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**Marginalisation, Torture, and Gender-Based Violence:  
Representations of Conflict-Related Sexual Violence  
against Men in International Law and Human Rights  
Advocacy**

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## ABSTRACT

This thesis examines how the issue of sexual violence against men during armed conflict is discursively constituted through both international law and the human rights advocacy activities of international non-governmental organisations (INGOs). Starting from a feminist and poststructuralist International Relations (IR) standpoint, the thesis posits that both international law and human rights INGOs play a significant role in informing both understandings of the problem and responses to it. Building on an established literature that recognises the comparative absence of sexual violence against men from the activities of these two groups of organisations, the thesis goes beyond this to establish a detailed account of how the issue is marginalised or excluded and how it is talked about when it is included. In addition, it examines the extent to which existent articulations of sexual violence in armed conflict more broadly are configured in such a way as to exclude the possibility of including sexual violence against men.

Drawing on a variety of documentation produced by human rights advocacy INGOs and several international criminal tribunals, the thesis uses a poststructuralist-informed discourse-theoretical methodological approach derived principally from Laura Shepherd's Discourse-Theoretical Analysis (DTA) model. It analyses advocacy reports drawn from twelve of the largest human rights advocacy INGOs that work on sexual violence in armed conflict, as well as the texts of key international human rights treaties and instruments, and judgement documentation produced by the International Criminal Tribunals for Rwanda (ICTR) and the former Yugoslavia (ICTY), the Special Court for Sierra Leone (SCSL), and the International Criminal Court (ICC).

The thesis finds that sexual violence against men in armed conflict has been represented in three principal ways by both human rights advocacy INGOs and international criminal law: (1) it is marginalised and either rendered as a secondary subject of concern or obscured entirely through a variety of discursive practices; (2) it is instead represented as a form of non-sexual torture rather than sexual violence; (3) it is constituted as a form of sexual and gender-based violence.

The first two representations, the thesis argues, have significant implications for how we understand both sexual violence and gender in armed conflict. Firstly, they threaten to obscure the potential extent of the problem, and, in doing so, perpetuate misconceptualisations about sexual violence against men in particular and sexual violence in conflict more broadly. Secondly, they perpetuate problematic and essentialist understandings of gender that elide the ways in which both women and men can occupy various and overlapping roles and identities in armed conflict. The third representation, it is argued, avoids these problems and provides a much deeper conceptual understanding of sexual violence against both women and men. Care, however, must be taken to not slip back in to habits of privileging men as the subject of concern or obscuring the ways in which gender hierarchies inform violence against women.

## LAY SUMMARY

This thesis looks at the problem of sexual violence against men in armed conflict, and in particular at how this problem has been represented and often ignored in international policy and law on human rights in conflict. This thesis argues that how we understand the world and the meaning of things is determined by how we talk about them. Therefore, understanding how different people, organisations, and institutions talk about problems like sexual violence in armed conflict is extremely important because they influence how we understand issues like this and how we respond to them. This thesis uses what is known as ‘discourse-theoretical analysis’, which looks at how people and organisations give meaning to things through language and text. It analyses 415 documents produced by influential international non-governmental organisations (INGOs) and 42 international legal documents.

The main finding of the thesis is that sexual violence against men in armed conflict has been talked about and represented in three different ways by both INGOs and international law. In the first and most frequent of these representations, sexual violence against men is either not talked about at all, or when it is, it is not seen as a particularly important problem. In the second representation, sexual violence against men is talked about as a form of torture, rather than sexual violence. In the third, and least frequent representation, sexual violence against men is talked about as a form of sexual violence, and as a serious problem that needs to be addressed. I argue that the first two of these representations hold troubling implications, because they not only make it seem like sexual violence against men doesn’t happen or is not a problem, but they also rely on very stereotypical understandings of the roles of women and men in war. However, the third representation, I argue, is a promising way forward for how we understand the problem, although we must ensure that we do not stop talking about violence against women and girls as well.

## DECLARATION

I declare that this thesis presented for the degree of PhD Politics has been composed solely by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where stated otherwise by reference or acknowledgement, the work presented is entirely my own.

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## CHAPTER I – INTRODUCTION

Prior to the 1990s, sexual violence in armed conflict, whilst prohibited under international humanitarian law, was ignored and left unpunished, despite the existence of plentiful evidence of egregious abuses in numerous armed conflicts (Leatherman 2011, 25–26). Rape and sexual violence were considered as unfortunate but inevitable consequences of warfare (Campanaro 2000, 2557; Copelon 1995, 197; Wood 2010, 161), as belonging to the private sphere (Copelon 2000, 220) and therefore as external to the concerns of the public sphere of politics, or as the unavoidable result of uncontrollable male sexual aggression (Seifert 1994, 55).

However, from the mid-1990s, the mass rapes and sexual violence of the Rwandan Genocide and the wars following the breakup of Yugoslavia galvanised feminist activist campaigns who successfully pushed for sexual violence to be included in the following international criminal tribunals and the Rome Statute of the International Criminal Court (ICC) (Zarkov 2018, 28). In 1998, the first ever conviction under international law for sexual violence was secured in the landmark *Akayesu* case at the International Criminal Tribunal for Rwanda (ICTR) (Askin 1999, 107). Since then, the ICTR, International Criminal Tribunal for the Former Yugoslavia (ICTY), Special Court for Sierra Leone (SCSL), and the ICC have, between them, secured numerous similar convictions for acts of rape and sexual violence committed in armed conflict and genocide.

This push for recognition of and responses to sexual violence in armed conflict in international criminal and humanitarian law was broadly concomitant with similar pushes for greater attention to be paid to violence against women in international human rights instruments. Whilst the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) did not contain any explicit references to violence against women, concerted and highly effective campaigns organised by feminist non-governmental organisations (NGOs) resulted in the passing of the Declaration on the Elimination of Violence Against Women (DEVAW) in 1993

(Stemple 2009) and the Beijing Declaration and Platform for Action in 1995 (Bunch and Fried 1996), both of which explicitly addressed violence against women.

Since these initial successes in the 1990s, the issue of sexual violence in armed conflict has grown to become a priority in international human rights policy and advocacy. In particular, policy, advocacy, and media discourses surrounding the issue have come to frequently refer to it as a 'weapon of war' that must be addressed (Baaz and Stern 2013; S. E. Davies and True 2015, 495). Since the early feminist successes in the 1990s, the United Nations (UN) has been particularly active in seeking to address the issue. Beginning with the passing of Resolution 1325, which through the establishing of the Women, Peace, and Security (WPS) agenda provided the initial legitimisation of sexual violence in armed conflict as a peace and security issue (Kirby 2015, 459), the UN Security Council has subsequently passed numerous resolutions pertaining to both the WPS agenda and addressing sexual violence in armed conflict, including Resolutions 1820, 1888, 1960, 2106, and 2467. Furthermore, pursuant to Resolution 1888, the Office for the UN Special Representative of the UN Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) was established in 2009 to act as the UN's spokesperson and advocate on matters relating to sexual violence in armed conflict (OSRSG-SCV n.d.). In addition to this, UN Action against Sexual Violence in Conflict was created in 2007 to co-ordinate relevant policy and advocacy efforts surrounding conflict-related sexual violence across a variety of UN departments, and has responsibility for the 'Stop Rape Now' campaign.

Action has also been spurred at the national and inter-governmental level. The increased focus on the subject has elicited responses from national governments, with US Secretary of State John Kerry stating that 'it is time to write it out and to banish sexual violence to the dark ages and the history books where it belongs' (Kerry 2014), and the then-UK Foreign Secretary William Hague describing sexual violence in armed conflict as 'one of the great mass crimes of the 20th century and 21st century' (Hague, quoted in Williams 2014). In 2012, both Hague and Angelina Jolie launched the Government of the United Kingdom's Preventing Sexual Violence Initiative (PSVI). A cross-departmental initiative, the stated aims of the PSVI have been to end impunity for sexual violence in conflict through expanded criminal sanctions, further co-ordinate

international responses to the problem, and enhance the capacity of states to respond to sexual violence (Crawford 2017, 123). This has been accompanied by further UK-led initiatives, such as the G8 Declaration on Preventing Sexual Violence in Conflict (UK Foreign and Commonwealth Office 2013), the UN General Assembly's 'A Declaration of Commitment to End Sexual Violence in Conflict' (2013), and the publication of the International Protocol on the Documentation and Investigation of Sexual Violence in Armed Conflict (UK Foreign and Commonwealth Office 2017).

Whilst the efficacy of some of these initiatives and campaigns has been called into question (for example by Grey and Shepherd 2012; Kirby 2015), the increasing attention paid to addressing and preventing sexual violence in armed conflict is nevertheless remarkable, considering that as little as 30 years ago the issue was, at best, treated as a minor and peripheral concern at the international and national level. The emergence of highly effective feminist campaigns for change has radically transformed the landscape of international relations in terms of how it responds to and conceptualises sexual violence in armed conflict (Copelon 2000; Stemple 2009).

Recent years have seen the significant expansion of a body of literature that has sought to highlight the plight of male victims of sexual violence in armed conflict. In particular, several researchers have noted that a significant amount of the policy, advocacy, and legal activity concerning sexual violence in armed conflict detailed above has largely focused on women and girls, to the extent that male victims of sexual violence are rarely, if at all, recognised (for example in Carpenter 2006; Dolan 2014a; 2018b; Grey and Shepherd 2012; Sivakumaran 2007; Stemple 2009). Sexual violence against men still very much remains on the margins of international relations. It is this emerging body of literature that this thesis takes as its starting point and makes an important contribution to.

## **The Importance of Studying Sexual Violence against Men**

Sexual violence against men in armed conflict can take numerous forms. This includes – but is by no means limited to – rape, partial or total castration, the infliction of trauma to the genitals, enforced nudity and/or masturbation, enforced sexual activity with other victims, and sexual humiliation (Carpenter 2006; D. A. Lewis 2009; Sivakumaran 2007). The impacts of such violence are multitudinous and egregious. Male survivors can suffer from a range of physical consequences, such as, abscesses, infections, internal bleeding, sexually transmitted diseases, persistent pain and discomfort in the genitals, and dyspareunia (Domovitch et al. 1984; Oosterhoff, Zwanikken, and Ketting 2004), although, as Peel (2004) and Carlson (2006), among others, have noted, sexual violence does not necessarily leave lasting or obvious physical trauma, further complicating documentation efforts. Psychological consequences include post-traumatic stress disorder (PTSD), depression, psychosomatic pain and sexual dysfunction, and suicidal ideation and attempts, amongst others (Christian et al. 2011; Johnson et al. 2008; 2010; Oosterhoff, Zwanikken, and Ketting 2004).

Furthermore, sexual violence against men has been conceptualised by feminist and gender-focused research as a particularly gendered form of violence; dominant understandings of the issue have argued that it constitutes an attack on and seeks to undermine the masculinity of the victim by associating them with a feminised subject position whilst simultaneously re-inscribing and re-affirming the masculinity of the perpetrator (Hague 1997; Skjelsbæk 2001; Sivakumaran 2007; Zarkov 2001). This has gendered consequences for survivors, as concerns over the incompatibility of their status as victims with hegemonic ideals of masculinity drives fears of having lost their masculine identity and becoming ‘women’ (Oyango and Hampanda 2011; Peel 2004; Sivakumaran 2007). As one survivor said, of telling his brother about his experiences of sexual violence, ‘I don’t want to tell him. I fear he will say: now my brother is not a man’ (Storr 2011). This concern over their masculine identity is also often compounded by fears about having become homosexual as a consequence of sexual violation; in many cultures and contexts homosexual men are considered as weaker and subordinate to hegemonically heterosexual men, which carries a

significant degree of stigma (Eichert 2019; Ferrales, Nyseth Brehm, and Mcelrath 2016; Sivakumaran 2005; 2007).

Sexual violence against men is neither a new nor limited phenomenon. Whilst available data on the subject is comparatively sparse, there is evidence of the sexual violation of men as far back as classical antiquity; Roman and Persian armies reportedly committed acts of sexual violence against men during the Classical age (DelZotto and Jones 2002; Phang 2001). In more contemporary conflicts, numerous instances were documented during the Second Sino-Japanese war, especially during the massacre at Nanjing (Chang 1997, 95), and during the Holocaust (Herzog 2012). More recent examples of conflicts where men were reportedly subject to sexual violence include, amongst others, Bosnia (Helsinki Watch 1992), Chechnya (Human Rights Watch 2000; 2002; 2006), the Democratic Republic of Congo (Amnesty International 2004b; Christian et al. 2011), Guatemala (Leiby 2009b; Perlin 2000), Ivory Coast (Human Rights Watch 2007), Peru (Leiby 2009a; 2009b), Sri Lanka (Amnesty International 1999; Peel et al. 2000), Syria (Human Rights Watch 2011; 2012; UNHCR 2012; 2013), and Uganda (Amnesty International 1985; Human Rights Watch 2005). It should be noted that it is almost universally accepted that the collection of accurate data on sexual violence against men is hampered by significant under-reporting (Sivakumaran 2007, 260). As such, the extent of sexual violence against men in conflict is likely more significant than present data would indicate.

However, despite the apparently significant and widespread usage of such violence in armed conflict and the range of harms – physical, psychological, social, and gendered – that male victims experience, the rapidly growing body of scholarship that has sought to address the issue has noted the historic and ongoing marginalisation of the subject within broader efforts to understand, address, and respond to sexual and gender-based violence in armed conflict. In particular, several studies have noted the manner in which sexual violence against men has often been marginalised or rendered invisible in international human rights and policy responses of the UN to the broader issue of sexual violence in conflict (for example in Dolan 2014a; 2018b; Féron 2015; Gorris 2015; Grey and Shepherd 2012; Sivakumaran 2010; Stemple 2009; Touquet and Gorris 2016). However, the processes by which sexual violence against

men in armed conflict is marginalised in other areas of international politics remains relatively under-developed.

In particular, international non-governmental organisations (INGOs) that focus on documenting human rights abuses in armed conflict, including sexual violence, and seek to exert pressure on states in order to prevent, halt, and/or address these abuses have received comparatively little attention in the literature to date. Whilst some have made valuable inroads into this subject (e.g. Féron 2015; Gorris 2015; Misra 2015; Touquet and Gorris 2016), these analyses largely represent initial forays into the issue. There has yet to be a systematic analysis of the manner in which human rights advocacy INGOs have conceptualised sexual violence against men. This gap in the literature is somewhat problematic because recent scholarship on sexual violence and gender in the international system has demonstrated the highly influential role these organisations play in shaping understandings, policy agendas, and responses to problems (e.g. D. K. Cohen and Green 2012; Krook and True 2010; True and Mintrom 2001). This opens up a question to be asked of these organisations; how have they represented (or not represented) sexual violence against men? What possibilities – for understanding, for responses – are opened up or closed off by these representations? These form the principal set of questions that this thesis is organised around.

Similar questions can be asked of international law. A similar, although not as glaring, gap exists in our understanding of the approach of international law, particularly international criminal law, to sexual violence against men. Compared to the relative dearth of research on INGOs, more analytical attention has been directed towards understanding the applicability and possibilities of international law regarding sexual violence against men (e.g. D. A. Lewis 2009; Mouthaan 2012; Sellers and Nwoye 2018; Touquet and Gorris 2016; Zawati 2007). However, this thesis argues that a similar, discourse-centred set of research questions can shed further light on these issues. International law is principally a discursive institution, as Sandesh Sivakumaran argues:

An accurate classification of abuse is important not just to give victims a voice, not only to break down stereotypes and not merely to accurately record the picture. Language in general and legal language in particular 'reinforces certain world views and understandings of events ... Through its definitions and the way it talks about events, law has the power to silence alternative meanings – to suppress other stories'. It is essential that these stories not be suppressed (Sivakumaran 2007, 257, quoting Finley 1989)

As such, this thesis asks the same questions of international law; how has sexual violence against men been discursively represented (or not represented) by international law? And what might the implications of these representations be?

