



A Foucauldian-Feminist Understanding of Patterns of Sexual Violence in Conflict

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Introduction

Determining the true extent of sexual violence remains difficult; rape has been, and continues to be, one of the most underreported major crimes.¹ Sexual violence against women is reportedly at “epidemic proportions.”² This could be the result of greater awareness of what constitutes sexual violence and an increase in reporting, rather than an increase in actual incidents of sexual violence; nevertheless, best estimates suggest that over a third of women experience intimate partner violence or sexual violence by a non-partner at some point in their lives,³ a high level of victimisation.

It may be even more difficult to determine the scale and extent of conflict-related sexual violence. There are definitional issues,⁴ there are issues around reporting due to the associated stigma with being a survivor of sexual violence, as well as difficulties in accessing the testimonies of survivors in areas where conflict is ongoing. Recent research in Bangladesh has explored the testimonies of Rohingya women who have suffered sexual

¹ W. David Allen, “The Reporting and Underreporting of Rape”, *Southern Economic Journal* 73:3 (2007):623-641.

² Equality Now, *The World's Shame: The Global Rape Epidemic* (2017), http://www.equalitynow.org/sites/default/files/EqualityNowRapeLawReport2017_Single_Pages.pdf (accessed May 3, 2017).

³ United Nations Women, *Facts and Figures: Ending Violence against Women*, UN Women (2016).

⁴ Dara Key Cohen, Amelia Hoover Green, & Elisabeth Jean Wood, “Wartime Sexual Violence: Misconceptions, Implications, and Ways Forward,” *United States Institute of Peace* 323 (2013): 1-16. Definitions of conflict-related sexual violence often vary between studies, and it is thus difficult to make accurate comparisons.

violence at the hands of Burmese security forces in the ongoing humanitarian crisis in Burma's Rakhine state. The women interviewed are expected to only represent a small proportion of those who have experienced sexual violence,⁵ indicating that conflict-related sexual violence continues to be a major humanitarian issue that is underreported and perhaps underestimated. The BBC reported in February 2018 that women in Syria have been sexually exploited by men delivering aid on behalf of the UN and other international charities.⁶ The situation in Syria is reportedly such that "some women have given up receiving aid" because of a reluctance to interact with male aid distributors.⁷

Power recurs as a key theme in research on sexual violence, especially in feminist analyses. Feminist analyses should be credited, to a significant extent, for raising awareness of sexual violence, and leading campaigns to tackle the issue in a number of areas. Feminist analyses have contributed a great deal to the study of conflict-related sexual violence, and feminists have campaigned for sexual violence in conflict to be taken more seriously. However, there is a tendency for mainstream feminist accounts, especially radical feminist approaches, to deploy a one-dimensional theory of power. Such theories present women as powerless in the face of male dominance and sexual violence⁸, producing a reductionist understanding of sexual violence.

Foucault offers a unique and dynamic theory of power,⁹ avoiding the pitfalls associated with one-dimensional feminist theories. His work goes beyond viewing power as a tool possessed and wielded by elites, rather seeing it as something exercised from multiple points within a network of power relations.¹⁰ When Foucauldian and feminist ideas are combined, there is significant potential to improve our understanding of sexual violence and to produce modes of resistance. Conflict-related sexual violence provides a cross-cultural test for a Foucauldian-Feminist framework and facilitates a discussion of violence against both men and women.

This paper will begin by exploring Foucault's theories that are most relevant to the understanding of sexual violence and conflict-related sexual violence. It will then discuss the possibility of a Foucauldian-Feminist framework for understanding sexual violence, before using this framework to explore conflict-related sexual violence, and the possibilities for resistance, in more detail.¹¹

I. Foucault and Feminism

A. Power and Domination

In *The History of Sexuality, Volume I*¹² Foucault outlines his conception of power most clearly. His work goes beyond viewing power as a tool possessed only by the most powerful,¹³

⁵ S. Wheeler, "All my body was pain": *Sexual Violence against Rohingya Women and Girls in Burma*, Human Rights Watch (2017).

⁶ James Landale & Vinnie O'Dowd, *Syria conflict: Women 'sexually exploited in return for aid'*, BBC (2018).

⁷ United Nations Population Fund, *Voices from Syria 2018: Assessment Findings of the Humanitarian Needs Overview* (2017):30.

⁸ Carine M. Mardrossian, "Towards a New Feminist Theory of Rape," *Signs* 27:3 (2002): 743-75.

⁹ Amy Allen, "Feminist Perspectives on Power," *The Stanford Encyclopaedia of Philosophy* (2016).

¹⁰ Michel Foucault, *The History of Sexuality, Volume I: An Introduction* (New York: Pantheon Books, 1978/1976).

¹¹ This paper was based on a comprehensive literature review to select relevant primary research. Studies were identified from key-word searches applied to feminist and Foucauldian journals, bibliographical databases and reference lists from major reports on sexual violence.

¹² See Michel Foucault, *The History of Sexuality, Volume I: An Introduction*.

¹³ Sara Mills, *Michel Foucault* (London: Routledge, 2003).

distinguishing Foucault from his contemporary French Marxists who focussed solely upon oppressive power wielded by elites. Foucault analyses power relations rather than power itself and does not discuss power as something that can be acquired or possessed; he rejects the reification of power.¹⁴ Power is exercised “from innumerable points”¹⁵ in a network of power relations. Power can thus be exercised by anyone and everyone, and the important level of analysis is the micro-level. Although the State, and other institutions, are important units of analysis in discussions of power, it is insufficient to look solely at these loci of power. Indeed,

nothing in society will be changed if the mechanisms of power that function outside, below, and alongside the State apparatuses, on a much more minute and everyday level, are not also changed.¹⁶

Although this conception of power facilitates a focus on the micro-level exercises of power that are often neglected in feminist and Marxist analyses, it has been criticised for an alleged failure to appreciate that people are in unequal positions when exercising power.¹⁷ However, such criticisms do not recognise the more nuanced approach that appears in Foucault’s late work with his theory of domination.¹⁸ Domination is described as a specific structure of power, whereby power relations stagnate and can no longer circulate freely through the social body. States of domination thus exist where “the relations of power are fixed in such a way that they are perpetually asymmetrical, and the margin of liberty is extremely limited.”¹⁹ This latter distinction addresses the above criticism and demonstrates the evolution of Foucault’s ideas in his later works.

