

Sexual Violence and the Crisis in Kosovo

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Abstract

In this article the author discusses the escalation of sexual violence in Kosovo that has affected refugees before, during and after their flight from that region. The response of the United Nations and humanitarian organizations to the reports and the reality of sexual violence is examined, as are the constraints and problems encountered by these institutions in formulating a coordinated and effective response to sexual violence.

Résumé

Dans cet article l'auteure aborde la question de l'escalade de la violence sexuelle au Kosovo, et son effet sur les réfugiés avant, pendant, et après leur exode de cette région. La réponse des Nations Unies et des organisations humanitaires à la réalité de la violence sexuelle et aux rapports faits à son sujet est examinée. On étudie aussi les contraintes et les problèmes rencontrés par ces institutions dans la formulation d'un effort coordonné et d'une réponse efficace face à la violence sexuelle.

A fury unseen in Europe since World War II has been unleashed in Kosovo. Executions, rape, torture, torched houses, erased identification, stolen property—It is a litany repeated over and over again.¹

The current crisis in Kosovo is in many ways reminiscent of the recent conflict in Bosnia-Herzegovina. The policy of "ethnic cleansing," accomplished through murder, forcible deportation, torture and terror, is once again the focus of world attention. The massive refugee crisis spawned by the ethnic

cleansing policies of the Serbs in Kosovo against ethnic Albanians has tested the flexibility, resources and political will of humanitarian organizations, donor nations, and nations of asylum. As in Bosnia-Herzegovina, the problem of sexual violence remains a disturbing undercurrent of the Kosovo crisis—affecting victims before, during and after flight from Kosovo itself. As the crisis has unfolded, reports of sexual violence against ethnic Albanian women have increased.²

The United Nations High Commission on Refugees (UNHCR) has pointed out the relationship between conflict, refugee crises, and sexual violence:

During war and armed conflict, violations of human rights and gender-based violence increase dramatically. Gender-based violence and persecution are often adopted as tactics of war and terrorism; indeed, recent history has all-too-often seen sexual violence and rape used deliberately and strategically as a weapon of war. Sadly, this kind of abuse can follow a refugee woman throughout her life as a refugee.³

Revelations concerning widespread use of rape and forced impregnation as instruments of ethnic cleansing in Bosnia-Herzegovina challenged the international community to redefine war crimes and crimes against humanity to include sexual violence. Indeed, significant contributions of scholars, experts and other practitioners, combined with the increasingly vocal and competent advocacy of women's and human rights groups, have led to widespread recognition that sexual violence must not be tolerated in either internal or international conflict.⁴ Louise Arbour, outgoing prosecutor for the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), has been a tireless advocate for the establishment of legal standards concerning sexual violence in international law. Re-

sponding to the recent judgement of the ICTR in *The Prosecutor v. Jean-Paul Akayesu* (1998), which represents the first conviction of genocide as a crime under International Law and which explicitly includes rape as an instrument of genocide, Justice Arbour stated:

The judgement is truly remarkable in its breadth and vision, as well as in the detailed legal analysis on many issues that will be critical to the future of both the ICTR and ICTY, in particular with respect to the law of sexual violence.⁵

Mary Robinson, United Nations High Commissioner for Human Rights, and Sadako Ogata, United Nations High Commissioner for Refugees, have both highlighted the special human rights and security concerns of women as civilian targets in internal conflict and as refugees.⁶

As the conflict in Kosovo has escalated, reports of incidences involving sexual violence have increased. Although at the time of this writing the exact extent of sexual violence, and in particular its relationship to systematic policies of ethnic cleansing, is not known, it is clear that rape is once again being used as a tool of intimidation, torture, and terror. As was the case in Bosnia-Herzegovina, women are raped not just to humiliate and subjugate, but also to accomplish political ends—to make it less likely that they will ever want to return to their homes.⁷ In April 1999, Mrs. Dominique Serrano Fitamant, a psychology consultant specializing in sexual violence and trauma counselling, was dispatched by the United Nations Population Fund (UNFP) to undertake an assessment mission concerning sexual violence in the Kosovo crisis. The objective of the mission was to investigate increasingly widely reported allegations of rape among the Kosovar refugees, to delineate the target population, and to pro-

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pose an appropriate plan of action to care for victims.⁸

The report acknowledged that the phenomenon of sexual violence seemed to be escalating; the increase seemed to correspond to the first week after NATO's initial bombings. The report stated that:

new women arriving from Kosovo indicate that the violence is increasing. According to the interviews, it seems that the phenomenon, and in particular the abduction of groups of women, is more and more prevalent.⁹

Some of the women refugees interviewed by the UNFPA team described acts of extreme brutality.