The need to develop a greater understanding of how human rights advocacy INGOs and international law are conceptualising (or, perhaps more accurately, not conceptualising) sexual violence has taken on a greater sense of urgency in recent years. As Gorris (2015, 417) and Touquet and Gorris (2016, 3) have noted, the issue of sexual violence against men has slowly become more prominent since 2013 and the launch of the PSVI. It is a promising time for advocacy and research on the subject as it finally begins to adopt a more visible position as a subject of concern in global politics. At the same time however, we must also ask: what kind of understandings of sexual violence against men in armed conflict are emerging into global politics through the arena of international law and human rights advocacy? And, following logically from this: what are the implications of these understandings for how we conceptualise and respond to the problem?

### **Objectives and Approach of the Thesis**

This thesis seeks to address the questions posed from the gaps in the literature discussed above. In doing so, it makes several contributions to the field: (1) it seeks to advance our understanding of, and draw attention to, the ways in which sexual violence against men in armed conflict has been constructed by human rights INGOs and international law; (2) it addresses some of the gaps in the existing literature, namely the absence of a discourse-focused analysis of the ways in which sexual

violence against men in armed conflict has been constituted by international law and human rights advocacy INGOs; (3) it seeks to contribute to theoretical and conceptual discussions concerning the implications of these representations for how we conceptualise both gender and sexual violence in armed conflict.

This thesis is situated at the intersection of three groups of overlapping literatures. The first is the body of research on sexual violence against men discussed above, from which this thesis draws its guiding research questions and to which it seeks to contribute. The second is the body of feminist literature that has been a significant driving force behind drawing attention to and theorising sexual and gender-based violence against women in armed conflict. This thesis draws heavily on this literature, and aims to complement and contribute to it. Drawing on poststructuralist and feminist theorising of gender and international relations to contextualise and justify its research, and acknowledging the concerns of feminists who are justifiably wary of the possible conceptual and theoretical implications that an increased focus on men may bring (such as Drumond 2019; Ward 2016; Zalewski 2018), it situates its findings within the broader feminist research project. The third and final group is the body of poststructuralist theory from which the thesis draws its understanding of discourse as constitutive of meaning, and from which it derives its methods and methodological approach.

On the basis of these literatures, and the gaps in the research discussed above, the thesis seeks to answer the following questions:

- (1) How have international law and human rights advocacy INGOs opened up or closed off discursive spaces in which sexual violence against men can be represented?
- (2) How has sexual violence against men been represented within those spaces?
- (3) What implications do these representations hold for our understanding of sexual violence and gender in armed conflict?

To answer these questions, the thesis draws on a poststructuralist discourse-theoretical analysis, which it applies to 415 documents produced by influential human rights advocacy INGOs, 8 international humanitarian and criminal legal statutes, and 34 trial judgements produced by international criminal tribunals. It argues that it is possible to identify three different strands of discursive representations of sexual violence against men across human rights advocacy and international criminal trials. The first consists of instances where sexual violence against men is marginalised. This marginalisation occurs through a variety of textual and representational practices, principal among them is the foregrounding of female victims in understandings of sexual violence and the subsequent closing off of spaces in which representations of male victims may be articulated. In many cases, sexual violence against men is acknowledged as a problem, but then, through a variety of implicit or explicit means, is constituted as an issue of lesser concern than that of sexual violence against women. The second strand consists of representations of sexual violence against men as a form of torture. Here, acts of violence, particularly enforced nudity and violence towards the genitals, that could be construed as being sexual, are instead rendered as a form of non-sexual torture. This stands in comparison to sexual violence against women, which is consistently and frequently represented as a form of sexual violence *and* a form of torture. The third and least frequent strand consists of representations of sexual violence against men as a form of sexual violence, without the concomitant marginalisation seen in the first strand. In particular, sexual violence against men is integrated into existing understandings of sexual and gender-based violence against women, with the violence being conceptualised as an expression of gendered power relations.

The thesis then argues that each of these discursive strands has significant implications for how we understand and respond to sexual violence in armed conflict. The first two strands, it argues, risk obscuring the existence of male victims of sexual violence in armed conflict and further perpetuating mis-conceptualisations about sexual violence; namely, that men cannot be victims of sexual violence and that women and girls constitute the vast majority of victims. This, it argues, risks reinforcing essentialist understandings of gender where women are perpetually constituted as passive victims and men as aggressive perpetrators of violence. It argues that the

third strand addresses this, as it opens up space for recognising that both men and women can hold a variety of identities and roles in armed conflict and that violence does not universally flow from men to women, and for discussing sexual violence against men as a gendered form of violence aimed at establishing hierarchies among men through emasculation. This, it argues, represents a potentially positive development in the study of gender and sexual violence in armed conflict. However, it also urges caution, noting that men have traditionally been the subject of concern in global politics, and that care must be taken to avoid slipping back into a focus on male victims at the expense of drawing attention away from female victims and obscuring valuable feminist theorising on the role that unequal gender relations play in informing violence against women. It concludes by suggesting some potential avenues of research for the future and noting that research into gender and sexual violence is not a journey with a defined endpoint, but rather is an ongoing and evolving process.

### **Structure of the Text**

This thesis is organised into eight chapters, of which this introduction is the first. Chapters II, III, and IV engage with the rationale, theoretical positions, and methodological approaches of the thesis. Chapters V and VI set out the empirical evidence derived from the discourse analysis of documents produced by major INGOs and international criminal tribunals. Finally, Chapters VII and VIII discuss the implications of the findings of the previous two chapters. The content of these chapters is outlined in detail below.

The next chapter, Chapter II, situates this thesis in the existing literature on sexual violence against men in armed conflict. In doing so, it more fully discusses the gaps in this body of research that have been outlined above, and thus elaborates upon the broad rationale of the thesis. From this, it also seeks to clarify the concept of 'sexual violence against men', drawing on a body of feminist and gender literature that has sought to conceptualise this form of violence as an embodiment of gendered power dynamics. This chapter also considers the place of research on men, and sexual

violence against men in particular, in feminist theory. It addresses the fears that such research can sometimes be utilised for anti-feminist theorising, but argues that a study of men and male victimisation can form an integral and valuable part of the feminist research project.

The third chapter delves into the broad theoretical framework upon which the thesis is based. Developing the discussions around gender and feminist theory located in the previous chapter, it situates the thesis within feminist and poststructuralist International Relations (IR) theory, and justifies sexual violence in armed conflict as a valid subject of study in IR. It further highlights the discursively constructed nature of gender in international relations and notes the centrality of discourse to global politics. From this, and alloying feminist and poststructuralist IR theory with the insights of constructivism, I further justify the focus of this thesis on international human rights advocacy NGOs and international law, conceptualising them as discursive sources of norms and knowledge that structure the manner in which we can conceive of and respond to sexual violence against men in armed conflict.

The fourth chapter introduces the methods and methodology of the thesis. It first sets out the ontological premise of the thesis by elaborating on the concept of discourse introduced in Chapter III. Drawing heavily on poststructuralist Discourse Theory, particularly that of Laclau and Mouffe (2014) it argues that how we understand the world, and what we can understand about the world, is mediated through discourse. As such, it seeks to further justify the discourse-centred approach of the thesis. On the basis of this, drawing principally on Laura Shepherd's (2008) approach to Discourse-Theoretical Analysis (DTA), it sets out the interpretive schema that informs the analysis of the collected documentation. Finally, it discusses the practicalities of operationalising a poststructuralist-informed discourse analysis, including the use of Computer-Aided Qualitative Data Analysis Software (CAQDAS), document selection and collection, and general issues of generalisability, validity, and reliability.

The fifth chapter details the first set of results of the discourse-theoretical analysis of INGO advocacy documents relating to sexual violence in armed conflict. It argues that

the discursive representations of sexual violence against men can be categorised into three broad strands. The first, 'sexual violence against men as marginalised', notes the ways in which sexual violence against men is explicitly or implicitly marginalised through a variety of textual and representational practices in the analysed documents, even when such violence is acknowledged. The second, 'sexual violence against men as torture', encompasses those instances where the issue is represented as a form of torture rather than sexual violence, and notes the apparent tendency of the documents to represent particular modes of violence against men in this manner. Finally, 'sexual violence against men as gender-based violence', by far the least frequent of the three strands, consists of instances in the texts where sexual violence against men is conceptualised as an intrinsically gendered form of violence and is integrated into existing understandings of sexual and gender-based violence against women in armed conflict.

The sixth chapter details the second set of results, namely the discourse-theoretical analysis of various international legal statutes and judgements produced by international criminal tribunals. It begins by interrogating the discursive field produced by relevant international legal statutes and case law, and considers what spaces are created for considerations of sexual violence against men. It argues that the status of sexual violence against men under international humanitarian and criminal law and jurisprudence is ambiguous, with some definitions of sexual violence more able to include male victims than others. It then proceeds to consider representations of sexual violence against men in individual trials, and argues that the same strands of discursive representation identified in Chapter V can be seen at work in international law as well; sexual violence against men is variously marginalised as a form of violence, or constituted and charged as torture instead of sexual violence, or conceptualised and charged as sexual violence instead.

The seventh chapter considers the implications of the different discursive strands identified in the previous two chapters. It argues that the first two, 'sexual violence against men as marginalised' and 'as torture', hold significant implications, not only terms of the manner in which they embody and threaten to perpetuate myths surrounding sexual violence against men, but also in terms of how we understand

gender and the possible roles that men and women may hold in armed conflict. This, the chapter argues, risks undermining much of the valuable existing feminist research and advocacy on gender and armed conflict. The final strand, 'sexual violence against men as gender-based violence', is argued to be more progressive in that it constitutes men in armed conflict as gendered subjects and actors, acknowledges the multitude of roles that men and women may embody during conflict, and constitutes sexual violence against men as an intrinsically gendered violation. The chapter, however, concludes on a note of caution, arguing that whilst the integration of sexual violence against men into existing understandings of gender relations and gender-based violence is important, care must be taken to not slip back into 'old habits' of privileging men as the primary subject of concern and eliding the gendered hierarchies that inform the use of violence against women.

The eighth and final chapter summarises the findings of the thesis, revisits the value of deconstructing discursive representations of sexual violence against men, and considers possible future avenues of research. In particular, it reflects on how the implications identified in the previous chapter might be addressed without undermining valuable existing feminist research and advocacy on sexual violence more broadly. It concludes by recognising that research and theorising on sexual violence only ever represents an ongoing and eternal process, rather than a journey with a set end point (Stern 2019), and that the analysis presented in this thesis only represents one additional step in that process; significant research work remains to be done on sexual violence against men in armed conflict.

## **CHAPTER II – REVIEWING THE FIELD**

The objective of this chapter is to provide an overview of the existing literature on sexual violence against men in armed conflict and the debates they have stimulated, and also to situate this thesis within those debates. I explicate the broader rationale for the thesis, with regards to the gaps in our understanding of the issue that currently exist within the literature on the subject. The chapter is structured as follows. Part I provides an overview of the emergence of the literature on sexual violence against men in armed conflict and delineates the main directions and debates of this body of scholarship. In particular, it outlines three of the principal areas of research and debate in this literature that this thesis both draws upon and informs. The first concerns a characterisation of sexual violence against men as a specifically gendered form of violence. The second relates to the research on the manner in which the issue has been marginalised in or excluded from various policy and legal forums, and the gaps within this literature that the thesis seeks to address. The third, which has emerged from the previous two areas of research, concerns the ongoing debates on how best to integrate sexual violence against men into broader debates, advocacy, and policy on gender-based violence in armed conflict. Part II follows on from this theoretical debate, and seeks to situate the study of sexual violence against men within an overall feminist project. Acknowledging the concerns of feminist researchers who voice concerns over what the emergence of discussions of sexual violence against men heralds for the field more broadly, and drawing on broader concerns that research on men and masculinities may be used to further anti-feminist agendas, I argue that research on men, masculinities, and violence against men forms a central part of feminist inquiry. In doing so, I seek to situate the thesis firmly within feminist theory, which informs later chapters.

### **PART I: The Emergence of the Field**

Whilst the study of sexual violence against men in armed conflict in IR has only recently emerged as a coherent research agenda, the study of sexual violence against men more broadly has a much longer history. In particular, there is a

significant body of sociological, psychological, and medical research into sexual violence against men in peacetime contexts that has sought to document and theorise the issue. Examples include Coxell and King (1996), Groth and Burgess (1980), Masho and Anderson (2009), Mezey and King (1989), Sarrel and Masters (1982) Scarce (1997), and Weiss (2010), among others. Further research has sought to examine male-on-male rape and sexual assault in the context of prisons and incarceration (for example in Banbury 2004; Davis 1968; Ellenbogen 2009; Fuller and Orsagh 1977; Nacci and Kane 1983; 1984; Struckman-Johnson and Struckman-Johnson 2000). Broader research has also sought to establish the societal context in which sexual violence against men occurs, such as the propagation of myths that shape individual's perceptions of and responses to male-on-male rape and sexual assault (for example in M. Davies and Rogers 2006; Donnelly and Kenyon 1996; Smith, Pine, and Hawley 1988).

Despite this significant body of non-conflict focused research on sexual violence against men that emerged in the mid to late-20th Century, research into the use of this form of violence in armed conflict has remained relatively scarce until much more recently. From the 1980s, the subject attracted some attention in the form of medico-legal and psychological studies of the use of sexual violence against as a form of political violence during conflict. For example, Agger (1989), Domovitch et al. (1984), Goldfield et al. (1988), Gordon and Mant (1984), Lunde et al. (1980), Lunde and Ortman (1990), Peel (1996), Peel et al. (2000), Petersen et al. (1985), and Ramsay et al. (1993) all focus on documenting the extent and forms of sexual violence against men, as well as the physical and psychological consequences for survivors. Yet, as Sandesh Sivakumaran notes, it is not until the early 2000s that we begin to see the emergence of detailed, feminist and gender theory-informed studies of the issue (2010, 261). The emergence of such studies largely followed the conclusion of the wars following the breakup of Yugoslavia in Bosnia, Croatia, and Kosovo, in which sexual violence against men was reported to be a frequent occurrence. These studies provided the initial forays into the subject that the subsequent literature has built on, and it is to outlining this literature that this chapter now turns.

## **PART II: Theorising Sexual Violence against Men**

Much of the existing IR literature on sexual violence against men can trace its lineage back to the mid-1990s, in the midst of the Yugoslav wars. In particular, Adam Jones, in his article *Gender and Ethnic Conflict in ex-Yugoslavia* (1994), noted the ways in which feminist and gender analyses of the violence committed during the course of those conflicts focused on women as the victims of gender violence, and advocated that gender analysis be extended to consider men-as-victims, rather than men-as-perpetrators. This represents one of the first forays into analysing men as victims of gender violence in conflict rather than solely as perpetrators, and opened up new pathways for the study of male victimisation through a gendered lens.

