

BEYOND VICTIMHOOD: WOMEN'S PARTICIPATION IN ATROCITIES

Hannah Reid*

The attention paid to violence against women in former Yugoslavia and Rwanda in the 1990s sparked important developments in international law, particularly the criminalisation of sexual violence committed during conflict. This attention also added to the mountain of discourse on atrocities that classifies women as “victims” and men as “perpetrators”. This article explores how gendered assumptions about participation in atrocities have affected the way society thinks about, talks about, and responds to women who participate in war crimes, crimes against humanity and genocide. Shedding light on women’s involvement in atrocities, this article argues that it is organisational factors, rather than biology, that drives violence in armed groups. When women are subject to the same organisational and societal pressures as men, they have the same capacity for violence. Ignoring women’s contributions to atrocities risks leaving women out of disarmament, demobilisation and reintegration processes, thus derailing accountability efforts and rendering women’s categories of experience in conflict incomplete. A gap in understanding has been created by essentialising women’s experiences in conflict as “victims”. This article aims to confront that gap and draw attention to the further research needed into women’s roles in atrocities.

I INTRODUCTION

The vast majority of discourse on atrocities in conflict focuses on women as “victims” and men as “perpetrators”.¹ When women commit atrocities, their conduct is generally portrayed in a way that paints them as apolitical, irregular,

* LLB(Hons)/BA, LLM, solicitor and Crown prosecutor at Meredith Connell. The author would like to thank Professors Michel Paradis and George Fletcher of Columbia Law School for their support. The views expressed herein are entirely those of the author.

1 Sabrina Gilani “Transforming the ‘Perpetrator’ into ‘Victim’: The Effect of Gendering Violence on the Legal and Practical Responses to Women’s Political Violence” (2010) 1 AUJIGendLaw 1 at 1. “The oppositional concepts of victim and perpetrator, and the attached notion of victims having no agency, are so all-pervasive in humanitarian discourse that they are difficult to completely avoid”: Chris Coulter “Female Fighters in the Sierra Leone War: Challenging the Assumptions?” (2008) 88 Feminist Review 54 at 66. See also Linda Åhäll “The Writing of Heroines: Motherhood and Female Agency in Political Violence” (2012) 43(4) Security Dialogue 287.

and lacking agency. Dismissed as unusual, women's contributions to atrocities are often ignored or entirely erased from historical memory.² But women have played a larger role in conflicts, and in the perpetration of atrocities, than generally assumed.

The stereotypes of men as aggressors and women as victims are often accompanied with the rationalisation that women are inherently more peaceful than men.³ When women are involved in the perpetration of atrocities, popular responses have been a melding of “awe-inspired fascination and deeply disdainful judgment”.⁴ There is a certain shock when women are militarised, even more when they commit atrocities. Women in the military are sometimes seen as unconventional, so women committing acts of brutality when serving in armed forces are viewed from a starting point that already labels them “unusual”.

In this article, I explore how gendered assumptions about violence and aggression have affected the way society thinks about, talks about, and responds to women's participation in atrocities.⁵ The article has two main goals. The first is to shed light on the involvement of women in atrocities, the roles they play, their motivations, and whether women, when facing similar social and political pressures as men in conflicts, have the same capacity for violence as men do. The second is to examine the consequences of the gap in understanding that has been created by society focusing discussions about women's experiences in conflict on their experiences as “female victims”. There is a paucity of research and commentary on women's roles as participants in conflict-related atrocities. This article briefly canvasses the consequences of this lack of attention, but significantly more research is needed in this area before substantial analysis of these consequences can occur.

2 Meredith Loken “Rethinking Rape: The Role of Women in Wartime Violence” (2017) 26(1) Security Studies 60 at 63.

3 Alette Smeulers “Female Perpetrators: Ordinary or Extra-Ordinary Women” (2015) 15 Int'l Crim L Rev 207 at 209. As Laura Sjoberg and Caron Gentry contend, “[w]omen's violence is often discussed in terms of violent women's gender: women are not supposed to be violent”; Laura Sjoberg and Caron E Gentry *Mothers, Monsters and Whores: Women's Violence in Global Politics* (Zed Books, New York, 2007) at 2.

4 See Loken, above n 2, at 63.

5 I note at the outset that many of the gendered assumptions and stereotypes canvassed in this article have Western roots. While more research is needed into women's experiences in conflict, even more is needed into the intersections of gender, ethnicity, race, sexuality and violence in the perpetration of atrocities in conflicts.

Part II explores the roles women have played in the perpetration of atrocities, from tacitly supporting brutal regimes to instigating mass atrocities as political leaders. Part III weighs theories that purport to explain how gender affects participation in atrocities. Part IV sets out some of the practical, political and legal consequences when the focus on women's experiences in conflict as victims overshadows women's participation in atrocities.

This article argues that the "socialisation" theory is the soundest for explaining why women participate in atrocities. It is organisational factors, rather than biology, that drives violence in armed groups. When women are subject to the same organisational pressures as men, research shows that they have the same capacity for violence. This article focuses on four key consequences of the essentialisation⁶ of women as victims of atrocities: rendering their categories of experience in conflict incomplete; leaving women out of disarmament, demobilisation and reintegration (DDR) processes; creating pockets of impunity; and inadvertently reinforcing tired stereotypes.

II THE ROLES WOMEN HAVE PLAYED IN CONFLICTS

The attention on violence against women in former Yugoslavia and Rwanda in the 1990s put wartime sexual violence on the international agenda and sparked developments in international criminal law to criminalise and prosecute sexual violence used as a tool for genocide, war crimes and crimes against humanity. The attention on this aspect of women's experience in conflict has, however, had the effect of reducing women in former Yugoslavia and Rwanda to "rape victims" in popular discourse.

The perception of women in conflict as exclusively "victims" disregards their experiences as combatants, leaders and, in some cases, participants in the commission of atrocities. As Alette Smeulers states, "[t]here is no role required for mass atrocities that women have not played".⁷ Women have been bystanders tacitly supporting brutal regimes,⁸ and at the other end of the

6 "Essentialising" a group consists of assigning the group certain essential, or definitive, characteristics which all or most members have.

