

# *Human Rights Cases of Abuse Impact on Women*

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**Abstract:** The protection of women's rights marks the degree of civilization of a society. The issue of women's rights is not only related to the healthy operation of human society in today's world, but also to the future destiny of human beings. This essay will focus on how women's rights were violated in the wars in the former Yugoslavia in terms of military tactics and legal flaws.

## **1. Introduction**

In modern society, the violation of women's rights remains a serious issue. Whether domestic violence or mass rape, it reflects the vulnerability of women's rights in a patriarchal society. This essay will argue why are women's rights more obviously violated and study them from three aspects. Firstly, the oppression of a patriarchal society would be examined. Secondly, the military strategy in warfare is also an important reason for the violation of women's rights which is worth exploring. Thirdly, the limitation in international and domestic law fails to protect women's rights. This essay will focus on how women's rights were violated in the wars in the former Yugoslavia in terms of military tactics and legal flaws.

## **2. Patriarchal social structures**

2.1 The patriarchal society is an important catalyst that so many women's fundamental rights are being abused. Patriarchy is a male-dominated social system in which men have absolute dominance in the family and in society, while women and other disadvantaged classes and races have no voice at all. Early feminism argues that all forms of patriarchy ultimately caused all abuse against females, and patriarchy, which ultimately engendered abuse, is socially constructed (Tracy 2007: 7). Lenore Walker asserts that sexism is the origin of human suffering (Tracy 2008: 8). Knickmeyer (2004: 30) further adds that power struggle is the explanation of violence against women. When men feel their power and right of dominance are challenged by women, they are likely to resort to violence. For example, patriarchy led to domestic violence because men needed to use domestic violence to maintain male dominance in family and society. Indeed, feminist scholarship has proved that patriarchy creates a foundation for male dominance and abuse throughout the whole human being's history. It is easy to find in ancient history, however, abuse against women inspired by patriarchy is continuing today. It is despite women rights movements that have occurred in the late twentieth century (Tracy 2007:25). It seems that early feminists had the strong belief that there is an essential

relationship between abuse and patriarchy.

2.1.1 Some evangelical egalitarians have the more cautious argument related to the relationship between abuse and patriarchy. For example, Cynthia Ezell argues that the relationship between abuse and patriarchy has a solid causal link rather than an essential relationship (Tracy 2007: 10). There is a belief that patriarchy poses a threat to the marital system, which has bred the virus of violence. However, patriarchy cannot be fought by creating a proverbial stronger immune system. Although patriarchy is not the overarching cause of the violence, it is an inescapable variable of all kinds of violence because men disproportionately hold power. Hence, the relationship between abuse and patriarchal structure cannot be ignored.

2.1.2 The more nuanced analysis can be found in the relationship between religion, abuse, and patriarchal society, as religion reflects patriarchy. For example, in fundamental Muslim societies, husbands and fathers have the unfettered right to control the bodies of women. Early studies proved the highest rate of violence between husbands and wives in the least egalitarian states (Yllo 1983: 68). For instance, under the Taliban rule in Afghanistan, the country had become an extremely patriarchal nation where women suffered from widespread abuse by men (Agustina and Suprihatin 2017: 328). As a consequence, these studies show that patriarchal males are more prone to utilize violence against their spouses (Smith 1990: 257). Recent research, however, has shown an inverse ratio between worship and violence against women. It was seen that traditional Protestant men who frequently go to the church are least prone to beat their spouses. In contrast, domestic abuse was more common among Protestant males who have low church attendance (Christopher, Ellison and Anderson 2001: 270). Hence, these studies have challenged the assumption of early feminists that the patriarchal society is the only underlying cause of abuse and violence. However, patriarchy is still an indispensable factor that fuels domestic violence. Perhaps Protestantism has a different religious outlook than Islam. So, despite being in the same patriarchal system, men of different religions exercise different levels of violence.

