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ESSAYS IN HONOR OF
CHARLES C. MOSKOS,
PART B



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WOMEN IN CONFLICTUAL SITUATIONS IN THE WAR-TORN DARFUR, SUDAN: AN EXPOSITION

Oluyemi O. Fayomi

ABSTRACT

Women in Africa increasingly bear greater burden of conflicts in which they rarely contribute to the outbreak. Historically, the Geneva Convention of 1949 and their Additional Protocol of 1977 acknowledge women as the most vulnerable members of the population and explicitly contain special measures to protect women during armed conflicts. Rape and sexual violence continue at an alarming rate in the ongoing genocide in Darfur. Rapes and other forms of sexual violence are being used as weapons of war to humiliate, punish, control, inflict fear, and displace women and their communities. These acts constitute grave violations of International Human Rights and Humanitarian Law, including war crimes against humanity. It should be noted that African women face shelling, famine, epidemics, forced displacement, detention, torture and execution like other civilians caught up in the maelstrom of war. Mass rapes in Darfur effectively terrorize women, break their will, and destroy the fabric of the society. Rape also has serious economic and social consequences in Darfurian society by making the victims ineligible for marriage and ostracized by the community and the family members. The economic and political implications of war are also noticeable in the

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way women that are internally displaced (IDPs) and refugees are being forced to exchange sexual favors in desperation for goods and services by the Sudanese security forces, including police deployed to protect them. It is pertinent to note that documented cases of rape or sexual violence in war time only represent the tip of the iceberg. In war and also during peace time, the stigma associated with rape and the victim's self-blame mean that the vast majority of cases go unreported. Therefore, sympathetic care and counseling for victims are essential to regain their self-esteem, dignity, and to facilitate their reintegration into society and family life. There should be greater recognition of the scourge of sexual violence, as well as public condemnation, with strict enforcement of existing national and international laws.

1. INTRODUCTION

The earliest inhabitants of what is now the Sudan can be traced to African peoples who lived in the vicinity of Khartoum in Mesolithic times which were the Middle Stone Age (30000–20000 BC). They were hunters and gatherers who made pottery and later objects of ground sandstone. Toward the end of the Neolithic Period which was the New Stone Age (10000–3000 BC), they had domesticated animals. These Africans were clearly in contact with pre-dynastic civilizations (2925 BC) to the North in Egypt, but the arid uplands separating Egypt from Nubia appear to have discouraged the pre-dynastic Egyptians from settling there.

War is caused by men and the decision to resort to violence is seldom taken by women. This does not mean that women are not affected by war or armed conflict. Conflicts take heavy toll on them and are not spared during conflicts. Darfur women like any civilians may be victims of summary execution, torture, force displacement, hostage taking, threats, and intimidation. They also suffer the effects of bombing, which cause starvation or epidemics, whether directly or indirectly. Pregnant women and nursing mothers are directly vulnerable to shortage of food and medical attention. Mortality rates increase during the times of war. Some combatants often behave deplorably by raping and humiliating women, which is the violation of international humanitarian law (IHL). The provisions of IHL protect conflict victims in general and women in particular. Therefore, States are bound by these universal treaties and have the obligation to guarantee protection for women during war. Despite these treaties that include the Four Geneva Conventions

and their Additional Protocols, which form the body of IHL, women especially and children experience horrors and violation of their rights to live a normal life. Robertson (2007), states that 20 babies are being abandoned every month by the victims of rape in Darfur, Sudan.

2. ORIGIN OF THE CONFLICT

The Conflict in Darfur, Sudan, a landlocked country started in January 2003. The situation worsens each year, and this crisis has escalated into crimes against humanity. The Darfur conflict is a complex political situation. Sudanese military and Janjaweed militia (armed men on horses), which is also a government-sponsored group, constitute one side of the armed conflict. The other side of the armed conflict includes the rebel groups, the Sudan Liberation Movement and the Justice and Equity Movement recruited from ethnic groups.

The Janjaweed are mostly responsible for attacks on villages where men are killed, women are raped, and children are abducted thereby leaving the villages displaced. According to Olejarczyk (2007), the attacks have led to the displacement of at least 1.2 million people and at least 1 million people have been internally displaced (IDPs) and more than 170,000 people have taken refuge across the border of Chad. Some others hide on the mountains, valleys, or other villages where no one knows the actual number of people.

Description and context of conflict in Darfur are important. The situations in Darfur remind people that the conflict is as a result of natural resources struggles with political undertone. Darfur, which means the land of Fur, has faced many years of tension over land and grazing rights between the nomadic Arabs, farmers from the Fur, Masssleet and Zagawa communities. The refugees from Darfur admit that after the air raids by government aircraft, the Janjaweed ride into villages on horses and camels, slaughtering men, raping women and stealing. Many women were reported abducted by the Janjaweed and later held as sex slaves for more than a week before their release. More than 2 million people have been displaced. There is presently the presence of a joint African Union and United Nations operation (UNAMID) in Darfur, Sudan. The latest attack on the peacemakers occurred on the July 9, 2008, which left about seven peacemakers dead.