Foucault’s theory of power is also criticised for failing to provide “normative criteria for distinguishing acceptable from unacceptable forms of power.”²⁰ Foucault does not deem any power structures as preferable to others, which may limit the utility of his ideas as tools of critique. However, “he is not neutral about *domination*” itself.²¹ Foucault regards states of domination as restricting the free flow of power relations, and insofar as Foucault values the dynamic flow of power relations that are subject to change, he thus does not favourably view states of domination. This somewhat addresses the above charge, but Foucault perhaps does not go far enough in providing tools to critique harmful power structures.

¹⁴ Joseph Rouse, “Power/Knowledge,” in *The Cambridge Companion to Foucault*, ed. Gutting, G. (Cambridge: Cambridge University Press, 2005):95-122.

¹⁵ Michel Foucault, *The History of Sexuality, Volume I: An Introduction* (New York: Pantheon Books, 1978/1976):94.

¹⁶ Michel Foucault, “Body/Power,” in *Power/Knowledge: Selected Interviews and Other Writings*, ed. Gordon, C. (New York: Pantheon Books, 1980), 55-62.

¹⁷ Vanessa E. Munro, “On Power and Domination: Feminism and the Final Foucault,” *European Journal of Political Theory* 2:1 (2003):79-99.

¹⁸ Michel Foucault, “The Subject and Power,” in *Michel Foucault: Beyond Structuralism and Hermeneutics*, ed. Dreyfus & Rabinow (Abingdon: Routledge, 1982), 208-226.

¹⁹ Michel Foucault, “The ethics of care for the self as a practice of freedom: an interview with Michel Foucault on January 20, 1984,” in *The Final Foucault*, ed. Bernauer & Rasmussen (Cambridge, MA: The MIT Press, 1994/1984), 1-20.

²⁰ Nancy Fraser, “Foucault on Modern Power: Empirical Insights and Normative Confusions,” *Praxis International* 1:3 (1981):272-87.

²¹ Jon Simons, “Power, Resistance, and Freedom,” in *A Companion to Foucault*, 1st Edition, ed. Falzon, O’Leary, & Sawicki (Chichester: John Wiley & Sons Ltd., 2013), 300-319. Emphasis mine.

B. Resistance

Power is inextricably linked with resistance in Foucault's account. Just as power is exercised from multiple points, so too is resistance. Power cannot exist without the possibility of resistance, and resistance "can only exist in the strategic field of power relations."²² This is a unique understanding of resistance; it is often conceived of as something external, reacting against a power structure. As Foucault rejects the idea of power as a formalised system of structural oppression, resistance cannot thus be conceived as external to power; "power is not a system of domination with an inside or an outside."²³

Opportunities for resistance exist even within a state of domination. The leading regime or group is limited in its exercise of power when people "prefer the risk of death to the certainty of having to obey."²⁴ This seems particularly relevant to understanding conflict zones where anti-state actors are willing to participate in violence against authorities at a risk to their own safety. Although resistance is more difficult under domination, "the possibility of its realisation is never completely obliterated."²⁵ States of domination do not—indeed, cannot—entirely curtail freedom, because power can only be exercised over subjects insofar as they are free to respond to the exercise of power.²⁶ Even when power relations solidify, Foucault's analysis allows for a conception of active resistance; individuals exercise local resistances, acting freely within the context.

C. Subjectivity and Agency

The notions of subjectivity and agency are underdeveloped in Foucault's genealogical work; in his early work, the focus is on the subject as the target of the exercise of power.²⁷ Here, Foucault discusses the subject in light of modern disciplinary power controlling the operations of the individual body. It is unclear whether the subject is a meaningful unit of analysis in itself, rather than merely a site for the exercise of modern institutional power.

However, in his later body of work, the concept of the subject is developed. Foucault describes the subject as "not a substance; it is a form and this form is not above all or always identical to itself."²⁸ This understanding is not a radical break for Foucault. When he called for the end of man in his early work, some interpreted this as rejecting the idea of a subject altogether; however, it seems he was encouraging a recognition "that human subjects are always embedded in contingently emergent linguistic, historical, and cultural conditions."²⁹ The subject, on Foucault's understanding, is historically constituted, but also "*constitutes itself*"³⁰ within given power networks. The subject "does not precede power relations,"³¹ but is produced through power relations, in both active and passive ways.

²² Michel Foucault, *The History of Sexuality, Volume I: An Introduction*, 96.

²³ Joseph Rouse, "Power/Knowledge," 111.

²⁴ Michel Foucault, "Useless to Revolt?", in *Power: Essential Works of Foucault, 1965:1984*, ed. Faubion. (New York: The New Press, 2000/1979), 449.

²⁵ Vanessa E. Munro, "On Power and Domination: Feminism and the Final Foucault," 91.

²⁶ Michel Foucault, "The Subject and Power," *Critical Inquiry* 8:2 (1982):777-95.

²⁷ Michel Foucault, *The Birth of the Clinic* (New York: Random House, 1973/1963).

²⁸ Michel Foucault, "The ethics of care for the self as a practice of freedom: an interview with Michel Foucault on January 20, 1984," 10.

²⁹ Amy Allen, "Foucault and Enlightenment: A Critical Reappraisal," *Constellations* 10:2 (2003):193.

³⁰ Mark G. E. Kelly, "Foucault, Subjectivity, and Technologies of the Self," in *A Companion to Foucault*, 513.

³¹ Saba Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton, NJ: Princeton University Press, 2005), 17.

It is possible to interpret Foucault's theory of the subject as negating the possibility of agency and freedom, because the subject is not entirely free to constitute itself without other influences. On consideration, this is not a controversial argument. Subjects exist within specific socio-historic contexts, and thus the agency of a subject also exists within particular limits. In his late ethical work, Foucault discusses the possibilities for freedom and self-constitution available to individuals within these limits. As discussed above, freedom is not the absence of power; rather, in Foucault's work on ethics, "productive power becomes attached to the positive agency of the ethical subject."³² This theory of the subject provides a useful lens through which to explore the possibilities for active resistance and the exercise of individual agency in conflict zones; although women, and indeed men, are constricted in their choices by the circumstances surrounding them, this does not render them powerless.