7 See Smeulers, above n 3, at 226.

8 For example, the men who joined the ranks of the Nazi regime's SS could not marry without specific approval of the SS organisation, and wives were expected to believe in the same ideas as the SS. Women used Jewish labour to maintain households near concentration camps and were recipients of property stolen from Jews. Women were also heavily involved in the administrative aspects of the Nazi regime, providing labour to staff the supportive and bureaucratic arms of the Nazi war machine. An estimated 12 million women worked in Nazi organisations, which constituted approximately one third of the female population: Smeulers, above n 3, at 211–213.

spectrum of participation have been political leaders directing that their forces commit atrocities. This section canvases the various ways in which women have participated in atrocities, disrupting deeply entrenched gendered essentialisms and the universalising of women's experiences as victims.

A Indirect participation

The atrocities committed in Rwanda in 1994 indirectly involved a considerable number of women. Many Rwandan women have been described as “cheerleaders” who sang songs while Tutsis were raped and killed.⁹ One woman stated “I am accused of being there when people were being killed, singing ... I joined the animation just as I would join any other choir”.¹⁰ As the International Criminal Tribunal for Rwanda (ICTR) tried those most responsible for orchestrating and carrying out the genocide, lower-level perpetrators were tried in the traditional Gacaca courts set up in Rwanda. Of the two million suspects tried in the Gacaca courts, around six per cent were women.¹¹ Studies in Rwanda found that female detainees in the Gacaca courts have argued that “women did not carry pangas so they were not as involved as men” and “women did not kill because they only called out”.¹²

During the Rwandan genocide, women also played the “informer” role, betraying the hiding places of Tutsis. Two Rwandan nuns, Sister Gertrude and Sister Kisito, stood trial in Belgium in 2001 for their role in the genocide. They had chased Tutsis who had sought refuge in their monastery outside and handed them over to the Interahamwe (the extremists) knowing they would immediately be killed.¹³ Women looted the property of Tutsis, revealed their hiding spots and supported the men directly involved in the killings by bringing provisions to the roadblocks. Although the nature of that kind of participation in atrocities is indirect, the conduct of women in Rwanda nonetheless challenges the assumption that women are naturally peaceful and violence averse.

9 Yvonne Leggat-Smith *Rwanda: Not So Innocent: When Women Become Killers* (African Rights, London, 1995) at 45. See also Reva N Adler, Cyanne E Loyle and Judith Gliberman “A Calamity in the Neighborhood: Women's Participation in the Rwandan Genocide” (2007) 2 GSP 209 at 233.

10 At 72.

11 Nicole Hogg “Women's participation in the Rwandan genocide: mothers or monsters?” (2010) 92 Int'l Rev Red Cross 69 at 81.

12 At 80. A ‘panga’ is a broad-bladed knife used as a weapon or cutting implement.

13 Smeulders, above n 3, at 215.

B Guards

In Nazi Germany, over 3,500 women served as concentration camp guards, mostly receiving their training and being stationed at Ravensbrück.¹⁴ Several female Nazi guards were infamous for their cruelty.¹⁵ Women took part in selections at concentration camps, nurses assisted decision-making on fitness to work and in some cases nurses gave lethal injections. Following the Second World War, approximately 60 female camp guards were put on trial at war crimes tribunals between 1945 and 1949 and 21 of these women were executed for their crimes.¹⁶

In former Yugoslavia, female camp guards abetted and directly committed atrocities. Indira Vrbanjac Kamerić was indicted for crimes committed while she was commander of a detention camp.¹⁷ Witnesses at her trial recounted that she would point out women in detention to be taken to the front lines to be raped. Monika Simonović, who was arrested in December 2011, beat and maltreated the prisoners she guarded.¹⁸ Witnesses have stated that Simonović took part in some of the worst atrocities in the Luka detention camp and one former prisoner stated “[s]he wasn’t a woman, she was a monster”,¹⁹ a quote which reaffirms the common line of thought that women, owing to their gender, cannot commit atrocities.

Notorious examples of women committing atrocities were seen during the United States’ “War on Terror”. The photos published by the CBS “60 Minutes” television programme featured images of women humiliating, harassing and sexually abusing Iraqi prisoners at Abu Ghraib prison. Prisoners of Abu Ghraib have described sexual harassment and abuse both as part of and outside of interrogations.²⁰ About 20 per cent of the guards at Guantanamo

14 At 217. Sarah Helm’s book titled *Ravensbrück: Life and Death in Hitler’s Concentration Camp for Women* provides a compelling account of the prisoners and guards of Ravensbrück, a concentration camp for prostitutes, abortionists, “asocials”, socialists, habitual criminals, communists and resistance fighters: Sarah Helm *Ravensbrück: Life and Death in Hitler’s Concentration Camp for Women* (Anchor, New York, 2016).

15 According to one witness at the trial of Irma Grese, the guard would often kill about 30 prisoners a day: Daniel Patrick Brown *The Beautiful Beast — The Life and Crimes of SS-Aufseherin Irma Grese* (Golden West Historical Publications, California, 1996). Joanna Borman was known as “the woman with the dog”, because she set off her dog to kill exhausted prisoners: Smeulers, above n 3, at 217.

16 Smeulers, above n 3, at 217.

17 At 218.

18 Merima Husejnovic “Bosnian War’s Wicked Women Get Off Lightly” *Balkan Insight* (online ed, 7 February 2011).

19 Smeulers, above n 3, at 218.

20 Kristine A Huskey “The Sex Interrogators of Guantanamo” in Tara McKelvey (ed) *One of the Guys — Women as Aggressors and Torturers* (Seal Press, California, 2007) at 176.