From the outset, the vast majority of theorising on sexual violence against men has examined it through a social constructivist lens, arguing that it is less about sex or sexuality and more an expression of power, the interplay of various masculinities (militarised or otherwise) in armed conflict, and the ordering of hierarchies between men and masculinities (for example, see Féron 2015; Hague 1997; Jones 2006; Misra 2015; Myrntinen 2018; Nordstrom 1996; Skjelsbæk 2001; Sivakumaran 2007; Solangon and Patel 2012; Zarkov 2001). Sexually violated men are associated with a subordinate and feminine subject position through their status as victims, something that is considered to be incompatible with hegemonic constructions of masculinity (Féron 2015, 36; Sivakumaran 2007, 270; Skjelsbæk 2001, 225); sexual violence against men therefore works as a process of emasculation. By contrast, the perpetrator, in taking the dominant and powerful position, is further reinforced in his heterosexual masculinity (Hague 1997, 53; Sivakumaran 2007, 270; Solangon and Patel 2012, 427–28). Sexual violence against men is ultimately conceptualised as being about the violent construction and ordering of masculinities and femininities in armed conflict.

The role that homosexuality plays in enhancing the emasculation of the victim has also been theorised (for example, in Jones 2006; Sivakumaran 2005; 2007). Male victims of sexual violence are imputed with aspersions of homosexuality, especially

when the violence resembles forms of consensual homosexual acts (Sivakumaran 2005, 1290). Sexually violated, and therefore feminised, males are viewed to have failed to live up to the heteronormative standards of hegemonic masculinity, further subordinating them to the perpetrator and opening them up to further punishment for their 'failure' of masculinity (Jones 2006, 452–53). By contrast, the perpetrator, by taking the active and aggressive position, is further reinforced in his masculine, heterosexual identity (Sivakumaran 2007, 272).

Whilst much of this theorising primarily focuses on gender as an explanatory concept, others have noted the ways in which gender and ethnic or religious dynamics intersect to inform the use of sexual violence against men (see Hague 1997; Misra 2015; Sivakumaran 2007; Zarkov 2001; 2007). Both Zarkov (2001) and Hague (1997), in analysing the use of sexual violence by Serb forces during the conflict in Bosnia, argue that the sexual violation of Bosnian Muslim men not only emasculated the victim and reinforced the masculinity of the perpetrator, but it also served to symbolically emasculate the nation and ethnic group to which the victim belong, and similarly masculinise the nation and ethnicity of the perpetrator. Zarkov in particular notes that castration, in phallogentric cultures, not only represents the literal emasculation of the man, but also the emasculation of the group to which he belongs (2001, 78). As such, the Serb nation and ethnicity was constituted as virile and powerful, whereas the Bosnian Muslim nation and ethnicity as lesser and feminine.

These conceptualisations of sexual violence against men form the basis of the theoretical lens through which sexual violence against men is conceptualised in the majority of the literature on the subject. However, recent years have seen the emergence of critiques, refinements, and/or contestations of this understanding. Schulz notes that the concepts of 'homosexualisation' and 'feminisation' are problematic in that the former precludes considerations of those who do not ascribe to a heterosexual/homosexual binary and fails to account for sexual violence perpetrated against homosexual, bisexual, and non-conforming individuals, and the latter in that emasculation implies the permanent loss of masculinity (2018, 1106). Schulz instead proposes the terminology of 'displaced from gendered personhood', which not only holds the possibility of encompassing individuals of various sexualities

and identities, but also implies the possibility of 'return' to gendered personhood, avoiding the 'finality' and permanence implied by the language of emasculation (2018, 1107). Eichert delineates a similar fine-tuning of the overarching theory, arguing in favour of an audience-centred approach in which the use of sexual violence by the perpetrator is instead theorised as a form of communication to different audiences including the victim themselves, the perpetrators peers, and broader communities or nations (2019, 414–15). This enables us to more fully understand how norms about sexuality and masculinity within a specific context inform the use of such violence, providing greater detail than the theory discussed above (2019, 415).

Other critiques have been driven by a concern over the increasingly frequent calls to conceptualise sexual violence as a gender-neutral act, a debate which is addressed in greater detail in Part III of this chapter. Meger, in responding to this, advocates for a Feminist Political Economy (FPE) approach to understanding sexual violence against men in armed conflict – which analyses bodies in terms of their ability to transmit messages of power and dominance is interrogated – that seeks to retain gender at the heart of research on and analysis of sexual violence in conflict (2018, 112). Driven by a similar concern over the calls for a gender-neutral approach, Drumond approaches sexual violence against men by asking how such violence is enabled, rather than why (2018; 2019). In doing so, she notes that the inclusion of male victims into overall frameworks of sexual violence cannot be done without acknowledging that a heteronormative and patriarchal order operates during war and peace, thus necessitating the need to retain a focus on gender hierarchies that a gender-inclusive approach may obscure (2018, 162–63; 2019, 1287).

Sexual violence against men in armed conflict, despite the recent and rapid proliferation of literature on the subject, still remains relatively under-theorised; as, perhaps, the relative brevity of this section demonstrates. However, this section has outlined the principal themes through which the research on the problem has sought to conceptualise it, as well as the emerging contestations and debates that seek to refine or challenge our understandings of why (or, in Drumond's case, how) the sexual violation of men occurs in conflict. Whilst this thesis does not intend to contribute to this theorising on why sexual violence against men occurs, it does hold implications

for the broader debates from which these contestations stem from. In particular, the broader uncertainty over how best to include men and boys in existing frameworks of sexual violence that these contestations stem from will be outlined in more detail in Part III of this chapter, as it is within this debate that this thesis is partly situated and contributes to.

### **PART III: Theorising the Marginalisation of Sexual Violence against Men**

Beyond theorising on the gendered dynamics that underpin the use of sexual violence against men, much of the literature on the subject has focused on illuminating and deconstructing the ways in which male victims have been, or continue to be, marginalised or rendered invisible within a variety of contexts, including society, media, policy, and law. It is principally to this aspect of the literature that this thesis speaks and contributes to. Research into this particular facet of the issue has focused on several core themes, including mis-conceptualisations of sexual violence against men, the categorisation of such violence as forms of torture or other non-sexual violence, and the marginalisation of the issue in various media, policy, advocacy, and legal contexts. This part of the chapter outlines these key directions of research and debates, and considers the gaps that this thesis intends to fill.

Some of the literature has focused on the ways in which biases, prejudices, or misconceptions about sexual violence can complicate the collection of data on the subject. For example, Carlson (2006) has noted the ways in which pre-conceptions on the parts of medical personnel may cause them to miss victims who have suffered forms of sexual violence other than anal rape. Sivakumaran (2007, 256–57) goes further, and argues that researchers may not be aware that sexual violence against men can occur and may not be able to spot it, resulting in cases being missed which ultimately reinforces the idea that men cannot be subject to sexual violence. Oosterveld, in her analysis of international law and sexual violence against men, makes a similar argument, claiming that medical, humanitarian, and legal personnel may assume that only women and girls can be subject to sexual violence, and may not be sufficiently trained to spot a broad range of sexual violations committed against

men (2014, 119–20). Others have noted the possibility that male victims will not be believed if they report sexual violence due to beliefs amongst law enforcement agencies that only homosexual men can be raped (Sivakumaran 2005, 1291). Overall, the literature points to a set of societal and cultural misconceptions about rape and sexual violence that serve to minimise the visibility of male victims.

In a similar vein, some have noted the tendency of sexual violence against men to be buried under the rubric of other categories of violence. For example, Carlson (1997), Leiby (2018), Myrntinen (2018), Oosterveld (2014), and Sivakumaran (2007) have argued that instances of sexual violence against men are often instead classified as forms of torture instead of sexual violence. Michelle Leiby provides a useful example of this; in her analysis of primary documents produced for the Peruvian Truth and Reconciliation Commission (TRC), Leiby found that the inconsistent coding of sexual violence against men, where some instances were coded as torture instead of sexual assault, meant that men actually constituted 22% of overall victims of sexual violence during that conflict, rather than the 2% that was provided in the final report of the TRC (2009a, 82–83). However, the literature on this subject does not delve in great depth into the potential consequences of this rendering of sexual violence against men as torture beyond the argument that it serves to render the violence invisible and perpetuate the myths on sexual violence outlined above. This gap in the literature is addressed later in the thesis.

A significant body of work has sought to assess the visibility of sexual violence against men in armed conflict in various contexts. A small subsection of this literature has considered the visibility of such violence in academia. For example, Shepherd and Grey, in a meta-analysis of the academic literature on gender-based violence, note two predominant logics at work; the first is the logic of the ‘vast majority’ of sexual violence being aimed at women and girls which rely on conventional logics of gender where women are victims and men are perpetrators (2012, 120), and the second is the logic of the ‘absent presence’, where men are not explicitly excluded but there is a frequent slippage from ‘victim’ to ‘female’ (2012, 120). Skjelsbæk comes to a similar conclusion, noting that the literature that conceptualises sexual violence in armed

conflict through essentialist or structuralist lenses cannot adequately account for male victims (2001).

Further literature has considered the relationship between sexual violence against men and the media. For example, Chris Dolan (2018a), Annette Houge (2008), and Dubravka Zarkov (2001; 2007; 2011) have analysed representations (or the lack thereof) of cases of sexual violence against men in national news media. Zarkov in particular, combining her analysis with her understanding of sexual violence against men as an intersection of gender and ethnicity or nationality as detailed earlier in this chapter, notes that the exclusion of some male victims of sexual assault from Croatian and Serbian media representations serves to construct and propagate a particular image of the 'other' nation or ethnicity (in this case, Bosnian Muslim) as lesser and violated, as opposed to the powerful, masculine, and unviolated Serb or Croat identity (2001, 80–81; 2007, 168–69). Houge reaches a complementary conclusion with her analysis of reporting of sexual violence against men in Norwegian newspapers, noting that representations of victims and perpetrators adhere to traditional gender roles – that is, women as passive victims, men as aggressive perpetrators – that feminists have sought to critique and dismantle (2008, 73).

Whilst the research detailed above provides a valuable contribution to expanding our understanding of how sexual violence against men in armed conflict has been marginalised or rendered invisible in various forums, the vast majority of literature that engages with this subject has focused on the position of the issue with regards to the numerous resolutions and human rights instruments that relate to sexual violence in conflict that have emerged from the UN (Becerra 2018; Dolan 2014a; Féron 2015; Gorris 2015; Hennessey and Garry 2010; Sivakumaran 2010; Stemple 2009). Earlier instruments and resolutions, such as DEVAW and UNSCR 1325, are argued to have been problematic in terms of their usage of sex-specific language when discussing sexual violence, which had the effect of excluding men and boys from the discussion (Stemple 2009). Later resolutions, particularly UNSCR 1820, are noted to have acknowledged men and boys, but in practice still ultimately focused on women and girls, particularly when outlining concrete policy positions (Gorris 2015, 416; Sivakumaran 2010, 267–68). However, recent scholarship has highlighted the

positive developments in the UN human rights canon. Sivakumaran notes that, after the disappointment of UNSCR 1820, Resolution 1888 represents a significant development in its use of gender-neutral language, particularly in the context of mandating the creation of the SRSG-SVC (2010, 271–72). Furthermore, Resolution 2106 has been identified as a particularly positive step in the increasing recognition of men and boys as victims, with both Dolan (2014a, 80) and Gorris (2015, 417) noting that it represents the first mention of men and boys as victims in a WPS resolution. Both, however, also acknowledge that UNSCR 2106 retains its focus on women and girls as ‘disproportionately affected’ by sexual violence (Gorris 2015, 418), with Dolan arguing that it only represents a ‘[crack] in patriarchy’s feminist disguises’ (2014a, 83). Féron remains similarly sceptical, arguing that the largely women-specific language in such resolutions complicates the possibility of the recognition of the plight of male survivors (2015, 122), a view that is echoed by Hennessey and Garry (2010, 16). Becerra provides a highly useful overview of the evolution of discourses on gender violence in UN documentation and policy that neatly encompasses much of the consensus of the existing literature, noting that since the 1990s representations of men in various policy and human rights instruments have shifted from absence, to deviant perpetrators, to potential allies for change and prevention of violence, and recently, thanks to external pressures, to possible victims of sexual violence (2018). Overall, the literature on representations of men in UN resolutions and policy remains critical of predominant discourses in which women and girls are foregrounded, but also remain positive over signs of continuing progress towards a more inclusive understanding of sexual and gender violence.

This analysis of the policy canon of the Security Council has been complemented with additional analyses of the various UN campaigns and programmes that have been established in the wake of the various resolutions on sexual violence and WPS. Grey and Shepherd analyse UN Action’s ‘Stop Rape Now’ campaign, finding that men are conspicuously absent from the available policy and promotional material in a role as victims, only appearing as potential allies for combating sexual violence in conflict (2012, 122–25). Touquet and Gorris come to a similarly pessimistic conclusion, further noting that both UN Action and the United Nations Population Fund’s (UNFPA) resources on gender-based violence mention male victims, but do not analyse them

in any significant detail or make concrete policy recommendations (2016, 4–5). Lewis, in a wide ranging analysis of various UN documents, programmes, and policies, also finds that male victims are largely absent from UNHCR programming and documentation, as well as reports of the Secretary-General on sexual violence in conflict (2014, 210–11). In most cases, these studies reflect the conclusions of the other studies on UN Security Council resolutions and related human rights instruments; positive, in the sense that they acknowledge some progress has been made in terms of the visibility of male victims of sexual violence, but also highly critical of ongoing representational practices that serve to marginalise the issue.

A small but notable body of the literature has analysed policy and documentations that originate from bodies other than the UN. A key policy instrument on addressing gender-based violence, the Inter-Agency Standing Committee's (IASC) Guidelines on Gender Based Violence have been the subject of significant criticism. Besides the troubling methodological choices that lead to the genesis of the document, Dolan argues that, despite a recognition of men and boys as victims of sexual violence, both men and women are repeatedly represented in a manner that serves to reify women as victims and men as perpetrators (2016, 631–32), and notes the tendency to bury men within the document (2018a, 92). This viewpoint is backed up by Touquet and Gorris, who state that 'men are not seen as victims in their own right ... further perpetuating the idea that violence is essentially a "women's issue"' (2016, 5).

Others have focused on recent developments in inter-governmental initiatives aimed at combatting sexual violence, in particular the Preventing Sexual Violence Initiative (PSVI) and the related 2014 Global Summit to End Sexual Violence in Armed Conflict. Dolan acknowledges the important departures from established discourses on gender violence contained within the related G8 Declaration, several of the Summit events, and speeches made by key policy actors, although also notes the diluting of such language in Resolution 2106 and the concerned responses of some advocates to what they saw as a worrying trend of the inclusion of men and boys threatening to undermine feminist projects for change (2018a, 90–91). Gorris comes to a similar conclusion, noting the tendency to move towards a more inclusive language of sexual violence in conflict, but also notes the return to 'vast majority' logics in Resolution

2106, which emerged from various policy discussions around the time of the creation of the PSVI and the holding of the Global Summit (2015, 418). Kirby, however, provides a more optimistic reading of the Global Summit, framing the distinct mentions of men and boys as representing an ‘opening up’ (2015, 469) of a space in which the issue could be discussed, and further noting the positive impact this had on the final wording of Resolution 2106, which followed the Summit (2015, 470). However, Kirby still recognises inconsistencies in policy approaches to the problem, noting for example the absence of men and boys from measurable targets in the UK’s WPS national action plan (2015, 470).

