she is a foundational pillar of the Humanitarian Sentiment, which led to the abolition of slavery and to the development of ideologies of the state protecting the weak.³⁴ That is, even in the twenty-first century, perhaps it is possible to have different governments agree to the protection of women and children from sexual violence in times of war precisely because the trope has such long power, means different things to different actors, and is placed in wartime, avoiding a critique of normative gender power relations.

Resolution 1820 strengthens two types of subjects: one through explicit language and the other through silence. Resolution 1820 affirms women and girls as vulnerable subjects needing protection; while through omission, it suggests that men and boys do not require protection from male sexual violence. The term “protection” is a key feature of the document and is used frequently in connection with the phrase “women and girls.”³⁵ By and large, Resolution 1820 merges women and girls as victims; the phrase “women and girls” is used thirteen times in the document,³⁶ while no explicit mention is made of how men and boys are also victims. One sees other international documents reproducing similar language.³⁷

The subject of the raped man or the abused boy does not appear in the resolution. It is no doubt accurate that women and girls are suffering in vast numbers, larger numbers than boys and men.³⁸ But the silence on rape as a tactic used against men and boys for particular reasons limits our ability to theorize sexual violence and has serious implications for the kind of society that is established post-conflict, and for who gets to participate fully in it.³⁹

³³ Shani D’Cruze & Anupama Rao, *Violence and the Vulnerabilities of Gender*, in *VIOLENCE, VULNERABILITY & EMBODIMENT: GENDER AND HISTORY* 6–10 (Shani D’Cruze & Anupama Rao eds., 2005) (discussing the emergence of gendered vulnerability in the early modern period).

³⁴ See R. CHARLI CARPENTER, *INNOCENT WOMEN AND CHILDREN: GENDER, NORMS AND THE PROTECTION OF CIVILIANS* 101–03 (2006); Pamela Scully, *Gender, History and the Contemporary Culture of Human Rights*, Paper delivered to Symposium on the Culture of Rights/The Rights of Culture, Institute for Research on Women, Rutgers University (Feb. 26–27, 2009) (on file with author).

³⁵ S.C. Res. 1820, *supra* note 13, pmbll., ¶¶ 3–4, 8–10, 15.

³⁶ *Id.* pmbll., ¶¶ 2–5, 8–10, 14–15.

³⁷ See, e.g., Marie-Claire O. Omanyondo, World Health Org. [WHO], *Sexual Gender Based Violence and Health Facility Needs Assessment: (Lofa, Nimba, Grand Cedah and Grand Bassa Counties) Liberia*, at 11 (Sept. 9–29, 2005), available at http://www.who.int/hac/crises/lbr/Liberia_RESULTS_AND_DISCUSSION13.pdf (“Survivor/victim in this study is a woman or a girl who has experienced sexual violence or other acts of violence.”).

³⁸ AMNESTY INT’L, *LIVES BLOWN APART: CRIMES AGAINST WOMEN IN TIMES OF CONFLICT* 7 (2004).

³⁹ For a rare and elegant study, see VASUKI NESIAH ET AL., INT’L CTR. FOR TRANSITIONAL JUSTICE, *TRUTH COMMISSIONS AND GENDER: PRINCIPLES, POLICIES, AND PROCEDURES* (July 2006), available at

The rhetoric of particular sexual vulnerability of women and girls presents us with a tension. Historically, those that require the most protection from the state and the law have also been the individuals most vulnerable to having their citizenship taken away or not acknowledged—children, people perceived as disabled, and women.⁴⁰ There is a long history of such rhetoric on the need for women to be protected as a society moves into a potentially more democratic state.⁴¹ Generally, such calls have sat uneasily with the full inclusion of women in the political sphere.⁴²

One of the clearest historical examples comes from the various moves from slavery to post-emancipation in the Atlantic World. Abolition rhetoric was often organized around a discourse of needing to free slave women in order to protect them from rape and violence of slaveholder men and to restore the dignity of enslaved men who could not protect their wives.⁴³ Such rhetoric also indicates that the post-emancipation landscape was built on a political model of the rights of men, which derived from being heads of patriarchal families.⁴⁴

The emphasis on the vulnerable woman has serious implications for women's leadership of post-conflict societies. Both resolutions emphasize the

<http://www.ictj.org/static/Gender/GendHandbook.eng.pdf> (considering sexual violence against men and sexual minorities in times of war).