Bay have been women.²¹ Erik Saar, an interpreter at Guantanamo Bay, described female interrogators provoking devout Muslim prisoners by using interrogation methods that amounted to “pure humiliation”.²² The attention to sexual violence against men in Abu Ghraib, committed by women, destabilised the primacy of the idea that women exclusively are victims of sexual violence.²³

C *Soldiers*

Data suggests that women have composed a substantial proportion of armed combatants in nearly a quarter of civil wars fought in the past thirty years.²⁴ Women have been particularly active in non-State armed groups.²⁵ In certain armed forces, women are crucial in combat roles specifically. For instance, the Kurdistan Workers’ Party (PKK) relies heavily on female combatants, and between 25 and 30 per cent of the Eritrean People’s Liberation Front were women.²⁶ In Liberia, 71 per cent of women who went through DDR programs and approximately 60 per cent of young female survey respondents who were members of armed groups in Uganda reported their primary or secondary role as combat fighters.²⁷

The impact of the conflict in the Democratic Republic of the Congo (DRC) has been horrendous for women, with high rates of sexual violence being a feature. Amidst this narrative of brutal rape, women’s participation

21 Paisley Dodds “Guantanamo Bay: Female interrogators’ tactics aired” *The Seattle Times* (online ed, 28 January 2005).

22 In one account, a female interrogator smeared on the prisoner’s face what he believed to be menstrual blood and then turned off the water in his cell so he could not wash. Strict interpretation of Islamic law forbids physical contact with women other than a man’s wife or family, and with any menstruating women, who are considered unclean. See Erik Saar *Inside the Wire: A Military Intelligence Soldier’s Eyewitness Account of Life at Guantanamo* (Penguin Press, New York, 2005) at 228.

23 There have also been recent advances in raising awareness of the existence of male victims of wartime rape and the difficulty those victims face coming forward, seeking assistance and participating in accountability measures such as criminal trials.

24 Loken, above n 2, at 64–65.

25 See Miranda Alison “Women as Agents of Political Violence: Gendering Security” (2004) 35(4) *Security Dialogue* 448; Medina Haeri and Nadine Puechguirbal “From helplessness to agency: examining the plurality of women’s experiences in armed conflict” (2010) 92(8/77) *International Review of the Red Cross* 103 at 110. Women have participated in irregular forces of countries including: Colombia, El Salvador, Eritrea, Nepal, Sri Lanka, Kosovo, Sierra Leone, Uganda, Mozambique, Angola, Liberia, South Africa, Peru and Palestinian fighters in Lebanon and Israeli-Occupied Territories, see Shana Tabak “False Dichotomies of Transitional Justice: Gender, Conflict and Combatants in Colombia” (2011) 44(1) *NYU Journal of International Law and Politics* 103 at 132.

26 Loken, above n 2, at 64–65.

27 At 65.

as combatants and rapists has been largely ignored.²⁸ Based on surveys of survivors in the eastern DRC, it is estimated that 41 per cent of female and 10 per cent of male rape victims were sexually assaulted by female perpetrators or mixed gender groups.²⁹ A woman named Marie recounted being sexually and psychologically abused for four days by a woman, explaining “[w]hen I saw a woman, I thought I was safe”.³⁰

This conduct by women in conflict is not confined to the DRC. Evidence from the Sierra Leone civil war showed that groups that included women perpetrated nearly one in four incidents of reported gang rape.³¹ Dara Cohen studied gang rape in Sierra Leone and reported that committing a gang rape was considered a means of combat socialisation and women participated alongside men.³² Socialisation is a key tool in bringing individuals together into a cohesive combat unit and in Sierra Leone, gang rape was a feature of this socialisation.

Although women in Rwanda tended to play supportive roles more than directly participating in the killing, there were some women who killed. Some women's involvement included killing victims with guns or machetes.³³ A United Nations Assistance Mission for Rwanda (UNAMIR) officer reportedly stated “I had seen war before but I had never seen a woman carrying a baby on her back kill another woman carrying a baby on her back”.³⁴ Speaking to a reporter during the Yugoslav wars, Bosnian soldier Mirsada Hromo said “[i]t's a nice feeling to kill a man, especially when you know he is about to kill you. You get this special feeling when you see him walking toward you, wanting to kill you and you just shoot him” to which another female soldier added “[m]aybe we should charm them so they'll

28 At 62.

29 Dara Kay Cohen “Female Combatants and the Perpetration of Violence: Wartime Rape in the Sierra Leone Civil War” (2013) 65 *World Politics* 383 at 385.

30 Loken, above n 2, at 62.

31 Cohen, above n 29, at 384.

32 At 384.

33 See Leggat-Smith, above n 9. For instance, on the hilltop of Kabuye, in Butare, a pregnant former gendarme shot at thousands of unarmed people and threw grenades, and witnesses reported seeing a woman who had a hairdresser's shop in Kigali kill a wealthy Tutsi businesswoman with “a big masu”: Smeulers, above n 3, at 223.

34 Alison Des Forges *Leave None to Tell the Story — Genocide in Rwanda* (Human Rights Watch, New York, 1999) at 261.

walk a little closer”.³⁵ Similarly, women in the ranks of the Khmer Rouge committed many of the same atrocities as men.³⁶

The use of female suicide bombers has increased in recent decades. According to Laura Sjoberg and Caron Gentry, 81 per cent of suicide attacks in Chechnya were perpetrated by women.³⁷ Thousands of women have travelled to Iraq and Syria to voluntarily join the Islamic State and are frequently referred to as “jihadi brides”. In reality, women in ISIS hold a variety of roles which include assisting with the captivity of captured Yazidis, enforcing adherence to ISIS’ strict interpretation of Shariah law and fighting on the front lines.

Female fighters are frequently depicted as hyper-feminised, with a focus on the physical attractiveness of female fighters as opposed to their agency and political autonomy.³⁸ However, “such a devaluation of the militarized roles of women constructs a false notion of female experience”.³⁹ Empirical evidence shows that women have willingly engaged with violence on the front lines and been willing participants in atrocities during conflict.

D Commanders

Due to the underrepresentation of women in political and military leadership, it is not surprising that the number of men charged in international criminal courts far exceeds the number of women charged. Nevertheless, looking closely at those cases where women have been responsible for participating in atrocities from leadership positions is important.

So far, the only two women convicted by international criminal tribunals have both been political leaders. Biljana Plavšić was Vice President of Republika Srpska and her role was to encourage participation in the conflict and publicly justify the violence. On 27 February 2003, Plavšić pleaded guilty to persecution as a crime against humanity before the International Criminal Tribunal for the former Yugoslavia (ICTY). She was the first woman to be convicted by one of the ad hoc international criminal tribunals.

Pauline Nyiramasuhuko was the Minister for Family and Women’s Affairs and a member of the inner circle of power holders who planned the Rwandan

35 Loken, above n 2, at 87.

36 James Waller *Becoming Evil: How Ordinary People Commit Genocide and Mass Killings* (Oxford University Press, Oxford, 2002) at 300.