Moving beyond the realm of international policy and human rights, a significant proportion of the literature has also sought to assess the progress in including men and boys within international legal approaches to sexual violence in armed conflict. In particular, the treatment and prosecution of such violence by international criminal tribunals, and the legal frameworks they draw from, have come under comparatively intense scrutiny. A general consensus that the existing international legal frameworks, whilst increasingly worded in gender-neutral terms in a manner that can encompass sexual violence against men, remain largely problematic in their implications for prosecutions of such crimes (Féron 2015; D. A. Lewis 2009; Mouthaan 2013; Oosterveld 2014; Sellers and Nwoye 2018). The inconsistency of the ICTY, ICTR, and SCSL in their approach to male victims, particularly in terms of the categories under which the violence is classified, is frequently highlighted (for example in Féron 2015; Oosterveld 2014). Related to this, Mouthaan (2012; 2013) discusses the use of the legal framework on torture in prosecuting sexual violence against men, and argues that this should be avoided for fear of sexual violence and torture becoming synonymous (2012, 3). Oosterveld delves into these inconsistent legal approaches in more detail, and argues that a lack of concrete information on the problem, a lack of reporting by survivors and understanding by officials, and a lack of overt recognition of male victims in relevant statutes serves to undermine the efficacy of law in this particular area (2014, 108–9). These issues are addressed in the literature principally through a call for a more gender-inclusive approach to sexual violence in international law and a more overt inclusion of male victims (for example in D. A. Lewis 2009; Mouthaan 2013; Sellers and Nwoye 2018). However, much of the literature remains

positive, noting for example that the ICC represents a potential way forward in enhancing the visibility and prosecution of sexual violence against men (Féron 2015), although, as Chappell notes, the recent record of the ICC in addressing the issue is far from consistent and much progress is still required (2016, 122–24). In addition, Zawati notes the multiple possible routes for survivors to obtain legal redress, highlighting the progress that has been made in recent years (2007). Finally, Houge (2016) adopts a hitherto novel approach to analysing international law, and considers discursive representations of male perpetrators in ICTY judgements and, briefly, how these constructions intersect with representations of male victims. Whilst male victims only represent a small section of Houge’s work, this study nevertheless represents an interesting approach to the study of legal documents, and is an approach that will be mirrored to some extent later in the thesis.

To summarise briefly, much of the literature that has examined the evolving position of sexual violence against men in international law and policy has largely coalesced around the study of various UN resolutions and policy documents, overarching intergovernmental campaigns and policy, and international legal provisions, statutes, and jurisprudence. Broadly, the literature remains critical of mainstream approaches in law and policy to sexual violence in armed conflict, noting that there is still a tendency towards conflating ‘sexual violence’ with ‘violence against women’ and that recent progress towards inclusivity merely represents a crack in these dominant approaches, rather than heralding a more radical paradigm shift. Nevertheless, the literature remains broadly positive. In particular, the early 2010s have been noted as the beginning of a marked shift in the recognition of men and boys as victims of sexual violence at the level of international policy level (Dolan 2014b; Gorris 2015; C. Lewis 2014; Touquet and Gorris 2016). Considering the almost total absence of male victims of sexual violence in high-level policy and legal discourses not 20 years ago, these movements represent significant, even if not decisive, progress towards an expanded recognition of and response to the issue. However, despite the recent proliferation of literature on the subject of sexual violence against men in armed conflict, significant gaps in our understanding still remain. It is to these that this chapter now turns.

Whilst much recent work has looked at the visibility of sexual violence against men *vis-à-vis* the scope for their inclusion within the steadily expanding canon of policy and human rights instruments that relate to sexual and gender-based violence in armed conflict, research on other realms of international politics has somewhat atrophied. For example, very little of the literature discusses the advocacy and research programmes of NGOs. Some authors have considered this (for example in Féron 2015; Misra 2015), but not to any significant extent. Sivakumaran notes that ‘non-governmental and intergovernmental organizations now include a standard sentence in their reports on sexual atrocities in armed conflict in which they note that men can be victims of sexual violence’ (2007, 275), although this largely remains the extent of his engagement with the subject. Hennessey and Garry arrive at a similar conclusion, and note that this has the effect of sustaining widely held misconceptions about sexual violence, but their analysis is also similarly perfunctory (2010, 8–9). This is troubling, because, as will be discussed in greater detail in the following chapter, NGOs play a significant role in promoting norms in the international system, producing knowledge on sexual violence in armed conflict, as well as providing services to survivors in humanitarian settings.

In some cases, the literature relies on outdated statistics to illustrate an apparent lack of NGO engagement with male victims. For example, several recent items of literature, such as Féron (2015, 137), Meger (2018, 102), Misra (2015, 199), Solangon and Patel (2012, 423–24), and Stemple (2009, 612) reference a 2002 study by DelZotto and Jones in which they note that, out of 4,076 NGOs that address sexual violence in armed conflict, only 3% of that number acknowledge male victims in their programs and reporting, with a quarter of the total denying that sexual violence against men is a serious problem. Whilst a useful figure in highlighting the near total silence on the subject in the past, it is now more than 15 years out of date. The uncritical reproduction of this figure serves to elide the significant progress that has occurred in the acknowledgement by these organisations that sexual violence against men can and does occur in armed conflict. Furthermore, it risks distorting perceptions of the research agenda for sexual violence against men; it would suggest that the principal challenge is interrogating the absence of men, rather than considering how they are constituted in NGO advocacy. This is not to say that there is an absence of

such research in the field; for example, Gorris (2015) provides an analysis of interviews with key advocacy actors and sheds light on the position of sexual violence against men on the agendas of international advocacy organisations. However, such research constitutes a minority of the overall literature.

In addition, whilst a range of sources have considered the implications and possibilities of international law for sexual violence against men, they have approached it with a static conceptualisation of the meaning of sexual violence against men, in that the content and nature of the act is taken as a given, rather than seeking to illustrate the ways in which this issue is itself constituted by its representation through law. As will be discussed in greater depth in Chapters III and IV, international law and human rights advocacy are not simple reflections of an objective reality, but rather play a significant role in constituting and giving meaning to the subjects with which they engage. Houge (2016), with her discursive approach to analysing representations of male perpetrators in various trial documents of the ICTY, represents a break with the predominant methods of analysis seen in the literature so far. Her analysis focuses primarily on representations of male perpetrators, rather than the issue of sexual violence in conflict itself, but she does briefly address male victims. Nevertheless, a discourse-centred approach that conceptualises international law as iterative of, rather than reflective of, reality represents a potentially fruitful avenue of research, which will be elaborated on in the following chapter.

#### **PART IV: Contestations and Debates on Gender-Based Violence**

Research conducted on the gendered nature of sexual violence against men and the marginalisation of the issue in policy and law, as detailed above, has led to calls for a radical reshaping of how sexual and gender-based violence is understood in academia, policy, and law. In particular, the repeated elision and marginalisation of male victims within these frameworks is represented as a problematic consequence of predominant understandings of gender and gender relations, which in turn requires the formulation of a more 'gender inclusive' (or sometimes 'gender neutral') approach.

For example, Stemple notes the need to move to an approach that is both gender inclusive and gender sensitive in order to adequately include victims no matter their sex, but to also acknowledge that men and women experience violence in different ways (2018, 133). Chris Dolan approaches this potential shift in more detail, arguing that such a move would address the fact that ‘patriarchy in the form of the security council had effectively stolen the feminists clothes’ (2014a, 81). He notes that the focus of gender experts on a women as victims/men as perpetrators binary resembles a core feature of patriarchy, which relies on the binary of women as weak/men as strong (2014a, 81) and ultimately obscures male victims of sexual violence. He argues that:

To reverse the current malfunction of gender as an analytical, practical and political engine, we must replace women and girls as the default at-risk group with more gender-inclusive formulations. This requires us to break down conceptual barriers, foremost of which are the assumptions that gender power and inequality is unidirectional, the belief that gender power always has the same biological targets and the related view that (sexual) violence against women and children is the paradigmatic expression of these unidirectional inequalities (Dolan 2014b, 500).

Such a move would allow us to conceptualise gender as occurring not just between men and women, but also between men and men. Dolan takes care to note that his proposed shift in approach is not anti-feminist, but rather an extension of feminist theorising on sexual violence in armed conflict. He notes:

Inclusive approaches to gender programming thus do not just pay homage to the space created by decades of feminist activism, they are themselves a critical dimension, extrapolation and articulation of that theorising and activism. These approaches call for the nuancing of assertions of a global and unchangeable state of gender hierarchy, in the belief that such assertions necessarily reify (and thereby reinforce) a damaging patriarchal model of gender hierarchy underpinned by acute heteronormativity (Dolan 2016, 628–29).

These arguments in favour of potential reformulation of approaches to gender and gender violence have been met with concern from some areas of feminist advocacy

and research. One of the most vociferous of the arguments against a move to 'gender-inclusivity' is made by Jeanne Ward in a direct response to Dolan. Ward argues that 'vitiating the gender and GBV language in order to refocus the field towards attention to the needs of males and LGBTI populations is not likely to serve any of these groups effectively, least of all women and girls' (2016, 297). She further argues that the concept of gender-based violence refers to the targeting of women and girls on the basis of discriminatory ideas that they are considered as lesser within a gender hierarchy, whereas violence against men is informed by other men seeking to consolidate power through subjugating other men on the basis of ethnic, political, or religious affiliation (2016, 293). As such, the concept of gender-based violence refers to a particular configuration of power relations in which violence is enacted on the basis of systematic discrimination, rather than violence that has a gendered component.

Whilst other critiques of a move towards 'gender inclusivity' do not go quite so far as to exclude the possibility of gender-based violence incorporating violence against men, a small body of feminist literature has expressed concerns about the potential implications that such a move would have. The sticking point is that, as Meger puts it, 'the argument goes that men's victimisation or women's perpetration of sexual violence is sufficient evidence of an equality between the sexes, or, at least, evidence of the *insufficiency* of hierarchical gender relations as a cause of this violence' (2018, 102–3, emphasis in original). Feminist researchers remain wary of an 'inclusive' approach to gender, as such an approach may ultimately end up obscuring the gendered hierarchies that inform and perpetuate violence against women. Indeed, such a move may ultimately exacerbate those hierarchies, as Drummond argues:

The temptation of automatically adding sexed bodies into purported inclusive frameworks of sexual violence might offer an apparently simple 'quick fix' to the formal acknowledgement of male victimisation. Yet, then inclusion of men as victims cannot stand apart from a critical interrogation of how gender and sexuality circulate in these repertoires of violence through the continuing subordination of emasculated/homosexualised/feminised bodies. In failing to acknowledge how a heteronormative, male-privileging order operates in both war and 'peace', this approach risks reproducing the enduring

gender hierarchies that enable sexual violence in the first place (2018, 162–63).

Ultimately, Drummond argues that a shift from revealing how gender, sex, and violence intersect in the context of acts of sexual violence to a focus on discussing who is affected risks oversimplifying our understanding of the problem and furthermore obscures the gendered power dynamics that underpin the broader oppression of women in a patriarchal system (2019, 1286). This arguably reflects a concern of Zalewski, who notes that we may all too readily slip back into the habit of treating men as the principal source of our concern (2018, 32–33), rather than paying attention to the differential work that gender does in relation to men and women.

The debate over whether we should reframe gender and gender violence in more 'inclusive' terms is still ongoing. As this section of the chapter has attempted to demonstrate, the key point of contention is the retention or disposal of the concept of patriarchal hierarchy as a lens through which we can understand gender violence. However, this debate over gender inclusivity reflects broader debates on the place for analyses and understandings of men more broadly within feminism. Given that much of the debates around sexual violence against men would appear to concern the place for such theorising within a field that has emerged as the result of feminist theorising, it is worth contextualising this particular debate, as well as the thesis overall, within broader considerations of the place within feminist research for men. It is to a consideration of this debate that this chapter now turns.

## **PART V: Locating Men in Feminism**

Whilst the debates outlined in the previous section focused principally on the integration (and potential perils thereof) of men into existing understandings of sexual violence in armed conflict, others in the literature have questioned the possibility for such a shift in light of what they argue is a feminist dominance of the field. For example, as Misra argues:

Most of the contemporary scholarship on sexual violence in armed conflict is not only biased towards the female gender but is heavily influenced by feminist monopolisation of that space that has sought to describe such violence as binary in nature: it is only perpetrated against the female gender by male members of society (2015, 13–14).

The use of the term ‘monopolisation’ would seem to imply that feminism, by its very nature, is incapable of adequately incorporating men; the ‘monopolisation’ of such spaces and considerations of men are, apparently, mutually exclusive. This argument is reflected in studies of sexual violence against men more broadly, some of which have argued that the feminist bent of research into sexual violence has largely detracted from the issue of male rape (C. Cohen 2014; Javaid 2014). Similarly, Graham argues that male rape does not easily fit into the feminist explanatory frameworks that have been carefully constructed over many years (2006, 202). Stemple makes a complementary argument in calling for sexual violence in armed conflict to be studied through conceptual frameworks other than women’s rights in response to the primarily sex-specific human rights and policy canon (2009, 640–41).

These concerns over the applicability of feminism as a research project to the problem of sexual violence against men reflect broader concerns over the place of men in gender and feminist-focused research. As Jones argues, feminist research on gender in the context of the Yugoslav wars foregrounded women’s experiences as the principal subject of inquiry, neglecting men and the ways in which masculinity structures their lives, thus necessitating what he refers to as a more ‘inclusive’ approach to gender (1994, 115–16), mirroring the debates discussed earlier in the chapter. Similarly, Carpenter, calls for a research agenda in which gender is divorced from a feminist programme in order to enhance the status of gender as an analytical variable in IR and to more adequately take into account the life experiences of men (2002; 2003); the implication being that these life experiences cannot be adequately accounted for by gender work alloyed with feminism.

There is, perhaps, an understandable reticence on the part of feminist researchers when it comes to research on men and masculinities. Both O’Neill (2015) and Turner (2019), among others, have noted the possibility for such research to be deployed in

pushing anti-feminist agendas. Drumond cautions that the 'and men too' narrative when it comes to gender work and gender violence can have the sometimes unintentional act of marginalising feminist critiques and the victimisation of women (2019, 1285). Given the intense efforts of feminist researchers and advocates expended on bringing women's rights and women's victimisation into the international spotlight, the potential for slippages back into the privileging of men as the subject of analysis at the expense of women is undoubtedly concerning.

However, critiques of feminism that are based upon its apparent inability to adequately include men arguably conflates the comparative absence of analyses of men as victims with the inability of feminism to account for men as victims; just because only a minority of feminist work has focused on studying men and/or masculinities, does not mean that feminism as a project or theoretical standpoint is incapable of doing so. A significant body of feminist research has analysed men 'as men'. For example, feminist IR theory has sought to consider and problematise the ways in which international relations and its associated concepts, such as war, the state, and sovereignty, are structured by, and in turn structure, men and masculinities and their power relations with women and femininities (e.g. Enloe 2007b; Goldstein 2001; Hooper 2012; Sylvester 2013; Whitworth 2004). As Enloe argues, the study of men forms a central pillar of feminist IR theory (2007a, 103–4), and the focus on gender that feminism has brought to IR has allowed for:

an increasing focus on masculinity and its multidimensionality and complexity; on the diversity of women's lives, identities and strategies; and on the power differentiations among women, as well as between them and men, and among men (Youngs 2004, 77).

A sole focus on women could potentially undermine feminist research; as Steans has noted, a total privileging of women as the legitimate subject of feminist analyses would risk obscuring the relational character of gender and may lead to a variety of conceptual distortions in which men are broadly left unproblematized and women are equated with victims (2013, 38). Nancy Dowd makes a similar point, arguing that an analysis of 'men as men' holds potential not only for uncovering the harms and

inequalities of men's lives under patriarchy, but also can bring additional insights to feminist theory that may assist in alleviating women's inequality (Dowd 2010, 3). bell hooks puts this in perhaps even more straightforward terms:

Male as a group have and do benefit the most from patriarchy, from the assumption that they are superior to females and should rule over us. But those benefits come with a price ... I believe that it [men] knew more about feminism they would no longer fear it, for they would find in feminist movements the hope of their own release from the bondage of patriarchy (2015, xiii).