2.1.3 In addition, there is evidence that the patriarchal society results in physical abuse of women by placing masculine characteristics on a higher pedestal. The major trait of abusive males is a feeling of superiority and authority over their spouses and children. It is partly due to insecurity and the need for control and entitlement (Dobash and Dobash 1979: 273). Dobash (1995: 41) argues that abusive men believe that both men and women have an inherently hierarchical relationship, which means men should be dominant. Abusive men need to maintain the position of dominance and superiority in the marital system. Due to this reason, abusive men usually defend their abuse against women by citing male headship and female submissiveness. They believe that their wives deserve violence because of women's noncompliance (Tracy 2007: 33). It is reported that fifty-five percentage of men have told their wives they would stop beating if women became more submissive (Tracy 2007: 33). Therefore, it can be seen that physical and mental abuse is common in the patriarchal structure.

To summarise, domestic violence and abuse against women are not always the result of patriarchal society, but patriarchy is also a catalyst for violating women's rights. Early feminism relied too heavily on the monist theory of causation which endorsed the notion that patriarchal society must lead to violence against women. Protestant men who have high church attendance, on the other hand, are less likely to conduct domestic abuse. But, when a patriarchal society is combined with a group of insecure and psychologically troubled men, violence against women can easily flourish.

### **3. A Military strategy**

Although wartime sexual violence against women has a long history, it was not until the 1990s that the international community began to recognize that sexual violence could sometimes be used as an instrument of warfare in addition to being used as a trophy. This refers to systematic, widespread,

and formally planned sexual violence perpetrated by armed groups on one side against the civilian population of the opposing group. Such violence is not a random act, but is widely practiced as a deliberate policy. This means that in a given context, sexual violence is a political event that is part of a military strategy.

3.1 Another violation of women's rights is the mass rapes during wartime, which can be seen as a military strategy. Early feminist studies condemn "rape becoming man's basic weapon of force against woman" and became the "ultimate triumph of manhood" (Brownmiller 1975: 5). Brownmiller argues that men use rape as the most powerful method to control women who are under the fear of sexual violence. This fear emerges as the definition of "rape culture" in social conditions. The author also argues that, during wartime, rape is not only the weapon that attacks women but a weapon to attack the 'enemy' (Brownmiller 1975). Mass rape is a message that informs men of the cruel demonstration of the victory of one side and the defeat of the other (Brownmiller 1975: 13). Morokvasic (1998: 81) have a similar argument that rape in war is a military strategy and women are depicted as 'female Other' or 'ethnic Other'. Thus, rape is not only an act of violence, it is a weapon in wars.

3.1.1 Mass rape is sometimes with genocide. The instrumental nature of sexual violence is reflected in its frequent use by state and non-state armed groups as a powerful means of cleansing and exterminating hostile communities. On the one hand, it is a way to achieve forced evictions, forcing populations of rival communities living in a given area to leave their homes in order to escape repeated sexual violence. On the other hand, it can also transform the culture, spirit and flesh of the community, not only by destroying the family and community structures of members of the rival community and damaging their national spirit and morale, but also by preventing intra-community births and the spread of AIDS and other sexually transmitted diseases within the rival community population. Some feminists argue that the rape in Bosnia was in a way a genocide against non-Serbs. Furthermore, these rapes, committed by the Serbian military, had an extreme nature (MacKinnon 1993: 65). Other feminists disagree that it is not necessary to reinforce 'mass rape' as genocide because rape as genocide would raise the threshold of violence against women. It would perhaps undermine other extreme kinds of violence against women (Buss 2009: 149). However, later studies of the Yugoslav and Rwandan courts have given much appreciation to the activism and dedication of feminist groups. This is because such activism led to labelling rapes as a war crime (Copelon 2000: 219). Rather, it is now legally defined as genocide (MacKinnon 2013: 118). It is indeed a victory for feminists who insist that rape is genocide.