D. Feminist Rejections of Foucault

Postmodernist theories in general, and Foucault's work specifically, have been criticised in feminist theory for their "anaemic" politics.³³ Feminists have criticised Foucault's lack of interest in feminist politics, apparently evident in that he "had relatively little to say about the second-wave feminism that was one of the key political movements of his time."³⁴ This poses a specific problem for feminism given that it is "an emancipatory political movement,"³⁵ aiming to challenge and change the social and political realities of gender inequality. Some feminists accuse Foucault of nihilism, building on Habermas' criticism³⁶ that Foucault's theoretical frameworks do not acknowledge complex social and political realities. Although Foucault did not advocate any particular value system, and his work is not primarily political in nature, it is premature for feminists to dismiss the utility of his work on this basis alone. It might in fact be useful to the feminist movement that Foucault avoids any clear commitment to political causes, because his ideas can directly aid feminist theorising without any conflict of political ideologies.

Even if this criticism can be overcome, feminists also criticise Foucault's conception of power. As Foucault sees power as dispersed across networks of individuals, "we are led to conclude merely that each of us both dominates and is dominated."³⁷ This is undoubtedly difficult for feminists to embrace, because the "structural relations of inequality and domination that undergird women's subordination" are not addressed.³⁸ Foucault's theory of power perhaps leaves no room to acknowledge institutional inequality. However, this criticism does not consider Foucault's later theory of domination. This distinction recognises that some people or groups can exercise substantial amounts of power over others for long periods of time. Foucault is unconcerned with what patterns of domination exist in society at any point,³⁹ but he recognises that asymmetrical power relations do exist.

³² Mark B.N. Hansen, "Foucault and Media: A Missed Encounter?", *The South Atlantic Quarterly* 111:3 (2012):506.

³³ Nancy Hartsock, "Postmodernism and Political Change: Issues for Feminist Theory," in *Feminist Interpretations of Michel Foucault*, ed Hekman (Pennsylvania: The Pennsylvania State University Press, 1996), 40.

³⁴ Cressida J. Heyes, "Foucault Studies Special Issue: Foucault and Feminism, September 2013," *Foucault Studies* 16 (2013):4.

³⁵ Margaret A. McLaren, *Feminism, Foucault, and Embodied Subjectivity* (New York: SUNY Press, 2002), 2.

³⁶ Jürgen Habermas, *The Philosophical Discourse of Modernity* (Cambridge: Polity, 1987).

³⁷ Nancy Hartsock, "Postmodernism and Political Change: Issues for Feminist Theory": 46.

³⁸ Amy Allen, "Feminist Perspectives on Power": 1.

³⁹ Vanessa E. Munro, "On Power and Domination: Feminism and the Final Foucault": 79-99.

E. Foucauldian Feminist Approaches

The feminist rejection of Foucault's conception of power, then, is misguided. A number of feminists highlight power as a key site of convergence with Foucault;⁴⁰ some feminists are drawn to "Foucault's provocative and highly original analyses of power", that emphasise the micro-level⁴¹. In order to have a comprehensive theory of power, one must address how power is exercised and experienced at both micro- and macro-levels. Feminism, particularly radical feminism, has a long-standing tendency to focus on macro-level power relations, targeting patriarchal institutions as the source of inequality, at the expense of attempting to understand micro-level power relations. Foucault can thus contribute to feminist analyses of power by bringing greater nuance to the discussion.

Foucault's work also offers a useful conception of the subject. Some feminists criticise Foucault here, claiming that "his conception of a subject [is] seemingly incapable of moral and political agency."⁴² As Foucault suggests that the subject is the product of power relations, it could be argued that, in his analysis, individuals lack agency. Indeed, this is a fair criticism against Foucault's earlier work, and it is problematic for feminists; the exercise of agency is vital for advancing change.

However, once again, feminism must pay attention to the later developments of Foucault's theories, where he "explores the active constitution of the subject, or what he calls the self's work on the self."⁴³ This idea of the subject, embedded in a network of power relations but still capable of exercising power and autonomy, is an improvement on previous feminist understandings of subjectivity. Feminism supposedly requires "a coherent subject for liberation"⁴⁴, resulting in the creation of a fixed feminist subject, a universal symbol of woman in need of emancipation. This has been criticised because it is essentialist⁴⁵, and ignorant of the fact that women experience oppression at a number of intersections. Feminism must move beyond the idea of a unified female subject; indeed, "feminist politics without a feminist subject is possible and desirable."⁴⁶ Foucault offers an alternative conception of the subject that still allows for feminist politics and resistance.

II. Foucault, Feminism, and Sexual Violence

As Foucault did not engage directly with feminism, neither did he make a significant contribution to analyses of sexual violence. Foucault's most notable remarks on sexual violence are often considered highly problematic; in comments published in *La Folie Encerclée*, Foucault argues that "sexuality cannot under any circumstances be the object of punishment."⁴⁷ Foucault compared rape to a punch in the face, claiming that it should be understood and punished only as an act of physical violence. This desexualisation strategy

⁴⁰ Irene Diamond & Lee Quinby, *Feminism and Foucault: Reflections on Resistance* (Boston: Northeastern University Press, 1998).

⁴¹ Amy Allen, "Foucault on Power: A Theory for Feminists," in *Feminist Interpretations of Michel Foucault*, ed Hekman (Pennsylvania: The Pennsylvania State University Press, 1996), 265.

⁴² Margaret A. McLaren, "Foucault and the Subject of Feminism," *Social Theory and Practice* 23:1 (1997):109.

⁴³ Margaret A. McLaren, *Feminism, Foucault, and Embodied Subjectivity*, 4.

⁴⁴ Moya Lloyd, "A Feminist Mapping of Foucauldian Politics," in *Feminist Interpretations of Michel Foucault*, 242.

⁴⁵ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London: Routledge, 1990).