Feminism, therefore, can not only encapsulate the study of men, but also the emancipation of men from patriarchy. It is important to note that in almost no cases do the feminist researchers and advocates in the debates detailed in this chapter state that an analysis of male victims of sexual violence is outside the remit of feminist inquiry. Rather, their concern is centred around how this inclusion is achieved. The question, therefore, becomes *how* we study men, rather than simply calling for the inclusion of men into existing feminist analytical frameworks. As Campbell argues on the inclusion of men in analyses of sexual violence:

The crucial issue is not only how to include "invisible" subjects and actions, but also how to explain the social and political constitution of those categories of "identity" and "conflict" that make certain subjects and violence visible and others unseen (K. Campbell 2018, 472).

Ultimately, the potential discomfort over the inclusion of male victims in feminist analyses arguably stems from justified concerns around how such a move may impact ongoing projects to shed further light on women's victimisation in the context of patriarchy and gender inequality. This issue may ultimately lead to some uncomfortable questions for the focus of research into sexual violence. However, as Grey and Shepherd, on the subject of the absence of men as victims from the literature on sexual violence in armed conflict, quite aptly argue, 'a feminist research agenda also involves an exploration of the silences, the gaps and the margins of any constellation of power, even (or perhaps especially) when that might make us uncomfortable as feminist researchers' (2012, 119).

## **PART VI: Conclusions**

This chapter outlined the key themes and debates of the literature on sexual violence against men in armed conflict. To date, this literature has been organised around several key themes; the causes and gender dynamics of the sexual victimisation of men, the marginalisation and emergence of the subject of international policy and legal discourses on sexual and gender-based violence, and the potential ways forward in terms of fostering greater inclusion and visibility of male victims of sexual violence. The latter theme has been the subject of significant debate in the literature, with various feminist researchers cautioning against a ‘flattening’ of gender for fear of obscuring the role that patriarchal gender hierarchies play in informing violence against women, which in turn feeds into the wider debate on the position of the analysis of men within feminist research.

This thesis is situated within and speaks to each of these debates and fields of research. In particular, it seeks to fill the gaps in our current understanding of INGO and international legal discourses of sexual violence against men. It does so from an understanding that sexual violence against men is a gendered form of violence, but that the nature of these gendered dynamics are the subject of intense and ongoing debate. As such, it informs and is informed by these debates, by positioning itself as explicitly situated within a feminist research agenda, and by remaining sensitive to the implications that its findings may have for how we conceptualise sexual violence against men as fitting in to a broader feminist-centred approach to sexual and gender-based violence. I begin this process in the next chapter, by discussing the theoretical framework of the project.

### **CHAPTER III – DISCOURSE IN INTERNATIONAL RELATIONS: A POSTSTRUCTURALIST AND FEMINIST APPROACH**

This chapter seeks to set out the overarching theoretical framework through which I seek to answer the research questions posed in Chapter I. I argue that a melding of Feminist Security Studies (FSS) and poststructuralist International Relations (IR) theory represents a promising starting point for my analysis due to their perspectives on discourse, gender, and what constitutes the appropriate focus of analysis in the study of global politics. In addition, the insights of constructivism on the role and importance of non-state organisations and institutions – in this case, international law and human rights advocacy INGOs – are further combined with this feminist-informed, discourse-centred perspective to explain the power these organisations exert on the international system and subsequently justify the focus of the thesis upon them.

The chapter is structured into two parts. Part I sets out a poststructuralist and FSS-informed understanding of the international system. It begins by responding to the state-centred and ‘objective’ approaches to international relations embodied in realist and liberal IR theory, outlining both the poststructuralist and feminist IR objections to these theoretical standpoints. It then proceeds to outline a poststructuralist-informed (but also drawing on feminist insights) understanding of the international system as principally characterised by and functioning through discourse, presenting an initial justification of the focus of the thesis on discourse and the analysis of discourses. Building on this, it then conceptualises gender within the international system, noting that ‘mainstream’ IR theories have largely neglected gender in their analyses, and drawing on the work of poststructural feminists, particularly Judith Butler, to demonstrate that gender is discursively constituted. It then discusses the appropriateness of sexual violence against men in armed conflict as a subject of study in IR and security studies, noting in particular the work of feminist researchers in expanding the focus of IR far beyond the state-centred approach adopted by mainstream approaches to IR. Finally, it discusses the potential tensions between poststructuralist and feminist IR theory and seeks to resolve them. Part II of the chapter seeks to theorise international law and human rights advocacy NGOs as important actors in global politics, particularly in terms of the role they play as

knowledge producers and in constructing and sustaining norms and producing knowledge. This section draws heavily on constructivist IR theory, but synthesises it with the poststructuralist and feminist approaches outlined in Part I. In doing so, it seeks to characterise these bodies as principally discursive institutions.

### **PART I: Making the Poststructuralist and Feminist Case for IR**

The study of international relations, as well as security in global politics, has largely been dominated by the varying forms of realism, although the end of the Cold War and subsequent shifts in the discipline of IR have seen the emergence of a broad range of new theoretical perspectives. Whilst the foundational assumptions of different strands of realism vary, core themes common to each of them are a focus on states within an anarchical system, the self-interested and rational nature of those states, and the role of power and security within the anarchical system (Mearsheimer 2009; Morgenthau 1978; Waltz 1997; 2000). Security is conceptualised purely in terms of state military power (Walt 1991, 212). Whilst realism dominated the study of IR during the Cold War, and, as its proponents argue, still retains significant analytical power even after the early 1990s (Waltz 2000; Wohlforth 1994), it has come under sharp, and often overlapping, critique by both poststructuralist and feminist IR researchers.

Stemming from a broad scepticism of the possibility of overarching and complete theoretical explanations (Edkins 2007, 88), poststructuralists (for example Ashley 1984; 1988; D. Campbell 1998; Der Derian 1989; 1995a; Walker 1995) have sought to criticise realist IR theory on the basis that it has rendered what is ultimately historically contingent and undecidable instead as *a priori*, orthodox objectivity. For example, Richard Ashley has pointed out that the assumption by realists of the primacy of the state in the international system is constituted instead as 'objective' fact rather than as historically contingent, and despite the numerous internal inconsistencies of portraying the state as a unitary and rational actor (Ashley 1984, 239). Furthermore, poststructuralists have also conceptualised theory as constitutive of reality, rather than reflective of it. As such, realism, through its reproduction and

legitimation in various policy forums, has played an active role in constituting and circumscribing the particular world it has sought to describe (Der Derian 1995a, 327). Dominant theories of IR have ultimately sought to impose order upon a range of practices that are fundamentally 'contingent and unresolvable' (D. Campbell 1998, 21) and to exhaust the range of possible interpretations, silencing other theoretical standpoints (D. Campbell 1998, 21–22; Der Derian 1989, 6). As such, the purpose of poststructuralist IR critique is 'to expose the historicity – the arbitrariness, the political content, and the dependence upon practice – of the limits that are imposed in history and inscribed in paradigms of the sovereignty of man' (Ashley 1989, 284). In other words, the goal is the deconstruction and exposing of what is taken for granted as assumed knowledge and instead showing the historical contingencies upon which this knowledge is based.

Feminist IR critiques of realism have occurred along the same broad ontological and epistemological lines as poststructuralism, in that they have sought to question and deconstruct what is assumed as objective knowledge by mainstream IR theory. As Enloe argues:

As one learns to look at the world through gender-conscious feminist eyes, one learns to ask whether anything that passes for natural, inevitable, inherent, traditional, or biological has been *made* (Enloe 2014, 12).

Runyan and Peterson adopt this approach in their critique of realism, arguing that realism is based upon a series of binaries or dualisms – for example strong/weak, peace/war, men/women – that are patriarchal in nature, and that it does not reflect the 'real' world but rather has constituted it in its image 'through the constant reproduction of [these binaries] in narrative and practice' (1991, 70). Whilst feminists do not necessarily argue that realism is wrong in its perceptions of the international system, they nevertheless do argue that it is only a partial understanding, built as it is upon assumptions of human nature that are themselves partial and that privilege masculinity (Runyan and Peterson 1991, 70; Tickner 1995, 56). Sylvester has noted that notions of rationality inherent to much realist theory are fundamentally gendered,

built upon idealised masculine qualities (and in opposition to women's supposed irrationality) that serve to constitute international politics as a man's world (2001, 161). Both the subject matter of realism and its belief in a scientific methodology are arguably built upon what are considered to be valued masculine characteristics, 'such as the emphasis on power and autonomy and claims to objectivity and rationality' (Tickner 1992, 14). These biases in realist thought can be observed in the frequent use of analogies between man and state as the basis for justifying the nature of a hostile and anarchic global system (True 2005, 223).

### **A Discursive Approach to Global Politics**

Broadly, then, both poststructuralist and feminist IR theorists have sought to deconstruct the claims to objectivity made by realism – and, by extension, other theoretical approaches that adopt a similar ontological position – and show these taken-for-granted 'truths' instead as contingent upon ahistoric or gendered assumptions about how the world works. Furthermore, realism, rather than being reflective of the world 'as is', has instead played a role in constructing and legitimising the particular configuration of the international system that it purports to describe. This focus on the deconstruction of claims to truth informs the focus of poststructuralist IR theory; a significant body of work has sought to emphasise the role that discourses play in the international system (for example see D. Campbell 1998; Der Derian and Shapiro 1989; Doty 1993; 1996; Epstein 2008; Milliken 1999). The concept of discourse is understood as central to the manner in which global politics is conducted. As Doty concisely argues:

Representation is an inherent and important aspect of global political life and therefore a critical and legitimate area of inquiry. International relations are inextricably bound up with discursive practices that put into circulation representations that are taken as "truth". The goal of analysing these practices is not to reveal essential truths that have been obscured, but rather to examine *how* certain representations underlie the production of knowledge and identities and how these representations make various courses of action possible (Doty 1996, 5).

Poststructuralist IR, therefore, does not seek to analyse actors, objects, and subjects in international relations as pre-existing givens, but rather seeks to interrogate how these actors, subjects, and objects have acquired meaning in the first place, and what kinds of possibilities for action or understanding those meanings enable or preclude. It also seeks to politicise what positivist IR theories regard as unpolitical and unproblematic; as will be discussed in greater detail in the next chapter, discourse represents an ongoing attempt to establish closure, a fixity of meaning, and the struggles over this meaning, and the closing off of the possibility for potential alternative meanings, ways of knowing, actions, and identities, is ultimately a political one (Epstein 2013, 502; Shapiro 1989, 12). This politicisation of what is otherwise taken as objective fact by other forms of IR theory further indicates that poststructuralism does not only look to analyse the discourses employed by the subjects of international relations, but also to analyse the discourse of theorists within the field of International Relations (George and Campbell 1990, 285). Ultimately, poststructuralist IR concerns itself with questioning and deconstructing the discourses – of international politics or of the study of international politics – and meanings that have entrenched themselves as dominant and subsequently demarcated the kinds of actions and policies that are possible within global politics (Shapiro 1989, 13).

Whilst poststructuralists have played a significant role in bringing the concept of the centrality of discourse into the study of IR, feminist IR scholars, particularly those within the field of feminist security studies, have also argued in favour of an analytical focus on discourse (Hudson 2015, 414). For example, Wibben (2011) has called for a narrative-centred approach to the analysis of security, and conceptualises the role of narratives in a similar way to those poststructuralist theorists discussed above, arguing:

The framing of events in a particular narrative always has implications for action because it includes and excludes options and actors, whilst also limiting what can be thought or said, thus eventually imposing silences. The framing “decides, in a forceful way, *what we can hear*, whether a view will be taken as explanation or exoneration, whether we can hear the difference and abide by it” (Wibben 2011b, 3–4, quoting Butler 2004, emphasis in original).

Wibben's approach to the constitutive power of discourse in the context of feminist security studies mirrors similar approaches adopted by, for example, Laura Shepherd (2008) and Lene Hansen (2006), who discuss the discursive construction of gender and violence in UNSC Resolution 1325, and the construction of identity in the Bosnian War, respectively.

This focus on the role of discourse in international relations represents an appropriate approach for this thesis, for two principal reasons. Firstly, as will be discussed in greater depth in following sections of this chapter, the referent point of analysis is shifted away from the state and onto the discourses that constitute and enable particular configurations of global political action. Discourses that pertain to sexual violence in armed conflict are therefore constituted as being an appropriate subject of study within IR. Secondly, as discussed in the previous chapter, much of the existing literature on the subject of sexual violence against men in armed conflict has sought to illuminate the ways in which the issue has been excluded from mainstream discourses on sexual violence in international politics. A poststructuralist approach to discourse provides a useful way of theorising this exclusion, and provides a starting point for the analysis where dominant representations of both sexual violence and sexual violence against men in various arenas of international politics are the subject of deconstruction to illuminate both their political nature and the contingencies upon which they rest. This analytical approach will be discussed in detail in the following chapter.

### **Gender, Discourse, and International Relations**

As discussed in the overview of the literature in the previous chapter, sexual violence against men in armed conflict is largely conceptualised by the existing literature as a fundamentally gendered act – the disagreements and debates in this literature stemming, in part, from the manner in which it can be understood as gendered and how we should conceptualise gender-based violence. As such, considerations of gender and how it is constructed discursively form one of the integral focal points of

this thesis. This focus on gender necessitates a feminist and poststructuralist approach to the study of IR, as:

Contemporary understandings of politics, public and private, the state, and international relations are significantly weakened by a failure to take gender seriously ... Taking feminism seriously reconfigures our understandings of states and politics (Peterson 1993, 244).

Gender as a concept or category of analysis is largely absent from mainstream IR theory. As discussed above, realism focuses on military and state power, and does not take gender into account. Its main challenger in the field of IR, liberalism, similarly fails to incorporate an understanding of gender into its theoretical standpoints (Stearns 2006, 48). Furthermore, liberal IR theorists, through their concept of the rational, liberal individual, fall into the same trap as realists, in that their models for human behaviour are based upon androcentric and masculine understandings (Tickner 1992, 63). However, simply incorporating gender into realist and liberal analyses would not rectify this gender blindness; as Hooper argues, simply grafting gender onto existing approaches that are masculinist in nature is insufficient due to the ontological and epistemological changes that would be required to adequately incorporate the concept (1999, 475). As such, mainstream IR theories are unable to fully adopt a gender-sensitive perspective, undermining their utility in research that explicitly seeks to interrogate the construction of gender in international relations.

Other theoretical perspectives in IR, whilst sharing some ontological similarities with feminist theory, still do not incorporate gender to any significant extent. For example, whilst Locher and Prügl acknowledge the ontological similarities between feminism and constructivist IR theory, they argue that constructivism largely fails to interrogate the role that gender plays in the social construction of power in global politics (2001, 118). Similarly, the Copenhagen School have largely failed to take gender into account in their analysis of the construction of security threats (Hansen 2000, 286). Efforts to incorporate gender as a core component of the analysis of security have largely been the preserve of poststructuralist and critical security studies researchers (Hansen 2000, 286).