In Berlenitz, women told of soldiers separating the men from the others ... the torturers sharpened their knives in front of the women and terrorized children. They then cut open the stomachs of many pregnant women and skewered the fetus on their blades.¹⁰

When asked to interpret the significance of sexual violence in Kosovo, two interpretations could be drawn from the results of the interviews. The first related to the idea of "plunder," in which men at various checkpoints in Kosovo demanded payment in money and/or jewelry, and then sexually violated chosen victims. Some of the individual testimonies mentioned that it was possible that former prisoners and other criminal offenders were being hastily introduced into the army as recruits, resulting in increased criminal behaviour in the ranks of the armed forces. The second interpretation by victims and witnesses related to

rape as a 'concrete manifestation' of the profound hate which the Serbians feel toward the Kosovars. They felt this to be true in the cases of the abduction of groups of women, collective and repetitive rapes, sexual torture, and imprisonment.¹¹

The report highlighted in a systematic way some of the difficulties in dealing with problems of sexual violence. Among the constraints enumerated by the mission were the general crisis environment, the lack of information, and

the lack of sensitivity on the part of aid workers from both IGO's and NGO's to issues of sexual violence—especially, it seemed, individual psychological defense mechanisms of the humanitarian personnel in dealing with rape.¹²

The report emphasized the need for a coordinated approach to the problem of sexual violence in the Kosovo crisis. The team identified about 15 organizations that were developing projects for traumatized persons, and called for coordinated long-term strategies for dealing with victims. It specified the need, for example, for follow-up work on pregnant women who had been raped, children born of rape, and the reintegration of victims into their families and communities. It recognized that many cases of rape would go unreported, due to cultural values concerning sexual violence and the stigmatization of victims. In addition, the report suggested that incidences of rape might only become apparent when the women actually gave birth as a result of impregnation during rape.

Many Kosovar refugee families stated that it was impossible for them to keep a baby that was the result of a rape, even if the woman did not necessarily want to have an abortion. In this way a violated woman would be able to reintegrate into her family although the newborn baby would not be accepted. We should then expect to encounter a large number of abandoned babies in the months to come.¹³

This report was groundbreaking in its attempt to document, through interviews, incidences of sexual violence in Kosovo, and to suggest a coordinated program of action to deal with the consequences of this violence. In fact, in recent years several humanitarian organizations have developed guidelines on dealing with sexual violence, and are seeking to apply them in this massive and chaotic current crisis. For example, the United Nations High Commission on Refugees (UNHCR) has developed a detailed plan of action entitled "Sexual Violence Against Refugees: Guidelines on Prevention and Response."¹⁴ In this policy paper, the

acute nature of crimes of sexual violence is acknowledged.

Sexual violence against refugees is widespread. Women and young girls—and less frequently, men and boys—are vulnerable to attack both during their flight and while in exile. They are vulnerable from many quarters and in every case, the physical and psychological trauma that results can only add to the pain of displacement and the bitterness of exile.¹⁵

Sexual violence, it notes, is frequently underreported. The policy paper emphasizes that "sexual violence in the country of origin may have a *political motive*, for example, where mass rape of populations is used to dominate, control and/or uproot, or where sexual torture is used as a method of interrogation. Sometimes sexual violence is used as a weapon of warfare, to humiliate or cause the disintegration of another community, as a part of "ethnic cleansing."¹⁶

The United Nations World Health Organization has also developed materials to guide practitioners in dealing with sexual violence. A recent report by WHO also acknowledges the reluctance of victims of sexual violence to report such incidents and/or to seek help:

Both the physical and psychological impact of gender-based and sexual violence during armed conflict and displacement can be compounded by the victims being unable ... or unwilling (due to feelings of shame or fears of reprisals) to seek assistance in the immediate aftermath of the attack.¹⁷

One of the most controversial aspects concerning appropriate responses by humanitarian agencies to victims of rape in Kosovo concerns the use of the "morning after pill," which some organizations have made available to rape victims, and abortion. The Vatican opposes abortion and the use of the "morning after pill" by victims of sexual assault. According to Elio Sgreccia, an advisor to the Pope, "We must distinguish between the act of violence and the reality of new human beings who had no control over how their lives be-

gan."¹⁸ A spokesperson for UNFP responded that:

To suggest that a woman who has lost her home and members of her family and then been subjected to rape, and become pregnant as a result, should be denied access to a product which is legal and available in her country and in Albania is absurd.¹⁹

The controversy escalated, leading family planning groups such as the International Planned Parenthood Federation (IPPF) to condemn the Vatican's "apparent indifference to human suffering."²⁰ Some opponents of the Vatican's position called for a review of the status of the Holy See in the United Nations.

Of additional concern have been reports of human traffickers exploiting refugee women in Albania. Mrs. Ogata has pointed out that such trafficking is a "serious threat," and that "this phenomenon will increase if it is not addressed more forcefully, and immediately."²¹ Because refugee populations are frequently comprised of unaccompanied women and young girls, these groups are often targeted for exploitation.