3.1.2 Nationalism and masculinity provide a further explanation of why mass rape is a military strategy. Nationalism, by definition, is political and inextricably related to the state and its institutions. Males have controlled the majority of government entities, including the military. Hegemonic masculinity's culture and ideology exist in parallel with hegemonic nationalism's culture and ideology (Nagel 1998: 249). Nagel (1998) emphasized the close connection between nationalism, militarism, and masculine behaviours. Questions about women's attire and demeanour are primarily about purity and masculine honour. For at least two reasons, women's sexuality is frequently an issue of national interest. First, women's role in nationalism is often symbolized as mothers, representing the national family. Second, nationalists are concerned with women's sexuality because women carry male honour as spouses and daughters. For example, ethnographers indicate that Afghani Muslim nationalists see resource management, labour, land, and women, as a matter of honour (Nagel 1998: 255-256). Gender differences as legendary stereotypes are transformed into political decrees and behavioural standards for modern men and women. Thus, the association of the notion of honour provides motivation for using rape as a threat to challenge that honour.

3.1.3 The instrumental employment of gendered stereotypes in national reproduction is most visible in the tight interrelationship between nationalism and militarism. Often, nations are

represented as 'motherland', emphasising the female characteristics of a nation. Thus, the masculine citizen-soldiers should be responsible for annihilating the 'enemy' and protecting their women from rape by 'enemy' men (Einhorn, 1993: 203). The objective of rape in war was to weaken the 'enemies' culture and identity by ruining 'his' seed, destroying the ethnic superiority and continuity of the 'other' nation (Hansen, 2001: 60). The Bosnian war's sexual assault prisons have been documented as a systematic and clear Serb tactic of genocide. On the one hand, the aim of Serbian troops was force all non-Serbs to flee, on the other, Serbian troops tried to break parent-child and spousal ties and taint a large number of society's child-bearing women (Boose 2002:73). Hence, nationalism and militarism are strongly connected to promoting patriarchal notions.

(1) The close-knit relationship between masculinity and nationalism sometimes leads to providing justification for genocidal rape. Allen (1996) highlights that genocidal rape is a form of biological weapon (Allen in Bradford 1998:124). Biological warfare, according to the author, is defined as the intentional use of live organisms or their poisonous compounds to kill or hurt humans. It is further suggested that rape is deliberately destructive and designed to harm people (Bradford 1998: 124). Not only does the use of rape as a weapon distinguish Serbia from the rest of the modern world, according to Allen, but the Serbian use of wartime rape to impose forcible impregnation constituted a form of "innovation" in war history. (Allen 1996: 91). Although Bosnian soldiers executed rapes, they were categorized as 'sporadic' compared to the Serb genocide (Cohen 1996: 53). The Special Rapporteur on the situation of human rights in the former Yugoslavia notes that more than 100 women were raped by Bosnian Croat (HVO) soldiers (Mazowieck 1993: 6). In contrast, Serbian troops repeatedly sexual abused approximately 20,000 to 50,000 Bosnian Muslim women until they were pregnant (Kohn 1994: 199). It is clear that the rapes practised by the Serbian forces were indeed more systematic and on a larger scale than the Bosnian soldiers.

Not all form of rape is a genocidal military strategy. The criterion for separating occasional rape from genocidal rape is whether the army participated in organized, systematic rape and impregnated the enemy's women. Although feminists have debated whether rape is a genocidal military tactic, international tribunals agree that brutal mass rape, such as Serbian troops to force a woman to become pregnant, is unquestionably a genocidal military strategy. Nationalists also offer perspectives to interpret the rape committed by Serbian soldiers.