3. CONCEPTUALIZATION

Mosser (1993) is of the view that many of the models for gender planning in development assume that it is quite unproblematic to use as an analytical category and to integrate gender into development planning and practice by careful, even contextual interpretation of "women's needs."

There has been endless debate about the possibility of separating "strategic" from "practical" interests or needs of women. According to Allen and Thomas (2000), the disagreement does throw some light on the last decade of gender and development practice.

Molyneux (1985) differentiates between "women's interests" and "gender interests." The concept of women's interests assumes compatibility of interests based on the fact of being women. In reality the position of women in society depends on various different criteria such as class and ethnicity as gender. He is of the opinion that gender interests are interests that men and women may develop by virtue of their social positioning through gender attributes. Molyneux (1985) further emphasizes the fact that gender interest can be either strategic or practical, each being derived in a different way and each involving different implications for women's subjectivity.

Strategic gender needs are the needs women identify because of their subordinate position to men in their society. Thus, strategic gender needs vary according to particular contexts. They relate to gender divisions of labor, power, and control. This may include issues of legal rights, domestic violence, equal wages and women's control over their bodies. By meeting these strategic needs assists women in modifying existing roles and challenging subordinate position. The strategic gender needs may include the removal of institutionalized forms of discrimination such as rights to own land and property, or access to credit, the establishment of political equality, freedom of choice over childbearing, adoption of measures against male violence, and control over women.

Practical needs are the needs women identify in their socially accepted roles in the society. Practical needs are a response to immediate perceived necessity, identified within a specific context. They are practical in nature because they are often concerned with inadequacies of living conditions such as water, healthcare and employment.

For example some people base their argument on women's practical interests to include policies that focus on making it more feasible for women to carry out their gendered responsibilities for the health and welfare of their families, as well as their reproductive activities – the fertility and childbearing. On the contrary, the opposing views emphasize that there are policies that deal with changing gender relations between men and

women in developing countries and making it easier for women to challenge traditional and contemporary structures and practices of subordination – which include violence against women and discriminatory political structures and regulations.

The increasing interest of development agencies such as some specialized agencies of United Nations and other non-governmental organizations (NGOs) in the issues of violence against women can be seen as responding to women's strategic gender needs. For example the Platform for Action that was agreed in September 1995 at the Fourth UN Conference on Women in Beijing was a more highly contested text than any of the other international statements agreed at international conferences. According to Baden and Goetz (1998), at one point two paragraphs of the text had generated 31 pages of amendments. Unlike any of the other agreements, debate over the Platform for Action was unique in calling into question the conceptual foundation and subject matter of the Conference itself and with its notions of the injustice and mutability of gender relations. Molyneux (1998), therefore concludes that most analysts acknowledge that this standpoint is rather a sterile debate since both kinds of activities are linked and often inseparable.

It should be emphasized that violence against women during war or armed conflicts go unpunished, and this is a fact that has not seemed to arouse much attention. Goldstein (2001), states that women have always been central to the warring experience, whether as target of bombs, as in London, Dresden and Hiroshima or as rape victims, as in Nanjing, Manila or Berlin during the Second World War. He points out that whenever inhuman treatment in the form of sexual abuse has been inflicted on women, it has always been treated with as less serious than other, non-sexual atrocities, no matter how perfectly it fits the legal definition of a war crime.

Following the global video conference on International Women's Day of March 8, 1999, with the theme "A World free of Violence against Women," United Nations Development Fund for Women (UNIFEM) is presently spearheading a follow-up strategy with agency partners to ensure that the heightened awareness is channeled into concrete actions to work toward a global free of Gender Based Violence (GBV).

4. THE SITUATION OF SUDANESE WOMEN

According to the United Nations Population Fund (UNFPA) (2008), sexual violence takes place in Darfur as women flee their homes and villages, within IDP camps and their homes. Women have been raped and attacked while

going to fetch water, firewood, find grass or straw to sell, build huts or farm or mill. As the conflict continues, there are reports of violence inside the IDP camps, including domestic violence and women's involvement in high risk activities.

As a result of the ongoing conflict in Darfur, Sudan, the women constantly experience forced displacement, constant killings, acts of sexual violence during the Sudanese Women Panel at the 7th HRC (2008), the Sudanese women expressed deep concern over the massive displacement that took place in the Northern part of West Darfur due to the escalation of conflict or violence. Tazorah (2008), speaking on behalf of Sudanese women expresses the need for peace and security in Sudan in general and Darfur, a worn torn region in particular.

We, Sudanese women, are seeking peace, protection, security and sustainability for all people of Sudan. We are not against the Government (of Sudan). We recognize the effort of the Government and the international community but there are some things, such as acts of sexual violence against women, in particular rape, that need attention. If we deny them, we are not healing.