⁴⁶ Jana Sawicki, "Feminism, Foucault, and 'Subjects' of Power and Freedom," in *Feminist Interpretations of Michel Foucault*, 166.

⁴⁷ Monique Plaza, "Our Damages and Their Compensation Rape: The Will Not to Know Michel Foucault," *Feminist Issues* 1:2 (1981):26.

has also been pursued by some radical feminist theorists, although their reasons differ. Foucault believes that desexualising rape would be “a liberating blow against the disciplining discourse which constructed sexuality as a means of social and political power,” whilst radical feminists seek “to purge rape of its sexual content in order to render moot the legal question of victim culpability.”⁴⁸

Despite this common ground, Foucault’s remarks were criticised by his contemporary feminists, and “for many years were taken to be the most overt form of his political incompatibility with feminism.”⁴⁹ Indeed, to treat rape as an act of violence alone “ignores the potential impact of rape as a practice—not just a criminological category,”⁵⁰ and victims of rape undoubtedly experience it as both an act of sex and violence.

A. The Body and Power

However, Foucault’s theories offer more to analyses of sexual violence than he himself might have intended. Although Cahill rejects Foucault’s desexualisation argument, she utilises his ideas of the body as a site of power to discuss how women are socially produced as victims. Women’s bodies are disciplined by being constantly sexualised and threatened by male sexuality, shaping the socially produced feminine body as “the body of the guilty pre-victim.”⁵¹ Sexual violence against women “is an instance in which discourses of power produce the feminine body as violable and weak”⁵² and women begin to recognise their bodies as constantly under threat. Sexual organs are coded in specific ways, and the feminine body and the vagina come to be coded and experienced as vulnerable to sexual violence⁵³. The pervasive and specific threat to women is not violence alone, it is sexualised, and the role of the body is fundamental to understanding this threat.

B. Micro-Level Analyses

Foucault’s emphasis on micro-level exercises of power is also useful to feminist analyses of sexual violence⁵⁴, as it has been useful to feminist theorists generally. Feminist theories of sexual violence often focus on macro-level power relations, viewing sexual violence as one part of a larger societal system that reinforces gender inequality and gendered violence. In Foucault’s account of power, “the patriarchal structures that underpin rape are left unacknowledged,”⁵⁵ so his theory alone is insufficient. However, sexual violence does take place at the micro-level, affecting individual bodies and subjects, and analyses must therefore consider both micro- and macro-level exercises of power. Some feminist theories “see power as originating outside of and independent of concrete social interactions,”⁵⁶ but they must recognise the political nature of personal relationships. Although Foucault’s

⁴⁸ Ann J. Cahill, “Foucault, Rape, and the Construction of the Feminine Body,” *Hypatia* 15:1 (2000):44.

⁴⁹ Cressida J. Heyes, “Foucault Studies Special Issue: Foucault and Feminism, September 2013”: 5.

⁵⁰ Laura Hengehold, “An Immodest Proposal: Foucault, Hysterization, and the ‘Second Rape,’” *Hypatia* 9:3 (1994):94.

⁵¹ Ann J. Cahill, “Foucault, Rape, and the Construction of the Feminine Body” :56.

⁵² Holly Henderson, “Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention,” *Berkeley Journal of Gender, Law, and Justice* 22:1 (2007):229.

⁵³ Winifred Woodhull, “Sexuality, Power, and the Question of Rape,” in *Feminism and Foucault: Reflections on Resistance*, ed Diamond & Quinby (Boston: Northeastern University Press, 1988),167-176.

⁵⁴ Amy Allen, “Foucault on Power: A Theory for Feminists”, 265-81.

⁵⁵ Holly Henderson, “Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention”: 231.

⁵⁶ Biddy Martin, “Feminism, Criticism, and Foucault,” in *Feminism and Foucault: Reflections on Resistance*, 3-19.

theory does not address deep structures of inequality with which feminists are concerned, a Foucauldian-Feminist theory offers a multi-level analysis of power and sexual violence.

C. Feminism and Resistance

Foucault claims that there is an intrinsic relationship between power and resistance, and that both arise from multiple local points in networks. Given that sexual violence remains a major problem, despite numerous global efforts to tackle it, feminists must consider different strategies of resistance. Radical feminist theorists claim that in order to resist gendered oppression, women must transcend the patriarchal system⁵⁷. However, in their framework of understanding power, “it becomes difficult to see how any women...could break out of this dominant hegemony to question the validity of patriarchy.”⁵⁸ Foucault’s theory provides “the capacity to shift the terms of the struggle,”⁵⁹ allowing for multiple local resistances against power, rather than attempting to overthrow entire societal institutions.

Even within a state of domination where possibilities for resistance are reduced, resistance can still manifest itself when people “consciously subvert the expectations of those in power.”⁶⁰ This theory of resistance generates greater possibilities for challenging sexual violence, that may be more productive than attempting to abolish well-established institutions and states. Moreover, it allows for an intersectional approach towards challenging sexual violence. It is important to acknowledge that power structures differently affect minority women, women from low socio-economic backgrounds, and so on. If there is no central location of power, nor of resistance, then multiple different forms of resistance can develop, including resistance specific to challenges faced by different groups of women.

Some feminist scholars have attempted to develop theories of localised resistance against sexual violence. Some approaches advocate re-codifying feminine bodies, so that women no longer experience their bodies as vulnerable and men no longer perceive women in this way; “when women’s bodies are defined as a powerful force of counteracting violence, the very power structures that support rape will be crippled.”⁶¹ One possible way of doing this is for women to take self-defence classes.⁶² Other approaches suggest a more social approach, claiming that rape crisis centres, and women’s free taxi services allow women to overcome isolation and a fear of men.⁶³ These are useful suggestions, but feminists should not limit their recommendations to what women should do. Cahill is criticised for neglecting “the urgent need to recodify men’s bodies such that they no longer signify as sexually aggressive, dangerous, and predatory.”⁶⁴ Foucault’s approach encourages the development of multiple sites of resistance against sexual violence, allowing for the re-codifying of both men and women, and society as a whole.

⁵⁷ Catharine MacKinnon, *Feminism Unmodified* (Cambridge, MA: Harvard University Press, 1987).