37 Sjoberg and Gentry, above n 3, at 98.

38 Loken, above n 2, at 63.

39 At 63.

genocide. On 24 June 2011, Nyiramasuhuko was found guilty and sentenced to life imprisonment by the ICTR for her leading role in the genocide and commission of widespread rape in Butare.⁴⁰ This was the first time a woman was convicted by an international criminal court for genocide and sexual violence.

In Rwanda's domestic courts, the Minister of Justice Agnes Ntamabyaliro was convicted for her role in the genocide,⁴¹ but one of the architects of the genocide, Agathe Kanziga, has not yet been arrested for her role. Ieng Thirith was indicted by the Extraordinary Chambers in the Courts of Cambodia (ECCC) for her role as Minister of Social Affairs for the Khmer Rouge, but the ECCC ordered a stay of her prosecution because she was deemed unfit to stand trial.⁴² In the International Criminal Court, Simone Gbagbo has an outstanding arrest warrant for playing a central role in post-election violence in the Ivory Coast, including by organising death squads.

III THE THEORETICAL FRAMEWORK FOR ANALYSING GENDER AND VIOLENCE

Having canvassed the involvement of women in atrocities, this section addresses some of the explanations for involvement. Overwhelmingly, the common message has seemed to be that women who perpetrate atrocities must be either mentally disturbed, unnatural, abnormal, not a "real woman", or must have been forced to commit the atrocities.⁴³

Sjoberg and Gentry studied the portrayal of female perpetrators of atrocities in conflict.⁴⁴ They concluded that these women are either portrayed as mothers, monsters, or whores. The mother narrative explains women's violence as "motherhood gone awry", with violence being committed because of a need to belong and a yearning to nurture men. The monster narrative describes violent women as insane, denying their own femininity, and being no longer a "woman". The whore narrative blames violence on the evils of female sexuality. The media coverage of female perpetrators in the Second World War

40 *Prosecutor v Nyiramasuhuko (Sentencing Judgement)* ICTR Trial Chamber II ICTR-98-42-T, 24 June 2011.

41 See Clement Uwiringiyimana "Life sentence for Rwanda's genocide-era justice minister upheld" *Reuters* (online ed, Nairobi, 28 February 2015).

42 *Prosecutor v Thirith (Decision on Ieng Thirith's Fitness to Stand Trial)* Trial Chamber 002/19-09-2007/ECCC/TC, 17 November 2011.

43 Smeulers, above n 3, at 228.

44 Sjoberg and Gentry, above n 3, at 13.

described the women as “beasts”, “sadists” and “seductresses”.⁴⁵ All of these narratives exclude the possibility of women behaving rationally, motivated by politics or ideology. The only agency afforded to women in conflict by the generalisation that women are naturally non-violent is the inclusion of women as pacifiers, with women having seats at the tables discussing peace talks but not atrocities.⁴⁶ However, as illustrated in the first section, there is ample evidence to contradict the generalisation that women have a natural affinity for peace.

Some theories exploring connections between sex and violence approach the matter with biological explanations, a common explanation being that men are naturally more aggressive, and women have a natural affinity for non-violence. Some theorists posit that a major factor contributing to destructive aggression in males is the hormone testosterone, as men produce 10 to 20 times as much testosterone as most women do.⁴⁷ However, the vast majority of scientific studies have documented the relative failure of biological determinism on the hormonal level to predict or explain immediate individual behaviour such as attacking a rival, let alone more abstract social behaviour such as participating in conflict or committing atrocities.⁴⁸ Some studies have concluded that it is testosterone deficiency, rather than excessive levels of testosterone, that can more often be associated with aggression,⁴⁹ and other studies have found that it is the combination of high testosterone and low serotonin that seems to be a more accurate indicator of aggressive behaviour.⁵⁰

Rather than being explained by biological arguments, violence and aggression seem to have other roots. The most effective way to approach the matter of the origin of violence is to begin from the standpoint that a person of any gender can commit acts of brutality in certain circumstances.

45 Smeulers, above n 3, at 228.

46 Despite the assumption that women are naturally non-violent, women are also frequently excluded from peace talks and ceasefire negotiations. See, for example, Swanee Hunt “The Critical Role of Women Waging Peace” (2003) 41 *Columbia Journal of Transnational Law* 557; Margaret E McGuinness “Women as Architects of Peace: Gender and the Resolution of Armed Conflict” (2007) 15(1) *Michigan State Journal of International Law* 63; and Allannah Colley “More than a seat at the table: the role of women in international peacebuilding” (LLB (Hons) Dissertation, University of Auckland, 2016).

47 Allan S Mohl “Growing Up Male: Is Violence, Crime and War Endemic to the Male Gender?” (2006) 33 *J Psychohistory* 270 at 271.

48 At 272.

49 At 272.

50 At 272.

A Socialisation into extreme violence by organisational factors

Scholars such as Raul Hilberg and Hannah Arendt have argued that most perpetrators in the Second World War were rather ordinary and committed evil crimes for banal reasons.⁵¹ However, despite it being generally accepted that the Nazi crimes were perpetrated by ordinary people who were driven to commit extraordinary crimes, when the perpetrators being discussed are women the language changes and it is the gender of the perpetrators that is “extraordinary”.

Within club-like atmospheres such as militaries, norms of “highly concentrated masculinity” may empower and reward violence as the most effective means of demonstrating one’s power to others and to themselves.⁵² Evidence from Sierra Leone has indicated that rather than women interrupting this power display by men in armed units, women were instead integrated into these instrumental practices.⁵³ Green has concluded that within military units, commanders valorise violence and demand obedience through conformity and exhibitions of traditional masculinity. She argues that militaries instil a set of cultural norms that valorise violence in general, and that strongly discourage criticism of group norms, goals or actions.⁵⁴

When Baaz and Stern interviewed female soldiers as part of their research, the vast majority of interviewees “described themselves as having equal propensity for and agency in the violence committed in comparison with their male colleagues”.⁵⁵ One explanation for women’s participation in atrocities could be that in units where women are culturally considered in some way inferior to men, women tend to be more inclined to prove themselves and show that they are “one of the guys”.