The situation concerning sexual violence in Kosovo seems to be growing ever more serious. Trends in International Law point to an increasing recognition of the severity of these crimes and an increasing willingness on the part of the international community to prosecute them.²² Whether or not the crimes concerning sexual violence now being reported in Kosovo will be prosecuted remains to be seen. Humanitarian organizations, which are attempting to cope with the realities of the crisis in Kosovo, are only beginning to grapple with the need for a coordinated approach to this problem.²³ Under very adverse conditions, information (and possible evidence) is being accumulated. It appears that a genuine attempt is being made to sensitize the international community to issues concerning sexual violence. However, it is clear that much must still be undertaken to equip humanitarian agencies to deal with this tragedy, which could achieve monu-

mental proportions, and to rally the personnel and resources that will be needed to confront this problem—which can be so devastating to persons, families, and communities. ■

Notes

1. Susan Ladika, "The Kosovo Crisis," *Europe* 386 (May, 1999): 26.
2. Some of the news stories on such incidents include "US Probes Serb Rape Allegations" (8 April 1999), available online at <<http://news2.thdo.bbc.co.uk/hi/eng...1d/europe;newsid_315000/315460.stm>>, and "In Kosovo, Rape Seen as Awful as Death," *Los Angeles Times*, 27 May 1999, available online at <<<http://www.losangelestimes.com/HOME/NEWS/Front/t000047638.html>>>
3. "Refugee Women," 1999 Global Appeal, UNHCR, available online at <<<http://www.unhcr.ch/fdrs/ga99/women.htm>>>
4. See, for example, Catherine MacKinnon, "Rape, Genocide, and Women's Human Rights," in *Mass Rape: The War Against Women in Bosnia-Herzegovina*, edited by Alexandra Stiglmeier (Lincoln: University of Nebraska, 1994), 183–97. For an excellent summary of developments in international law concerning sexual violence, see Catherine N. Niarchos, "Women, War and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia," *Human Rights Quarterly* 17 (1995): 649–90. See also Beth Stephens, "Humanitarian Law and Gender Violence: An End to Centuries of Neglect?" *Hofstra Law and Policy Symposium* 3 (1999): 87–109 and Kelly D. Askin, "Sexual Violence in Decisions and Indictments of the Yugoslav and Rwandan Tribunals: Current Status," *A.J.I.L.* 93 (January 1999): 97–123. A brief summary of international law concerning sexual violence is also included in "Sexual Violence as International Crime," available on the Human Rights Watch website at <<<http://www.hrw.org/hrw/campaigns/kosovo98/seviolence.hotm>>>
5. *Statement by Justice Louise Arbour, Prosecutor of the International Criminal Tribunal for Rwanda*, CC/PIU/342-E, The Hague, 4 September 1998, available at <<<http://www.un.org/icty/pressrel/p342-e.htm>>>
6. See, for example, the Keynote Speech by Mrs. Sadako Ogata, "Human Security: A Refugee Perspective," delivered in Bergen, Norway, 19 May 1999, available at <<<http://www.unhcr.ch/refworld/unhcr/hsspeech/990519.hotm>>>
7. For an excellent discussion of the various connotations of rape in armed conflict, see Susan Brownmiller, "Making Female Bod-

ies the Battlefield," in *Mass Rape: The War Against Women in Bosnia-Herzegovina*, op. cit.

8. "Assessment Report on Sexual Violence in Kosovo," mission completed by D. Serrano Fitamant, UNFPA, 27 April to 8 May 1999, Albania, available at <<<http://www.unfpa.org>>>
9. *Idem.*
10. *Ibid.*, 4. Acts similar to this, apparently designed to terrorize and dehumanize members of a different ethnic group, were not uncommon during the Rwandan genocide of 1994 or the Bosnian crisis. For first-person accounts by Bosnian Muslim women victims, see Alexandra Stiglmeier, "The Rapes in Bosnia-Herzegovina," in *Mass Rape: The War Against Women in Bosnia-Herzegovina*, op. cit.
11. *Ibid.*, 5.
12. *Ibid.*, 3.
13. *Ibid.*, 7.
14. "Sexual Violence Against Refugees," UNHCR Policy Paper (Geneva, 1995).
15. *Ibid.*, 1.
16. *Ibid.*, 8.
17. "Gender-Based and Sexual Violence During Armed Conflict and Displacement," WHO Report available at <<<http://www.who.int/eha/pvi/infokit/gender.htm>>>
18. Reported in "KOSOVO: Controversy Over Contraceptives Aid Continues," available online at <<<http://www.unfoundation.org/unwire/archives/UNWIRE990521.cfm>>>
19. *Idem.*
20. See a related story online at <<<http://www.newsunlimited.co.uk?The...3604,49838,00.html?cantsetcookie=0>>>
21. Mrs. Sadako Ogata, Speech of 5 May 1999, op. cit.
22. For excellent introductions to International Law relating to sexual violence, see Judith Gardam, "Women, Human Rights, and International Humanitarian Law," *International Review of the Red Cross* No 324 (September, 1998), 421–32, and Theodor Meron, "War Crimes Law Comes of Age," *A.J.I.L.* 92 (1998), 468. Also see Frances T. Pilch, "The Crime of Rape in International Humanitarian Law," *USAFA Journal of Legal Studies* 9 (1999), forthcoming.
23. For example, the Women's Commission for Refugee Women and Children is devoted to public education and advocacy on behalf of women and children uprooted by armed conflict or persecution. For the report by this organization on Kosovo, see Julie Mertus, "Internal Displacement in Kosovo: The Impact on Women and Children," WCRWC, available online at <<<http://www.kaw.iby.edu/organizations/international/displaced.htm>>> □