⁴⁰ See, e.g., Anita L. Allen, *The Proposed Equal Protection Fix for Abortion Law: Reflections on Citizenship, Gender, and the Constitution*, 18 HARVARD J. L. & PUB. POL'Y 419, 424–32 (1995) (analyzing gender discrepancies in relation to U.S. law and citizenship); Ruth Lister, *Why Citizenship: Where, When and How Children?*, 8 THEORETICAL INQUIRIES IN L. 693, 699–709 (2007) (discussing the challenges of children in attaining citizenship); Helen Meekosha & Leanne Dowse, *Enabling Citizenship: Gender, Disability and Citizenship in Australia*, 57 FEMINIST REV. 49, 50–52 (1997) (discussing limited rights of citizenship for the disabled and comparing the status of the disabled to that of women); Sherene Razack, *From Consent to Responsibility, from Pity to Respect: Subtexts in Cases of Sexual Violence Involving Girls and Women with Developmental Disabilities*, 19 L. & SOC. INQUIRY 891, 902 (1994) (discussing disadvantages of women, particularly disabled women under the law).

⁴¹ See Shahra Razavi, *Women in Contemporary Democratization*, 15 INT'L J. POL., CULTURE & SOC'Y 201, 210–20 (2001); Alice M. Miller, *Sexuality, Violence Against Women and Human Rights: Women Make Demands and Ladies Get Protection*, HEALTH & HUM. RTS., 2004 (No. 2), at 16, 20–21; see also Razack, *supra* note 40 (including a survey of different rhetoric for feminist legal reform).

⁴² See Richard B. Felson, *The Normative Protection of Women from Violence*, 15 SOC. FORUM 91, 92, n.2 (2000).

⁴³ See Kristin Hoganson, *Garrisonian Abolitionists and the Rhetoric of Gender, 1850–1860*, 45 AM. Q. 558, 564–65 (1993).

⁴⁴ See PAMELA SCULLY, *LIBERATING THE FAMILY? GENDER AND BRITISH SLAVE EMANCIPATION IN THE RURAL WESTERN CAPE, SOUTH AFRICA, 1823–1853*, at 128–33 (1997); Diana Paton & Pamela Scully, *Introduction to GENDER AND SLAVE EMANCIPATION IN THE ATLANTIC WORLD 1* (Pamela Scully & Diana Paton eds., 2005).

need for women to be included in peace negotiations and peace-building reconstruction.⁴⁵ They seek to integrate women as powerbrokers and leaders in post-conflict society.⁴⁶ However, this goal may be undermined by the use of language labeling women as vulnerable. How do vulnerable women who need protection morph into the strong leaders who will help shape new terrains of liberty and security? What are the implications of defining the subject requiring sexual protection as female, and always linking woman to girl, in the context of building a post-conflict society with citizenship and rights for all?

Another question is to what extent the framing of Resolution 1820 lays the groundwork for a rather limited view of women as mothers and wives, not as soldiers or individuals legitimately aspiring to a variety of freedoms. Resolution 1820 by and large ignores men as civilians who suffer. Men are soldiers while women are victims and civilians.⁴⁷ This construction is worth addressing. If men are citizens and gain their rights in part through military service, do we implicitly disenfranchise women by painting them as unique victims of sexual abuse requiring particular protection from the state? It is not a question about empirical evidence, as we know that women have fought in late twentieth and early twenty-first century wars in Zimbabwe, South Africa, West Africa, and elsewhere.⁴⁸ We also know that female soldiers face challenges in being accepted back into society after war.⁴⁹ The silence surrounding male victims of sexual and other violence, combined with the emphasis on female vulnerability, leaves the male subject standing alone as the default citizen of the post-conflict state.