The most compelling explanation for why women participate in the commission of atrocities has been articulated by Cohen, who argues that female perpetrators of wartime atrocities, rape in particular, are best explained by many — though not all — of the same reasons that men become perpetrators.⁵⁶

51 Raul Hilberg *Perpetrators, Victims, Bystanders — The Jewish Catastrophe* (Harper Perennial, New York, 1992). See also Hannah Arendt *Eichmann in Jerusalem — A Report on the Banality of Evil* (Penguin Classics, New York, 1964).

52 Smeulers, above n 3, at 233.

53 Loken, above n 2, at 70.

54 At 89.

55 Maria Eriksson Baaz and Maria Stern “Fearless Fighters and Submissive Wives: Negotiating Identity Among Women Soldiers in the Congo (DRC)” (2012) 39 *Armed Forces & Society* 711 at 713.

56 Cohen, above n 29, at 386–387.

When women are part of a radicalised society, part of the ranks of an armed force, or in a position of authority, they face similar social pressures that men do and, given similar sets of circumstances, are just as likely as men to commit violence.⁵⁷ Having examined the intragroup social dynamics of armed groups, Cohen found that armed groups with low levels of internal cohesion, such as groups that rely on abduction to recruit fighters, turn to group violence to create a coherent armed unit.⁵⁸ In cases such as Nazi Germany, where armed groups had high levels of internal cohesion, many members felt strong social pressure to obey all orders, and were trained to be desensitised to obeying orders to commit extreme violence. The argument is that under certain conditions, fighters of both sexes may face enormous social pressure to commit violence and both sexes are likely to respond to this kind of pressure in a similar way.⁵⁹

Similarly, Loken argues that organisational factors, not individual characteristics, drive violence in armed groups and that women are subject to the same organisational pressures as men.⁶⁰ Loken points to organisational factors, particularly culture, as driving violence in armed groups, because these mechanisms operate by way of obedience to commands, group social identity, and norm internalisation.⁶¹ These mechanisms encourage conformity irrespective of individual characteristics.

Individuals, regardless of sex, have the capacity to obey commands, conform to group norms and participate in activities that foster intra-unit cohesion. Interestingly, these arguments place some emphasis on the influence of romantic notions of collective identity and fighting for a collective, rather than focusing on individual attributes, such as gender or sex, to explain mass violence.⁶² These “socialised into violence” explanations for women’s participation in atrocities are the most compelling partly because they are the explanations that, most accurately, portray women as having agency in conflict — the same agency attributed to men.

Research into perpetrators (regardless of gender) has shown that many perpetrators are socialised into violence. They get progressively more involved

⁵⁷ At 386.

⁵⁸ At 386.

⁵⁹ At 387–388.

⁶⁰ Loken, above n 2, at 62.

⁶¹ At 82.

⁶² See George Fletcher *Romantics at War: Glory and Guilt in the Age of Terrorism* (Princeton University Press, 2002).

until they are gradually transformed from ordinary people into perpetrators of atrocities.⁶³ Inmates from Nazi concentration camps have reported that although the more inexperienced female guards seemed to care about the welfare of the prisoners, those guards became more brutal the longer they worked in the camps.⁶⁴ Green has observed that:⁶⁵

Recruits enter armed groups with widely varying 'preferences' over violence, but socialization processes break down these initial preferences and build, in their places, norms and preferences that better serve group goals.

Social psychologists have offered two explanations for the perpetration of violence: obedience and conformity. Several renowned experiments, such as those conducted by Stanley Milgram, have demonstrated that individuals will obey authority and inflict violence on command with little resistance in certain circumstances, even if this violence conflicts with their personal values or beliefs.⁶⁶ Notably, in these experiments, there was little evidence that women were less violent than men.⁶⁷ Conformity to group identity is a relatively simple set of conditions to create. The Henry Tajfel experiment demonstrated that individuals group together based only on their estimation of the number of dots on a slide, and that individuals will favour their group members and discriminate against members of other groups, with no differentiation based on sex.⁶⁸

During conflicts, populations are divided based on political ideology, religion, ethnicity, economic standing, and fear. Creating in-groups and enemies in society is a process that is then heightened when individuals join armed forces based on their beliefs or identity. Women and men are equally susceptible to fear of external threats and the power of organisational doctrine. A female ex-fighter in Liberia stated "I went fighting because of my religion.

63 Alette Smeulers "What Transforms Ordinary People into Gross Human Rights Violators?" in S Crey and S Poe (eds) *Understanding Human Rights Violations: New Systemic Studies* (Ashgate Publishing, 2004) at 239.

64 At 246.

65 Loken, above n 2, at 85.

66 Stanley Milgram *Obedience to Authority: An Experimental View* (Harper & Row, New York, 1974).

67 Loken, above n 2, at 83. See also Thomas Blass "The Milgram paradigm after 35 years: Some things we now know about obedience to authority" in Thomas Blass (ed) *Obedience to authority: Current perspectives on the Milgram paradigm* (Taylor & Francis, 1999) 35 at 46–50 who found no evidence of a gender difference in eight out of nine conceptual replications of Milgram's studies he reviewed.

68 Henri Tajfel and others "Social Categorization and Intergroup Behavior" (1971) 1 *Eur J Soc Psychol* 149 at 149.

You see if you are a Muslim or Mandingo in this country, they say you don't belong in this country, so I had to fight."⁶⁹

None of this is to downplay the evidence of women being forcibly recruited into armed forces or forced to participate in atrocities by commanders, nor is it to dispute that many women also join combat units to protect themselves from murder or rape.⁷⁰ But if researchers begin assessing mass atrocities with the assumption that women were forced into participation, they risk mischaracterising the experiences of women in conflict and overlooking valuable information that could be collected from these women about what motivated them, what drove them and how their experiences as women in conflict affected their behaviour.

As further research delves into the participation of women in atrocities during conflict, the theories explaining the intersections of gender and violence will develop and evolve. The theoretical framework deployed when evaluating women's participation in atrocities may shape policy recommendations and law reform, so it is important to adopt a framework that takes into account the varied experiences of women in conflict, the agency women possess, and the organisational, cultural and social pressures at play during times of conflict.