⁵⁸ Vanessa E. Munro, “On Power and Domination: Feminism and the Final Foucault”:83.

⁵⁹ Biddy Martin, “Feminism, Criticism, and Foucault,” 10.

⁶⁰ See Vanessa E. Munro, “On Power and Domination: Feminism and the Final Foucault”.

⁶¹ Holly Henderson, “Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention”: 230.

⁶² Ann J. Cahill, “Foucault, Rape, and the Construction of the Feminine Body,” 43-63.

⁶³ Winifred Woodhull, “Sexuality, Power, and the Question of Rape,” 167-176.

⁶⁴ Chloë Taylor, “Foucault, Feminism, and Sex Crimes,” *Hypatia* 24:4 (2009):17.

III. Conflict-related Sexual Violence

A. Feminist Theory: Rape as a Weapon of War

Feminist theorists often endorse the theory that rape is a weapon of war. This school of thought argues that, at a strategic level, sexual violence may be used as a weapon to “display, communicate, and produce or maintain *dominance*,”⁶⁵ using women’s bodies to splinter community bonds on one side and to bind warriors together on the other. This theory is the most prominent in studies of conflict-related sexual violence.⁶⁶ The conflicts in Yugoslavia and Rwanda highlighted this use of rape⁶⁷ and the International Criminal Tribunal for Yugoslavia (ICTY) marked the first time rape was prosecuted as a war crime. This can be considered a success for feminist theory, as it legitimises the experiences of women as victims of war as well as sexual violence. This theory is still considered relevant to more contemporary wars; in the Democratic Republic of Congo (DRC), local community leaders and stakeholders from hospitals and NGOs describe wartime mass rapes “as a systematic and politically strategic weapon used by militias and official military.”⁶⁸

B. Criticisms

There are some differences in the ways in which feminist theories have built upon this framework. The sexism approach claims that “wartime rape is best understood as a gendered phenomenon within patriarchal societies”⁶⁹. This approach views sexual violence as a strategy to oppress and dominate women specifically, thus failing to recognise sexual violence against men within conflicts, which is increasingly considered an issue worthy of attention.⁷⁰ Indeed, “the idea of rape as a weapon of war has a distinctly feminist heritage”⁷¹ which may result in the erasure of sexual violence against men, which will be discussed further below.

Other feminists advocate a genocidal theory, focussing on the ethnicity or race of the women targeted.⁷² The genocidal theory was deployed in analysing sexual violence perpetrated during the Yugoslavian and Rwandan conflicts, and undoubtedly contributed to the recognition of rape as a war crime at the respective international tribunals for these wars. However, the genocidal theory is criticised on several grounds. This approach “relies heavily on assumptions of racial or ethnic essentialist difference”⁷³ and thus homogenises both perpetrators and victims. Moreover, in the International Criminal Tribunal for Rwanda

⁶⁵ Claudia Card, “Rape as a Weapon of War,” *Hyppatia* 11:4 (1996):7.

⁶⁶ Johnathan Gottschall, “Explaining Wartime Rape,” *The Journal of Sex Research* 41:2 (2004):129–36.

⁶⁷ Debra B. Bergoffen, “From Genocide to Justice: Women’s Bodies as a Legal Writing Pad,” *Feminist Studies* 32:1 (2006):11–37.

⁶⁸ Jill E. Trenholm, Pia Olsson, & Beth Maina Ahlberg, “Battles on Women’s Bodies: War, Rape and Traumatization in Eastern Democratic Republic of Congo,” *Global Public Health* 6:2 (2011):142.

⁶⁹ Elvan Isikozlu, & Ananda S. Millard, “Wartime Rape: Identifying Knowledge Gaps and Their Implications,” *Security and Peace* 28:1 (2010):37.

⁷⁰ Ellena Anna Philo Gorris, “Invisible Victims? Where Are the Male Victims of Conflict-Related Sexual Violence in International Law and Policy?” *European Journal of Women’s Studies* 22:4 (2015):412–27.

⁷¹ Paul Kirby, “How Is Rape a Weapon of War? Feminist International Relations, Modes of Critical Explanation and the Study of Wartime Sexual Violence,” *European Journal of International Relations* 19:4 (2012):799.

⁷² Pascale R. Bos, “Feminists Interpreting the Politics of Wartime Rape: Berlin, 1945; Yugoslavia, 1992-1993,” *Signs* 31:4 (2006):995–1025.

⁷³ *Ibid.*, 1018.

(ICTR), the emphasis on rape as a pattern of genocide obscured individual victims' accounts of their sexual victimisation.⁷⁴

In both sexism and genocidal frameworks, the “weapon of war” explanation for wartime rape erases nuances of conflict-related sexual violence. Although the ICTR recognised that most sexual violence was perpetrated by Hutu men against Tutsi women, it is inaccurate to claim that all sexual violence committed in this context was both sexist and genocidal. Sexual violence targeted Hutu women, and men on both sides,⁷⁵ and thus cannot be viewed as unidirectional. Power is exercised from multiple local points within a given power network,⁷⁶ so generalisations should be avoided to prevent false portrayals of conflict-related sexual violence.

Strategic purposes for rape are not always intended by individual soldiers who rape,⁷⁷ and conflict-related sexual violence cannot always be connected to larger military tactics. Some evidence suggests that conflict-related sexual violence does not result from soldiers responding to commands, but rather results from poor discipline within military groups.⁷⁸ When applied to the civil war in Sierra Leone, the argument is persuasive. Although sexual violence was prevalent, “there is no evidence from within the Revolutionary United Front of a political, tactical or strategic policy of victimising women.”⁷⁹ Sexual violence against women was the result of a breakdown of social order and control, rather than the result of military commands and top-down strategy. Similarly, in Rwanda, “the widespread social disorder during the genocide provided individuals with ample opportunity and impunity to engage in sexual violence,”⁸⁰ with some rapes reportedly motivated by pre-existing interpersonal conflicts.