This leads to another point: why the relative silence on men and boys, both in the resolutions and more generally in the literature on gender-based violence? I certainly applaud the attention to the terrible experiences of violence visited on women and girls in times of war. But I worry that unless we also attend to questions of men as victims of wartime sexual violence, we miss an opportunity to develop more subtle understandings of why certain forms of violence are visited on certain individuals during wartime. Thus, with

⁴⁵ S.C. Res. 1325, *supra* note 13, ¶¶ 1–7; S.C. Res. 1820, *supra* note 13, ¶¶ 10–12.

⁴⁶ S.C. Res. 1325, *supra* note 13, pmb1.; S.C. Res. 1820, *supra* note 13, pmb1.

⁴⁷ See generally S.C. Res. 1820, *supra* note 13.

⁴⁸ See, e.g., WOMEN OF RESILIENCE: THE VOICES OF WOMEN EX-COMBATANTS (Zimbabwe Women Writers ed., 2000); see also Jacklyn Cock, *Women and the Military: Implications for Demilitarization in South Africa*, 8 GENDER & SOC'Y 152, 154–62 (1994).

⁴⁹ Aaronette M. White, *All the Men Are Fighting for Freedom, All the Women Are Mourning Their Men, but Some of Us Carried Guns: A Raced-Gendered Analysis of Fanon's Psychological Perspectives on War*, 32 SIGNS 857, 875–76 (2007).

regard to Resolution 1820 in particular, I wonder how the focus on women and girls as vulnerable subjects creates silences about the vulnerability of particular men, and thus enforces silences about the gendered orders that help produce the kind of sexualized terror we are seeing in conflicts all around the world.

We are now becoming familiar with the numbers of women raped during contemporary conflicts, but we know far less about the men and boys who have been sexually violated.⁵⁰ The numbers seemingly are far fewer,⁵¹ but how do we know if we do not ask? Asking, of course, is difficult, precisely because rape is associated with dishonor, and people, especially men and boys, do not want to talk about such experiences.⁵² The northern Ugandan situation, where thousands of children have been conscripted into a rebel army that has committed atrocities across the region, demonstrates at least one instance of the terrible things that have been done to boys and men.⁵³ In addition, more and more communities are beginning to attend to men as perpetrators of sexual violence and developing men's workshops.⁵⁴

So what might a different Security Council resolution look like? A gendered focus on sexual violence—one that talks about the need to stop the practice as opposed to the current one, which ties it only to particular gendered identities—would enable us to ask important questions about rape and what

⁵⁰ Michael D. Lyde, *Unveiling Male Rape: No Man is Immune*, 36 J. SEX RES. 210, 210 (1999) (reviewing MICHAEL SCARCE, *MALE ON MALE RAPE: THE HIDDEN TOLL OF STIGMA AND SHAME* (1997)).

⁵¹ Charlene L. Muehlenhard & Stephen W. Cook, *Men's Self-Reports of Unwanted Sexual Activity*, 24 J. SEX RES. 58, 58 (1988).

⁵² See MICHAEL SCARCE, *MALE ON MALE RAPE: THE HIDDEN TOLL OF STIGMA AND SHAME* 19 (1997); Susan Estrich, *Rape*, 95 YALE L.J. 1087, 1089 n.1 (1986).

⁵³ See Moses Chrispus Okello & Lucy Hovil, *Confronting the Reality of Gender-Based Violence in Northern Uganda*, 1 INT'L J. TRANSITIONAL JUST. 433, 441 n.35 (2007); Chris Dolan, Refugee Law Project, Uganda, Militarised and Religious: The Double-Bind Confronting Ugandan Men, Speech at Politicising Masculinities: Beyond the Personal: an International Symposium Linking Lessons from HIV, Sexuality and Reproductive Health with Other Areas for Rethinking AIDS, Gender and Development in Dakar (Oct. 2007), available at http://www.siyanda.org/docs/Dolan_militarised.doc; Moses Chrispus Okello, Director of Research and Advocacy Department, Refugee Law Project, Uganda, Commentary on "Only Peace Can Restore the Confidence of the Displaced," presentation at the Public Hearing in the European Parliament (Oct. 5, 2006), available at <http://www.refugeelawproject.org/seminars/brussels.pdf> (describing northern Uganda as home to "a deadly trail of grave human rights violations which have continued for approximately 20 years. These include chopped off limbs and ears, sliced off lips, abductions, and mass forcible displacement.").