#### **4. Limitations of the legislation**

4.1 The limitations of the law, both in international and domestic law, result in the constant violation of female's rights. The vulnerable position of females makes them more prone to be the targets of all forms of violence, and it was hard for women to bring cases against the perpetrators to defend their rights. For example, The International Criminal Tribunal for the Former Yugoslavia had a difficult time in prosecuting the case of rape. Firstly, Mertus (2004: 119) notes that defence lawyers' primary objective was to blame survivors and discredit them. In the Foca case, the Tribunal's guidelines specifically banned testimony on earlier sexual acts, limiting the defence attorneys' strategy to impute females for their own faults. However, the limitation did not completely remove the lawyer's blame strategy. The defence attorney claimed a woman seduced a man to rape her, so she should be responsible for the rape. The women's testimonies were converted into legal narratives that helped the rapist. So, the shameless sophistry of lawyers makes it even harder for women who have been raped to defend their rights.

4.2 Secondly, the difficult and lengthy procedures made it difficult for women to get justice. Witnesses who sought supportive therapies before and during the trial have to confront the question of the credibility of their testimonies by defence attorneys. Defence attorneys claimed that witnesses were too traumatized to be trustworthy. As time passed, the tribunal's prosecutors were facing

increasing difficulties in locating witnesses to testify (Wald 2001: 109). Another challenge for raped women was that the testifying lady was reduced to a fragmented and passive victim because the testimony of accusers was reduced to a incoherency of questions and replies. Since the prosecution and attorneys concentrate on the acts of aggression, which include detailed descriptions of the victim's and perpetrator's bodily parts as well as the perpetrator's activities. As a result, the public testifying in court was transformed into a show that reproduces the harm for the woman (Mertus 2004: 118). Taslitz (1999: 11) argues that women were disempowered, their voices are silenced, narratives of patriarchy are confirmed, and rape is legalised.

4.2.1 A similar situation happened in South Africa and Rwanda. Zarkov (2006: 220) notes that it was difficult for females who had been sexually abused in South Africa and Rwanda to seek justice. In these two areas, public witnessing of sexual abuse had to be removed by private hearings in order to prevent females from being subjected to scorn, harassment, assault, and even death, if they testified in public. Thus, the difficulty of prosecution, the secondary victimisation of victims, and the threat to victims' safety allow crimes of sexual violence in warfare to become a hidden crime, which inadvertently becomes more prevalent when the perpetrators were not adequately punished. In other words, the difficulty of prosecution contributes to the perpetuation of sexual violence in armed conflict.

4.3 In addition to the ineffectiveness of international law in protecting women's rights, there were also flaws in domestic laws in various countries. Not many countries have legislation against violence against women. If these countries have the law about violence, they are often more focused with reacting to violence that has already happened rather than completely eradicate it (UN 2015: 160). A 2016 report issued by the UN Special Rapporteur on Violence against Women noted that the national enforcement of established national legislation on women rights was a fragment. Many countries lack a coordinated or complete strategy to fight and prevent violence against women. Women cannot pursue justice based on a systematic legal and institutional framework (UN 2016a: 13).

4.3.1 For example, in Sudan, the formal justice system was dysfunctional and ineffective. It is reported by women's lack of access to justice, under-reporting, and pervasive impunity, especially in situations of abuse against women. In middle or small cities, the formal justice system remains unavailable because of geographical obstacles, safety issues, a lack of knowledge and awareness, and the system's inefficiency (UN 2016b: 18). On the other hand, some cases were underreported due to cultural and societal taboos. As Burton (2008: 2) notes, people did not realise that domestic violence was a serious issue that the legal system tackled until the 1970s. Edward (2010) also remarks that violence against women was not an issue until the 1990s, hence national governments (and criminal law) should consider it seriously. These examples show that neither international nor national laws provide sufficient protection to women's rights, which explains why there are still a lot of human rights violations and violence against women.

## 5. Conclusion

To summarise, patriarchal societies are responsible for the violation of human rights of women. Genocidal military tactics, legal shortcomings, and patriarchal societies converged to create a massive violation of women's rights. Although the efforts of feminists to fight for female's rights, women in gender inequality countries endure different kinds of violence due to these three reasons.

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