As such, feminist IR theory represents the most appropriate theoretical standpoint to adopt in the context of research that seeks to seriously engage with gender and violence. As discussed briefly in the previous chapter, some (for example Carpenter 2002; Jones 1994) have called for gender-focused analyses that are divorced from the political and emancipatory goals of feminist research. However, whilst gender analysis and feminist analysis are not synonymous, Enloe argues that one without the other is inadequate; gender analysis involves interrogating the meanings attached to masculinity and femininity and how those meanings structure dynamics between women and men and within society, but a feminist analysis considers all of this and also interrogates how these meanings shape ‘the distribution and uses of power’ (2007a, 101). Sjoberg makes a similar argument, noting that feminism offers additional insights over non-feminist gender analyses thanks to its emancipatory goals, and that the feminist interest in ‘political marginality’ provides a useful tool for understanding and conceptualising gender relations and shedding light on security issues (2006, 906–7). Furthermore, as discussed in greater detail in the previous chapter, a feminist theoretical standpoint does not preclude a detailed analysis of men and their victimisation in armed conflict.

Before continuing, it is worth dedicating time to further clarify what we mean when we talk about the concept of ‘gender’. Given that feminist IR theory has sought to introduce it as a category of analysis in IR more broadly, the manner in which we conceptualise gender must therefore influence what kinds of questions we ask about it, and how we go about answering them. In line with the vast majority of feminist theorising on gender, this thesis takes gender as socially constructed. Christine Sylvester provides a useful elaboration on this subject:

When speaking of “men” and “women”, it is important to establish from the outset that I do not pose these gender categories as permanent, immutable, determinant, and essential. Rather, I see “men” and “women” as socially constructed subject statuses that emerge from a politicisation of slightly different anatomies in ways that support grand divisions of labour, traits, places, and power. By “socially constructed”, I mean that men and women are the stories that have been told about

“men” and “women” and the constraints and opportunities that have thereby arisen as we take to our proper places (Sylvester 1994, 4).

Such an understanding of gender as a construct rather than a given allows us to move beyond more essentialist notions of, for example, women as inherently more peaceful and men as inherently more violent and delve instead into the processes by which individuals in global politics are inscribed with masculinity or femininity. Here, the feminist poststructuralism of Judith Butler provides insight into the processes through which gender and bodies are constructed:

In other words, acts, gestures, and desire produce the effect of an internal core or substance, but produce this *on the surface* of the body, through the play of signifying absences that suggest, but never reveal, the organising principle of identity as a cause. Such acts, gestures, enactments, generally construed, are *performative* in the sense that the essence or identity that they otherwise purport to express are *fabrications* manufactured and sustained through corporeal signs and other discursive means. That the gendered body is performative suggests that it has no ontological status apart from the various acts which constitute its reality (Butler 2006, 185 emphasis in original).

Butler makes two key points here that are worth highlighting. Firstly, gender has no material component; it is entirely divorced from the body onto which it is inscribed and is produced and sustained through a variety of different practices. This understanding of gender is broadly reflective of Laclau and Mouffe’s radical materialism, which is addressed in the next chapter. Secondly, this performative (re)inscription of gender onto bodies through an ongoing series of practices can be understood as a discursive process. Discourse, therefore, is central to the constitution of bodies and gender. Butler later provides a useful clarification on performativity:

Performativity must be understood not as a singular or deliberate “act”, but, rather, as the reiterative and citational practice by which discourse produces the effects that it names (Butler 2011, xii).

As such, the performativity of gender or the body refers to their constitution in discourse. This further justifies the discursive approach adopted by the thesis, as

discourse ultimately plays a central role in informing how we conceive of and respond to the world around us.

### **Sexual Violence against Men in Conflict and the Study of IR**

So far, this chapter has focused on critiques of mainstream IR theory, and has sought to emphasise the insights of more critical approaches to theory with regards to the role that discourse and gender play in the international system. Where, however, does the study of sexual violence against men as a valid subject of research fit into the IR theoretical framework outlined thus far? The answer to this question has been intimated at several points throughout this chapter, but requires further explication in order to justify the security and gender-focused theoretical framework of the thesis. As above, this will require a shift away from mainstream IR theoretical approaches. As discussed previously, these approaches have largely conceptualised security in terms of military and/or state security. For example, Walt argues that military power constitutes the key subject of analysis in security studies (1991, 212). Similarly, Morgan, in a review of realist and liberal approaches to security in IR, states that 'security has long been about the survival and physical safety of the actors and their people; by extension it concerns the deliberate use of force by states (and some other actors) for various purposes' (1999, 40). Whilst liberal theory does recognise the possible role of actors other than the state, the state remains the central subject of concern. Furthermore, constructivist theory, particularly the Copenhagen School, whilst seeking to problematise the idea of security through the concept of securitisation, still treats the state as the key entity that must be secured (Burke 2013, 79). As such, these theoretical standpoints are unable to adequately account for sexual violence in armed conflict from an IR and security studies perspective.

Both poststructuralist and feminist IR researchers (often grouped into the category of 'critical security studies') have critiqued this state- and military-centric view of security. At a broad ontological level, Der Derian has attacked traditional conceptualisations of security on the basis that it represents one particular interpretation of what security is, rather than 'objective' fact or 'common sense' as claimed by realists:

We have inherited an ontotheology of security, that is, an *a priori* argument that proves the existence and necessity of only one form of security because there happens to be a widespread, metaphysical belief in it (Der Derian 1995b, 25).

The purpose of poststructuralist security studies therefore becomes the deconstruction of these *a priori* arguments and dominant forms of security, with the aim of exposing how these discourses come to be accepted as 'true' (Burke 2013, 80). In addition, it involves the interrogation of the ethnocentric and gendered assumptions of these discourses in order to demonstrate how they can paradoxically result in the fostering of insecurity as a consequence of state security practices (Mustapha 2013, 71). Implied from this deconstructionist position is that state-centric conceptualisations of security are insufficient, or at least only partial, ways of understanding security, and that traditional IR theories, in their somewhat myopic focus on states as the referent point of security, have sought to entrench what is ultimately contingent and ahistoric as objective and unproblematic fact.

Feminist IR theorists, particularly those in the field of feminist security studies, have sought to critique traditional approaches to security on similar grounds, arguing that the state-centric approach adopted by various theoretical perspectives provides only a partial, and therefore problematic, understanding of security, and fails to take in to account the experiences of women in relation to security. Tickner argues:

Feminist perspectives on national security take us beyond realism's statist representations. They allow us to see that the realist view of national security is constructed out of a masculinized discourse that, while it is only a partial view of reality, is taken as universal. Women's definitions of security are multilevel and multidimensional. Women have defined security as the absence of violence whether it be military, economic, or sexual. Not until the hierarchical social relations, including gender relations, that have been hidden by realism's frequently depersonalized discourse are brought to light can we begin to construct a language of national security that speaks out of the multiple experiences of both women and men. As I have argued, feminist theory sees all these types of violence as interrelated (Tickner 1992, 66).

Of particular note in feminist security studies is the breaking down of the boundaries between the personal and political spheres in the practice and study of international relations. They have argued that this distinction is one that fundamentally harms women; for example, True has argued that the liberal state, in maintaining this distinction between the public and private sphere and refusal to intervene in the latter, ultimately renders it complicit in violence against women, as this is usually relegated to the private sphere (2005, 224). More broadly, however, feminist IR theories have sought to significantly expand the scope of what can be studied under the rubric of security (Blanchard 2003, 1292) in a similar manner to that of human security, although, as Nuruzzaman (2006) contends, feminist theorising arrived at this conclusion long before human security emerged as a concept. In doing so, they deconstruct the notion of a personal/political divide in international relations and politics.

Cynthia Enloe's *Banana's, Beaches, and Bases* (2014) is perhaps one of the most well-known and articulate example of this. Through a series of short but wide-ranging examinations of women's roles at national and international levels – ranging from women on military bases and as wives of diplomats to women as tourists and domestic servants – Enloe convincingly demonstrates how international politics and security are deeply imbricated with and sustained by a multitude of what may otherwise be dismissed as 'personal' or 'private' practices that are fundamentally gendered in nature. In a modification of the classic feminist statement of the 'personal is political', Enloe argues that the 'international is personal' (2014, 351) to demonstrate the manner in which women's 'personal' lives, and by extension the personal or private sphere, are intrinsically related to international politics.

This deconstruction of the personal/political divide at the international level lies at the core of feminist analyses of security (Blanchard 2003; Shepherd 2009; Zalewski 1995), as it has formed the foundation for a significant body of feminist-informed work that interrogates gender, security, and IR at multiple levels of analyses. Tickner argues that feminist security studies has sought to move away from a focus on states

and a macro-political narrative of war (that is, what she refers to as the causes and consequences of war) and instead focus on the happenings within war and the impact that this has on individuals – civilian or military – and the ways in which gender is deeply embedded throughout war and security (2011, 578). This often entails the study of violence in conflict, which has formed a key locus of feminist attention; as Zalewski and Runyon argue, one of the key goals of feminist IR theory has been to further our understandings of gendered violence through continuous documentation and interrogation (2013, 297).

Of particular relevance to this thesis is research that has focused on violence and the constitution of bodies in conflict and global politics. Both Shepherd (2005; 2010) and Wilcox (2015), among others, have sought to combine this analysis of violence with an analysis of how bodies – that is, the corporeal bodies of people – are produced and come to matter within conflict and international relations. As Wilcox argues, bodies have traditionally been ignored in IR theory, conceptualised as static and non-agential, despite their role as the principal site at which violence is enacted both on and by in armed conflict (2015, 1–2). However, this assumption ultimately impoverishes IR, as it ensures that it can never fully theorise international political violence by failing to understand the ways in which bodies produced, reproduced, and gendered through violence and armed conflict (Shepherd 2007, 240; Wilcox 2015, 3).

Shepherd and Wilcox both draw on the poststructuralist-informed conceptualisation of gender articulated by Judith Butler, as discussed earlier in this chapter, to conceptualise what is referred to by Shepherd as the ‘violent reproduction of gender’ (2013, 17). In this perspective, violence both genders and is gendered; it constructs the subject of the violence as a particular kind of gendered subject, and in doing so, produces and maintains understandings of gender that serve to legitimate particular practices of security (Shepherd 2007, 248; 2013, 20; Wilcox 2015, 39). This approach is particularly useful for analysing sexual violence against men, as it draws on Butler’s poststructuralism-informed understanding of gender discussed earlier in this chapter, where the link between sex and gender is severed. As Wilcox argues:

Gender as a signifier of power is delinked from the sexed bodies of men and women, so that some women can occupy the powerful status of “man,” while some men (often racial or sexual “others”) are feminized. “Man” in this sense is the abstract citizen or human, unmarked by sex, whose violence is legitimized by its use against a body marked by race, gender, or civilizational status, on behalf of another population whose bodies are not “neutral” but marked, primarily by gender (Wilcox 2015, 39).

The conceptualisation of gender identities as inscribed onto bodies coded as male through the performance of violence has significant parallels with the literature discussed in the previous chapter that has sought to conceptualise sexual violence against men in gendered terms, particularly the rendering of male victims into feminised or homosexualised subject positions. As such, this conceptualisation of sexual and gendered violence represents a potentially useful way forward within the context of this thesis’ focus on sexual violence against men, as it opens up the conceptual space for violence against both women and men to be discussed in gendered terms. Indeed, Shepherd in particular is quite explicit in her acknowledgement that this particular conceptualisation of (gender) violence is advantageous in terms of its capacity to adequately incorporate and theorise acts of sexual violence against men (2005, 396–97; 2013, 19–20).

For Shepherd, equally important as developing understandings of the violence itself is the analysis of representations of the violence. She conceives of a ‘politics of rape’ (2007, 248), where the ‘act itself, the circumstances which “allow” for the act, the immediate and long-term legal procedures following the act and associated reportage and documentation as equally implicated and important in the theorising of rape’ (2007, 249). The theorising of the act itself is but one part of a constellation of various and imbricated discursive practices that produce and reproduce both rape and gendered subjects. Contextualised within the feminist curiosity over the constitution of bodies during armed conflict discussed above, this approach to conceptualising sexual violence and a politics of sexual violence requires that ‘we ... investigate how bodies are represented, but also interrogate the political practices through which bodies come to matter at all’ (Shepherd 2010, 6). In the context of the subject matter of this thesis, this conceptualisation of both sexual violence and the nature of global

politics stimulates the asking of several, interrelated questions; how is sexual violence in armed conflict represented? How do sexually violated male bodies come to matter (or not)? And what kinds of knowledges and possibilities are being constructed through these representations?

Here, then, lies a further justification for analysing the discursive representation of sexual violence against men. Shepherd and Wilcox's theorising of bodies, security, and sexual and gender violence in conflict integrates neatly with poststructuralist and feminist understandings of the international system and gender being principally discursive constructions, as discussed earlier in this chapter. As such, representations of sexual violence in armed conflict in various global political fora can be conceived as productive of sexual violence rather than reflecting a pre-discursive reality. These productions and reproductions of sexual violence, and the forms of knowledge and possibilities of responding to the issue they entail, represent a valuable subject of security research in IR theory, as they play a significant role in constructing the experiences of those subject to such violence during armed conflict that traditional IR theory has hitherto largely ignored. However, the locations in which these productions and reproductions take place have so far not received much attention in the course of this chapter. Whilst the role of human rights INGOs and international law have been hinted at through critique of the state-centric approaches of mainstream IR theory, they require much more detailed attention in order to more fully explicate their function as primarily discursive institutions, and in doing so justify the focus of this thesis on their discourses of sexual violence. It is to what Shepherd refers to as these 'variously located practices of global politics' (2013, 3) that this chapter turns in Part II.

### **Resolving the Tensions Between Poststructuralist IR and Feminist Security Studies**

Before continuing, it is worth noting that the relationship between poststructuralism and feminist security studies is not one devoid of ontological and epistemological tensions. As such, whilst I have drawn heavily on both theories to contextualise and

situate this thesis, it is necessary to acknowledge these tensions and seek to allay them in the interest of establishing some form of theoretical clarity. Feminism is a particularly rich and varied theoretical and political standpoint, with multiple different ontological and epistemological approaches (Fiss 1994, 414–15), and this arguably represents but one facet of the immense value of feminist modes of inquiry. However, whilst most strands of feminism share an underlying set of commitments, such as a focus on women, emancipation, empowerment, and social justice (Wibben 2011a, 591), differences in ontology and epistemology between different strands present particular dilemmas. Marysia Zalewski (2000) provides a useful starting point for considering these tensions, through the medium of an imagined conversation between Judith Butler, whose poststructuralist-informed work on gender is discussed earlier in this chapter, and Andrea Dworkin, who Zalewski describes as the ‘quintessential 1970s radical feminist (2000, 1), on the subject of what women ‘are’. Butler, on the one hand, questions the possibility of reaching such an understanding, and argues that such practices are potentially dangerous; Dworkin, by contrast, argues that we must retain some concept of what woman ‘is’ in order to be able to make feminist demands for rights and freedom (2000, 1). Whilst Dworkin is not a feminist security studies scholar, her arguments nevertheless broadly map on to a similar divide within the field of feminist security studies; constructivist approaches to gender and security conceive of gender as socially constructed behaviours, but retain the idea of a material, sexed body as a biological marker of identity (Shepherd 2013, 14).

Zalewski neatly summarises the dilemma facing poststructuralist approaches to feminism; does questioning the very concept of ‘woman’ (or, indeed, ‘man’) threaten the theoretical project of feminism by abolishing the possibility of a defined ‘female’ subject on whose behalf feminists may campaign for rights, emancipation, and/or equality? Hawkesworth is sceptical of poststructuralism, arguing that the issues that affect women, such as rape, domestic violence, and sexual harassment, are not merely interpreted ‘fictions’, but rather are things that have an objective quality, that ‘can be known’ (1989, 555). This, however, is arguably a misreading of the ontological foundations of poststructuralism. As will be discussed in greater detail in the following chapter, the radical materialism that many poststructuralists subscribe to does not

deny the material world outside of discourse, but rather denies a *meaningful* material world external to discourse (Doty 1996, 5). The materiality of rape or domestic abuse is not in question, and to deny the materiality (and therefore the visceral and traumatic nature of the act) would be highly troublesome. However, poststructuralism recognises that a multiplicity of meanings may be applied to any given material 'thing', and there is arguably nothing 'fictional' about these meanings – merely different ways of inscribing meaning on to the world.