The exercise of power, then, should not be understood as top-down and imposed upon soldiers lacking agency. Soldiers, like all individuals from a Foucauldian perspective, exercise agency and power within a specific context. Structural, macro-level causal theories are thus limited in exploring “the use of rape in a *particular* war,”⁸¹ because they do not appreciate the socio-historic specificities of power and agency. Macro-level theories of wartime rape were useful in securing convictions at the ICTR and ICTY but fail to account for the more complex realities of micro-level instances of sexual violence that affect a range of different individuals. This could become increasingly important as the nature of war and conflict continues to shift in the 21st century.

The “rape as a weapon of war” paradigm ultimately fails to recognise and appreciate the micro-level realities of wartime rape. The Raped Woman is an important symbol, but raped women are silenced and ignored. A Foucauldian emphasis on micro-level exercises and experiences of power could go some way in remedying these issues; however, the importance of the symbolic “Raped Woman” in garnering international attention for victims of sexual violence in conflict zones, and in encouraging a more comprehensive form

⁷⁴ Doris Buss, “Rethinking ‘Rape as a Weapon of War,’” *Feminist Legal Studies* 17:2 (2009):145–163.

⁷⁵ *Ibid.*, 145-163.

⁷⁶ Jon Simons, “Power, Resistance, and Freedom,” 300-319.

⁷⁷ Claudia Card, *The Atrocity Paradigm: A Theory of Evil* (Oxford: Oxford University Press, 2000).

⁷⁸ Maria Erikson Baaz, & Maria Stern, *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and beyond* (London: Zed Books Ltd., 2013).

⁷⁹ Zoe Marks, “Sexual Violence Inside Rebellion: Policies and Perspectives of the Revolutionary United Front of Sierra Leone,” *Civil Wars* 15:3 (2013):366.

⁸⁰ Christopher Mullins, “‘We Are Going to Rape You and Taste Tutsi Women’: Rape during the 1994 Rwandan Genocide,” *The British Journal of Criminology* 49:6 (2009):733.

⁸¹ Janine Natalya Clark, “Untangling Rape Causation and the Importance of the Micro Level: Elucidating the Use of Mass Rape during the Bosnian War,” *Ethnopolitics* April edition (2016):6.

of justice, should not be ignored, and feminist theories of conflict-related sexual violence remain important in advocating for women across the world.

C. The Role of Women in Conflict

The “rape as a weapon of war” theory is open to further criticism in that it frames all women as victims.⁸² This fails to recognise individual women’s agency, which exists even within the confines of conflict zones; subjects can exercise agency within all socio-historical contexts⁸³. The role of women in conflicts and revolutions is complex⁸⁴, and particularly in recent decades the active participation of women in the military and in revolutionary movements has grown.

The most recent development for women in the military, at least in the USA and UK, is the policy change allowing women to occupy frontline roles. Although women are still underrepresented in frontline roles and the military more generally, servicewomen are increasingly integrated, which feminists often consider a positive step towards equality.⁸⁵ Some scholars make the case that including women in armed groups reduces sexual violence.⁸⁶ One way in which armed groups are said to develop bonding, particularly in cases of forced recruitment, is the use of sexual violence “as a socialisation and bonding agent.”⁸⁷ The common assumption in much academic literature is that “violent forms of male bonding cannot happen in the presence of women.”⁸⁸ Thus, if the presence of women in armed groups increases, then levels of sexual violence may decrease.

Servicewomen can also perpetrate sexual abuse. This was the case with US servicewomen at Abu Ghraib.⁸⁹ The case of Abu Ghraib re-adjusts the perception of men as perpetrators and women as victims and calls for “a more nuanced consideration of the roles of both sexes.”⁹⁰ As outlined above, in cases of forced recruitment or when cohesion levels are low, sexual violence is a method of group bonding. Although this theory has usually been applied only to male bonding, it may partially explain the involvement of female combatants in the perpetration of sexual violence. In interviews with male and female ex-combatants in Sierra Leone, “rape was seen as a way for the combatants to pursue intra-group acceptance”⁹¹, and women were reported as active participants in gang

⁸² See Pascale R. Bos, “Feminists Interpreting the Politics of Wartime Rape: Berlin, 1945; Yugoslavia, 1992-1993”:995-1025.

⁸³ Michel Foucault, “The ethics of care for the self as a practice of freedom: an interview with Michel Foucault on January 20, 1984,”449-453.

⁸⁴ Meredith Loken, “Rethinking Rape: The Role of Women in Wartime Violence,” *Security Studies* 26:1 (2017):60-92.

⁸⁵ Madeline Morris, “By Force of Arms: Rape, War, and Military Culture,” *Duke Law Journal* 45:4 (1996):651-781.

⁸⁶ Elisabeth Jean Wood, “Sexual Violence during War: Toward an Understanding of Variation,” in *Order, Conflict, and Violence*, ed Shaprio, Kalyvas, & Masoud (Cambridge: Cambridge University Press, 2008), 321–51.

⁸⁷ Meredith Loken, “Rethinking Rape: The Role of Women in Wartime Violence” :74.

⁸⁸ Dara Key Cohen, “Female Combatants and the Perpetration of Violence: Wartime Rape in the Sierra Leone Civil War,” *World Politics* 65:3 (2013):398.

⁸⁹ Jasbir K. Puar, “Abu Ghraib: Arguing against Exceptionalism,” *Feminist Studies* 30:2 (2004):522–34.

⁹⁰ Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict,” *The European Journal of International Law* 18:2 (2007):275.

⁹¹ Dara Key Cohen, “Female Combatants and the Perpetration of Violence: Wartime Rape in the Sierra Leone Civil War”:403.

rapes. This is not a unique situation; women have been accused of rape in conflicts in Liberia, the DRC, and elsewhere.⁹²

However, militaries and armed groups remain deeply masculine communities.⁹³ Masculine cultures that emphasise loyalty, protection, and brotherhood can create a context where sexual violence is permitted and those who perpetrate acts of violence are protected. There remains an expectation amongst servicemen that what happens in warzones and within the military will remain secret within the confines of that space. This is evident in the fact that servicemen charged with a crime are not subjected to ordinary judicial proceedings, but rather are tried within a military court, ensuring secrecy and perhaps greater lenience from fellow military members.