⁵⁴ See, e.g., Steven Robins, *Sexual Rights and Sexual Cultures: Reflection on 'The Zuma Affair' and the 'New Masculinities' in the New South Africa*, 12 HORIZONTES ANTROPOLÓGICOS 149 (2006); see also Danstan Kaunda, Zambia: Violence Against Women on the Rise, INTER PRESS SERVICE, Dec. 5, 2008, <http://ipsnews.net/news.asp?idnews=45000> (discussing the Zambia Men's Network, an organization promoting gender equality); Men's Resources International, <http://www.mensresourcesinternational.org/> (last visited June 15, 2009) (an organization that brings men and women together in the pursuit of peace).

messages are being communicated regarding sexual violence. Rape is always about communication between the rapist and other people, communicated on and through the bodies of the women and men and boys and girls being raped.⁵⁵ Men are raped because they will not fight, or to make them assume the culturally feminized position they supposedly adopt by refusing to wage war, or to humiliate enemies; women are raped to ensure reproduction of a particular ethnic group, to dishonor an ethnic group, or because it is enjoyable for some men to rape.⁵⁶

Attention to the multiple meanings of rape in conflict, and greater attention to the vulnerability of boys and men to rape in wartime, would frame sexual violence as an important violation of human rights, irrespective of the individual upon whom it is visited. Such a framing would allow attention to the real horrors experienced by the victims of sexual violence, and for specific experiences of women as women. This would allow women as well as men to enter into the post-conflict political arena. A wider focus on sexual violence might facilitate the establishment of post-conflict societies that are genuinely transformative.

In addition, theorizing sexual violence more broadly would also entail that we ask the difficult questions about the linkages between economics, politics and sexual violence. We would need to turn, for example, as Eve Ensler is now doing, to questions about what economic relationships sustain the raping militias and armies in the eastern DRC.⁵⁷ Such an analysis could not leave rape standing as an individual concept requiring the attention only of those who take gender seriously. A systematic analysis would no doubt find that many of us, through our use of cell phones, minerals, and such, are implicated in different ways in the production and reproduction of violence in what appear to be isolated parts of the world.⁵⁸

⁵⁵ Robert M. Hayden, *Rape and Rape Avoidance in Ethno-National Conflicts: Sexual Violence in Liminalized States*, 102 AM. ANTHROPOLOGIST 27, 32 (2000).

⁵⁶ See *id.* at 34; Pauline Oosterhoff et al., *Sexual Torture of Men in Croatia and Other Conflict Situations: An Open Secret*, REPROD. HEALTH MATTERS, May 2004, at 68, 70; Craig T. Palmer, *Twelve Reasons Why Rape Is Not Sexually Motivated: A Skeptical Examination*, 25 J. SEX RES. 512 (1988); Mariam Omar, *Horror of Rape in East African Prisons*, BBC NEWS, July 21, 2005, <http://news.bbc.co.uk/2/hi/africa/4687209.stm>.

⁵⁷ Eve Ensler, *Confronting Rape and Other Forms of Violence Against Women in Conflict Zones*, Testimony before the Senate Foreign Relations' Subcommittees on African Affairs and International Operations and Organizations, Human Rights, Democracy, and Global Women's Issues (May 13, 2009), available at <http://www.vday.org/node/1695>.

⁵⁸ *Id.*

In conclusion, I want to return to the issue of the Universal Declaration of Human Rights (UDHR) and the idea of consensus. The UDHR is a landmark document that continues to shape our world. We all have to be in conversation with it to the extent that we are engaged in international and even local activism. However, I am wary of the term consensus, as it so often masks moves to domination by a more powerful party. Already we hear some reservations from people that human rights are being forced upon them in post-conflict transitions.⁵⁹ I would suggest that if the notion of rights is to flourish in the world, it has to remain a point of contestation rather than agreement. It is in that space of disagreement and ongoing struggles for definition that the UDHR will have its most significant legacy.

⁵⁹ See, e.g., Josiah Cobbah, *African Values and the Human Rights Debate: An African Perspective*, 9 HUMAN RTS. Q. 309 (1987).