Hawkesworth's arguments largely resemble what Mustapha refers to the straw-man representation of the poststructuralist as the 'amoral nihilist trapped in discourse' (2013, 65), in that Hawkesworth refers to the 'fiction' of interpreted acts of violence. In response, Mustapha notes that it is entirely possible for poststructuralist-informed research to make claims about the world and to act on those claims, as long as this is done in a reflexive manner (2013, 78). Marcus (1992) has made a similar argument, and also notes that the conceptualisation of acts like rape as 'real' can actually ultimately detract from efforts to prevent its use; a poststructuralist perspective opens up the possibility of reconfiguring and reinscribing social bodies and cultural productions in an attempt to preclude rape as a possibility in social relations (1992, 400).

The purpose here is to not claim that non-poststructuralist feminisms are somehow 'wrong' in their ontological and epistemological approach; such an act would likely be in opposition to poststructuralism's deconstructionist bent and avoidance of truth claims. However, these ontological differences have, as has been discussed, led to some level of philosophical tension between different strands of feminism, which are worth addressing as part of the ongoing metatheoretical debates that characterise much of social science research. However, it remains that, despite some ontological differences, in the context of this thesis and the field more broadly, poststructuralism and feminism represent a particularly appropriate pairing in IR and security research.

## **PART II: Theorising International Human Rights Advocacy and International Law in Global Politics**

So far, this chapter has focused on conveying the theoretical standpoint of the thesis and outlining the broad theoretical framework that the research adopts. In particular, it has addressed the role that discourse plays in the international system, the potentially fruitful combination of feminist and poststructuralist IR theory, and the validity of sexual violence against men in armed conflict as a subject of study in IR. In doing so, it has sought to critique the state-centric focus of mainstream IR theory as both ahistorical and masculinist in nature. However, whilst the role of non-state actors has been discussed briefly in the previous section of the chapter, the role and importance of these actors has not yet been fully addressed. As such, the chapter now turns to a discussion of this in order to expand upon the theoretical framework of this thesis and to justify the focus on international human rights advocacy NGOs and international law first established in the previous chapter.

The poststructuralist and feminist critique of state-centric approaches in IR theory have already been outlined earlier in this chapter, where the focus of realist and liberal theory on the state was argued to be historically contingent and based upon androcentric assumptions, rather than being an objective and unproblematic fact of international relations. This deconstructionist approach to mainstream theories of IR, as well as the focus on discourse in the international system, allows poststructuralist-aligned research to conceptualise a vastly greater range of actors as significant within international relations. As Epstein argues:

That social actors are speaking actors applies equally to individuals and corporate actors, to nongovernmental organizations (NGOs) as well as states. A significant advantage of a discourse perspective is that it enables the enquiry to travel the full length of the levels-of-analysis spectrum, from the individual to the state level. Individuals, NGOs, states, are all potentially the subjects (the I/we) of a discourse. Hence by approaching the subject as a discursive category, discourse theory introduces a degree of equivalence between subjects pertaining to otherwise different levels of analysis. This yields a certain flexibility in approaching the subject, and the possibility of tapping into theories

of formation of the subject wherever relevant to understanding the subject under discussion (Epstein 2008, 16).

In this sense, poststructuralism, in its broadening of the scope of international relations to incorporate a much greater range of non-state actors, aligns roughly with constructivist IR theory. In a broadly similar manner to poststructuralism, constructivism adheres to the idea that 'the fundamental structures of international politics are social rather than strictly material ... and that these structures shape actors' identities and interests, rather than just their behaviour' (Wendt 1995, 71–72). This is neatly epitomised in Wendt's statement that 'anarchy is what states make of it' (1992, 395), in a direct response to realism and liberalism's assumption of anarchy as an objective and fundamental feature of the international system that shapes state behaviour in predictable ways. Central to constructivist approach to behaviour in international relations is the concept of 'norms', which Finnemore and Sikkink refer to as 'a standard of appropriate behaviour for actors with a given identity' (1998, 891). More specifically, norms guide state actions through rules and 'logics of appropriateness', and thus construct states, actors, and their understandings of their interests (Checkel 1998, 326). These behaviour-regulating norms emerge into international relations through a variety of practices enacted by a variety of different actors and institutions, for example individuals, NGOs, and international organisations such as the UN or World Bank, often in conjunction with each other (Finnemore and Sikkink 1998, 896–901; Keck and Sikkink 1998). Constructivism's focus on a diverse range of actors and institutions beyond and within states has enabled them to foster a significantly more complex understanding of global politics (Locher and Prügl 2001, 124), and an extremely wide and detailed body of work situated within constructivist theory has detailed the multitudinous ways in which various actors have influenced prevailing international norms (for example see Caglar, Prügl, and Zwingel 2013; Finnemore 1996; Katzenstein 1996; Keck and Sikkink 1998; Klotz 1995; Risse, Ropp, and Sikkink 1999; Wiener 2018).

Constructivism, poststructuralism, and feminism arguably share a *prima facie* commitment to a critique of the state-centred approaches of realist and liberal thought and to the idea of a constructed world rather than a given and assumed material world.

However, the ontological and epistemological foundations of constructivism, despite the commonalities, have been critiqued by both poststructuralist and feminist scholars. From an ontological perspective, Epstein has criticised constructivism from a poststructuralist position, arguing that

Constructivist theorising has, from the beginning, been torn in two directions; between its commitment to constructivity as the founding logic of the constructivist project on the one hand, and, on the other, an enduring reluctance to forsake fixed, stable, naturalised foundations. The latter is what has led it to seek rules of social construction that are generalisable across *all* social worlds (Epstein 2013, 515).

The key to resolving this tension, Epstein argues, is for constructivism to abandon the concept of language as a human universal and grounded in reason, and instead shift to a poststructuralist understanding of language and discourse as the site where power, rather than reason, is exercised (2013, 502). Ultimately, constructivism has largely neglected discourse because it has focused on studying the proliferation of norms and ideas in the international system, rather than studying how meanings are constructed in these concepts (Epstein 2008, 9). The absence from constructivism of deeper theorising on the discursive character of norms and the meanings that are constituted through them – as well as the meanings that are excluded by these discourses – has been noted by several poststructuralist and feminist researchers to ultimately result in a highly static understanding of norm content, where norms are treated as ‘things’ to be studied that downplays or obscures the ongoing practices around the contestation of this content (Engelkamp and Glaab 2015; Krook and True 2010). Krook and True suggest a discursive approach to the analysis of norms as a consequence of this, noting that discourses have the power to ‘shape what people do and who they are by fixing meanings and by opening subject positions from which to speak and know’ (2010, 108, citing Hansen 2006). This broadly reflects Locher and Prügl’s feminist response to constructivism, where they argue:

In most cases, constructivists approach NGOs, movements, and advocacy networks as “objects” of inquiry and describe the knowledge and world views of these objects. The primary purpose for including

them often is to probe whether their existence “makes a difference”, that is, whether their activities can explain certain policy outcomes. In taking this approach constructivists refuse to attribute to NGOs, movements, and advocacy networks a status as creators of knowledge equal to that of scholars; that is, they refuse to endow them with a true “subject” quality. This not only reinforces the dominant top-down bias in IR scholarship and serves to maintain epistemological privilege but also prevents scholars from seriously engaging with the knowledge proposed by such nonstate actors. What does this knowledge reveal when juxtaposed with hegemonic conceptions? What kinds of exclusions, injustices, inequalities, and shortages of care in the existing world does this knowledge uncover? What kind of a future does this knowledge promise? What new kinds of exclusions and inequalities are embedded in this knowledge? (Locher and Prügl 2001, 124).

Locher and Prügl’s comments about the limits of constructivism, when combined with the critiques discussed above, provide a useful roadmap to the study of norms, discourses, and various sites of global politics. The focus of study when using this poststructuralist and feminist insight shifts from the adoption or rejection of norms, or their efficacy in influencing the behaviour of actors in international relations, to a focus on asking questions of the discourses that constitute those norms; what kinds of meanings do they construct and inhibit? What kinds of knowledges are produced within these discourses? What tensions and inconsistencies are there? What kinds of actions or understandings do these discourses enable or preclude?

It is important to note that the critiques discussed above do not preclude the usefulness of insights into the workings of global politics that constructivist IR has provided. Indeed, as has been intimated in this chapter, both poststructuralist and feminist IR researchers have similarly focused on a broad range of political actors beyond and within the state, and share much in common in terms of their belief in the constructed nature of the world. The key difference lies in the manner in which constructivists have conceptualised and chosen to study norms and discourse, rather than a fundamental disagreement on the power and role that these actors play in creating and shaping norms in international relations. As such, the rich body of constructivist work that examines these actors, combined with a poststructuralist and feminist understanding of these processes as primarily discursive in nature, arguably represents an appropriate way forward for theorising both international human rights

NGOs and international law. This section of the chapter now moves to discuss and conceptualise each of these groups of organisations and institutions as primarily discursive in character, whilst drawing on constructivist insights into the ways in which they influence global norms and knowledges.

### **Human Rights International Non-Governmental Organisations**

Constructivists have placed significant emphasis on the role that human rights advocacy INGOs have played in establishing and maintaining human rights norms in international relations (Risse and Sikkink 1999, 5). A broad range of constructivist research has illustrated the numerous instances where INGOs have been the principle driving force behind international behaviour and norm changes. For example, the enthusiastic adoption of women's rights onto the agenda of the UN in the 1990s, culminating in the adoption of the landmark Declaration on the Elimination of All Forms of Violence Against Women by the UN General Assembly in 1993, can be directly attributed to the political processes initiated 20 years previously and principally driven by INGOs (Joachim 2003, 247). Similarly, the introduction of binding treaties concerning the banning of landmines and cluster munitions, as well as the ongoing campaign against small arms, can be attributed to the efforts of concerted transnational advocacy campaigns (Carpenter 2011, 69).

Risse and Sikkink identify three practices through which INGOs constitute human rights norms in the international system: (1) they shame norm-violating states and remind other states of their obligations; (2) they mobilise domestic opposition to norm-violating governments; (3) they mobilise both international and domestic opposition to pressure norm-violating states from multiple angles (1999, 5). These activities are based upon a series of imbricated political practices, which involve the creation and presentation of politically useful data and information (information politics), the use of symbolic events and information to increase awareness of their cause (symbolic politics), the leveraging of powerful institutions such as states and intergovernmental organisations (leverage politics), and the policing of states who have committed to the principles and norms advocated by the INGO (Keck and Sikkink 1998, 18–25; 1999,

95). The target audiences for these practices often differ. For example, Amnesty International has largely focused on stimulating grassroots campaigns, whilst Human Rights Watch targets the sources of decision-making power, such as states, international institutions, and international legal bodies (Meriläinen and Vos 2014). INGOs are also starting to increasingly turn their powers of persuasion towards other transnational actors, such as global firms, with some success (Spar and La Mure 2003). In most cases however, INGOs will engage in at least some of the political practices described above, no matter the audience.

If we bring the poststructuralist and feminist perspective, as discussed throughout this chapter, to this constructivist understanding of INGO activities and the impact they have on international behaviour, we can conceptualise these activities and the contents of the norms as discursive in nature. Recalling Epstein's argument that social actors, including INGOs, are speaking actors, and therefore the subjects of discourse (2008, 16), a discursive perspective enables us to conceive of the advocacy campaigns of INGOs as constituting particular understandings of sexual violence against men in armed conflict. The aim, therefore, is to deconstruct and analyse these discourses, as will be discussed in greater depth in the next chapter. Drawing additionally on Locher and Prügl, attention must be paid to the kinds of knowledges that these organisations are creating (2001, 124) and then mobilising in support of their advocacy goals. Not only does this shape the character of the norms they seek to create, but they also shape our understandings of the issue. For example, much of what we know about sexual violence against men has emerged from the somewhat patchy coverage of the subject by various INGOs. As such, a poststructuralist and feminist approach to analysing the content of INGO advocacy campaigns through a discursive lens arguably enables the deconstruction and analysis of the understandings, knowledges, and discourses that comprise the norms that INGOs seek to implement in international relations.

## International Law

In comparison to the work of non-state actors such as NGOs in the international system, international law has constituted less of a focus for constructivist scholars (Adamson and Sriram 2010, 39), and those who have focused on it have adopted a largely positivist approach to international law (Brunnée and Toope 2012, 138). However, some work has gone towards addressing this gap. The power of international law, as Reus-Smit argues is 'that a distinctive type of politics has encouraged states and non-state actors to imagine a realm of institutionalised action in which certain 'political' types of behaviour are foreclosed and other 'legal' types are licensed and empowered' (2004, 37). These legal norms concerning appropriate behaviour by states in the international system are produced through instruments such as treaties, which Bower describes as 'focal points' for norm production (2016, 13). In terms of international law related to the regulation of armed conflict, as will be analysed in later chapters, constructivists note the power of various international treaties and argue that states comply with these regimes because they believe them to have value, and because they wish to be perceived as (or perceive themselves as) members of a law-abiding community (Adamson and Sriram 2010, 40).

Applying the insights of poststructuralism and feminism as discussed earlier in this chapter, international law can be perceived as a primarily discursive institution. Similarly to constructivism, poststructuralism as a theoretical tradition has not engaged to any significant extent with questions of international law. A notable exception is Rasulov, who applies a poststructuralist focus on the ultimate contingency of any given discursive structure to a reading of international law:

Seen from this perspective, anything that exists in our discursive universe, including the discourse of international law, is effectively the product of our particular history and not of any transcendental domain, such as, for instance, universal justice, the nature of the international community, or the basic principles of reason (Rasulov 2006, 811).

This provides a useful point of ingress into the concept of international law for poststructuralist theorising; it rejects the possibility of objectivity in law and notes the ultimate contingency upon which legal discourses rest, thus opening them up to analysis and contestation. Others from different theoretical perspectives have come to similar conclusions; as Delgado notes, ‘implying that objective, correct answers can be given to legal questions ... obscures the moral and political judgements that lie at the heart of any legal inquiry (1989, 2441). As such, international legal discourses constitute ‘reality’, rather than simply reflect it. Coates, Bavelas and Gibson, whilst focusing on law as a broader concept, still make a point that is relevant to the discourse analysis of international law more particularly:

There is an obvious but underdeveloped affinity between discourse analysis and the practice of law. Language and texts are central to the practice of law, which can be said to primarily consist of discourse. Written judgements, in particular, *express* the state of law at any given time. Furthermore, they *affect* not only the litigants but also the future shape of the law and society at large. The language used in legal judgements is not merely a reflection of individual thought; it is important in and of itself (Coates, Bavelas, and Gibson 1994, 189, emphasis in original).