Although introducing women to deeply masculine cultures might challenge such cultures, this is not a certain outcome. In some groups, women are merely subjected to the same expectations of conformity as men⁹⁴. Several factors may lead women to fulfil these expectations, including fear and ideological beliefs. Sexual violence can be understood as a way in which servicewomen gain access to the exclusive culture of the military, securing their own safety by becoming part of a powerful group. This is certainly a negative lens through which to view the role of women in the military, and it is not the only theory, although in the case studies outlined above it is persuasive. There are ways in which women in the military could better respond to military culture without becoming part of the problem of conflict-related sexual violence, although there is not yet substantial evidence to suggest that this has occurred in any major military groups.

IV. Resistance

A. Women in the Arab Spring

Women played a prominent role in the series of popular revolutions known as the Arab Spring.⁹⁵ This further demonstrates the importance of acknowledging women's active role in conflicts, although in this context women were less likely to be part of formal armed groups and more likely to engage in protests and activism. The presence of women, and their assertion of agency, threatened established patriarchal states and challenged multiple dimensions of their power. In traditional patriarchal societies, networks of power relations resemble what Foucault deemed a state of domination,⁹⁶ whereby power relations have solidified, and women are seemingly unable to exercise power. One way in which patriarchal societies establish this state of domination is through disciplinary control of women's bodies, positioning the state as the protector of women. When women challenge this protective role by speaking out against the state, power relations begin to shift. When state authorities respond by sexually assaulting women,⁹⁷ the protective power of patriarchal authority is further called into question.

⁹² Meredith Loken, "Rethinking Rape: The Role of Women in Wartime Violence": 60-92.

⁹³ George E. Reed, *Tarnished: Toxic Leadership in the U.S. Military* (Lincoln, NE: University of Nebraska Press, 2015).

⁹⁴ Meredith Loken, "Rethinking Rape: The Role of Women in Wartime Violence": 60-92.

⁹⁵ Elisabeth Marcus, *Rape and the Arab Spring* (Center for American Progress, 2011).

⁹⁶ Michel Foucault, "The ethics of care for the self as a practice of freedom: an interview with Michel Foucault on January 20, 1984," 449-453.

⁹⁷ See Meredith Loken, "Rethinking Rape: The Role of Women in Wartime Violence": 60-92.

Throughout the Arab Spring revolutions, the “sexualised assault and terrorisation of women activists”⁹⁸ became commonplace. From a feminist perspective, the use of sexual violence against women is an attempt to delegitimise their political agency, “reducing protesting women to dishonourable, sexually promiscuous, and impious subjects.”⁹⁹ Some modern feminist approaches counter that even when women’s bodies are controlled, they can still “invert disciplinary power and destabilise patriarchal gender tropes.”¹⁰⁰ Whilst women’s bodies can be used against them, those bodies can also be used to advance revolutionary causes. The rise of social media, and its use in the Arab Spring movements, has given women a new space to exercise political agency.

Social media, and the internet in general, have been discussed as spaces of resistance.¹⁰¹ This seems a useful lens through which to explore the online behaviours of women during the Arab Spring. Some women, in Egypt and Morocco, have posted topless photos on blogs and Facebook pages in attempts to reassert control over their sexuality and nakedness.¹⁰² In patriarchal societies, where female sexuality is heavily restricted, reclaiming sexual agency in an online space could be interpreted as a series of micro-rebellions and personal revolutions. However, these resistant behaviours are confined to the limited, closed-off space of the internet. If women in Egypt and Morocco exposed their naked bodies in mainstream society, they would likely face serious punishments and risk sexual and physical assaults. The impact of such micro-rebellions is thus limited, leaving a mark on cyberspace but failing to reshape power relations in society as a whole.

B. Legal Channels of Resistance

In the Arab Spring, women attempted to use their bodies to resist patriarchal state domination but were largely unsuccessful. Sexual violence in conflict zones can nevertheless be resisted, and it is important to consider how conflict-related sexual violence can be challenged more effectively in a wider set of contexts.

Rape was only formally recognised as a war crime in the 1990s. This marked a reformulation of truths and knowledge about war crimes and rape, demonstrating the historical specificity of truth and knowledge.¹⁰³ International justice is a key example of how challenges to conflict-related sexual violence must encompass both micro- and macro-levels, addressing the realities faced by individual victims whilst also addressing concerns of the international community. The project of international justice is inevitably a global project, but also “inherently depends on the politics of local encounter.”¹⁰⁴ At the ICTR, for example, the historic prosecution and conviction of rape as genocide was only possible

⁹⁸ Paul Amar, “Turning the Gender Politics of the Security State Inside Out?,” *International Feminist Journal of Politics* 13:3 (2011):300.

⁹⁹ Sherine Hafez, “Bodies That Protest: The Girl in the Blue Bra, Sexuality, and State Violence in Revolutionary Egypt,” *Signs: Journal of Women in Culture and Society* 40:1 (2014):27.

¹⁰⁰ See Paul Amar, “Turning the Gender Politics of the Security State Inside Out?”: 322.

¹⁰¹ Robin Rymarczuk, & Maarten Derksen, “Different Spaces: Exploring Facebook as Heterotopia,” *First Monday* 19:6 (2014):1. See also Sherman Young, “Of Cyber Spaces: The Internet and Heterotopias,” *M/C: A Journal of Media and Culture* 1:4 (1998):1.

¹⁰² Zakia Salime, “New Feminism as Personal Revolutions: Microrebellious Bodies,” *Signs: Journal of Women in Culture and Society* 40:1 (2014):14-20.

¹⁰³ See Jon Simons, “Power, Resistance, and Freedom,” 300-319

¹⁰⁴ Jonneke Koomen, “‘Without These Women, the Tribunal Cannot Do Anything’: The Politics of Witness Testimony on Sexual Violence at the International Criminal Tribunal for Rwanda,” *Signs* 38:2 (2013): 274.

through the testimonies of Rwandan survivors, highlighting the importance of individual exercises of agency and power.

However, just as the exercise of agency and power was limited during the war itself under a state of domination, the resistance of survivors is still somewhat limited in the context of international justice. The process for women participating as trial witnesses can be harrowing, and often their testimonies “have become a sideshow in the grand unfolding narrative of international justice.”