IV IMPLICATIONS OF THE ASSUMPTION THAT MEN ARE PERPETRATORS

The essentialisation of women simply as victims of atrocities leaves their categories of experience in conflict incomplete, risks leaving women out of DDR processes, risks creating pockets of impunity, and may inadvertently reinforce the tired stereotypes found in international humanitarian law treaties.

A Reinforcing gendered stereotypes in international humanitarian law treaties

The tendency to equate women with victimhood is an essentialisation seen in key instruments of international humanitarian law. There are 19 specific provisions in the Geneva Conventions granting protections to women as

⁶⁹ Loken, above n 2, at 86.

⁷⁰ According to the International Labour Organization, women in Liberia joined combat to protect themselves from murder or rape, or to prove their equality with males. This reiterates limited options: "for many ... females, becoming a soldier was a matter of kill or be killed". See Tabak, above n 25, at 140.

expectant or nursing mothers and 24 provisions dealing with preserving the honour and dignity of women.⁷¹ These specific provisions direct that parties to conflict protect women, but these same provisions do not prohibit inhumane conduct directed towards women.

The theme of equating womanhood with victimhood is therefore woven through some of the key instruments of international humanitarian law. More modern articulations of the laws of war, such as the Rome Statute, do not tend to equate women with victimhood to the same extent. Nevertheless, the tired gender stereotypes of women as “victims”, “vulnerable”, and needing protection, and men as chivalrous “protectors” evident in the Geneva Conventions risk resurfacing in the international community’s treatment of women if women’s participation in atrocities is not given adequate focus.

B Prevention and accountability

Assuming that women in conflicts are “victims” affects how the international community and international law respond to violence.⁷² When it comes to preventing atrocities, the “victim” assumption has led some to suggest that the presence of more women in combat units would prevent the commission of international crimes. In terms of punishing atrocities, a gendered lens has been employed by female defendants in international tribunals in an attempt to diminish liability. In terms of rehabilitation, DDR processes have sometimes excluded women. Each of these responses by the international community will be addressed below.

Some have suggested that recruiting more women into armed units may prevent the commission of atrocities, drawing heavily from false notions that women are inherently less aggressive than men.⁷³ This “add women and stir” suggestion for preventing atrocities relies on the false assumption that women are less prone to participating in atrocities. Another particularly troubling theory is that male fighters in mixed gender armed groups are less likely to sexually abuse civilians because they will instead have sexual access to women in their own units.⁷⁴ This theory is extremely problematic because it assumes

71 See Judith Gardam and Michelle Jarvis *Women, Armed Conflict and International Law* (Kluwer Law International, The Hague, 2001).

72 Gilani, above n 1, at 1.

73 For instance, see Gerard J DeGroot “A Few Good Women: Gender Stereotypes, the Military and Peacekeeping” (2001) 8(2) *International Peacekeeping* 23; Loken, above n 2, at 67.

74 See Elisabeth Jean Wood “Armed Groups and Sexual Violence: When is Wartime Rape Rare?” (2009) 37 *Pol & Soc* 131.

firstly that sexual violence is grounded in sexual desire, and secondly that female combatants are willing sexual participants.⁷⁵

Loken created a systematic measure of women's participation as fighters and measured this data set against conflict-related rape in civil wars from 1980 to 2009.⁷⁶ The results of this study suggested that women's participation in conflict as fighters does not significantly impact the likelihood that armed groups will commit rape during civil war, and that armed groups with higher proportions of women are not less likely to commit rape in civil wars.⁷⁷ Similar research into female perpetrators in Rwanda found:⁷⁸

... when women are provided with positive and negative incentives similar to those of men, their degree of participation in genocide, and the violence and cruelty they exhibit, will run closely parallel to their male counterparts.

In order to effectively prevent the commission of atrocities by armed groups, the problematic assumptions around women's experiences of conflict need to be challenged.

Women are frequently excluded from the benefits of DDR programs and women tend to be deprioritised in accountability for perpetrating violence in post-conflict criminal justice processes.⁷⁹ Many DDR plans implement "cash for weapons" programs that specifically exclude certain groups from the demobilisation process, so female soldiers without their own firearms are often overlooked and unable to benefit from training or rehabilitation.⁸⁰ Transitional justice mechanisms also sometimes fail to consider the multiple roles that both men and women play in conflict.⁸¹

The media, the courts, and female defendants themselves have utilised a gendered lens when talking about the crimes with which women have been charged. Research into the investigation of atrocities in Rwanda has found that

75 Loken, above n 2, at 68.

76 At 76.

77 At 76.

78 Adam Jones "Gender and genocide in Rwanda" in *Gender Inclusive: essays on violence, men and feminist international relations* (Routledge, London and New York, 2009) 196–229.

79 Cohen, above n 29, at 388.

80 For example, in the Congo, one of the four criteria for DDR eligibility includes "possession of a weapon": see Naomi Cahn "Women in Post-Conflict Reconstruction: Dilemmas and Directions" (2006) 12 *Wm & Mary J Women & L* 335 at 347–348.

81 For a comprehensive analysis of transitional justice mechanisms and their treatment of women in conflict, see Tabak, above n 25.

women have not been perceived as “criminals” and that male investigators, prosecutors and judges often exercise discretion in a female defendant’s favour at each level of the criminal justice system.⁸² In the United States, notable gender gaps in sentencing have been reported, with a dataset of sentences for terrorism showing that the average sentence of imprisonment for men amounting to 13.8 years and the average sentence for women being only 5.8 years.⁸³

In proceedings against female defendants in international tribunals, gendered narratives play a significant role in shaping the discourse of their offending both in and out of court.⁸⁴ While a comprehensive analysis of these legal proceedings goes beyond the scope of this article, two proceedings are particularly illustrative of how gender may impact accountability in international tribunals; the ICTY *Plavšić* case and the ICTR *Nyiramasuhuko* case.