These profound words are formal statements of people who are feeling the real effects of the conflict.

Delargy (2004) emphasizes that widespread sexual violence can traumatize entire families and communities, perpetuating a cycle of anxiety and fear that impedes recovery and reconstruction after the conflict must have subsided.

In addition, Delargy (2005), women and girls in conflict situations all over the world face Gender Based Violence (GBV). GBV comes as a direct result of war but also because support systems of community and protection are lost during displacement. The assessment conducted by UNFPA confirms that women in Darfur are being targeted for sexual violence during armed attacks on their villages, during flight, and in and around refugee settlements. It also suggests that, despite growing international attention on the phenomenon, sexual violence in Darfur is under-reported and undertreated. Cultural taboos also prevent many women that are victims of sexual violence from talking about it outside their families, even to medical practitioners. The women and girls that are sheltered in camps and settlements are also vulnerable to sexual violence and exploitation. As in many other recent conflicts, rape has become a weapon of war in Darfur, Sudan. Even some combatants often rape and humiliate Darfur girls and women. The acts that violate IHL.

5. WOMEN IN INTERNATIONAL HUMANITARIAN LAW

The IHL consists of the four Geneva Conventions of 1949 and their two Additional Protocols of 1977 were designed to protect the victims of hostilities. Every party to an international or non-international armed conflict has the duty to apply humanitarian law throughout the duration of the conflict. For instance, the principle of respect for the life, dignity and physical integrity of the individual, is embodied in specific measures in favor of women, such as the assignment of separate living sanitary facilities to women internees. Rape and all forms of indecent assault are prohibited.

Once a state becomes a party to the Geneva Conventions, the state shall undertake to recognize that:

Rape and all attacks on women's dignity during international conflicts are war crimes, and must be treated as such.

Every State of the international community has the duty to prosecute persons suspected of such crimes who are on its territory or to extradite them to a State which has declared itself prepared to bring them to justice.

States should prosecute with equal vigor persons guilty of rape in times of non-international armed conflict or internal disturbances.

Article 27 of the Fourth Geneva Convention states that "Women shall be especially protected against rape, enforced prostitution, or any form of indecent assault."

Article 4, paragraph 2(e), Additional Protocol 11 states that "Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault are expressly prohibited."

According to the United Nations Resolution 1769 on Darfur of (2007), there was a commitment by the international community, to the sovereignty, unity, independence, and territorial integrity of Sudan in maintaining the cause of peace and in assisting in tackling various problems. The resolution States thus:

Re-affirming also its previous resolutions 1325 (2000) on women, peace and security, 1502 (2003) on the protection of humanitarian and United Nations personnel 1612 (2005) on children and armed conflict and the subsequent conclusions of the Security Council working Group on Children in Armed Conflict pertaining to parties to the armed conflict, as well as recalling the report of Mission to Addis Ababa and Khartoum from 16 to 17 June 2007.

It is pertinent to note that despite all these international treaties, which form the body of IHL, the world is still witnessing a daily dialogue of horrors and atrocities perpetrated against women that laws were designed to protect. These violations in Darfur, Sudan, specifically do not illustrate the inadequacy of the law, but that the rules are either not known to leaders and combatants or that they are simply disregarded.

6. AGENDA FOR ACTION

The government of Sudan should uphold respect for the dignity of women during the period of war. Sudanese laws should be reviewed particularly those that deal with rape. The Article 149 of the Sudanese Criminal Act, 1991, should be amended because there is confusion in its interpretation. Rape should become a separate crime from adultery.

The Government should ratify international treaties containing provisions to the protection of women and children in armed conflicts, including Geneva Conventions relative to the protection of Civilians persons in time of war and their Additional Protocols. There should be constant efforts to promote knowledge of and compliant with the rules of IHL as widely as possible by using all available means. These included Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I) and to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

Sudanese government should identify and condemn the systematic practice of rape and other forms of inhuman and degrading treatment of women as a deliberate instrument of war and ethnic cleansing and take steps to ensure that full assistance is provided to the victims of such abuse for their physical and mental rehabilitation.

Diplomacy, negotiation, and peaceful settlement of disputes should be encouraged in accordance with the Charter of the United Nations, particularly Article 2, paragraphs 3 and 4.

The role of women in the Sudanese governments should be strengthened with emphasis on equal representation of women at all decision-making levels in national, state, and local. This may influence policy with regard to matters related to peace-keeping, preventive diplomacy, and in all stages of peace, mediations, and negotiations.

There should be respect and compliance for the norms of IHL in armed conflicts and take all measures required for the protection of women and

children, in particular against rape, forced prostitution, and any other form of indecent assault.

There should be establishment of educational programs for girls and boys for fostering of a culture of peace, which focus on conflict resolution by non-violent means and the promotion of tolerance.

The government of Sudan should develop and also disseminate research on the physical, psychological, economic, and social effects of armed conflicts on women, particularly young women and girls, with a view to develop policies and programs that address the consequences of conflicts.

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