C. Alternative Resistance

There is thus an opportunity here to develop a Foucauldian-Feminist mode of resistance. An emphasis on the micro-level of resistances, alongside a feminist focus on advocacy and support for survivors, will produce legal processes and a transitional approach to justice that foregrounds the experiences of raped women, without using them merely as tools for the project of international justice. There are some promising signs that the international community is moving towards this approach of foregrounding the experiences of women; in a recent report on the sexual violence against Rohingya women, Human Rights Watch¹⁰⁵ has centred the testimonies of the survivors without requiring them to share their experiences in a courtroom or face their abusers.

The feminist academic community is also taking an increased interest in how survivors of sexual violence can perform resistance. Legal settings, such as the courtroom, have been criticised for curtailing women’s testimonies by cutting them short and by restricting the discussion of emotions and personal statements that can be important to women’s experiences. In the Balkans, feminist documentary theatre has increasingly become a platform where women’s experiences of sexual violence in conflict are taken seriously, and their stories and voices can become part of the public domain on their own terms.¹⁰⁶ This growing interest in centring women’s voices is part of a wider concern among feminist academics about the need to facilitate a space for women to tell their own stories, in their own ways, when their experiences form a basis for research.

D. Recognizing the Abuse of Men

Although this article has focussed on the sexual abuse of women, “reports of sexual violence by men against men emerge from many conflicts.”¹⁰⁷ Most scholars in this area focus almost exclusively on violence against women, and although sexual violence against men in conflict is not reported to occur at the same rate as it does against women, it is likely to be under-detected and underreported. In conflict zones, different power structures exist from those in peacetime, and rival groups strive to secure their domination. In this context of power insecurity, groups and individuals may use sexual violence as an exercise of power over opponents. Although most literature focuses upon the use of sexual violence as it is exercised against women to demoralise and disrupt the social fabric of enemy communities, the same argument can be persuasively applied to the sexual abuse of men.

In conflict zones, where masculine stereotypes are of heightened importance, the abuse of men by other men and by women can disempower them, challenging their sense of

¹⁰⁵ S. Wheeler, “*All my body was pain*”: *Sexual Violence against Rohingya Women and Girls in Burma*”

¹⁰⁶ Olivera Simic, “But I Want to Speak Out: Making Art from Women’s Testimonies,” *Australian Feminist Law Journal* 40:1 (2014):51–67.

¹⁰⁷ Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict”:254.

identity¹⁰⁸. In some feminist discussions of sexual violence, victims of rape are discussed as being socially gendered as feminine, regardless of their sex,¹⁰⁹ potentially leading to the social emasculation of male rape victims. In the specific context of Egyptian protests in the Arab Spring, men experienced sexual violence whilst they were attempting to protect women from the same fate within protest spaces.¹¹⁰ The experience of sexual violence, alongside a failure to protect vulnerable women, amounted to crises of identity for men.

There are thus multiple dimensions to the stigma and suffering of male victims. Men are ashamed of an experience that constructs their bodies as weak and thus feminine, they are ashamed of their failure to protect women, and they are fearful of punishment for homosexual acts.¹¹¹ Discourses around the importance of masculinity and heteronormativity for men, which remain prevalent worldwide and especially in more patriarchal countries, contribute to the silencing and invisibility of male victims, promoting a narrative that does not perceive men as capable of being raped.¹¹² In order to challenge these essentialist discourses, the sexual victimisation of men must be acknowledged. There is a growing recognition amongst scholars and international organisations that men can be, and are, victims of sexual violence in conflicts.¹¹³

Conclusion

This paper has explored the utility of a Foucauldian-Feminist framework in understanding conflict-related sexual violence. The dominant explanation for conflict-related sexual violence, that rape is a weapon of war, is inadequate in accounting for the nuanced reality of conflict-based sexual violence, that affects men, women, and individuals from all sides of a conflict,¹¹⁴ in a setting that may not resemble a traditional warzone. Once again, narrow discourses of sexual violence produce theories that do not reflect reality. Although the feminist emphasis on violence against women is useful in advocating greater support and resources for these women, there is a need to reshape the cultural discourse around conflict-based sexual violence to better account for the complex realities and the lived experiences of survivors.¹¹⁵

¹⁰⁸ Desiree Lwambo, “‘Before the War, I Was a Man’: Men and Masculinities in the Eastern Democratic Republic of Congo,” *Gender & Development* 21:1 (2013): 47–66.

¹⁰⁹ See Holly Henderson, “Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention”: 230.

¹¹⁰ Mariz Tadros, “Challenging Reified Masculinities: Men as Survivors of Politically Motivated Sexual Assault in Egypt,” *Journal of Middle East Women’s Studies* 12:3 (2016): 323–42.

¹¹¹ Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict”:253-276.

¹¹² See Elvan Isikozlu & Ananda S. Millard, “Wartime Rape: Identifying Knowledge Gaps and Their Implications”.

¹¹³ See *ibid.*

¹¹⁴ See Pascale R. Bos, “Feminists Interpreting the Politics of Wartime Rape: Berlin, 1945; Yugoslavia, 1992-1993”: 1018.

¹¹⁵ There are some concerns around the accuracy of the statistics on conflict-related sexual violence. Widely-cited statistics often come from NGOs and advocacy groups that exist to support women who are victims of gender-based violence (Equality Now 2017; UN Women 2016); although these international organisations are well-placed to conduct research and produce substantiated findings, they might produce biased statistics in order to attract greater funding and support (Human Security Report Project 2012). Statistics might also be manipulated by media for hyperbolic effect. In reporting on the Liberian civil war, media outlets used a WHO statistic that 77 percent of women in its survey had been raped (Human Security Report Project 2012). However, the WHO survey specifically targeted survivors of sexual violence (Omanyondo 2004), and so the data cannot be generalised to assess the prevalence of sexual violence in the wider Liberian population. Stronger data from unbiased

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sources will be of paramount importance going forward in the study of conflict-related sexual violence, to ensure that interventions can be appropriately targeted and that we continue to improve our understanding of the problem.

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