1 *The Plavšić case*

Before entering politics, *Plavšić* was a professor and the dean of the natural sciences faculty at the University of Sarajevo. In 1990, she co-founded the Serbian Democratic Party and then became one of the two acting Vice-Presidents of Republika Srpska. Known as the “Serbian Iron Lady”, *Plavšić* delivered hate speeches and used her academic background in biology to justify crimes committed during the Yugoslavian conflict, sometimes describing ethnic cleansing as simply a form of natural selection.⁸⁵ On a television program, she

82 Hogg, above n 11, at 81. By contrast, though, in the case brought against Indira Kamerić, the Appellate Panel of the Court of Bosnia and Herzegovina concluded that it is very rare that a woman treats another woman as unscrupulously, without any compassion and consideration, as the accused treated her victim and that such behaviour constituted an aggravating circumstance because it implied a high level of criminal responsibility, see *Prosecutor v Indira Kamerić* Court of BiH Appellate Panel S1 1 K 010132 15Krz, 15 December 2015 at [103].

83 See the George Washington University’s Extremism Tracker, cited in Audrey Alexander and Rebecca Turkington “Treatment of Terrorists: How Does Gender Affect Justice?” (2018) 11(8) *Combating Terrorism Center Sentinel* at 25–26. The author notes that this analysis is limited to the size of the dataset, which included 87 cases of men and nine of women. In some of these cases, men and women were convicted of the same crimes, for instance, for providing material support to a foreign terrorist organization, but received different sentences. Defence counsel for one female defendant, Keonna Thomas, focused sentencing submissions on aligning Thomas’ sentence with other convicted women, rather than aligning her sentence with others convicted of the same crimes.

84 See Natalie Hodgson “Gender Justice or Gendered Justice? Female Defendants in International Criminal Tribunals” (2017) 25(3) *Feminist Legal Studies* 337 at 344–345; see also Doris Buss “Knowing Women: Translating Patriarchy in International Criminal Law” (2014) 23(1) *Social & Legal Studies* 73.

85 Smeulers, above n 3, at 235.

stepped over a dead body and kissed Željko Raznjatović, the infamous leader of the Arkan Tigers.⁸⁶

In 2000, Plavšić was issued with an ICTY indictment for genocide, crimes against humanity and war crimes. After initially pleading not guilty, Plavšić pleaded guilty to the crime of persecution as a crime against humanity and in exchange for her guilty plea, the seven remaining charges, including genocide, were dropped. Plavšić was sentenced to 11 years imprisonment and during her sentencing hearing, the ICTY judges stated that she had participated in “a crime of utmost gravity” but that she was not as culpable as Radovan Karadžić and Momčilo Krajišnik, as she was “not in the very first rank of the leadership”, despite the fact that she was Vice-President.⁸⁷ Krajišnik, a male political leader convicted of the crimes against humanity of persecution, deportation and forcible transfer was sentenced to 20 years’ imprisonment. Plavšić’s lenient sentence has been criticised because her guilty plea and “genuine remorse” had been taken into account as mitigating circumstances despite the fact that she refused to implicate any others involved in the conflict and refused to cooperate with the prosecution.⁸⁸

While Plavšić was serving her sentence in Sweden, she wrote lengthy memoirs which were published in 2005.⁸⁹ In the two volumes, she retracted her most significant admissions and made a series of claims that not only directly contradicted her confession in the ICTY, but reiterated a hard-line nationalist worldview that showed very little remorse or rehabilitation.⁹⁰ Interestingly, Plavšić wrote that traditionally, there was no role for a woman in leadership or war and that it was “unfair” of Krajišnik and Karadžić to “recommend me for a high function and later take over all my responsibilities and leave me only with accountability”.⁹¹ She served two-thirds of her 11-year sentence before release. Plavšić’s plea deal, sentence and early release are aspects of her accountability that appeared more lenient than the treatment of male ICTY indictees, particularly Krajišnik, who committed similar crimes with similar levels of control.

86 At 235.

87 *Prosecutor v Plavšić (Sentencing Judgement)* IT-00-39&40/1-S, 27 February 2003 at [52] and [57].

88 Smeulers, above n 3, at 236.

89 Jelena Subotić “The Cruelty of False Remorse: Biljana Plavšić at The Hague” (2012) 36 *Southeastern Eur* 39 at 39.

90 At 40.

91 At 40.

2 *The Nyiramasuhuko case*

Nyiramasuhuko was born into a poor Hutu family and rose through political ranks to become the Minister of Family and Women's Affairs. In the ICTR, Prime Minister Kambanda entered a guilty plea and named Nyiramasuhuko "among the five members of [the] inner sanctum where the blueprint of the genocide was first drawn up".⁹² Nyiramasuhuko was the main instigator of mass rapes and killings in the Butare region of Rwanda. According to witnesses, she gave direct orders to erect roadblocks and ordered her son, an Interahamwe leader, to rape.⁹³ At the end of one of the massacres, Nyiramasuhuko reportedly visited a camp where a group of Interahamwe were detaining around 70 Tutsi women and girls. According to witnesses, she gave an order to the Interahamwe to rape the women before sprinkling them with petrol and burning them to death. The ICTR issued Nyiramasuhuko with an indictment for 11 charges of genocide, crimes against humanity and war crimes, including rape, and her trial was joined with five other defendants in what became known as the "Butare group" trial.

Nyiramasuhuko and her defence counsel denied all the charges and, interestingly, attempted to rely on Nyiramasuhuko's gender as part of the defence case. She claimed that she was the victim of sexism and that she was targeted because she was an educated woman.⁹⁴ When she was asked in a 1995 interview with the BBC about what she did during the war, she replied "[w]e moved around the region to pacify ... We wrote a pacification document saying people shouldn't kill each other".⁹⁵ When asked about the allegations of rape and murder, she responded in a way that emphasised her gender, attempting to play into the stereotype of women as innocent and non-violent, by saying "I cannot even kill a chicken. If there is a person who says that a woman, a mother, killed, then I'll confront that person".⁹⁶ She also stated that women "did not know how to massacre".⁹⁷ Nyiramasuhuko's husband and mother made similar public statements defending Nyiramasuhuko on the

92 Mark Drumbl "She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko" (2013) *Mich J Int'l L* 559.

93 Smeulers, above n 3, at 239.

94 Carrie Sperling "Mother of Atrocities: Pauline Nyiramasuhuko's Role in the Rwandan Genocide" (2006) 33 *Fordham Urb L J* 637 at 650.

95 At 650–651.

96 At 651.

97 At 651.

basis of her gender, with her mother saying “[i]t is unimaginable that she did these things ... After all, Pauline is a mother”.⁹⁸

Nyiramasuhuko was found guilty of seven of the 11 charges, including conspiracy to commit genocide and genocide, crimes against humanity and war crimes, and sentenced to life imprisonment, later reduced to 47 years’ imprisonment.⁹⁹ Peter Landesman wrote about Nyiramasuhuko in the *New York Times Magazine*, stating that her case “transcends jurisprudence” because she “presents to the world a new kind of criminal”.¹⁰⁰ Her case also received a disproportionate level of attention compared with the dozens of men who bore similar levels of responsibility for promoting the systematic rape, torture and murder of thousands of victims.¹⁰¹ This kind of reporting of the trial only perpetuated the idea that women are unusual if they are found responsible for mass atrocities, but the empirical evidence shows that Nyiramasuhuko was not a “new kind of criminal” at all. Other women in Rwanda, and in conflicts across the world, have participated in atrocities during conflict.

What is notable about both Plavšić and Nyiramasuhuko is that both women participated in atrocity crimes deliberately, willingly, and consciously. They made choices that were in keeping with their political ambitions and ideological convictions. Both Plavšić and Nyiramasuhuko then tried to rely on their gender, to an extent, to defend themselves. The gendered lens through which mass atrocity crimes are viewed has the distorting effect of littering criminal conduct with assumptions that are based solely on social, cultural and historical constructions of gender roles. Once the gendered lens is removed, evidence of women’s involvement in conflict has shown women to be equally capable of committing atrocities as men. However, particularly in the lower ranks, women are often spared from being held to account for participation in atrocities and when higher ranked women have been tried in international tribunals, they have used their gender in efforts to alleviate their culpability.

C An incomplete picture of women’s experiences

Because of the stereotyped roles in conflict drawn along gendered lines, there are rarely comprehensive evaluations of how and why women perpetrate

⁹⁸ At 651.

⁹⁹ *Prosecutor v Nyiramasuhuko (Appeal Judgement)* ICTR Appeals Chamber ICTR-98-42-A, 14 December 2015.

¹⁰⁰ Sperling, above n 94, at 652.

¹⁰¹ Tabak, above n 25, at 126–127.

atrocities. By looking at how women have contributed to mass violence and atrocities, it is possible to assemble a more accurate and comprehensive picture of how women experience war.

One of the key gaps in the overall picture of women's experiences in war is the autonomy deprived from women whose participation in conflicts is ignored, under-researched or assessed from an essentialist viewpoint. There has been "woefully little research" published on why women join armed groups, and hardly any research into why women commit atrocities.¹⁰²

In the research that has been produced, there are a range of complex and varied reasons for women participating in combat and in the commission of atrocities. Survivors of the Majdanek concentration camp interpreted the female guards' conduct as an attempt to distinguish themselves among their counterparts, to attract the attention of their counterparts, or to assert their equality to counterparts in the male-dominated environment.¹⁰³ Female concentration camp guards were also looking for a well-paid and secure job, an opportunity for social advancement, the thrill of adventure, recognition of service, personal enrichment and the opportunity to satisfy ambitions.¹⁰⁴ In post Second World War trials, however, female perpetrators were portrayed as women acting emotionally, for reasons of jealousy, loneliness, greed and revenge.¹⁰⁵ Women's participation in atrocities in other conflicts has been motivated by racism,¹⁰⁶ personal convictions and belief.¹⁰⁷ It is clear that a multiplicity of reasons compel women to join armed units, and to commit atrocities. Employing a false dichotomy of women as victims and men as perpetrators therefore risks leaving women's experiences of war under-analysed and misunderstood.

V CONCLUSION

This article refutes the presumption that women are exclusively victims and men are exclusively perpetrators of atrocities. The one-dimensional portrayal

¹⁰² Tabak, above n 25, at 139.

¹⁰³ Elissa Mailänder and Patricia Szobar *Female SS Guards and Workaday Violence: The Majdanek Concentration Camp, 1942–1944* (Michigan State University Press, Michigan, 2015) at 245–247.

¹⁰⁴ At 270–279.

¹⁰⁵ Wendy Lower *Hitler's Furies: German Women in the Nazi Killing Fields* (Houghton Mifflin Harcourt, New York, 2013) at 174.

¹⁰⁶ See Hogg, above n 11, at 83–89.

¹⁰⁷ Truth and Reconciliation Commission *Witness to Truth: Report of Sierra Leone Truth and Reconciliation Commission* volume IIIB (Graphic Packaging Limited, Ghana, 2004) at 186–189.

of women in conflict as vulnerable, unlikely actors in conflict renders them invisible in important aspects of the history books and homogenises their lived experiences. Atrocities perpetrated by women must be recognised and taken seriously if society seeks to explain what causes atrocities and what steps can be taken to prevent their occurrence.

This article has shown that the relationship between women and violence is complex. Some women act in a supporting capacity, but others directly participate in killings, rapes and other atrocities, and others act as leaders, planners or instigators. The empirical evidence shows that women are equally capable of participating in atrocities during conflict as men. A review of the literature seeking to explain women's violence paints a messy picture. Scientific and psychological theories have attempted to explain why men or women commit atrocities in ways that perpetuate problematic assumptions about women and their agency. Explanations that instead situate the commission of atrocities within an environment governed by social, organisational and institutional forces most cogently explain how ordinary individuals commit atrocities in a way that avoids making assumptions on the basis of sex.

It is important that gender-based violence has been put on the international agenda. Gender-based crimes were long overlooked and victims were often discouraged from coming forward or seeking redress. However, the intense spotlight on women as victims of gender-based atrocities during conflict, and atrocities committed by men, created an incomplete picture where women perpetrating atrocities were erased from popular discourse and historical memory. Where any spotlight was shone on women for their role in conflicts, they tended to be demonised and labelled "abnormal". In fact, women have the same capacity for violence as men when put under the kinds of social, cultural and organisational pressures seen in violent armed units. It is hoped that further research into topics such as women's experiences in conflict as combatants, the impact of gender on investigations and prosecutions of atrocities, and media coverage of female defendants' trials will shine more light on this hitherto under-researched area. When gendered stereotypes are interrupted, comprehensive responses to atrocities and sound theories explaining violence can be more accurately produced.