Indeed, the discourse of legal processes and judgements can have very material consequences for both individuals and society; for example, Brenda Danet (1980) notes the ways in which the use of certain forms of language over others, specifically the use of the term ‘baby’ instead of ‘fetus’, in the case of a US obstetrician performing an abortion led to a situation in which the defendant was found guilty of manslaughter. Susan Ehrlich has analysed ‘how dominant ideologies of sexual violence against women are reproduced, sustained, and (potentially) contested in [judicial] settings’ (2003, 645). This constitutive effect of law is replicated and reinforced at various political sites; for example, international legal definitions ‘generally underpin (whether explicitly or implicitly) the operationalisation of torture and sexual violence in academic texts’ (Gray and Stern 2019, 1041). Given the impact that international law has on structuring understandings, knowledges, and discourses of the subjects it engages with, a poststructuralist and feminist approach that centres discourse as the focus of analysis would seem appropriate.

### **PART III: Conclusions**

This chapter has sought to outline the theoretical framework that this thesis adopts. Based on a poststructuralist and feminist critique of mainstream approaches to international relations, it has argued that international relations is principally a discursive arena, and that a discursive approach that seeks to deconstruct the representations upon which international political activity is based is the most appropriate approach for this thesis. Further to this, it argued that a feminist approach that foregrounds gender is required in a research project that seeks to analyse sexual and gender-based violence in armed conflict, and drew on a poststructuralist approach to the construction of gender. It also sought to justify sexual violence against men as a valid subject of IR research, and that attention must be paid to how subjects like this are constituted in international politics. It has also argued that despite some theoretical differences, constructivist IR theory's focus on the role of non-state actors in the international system provides a useful means of justifying the focus of this thesis on human rights advocacy INGOs and international law. Combining this approach with the poststructuralist and feminist approaches to discourses, it argued that both INGOs and international law can be seen as principally discursive bodies, thus justifying a discursive approach to their analysis. Laura Shepherd neatly encapsulates the theoretical approach of this thesis:

Theoretically, however, because of its ontological assumptions regarding the representation of gender in policy statements, advocacy, documents and other pertinent resources, this approach [of the violent reproduction of gender] simultaneously engages with critiques of these discursive artefacts, questioning the ways in which key subjects (such as gender, men, women, rape, violence, empowerment, and so on) are articulated and, crucially, the kinds of meanings that are constituted in these artefacts. Simply put, 'the violent reproduction of gender' as an analytical lens requires a commitment to iterative critique: engaging with, influencing and helping to shape policy addressing rape in war while simultaneously critiquing the conceptual foundations of such policy and illuminating the ways in which well-intentioned policies can function to solidify the gendered inequalities that they purport to ameliorate (Shepherd 2013, 20).

The aim, therefore, is to analyse these discourses and articulations of sexual violence against men in armed conflict that are found within the practices of international law and human rights advocacy. However, before continuing to this analysis, the thesis first must outline exactly what is meant by the term 'discourse' and how I will analyse it. Whilst this has been intimated to some extent in this chapter, the conceptualisation of discourse and the methods used to analyse it are closely related, necessitating a more detailed examination in the following chapter.

## **CHAPTER IV – POSTSTRUCTURALIST METHODS: DISCOURSE- THEORETICAL ANALYSIS**

This chapter elaborates upon the central theoretical concept of ‘discourse’ that was introduced in the previous chapter and discusses methodology, both in terms of the approach utilised by this thesis and issues that arise in any interpretive piece of analytical work. The first section clarifies what is meant by the concept of ‘discourse’ in the context of this thesis, building heavily on the work of Discourse Theory poststructuralists such as Doty (1993; 1996), Howarth (2000), Laclau (1988; 2007), Laclau and Mouffe (2014), and Torfing (1999). The ontological premises of a poststructuralist-informed understanding of discourse are delved into, with the thesis subscribing to what is referred to as a ‘radical materialist’ (Howarth 2000, 112) approach. The second section translates the Discourse Theory of the first section into an operational methodological approach for the analysing of texts. This section draws principally upon Laura Shepherd’s operationalisation of Discourse-Theoretical Analysis (DTA), although the insights of other poststructuralist scholars such as Bacchi (2015; 2016) and Hansen (2006) are also integrated into the methodology. The third and final section delves into the practicalities of interpretive research; document selection and collection, the application of DTA to the texts themselves, and issues of reliability, generalisability, and validity.

### **PART I: The Importance of Language: A Poststructuralist Approach to Discourse**

Previously, in Chapter III, both human rights advocacy INGOs and international law (and its related institutions) are theorised within a broadly poststructuralist and feminist IR framework as producers, reinforcers, and contesters of norms, as well as key sources of information and data on sexual violence in armed conflict. These roles, I contend, are principally discursive in nature. To revisit Roxanne Doty, ‘international relations are inextricably bound up with discursive practices that put into circulation representations that are taken as “truth”’ (1996, 5). As such, the analysis of those representations – in the case of this thesis, the representations of sexual violence, in

armed conflict broadly and against men specifically, promulgated through the activities of INGOs and international law – must be informed by a theoretical and methodological position that foregrounds discourse. On the basis of this, the theoretical and methodological starting point for this thesis is that language is powerful. Sandesh Sivakumaran, in writing on the power that language has to foreground or hide particular understandings of sexual violence against men in conflict, notes:

Language in general and legal language in particular ‘reinforces certain world views and understandings of events ... Through its definitions and the way it talks about events, law has the power to silence alternative meanings – to suppress other stories’ (Sivakumaran 2007, 257, citing Finley 1989).

Where then, does language derive this power from? To answer this, I turn to poststructuralist discourse theory.

Poststructuralism is as much a theory of language as it is of knowledge (B. Agger 1991, 112), stemming as it does from the structural linguistics and semiotics of Ferdinand de Saussure and their subsequent modification by Jacques Derrida. To poststructuralism and discourse theory, as Lene Hansen has argued, ‘language is ontologically significant: it is only through the construction in language that ‘things’ – objects, subject, states, living beings, and material structures – are given meaning and endowed with a particular identity’ (2006, 18). As such, language and discourse do not simply reflect an underlying objective reality, but rather play a significant and active role in constituting and shaping that reality (Jørgensen and Phillips 2002, 1). As such, poststructuralist discourse theorists contend that meanings, therefore, are created and conferred by discourse, rather than meaning pre-existing discourse and language.

On this basis, broadly speaking, a discourse or discourses can be understood as ‘[delineating] the terms of intelligibility whereby a particular “reality” can be known and acted upon’ (Doty 1996, 6). More specifically, discourse can be understood as a

system or structure of practices within which meanings are constantly (re)created and (re)negotiated (Howarth and Stavrakakis 2000, 3–4; Laclau 1988, 254) through a system of significant differences and signifying sequences (Howarth 2000, 101; Torfing 1999, 85). Howarth provides a useful example to illustrate this, and is worth reproducing at length:

Consider, for instance, a forest standing in the path of a proposed motorway. It may simply represent an inconvenient obstacle impeding the rapid implementation of a new road system, or it might be viewed as a site of special interest for scientists and naturalists, or a symbol of the nation's threatened natural heritage. In short, the meaning or 'being' of the forest – what it literally is for us – depends on the particular systems of difference or discourses that constitute its identity. In discourses of economic modernisation, trees may be understood ... in this example, as temporary obstacles to the rapid building of the motorway. In environmentalist discourse, by contrast, a forest might represent a viable ecosystem or an object of intrinsic value and beauty. Each of these discursive structures is a social and political construction, which establishes a system of relations between different objects and practices, while providing 'subject positions' with which social agents can identify. In our example, these subjects might be 'developers', 'naturalists', 'environmentalists', or 'eco-warriors' (Howarth 2000, 101–2).

To briefly summarise, discourse is a system of practices through which the meaning attached to objects and subjects is created, contested, and negotiated. There exists no pre-discursive or objective meaning to 'things'; rather, the meaning attached to them depends upon the representation of them by discursive practices. More specifically, this means that 'problems' have no meaning outside of discourse. Herbert Gottweis concisely summarises this ontological premise by highlighting : 'neither the truth of 'hazards of genetically modified organisms', nor the policy-problem of a 'significant increase of Creutzfeldt-Jakob patients', nor a 'high technology-gap' (to give some empirical examples) is simply 'out there' and only needs to be discovered or studied' (2003, 249). Applying this position to the subject matter of this thesis, sexual violence in armed conflict, and against men more specifically, the meanings attached to this form of violence arise from a system or series of representational practices, which can be referred to as discourse. As in the case of Howard's forest above, multiple different, apparently contradictory discourses of sexual violence can

be evident at any particular time. For example, the biological discourse of rape, where rape is theorised as the unavoidable consequence of men's biological instincts (Gottschall 2004, 133), constitutes rape and sexual violence as very different forms of violence from, to take one example, the 'rape as a weapon of war' discourse that predominates in various policy forums today.

It is necessary to point out at this point that adopting a discourse-theoretical approach to the study of sexual violence does not necessitate a denial of the materiality of such violence, an accusation frequently levelled by positivist and realist scholars at postpositivist research. These critiques often stem from a broader ontological disagreement on poststructuralism's denial of an objective reality and focus on deconstruction. For example, Guzzini refers to poststructuralism as a 'radical idealist position, increasingly emptied of any meaning (2000, 148). On a similar line of argument, Geras accuses Laclau and Mouffe of 'shamefaced idealism' (1987, quoted in Carpentier and Brussel 2012, 100). Blair, going further, has argued that the poststructuralist shift away from Enlightenment principles imperils the possibility of finding 'realistic solutions to real problems' (2011, 829, citing Halliday 2001).

I would dispute these criticisms on the basis that they are a misrepresentation of discourse theory and poststructuralist ontology. Firstly, in response to Blair, and as discussed earlier in Chapter III, poststructuralism does not necessarily preclude making claims and acting on those claims, but rather requires that we do so reflexively. For example, Laura Shepherd's poststructuralist feminist approach to conceptualising rape in armed conflict requires a 'commitment to iterative critique: engaging with, influencing and helping to shape policy addressing rape in war while simultaneously critiquing the conceptual foundations of such policy' (2013, 20). Furthermore, as seen in the poststructuralist and feminist critiques of positivist theoretical standpoints in Chapter III, claims to what is 'real' are instead hegemonic discourses that have cemented themselves as 'fact' rather than actual reflections of an 'objective' reality. Secondly, adopting a poststructuralist theoretical position does not necessarily preclude the assumption of the existence of an independent material reality. As Laclau and Mouffe explain:

The fact that every object is constituted as an object of discourse has *nothing to do* with whether there is a world external to thought, or with the realism/idealism opposition. An earthquake or the falling of a brick is an event that certainly exists, in the sense that it occurs here and now, independently of my will. But whether their specificity as objects is constructed in terms of 'natural phenomena' or 'expressions of the wrath of God', depends upon the structuring of a discursive field. What is denied is not that such objects exist externally to thought, but the rather different assertion that they could constitute themselves as objects outside any discursive condition of emergence (Laclau and Mouffe 2014, 94, emphasis in original).

Laclau and Mouffe reject the realist/idealist divide in favour of a 'radical materialist' (Howarth 2000, 112) approach. The materiality of objects is not contested – they exist independent of our cognition of them. However, it is not until these objects are represented through language and discourse that they take on any understandable meaning. Roxanne Doty makes a similar point, and provides a useful example to illustrate this position, by noting that whilst the marching of US troops into Grenada is 'real', the act is not made meaningful outside of the representations attached to the troops, as 'American', and the geographical space, as 'Grenada', as well as the act itself, as 'invasion' or other such signifier (1996, 5). As such, adopting a discourse theoretical approach to sexual violence against men does not entail denying the materiality of such violence; rather, it involves problematising and deconstructing the discourses that construct and attach meaning to the material acts of violence.

Two further concepts in discourse theory are critical for understanding how discourse operates; *articulation* and *discursive fluidity*. Firstly, as discussed above, discourse refers to a system of practices in and through which meaning is negotiated and contested. This discursive meaning-making occurs through a process of articulation, which is conceptualised as 'any practice establishing a relation among elements such that their identity is modified as a result of the articulatory practice' (Laclau and Mouffe 2014, 105). This broadly refers to the linking of different signifiers to modify their meaning and constitute a discourse. For example, Howarth constitutes the concept of 'Thatcherism' as a discourse, in that it linked together a set of policies and ideas – such as 'freedom', 'the rule of law', and 'monetarism' – alongside a set of practices –

'strong leadership' and 'entrepreneurship' – and a set of actions – 'transforming the state' (2000, 103). As such, articulatory practices constitute the meanings of subjects and objects within a given discourse.

Secondly, discourse theorists assert that discourses are *fluid*, in that meaning in any given discourse can never be fixed permanently, and that there can only ever be a *partial* fixity of meaning (Laclau and Mouffe 2014, 98; Torfing 1999, 92); there is always something extraneous to the discourse that overflows and prohibits the achievement of total fixity of meaning, something Torfing refers to as a 'surplus of meaning' (1999, 92). This constant non-fixity and fluidity of discourses and meanings can be seen in the shifts over time of the meanings attached to 'sexual violence'; explicitly or implicitly assuming a pre-existing, pre-discursive definition of sexual violence in armed conflict would be to assume some form of pre-discursive fixity of meaning of sexual violence, and holds the potential to legitimise and privilege certain forms of violence and obscure and delegitimise those forms that fall outside of particular categorisations. Muehlenhard and Kimes (1999, 235–36) use the example of marital rape to highlight the constructed and shifting nature of sexual violence and sexual violence discourse; prior to the 1970s, the rape of a woman by her husband had been legally and conceptually placed outside the bounds of definitions of sexual violence and rape. Since the 1970s, however, feminist activism on the subject has led to a reorienting of the boundaries of sexual violence discourse, to the extent now that marital rape is firmly sited within the realm of both sexual violence discourse and sexual violence law.

Discourses, however, will always try and construct themselves as stable, and it is here that the concepts of articulation and partial fixity of meaning intersect; articulatory practices, in constituting discourse, attempt to set the points at which meaning can be at least partially fixed, what Laclau and Mouffe refer to as 'nodal points':

The practice of articulation, therefore, consists in the construction of nodal points which partially fix meaning; and the partial character of this fixation proceeds from the openness of the social, a result, in its

turn, of the constant overflowing of every discourse by the infinitude of the field of discursivity (Laclau and Mouffe 2014, 100).

Discourses are therefore constituted with the aim of dominating a discursive field by arresting the shifting of meaning and creating an identifiable centre through the construction of these nodal points (Laclau and Mouffe 2014, 98–99); the construction of nodal points forms a further focus of the operationalisation of Discourse Theory, as discussed later. This often gives way to hegemonic practices, whereby ‘hegemonic projects will attempt to weave together different strands of discourse in an effort to dominate or structure a field of meaning’ (Howarth 2000, 102). Such projects, where discourses are expanded ‘into a dominant horizon of social orientation and action’, necessarily involve an element of power and resistance (Torring 1999, 101).

One final point on discourse is worth exploring before continuing to the operationalisation of discourse theory into a viable interpretive strategy. It is important to note, for the sake of conceptual clarity, that whilst spoken or written language often holds a privileged place within discourse analytical approaches, the meaningful practices that constitute discourse are not synonymous with language; rather, as discussed above, discourses are ‘systems of meaning production rather than simply statements or language’ (Shepherd 2008, 20). As Howard and Stavrakakis note, this conceptualisation of discourse allows discourse analysts to consider a significantly broader range of empirical materials than may otherwise be assumed:

discourse analysts treat a wide range of linguistic and non-linguistic data – speeches, reports, manifestos, historical events, interviews, policies, ideas, or even organisations and institutions – as ‘texts’ or ‘writing’ (in the Derridean sense that *there is nothing outside the text*) (Howarth and Stavrakakis 2000, 4, emphasis in original).

In a similar vein, Shepherd provides the example of taking a photograph as a form of non-linguistic representational practice (2008, 24). Hence, whilst this thesis focuses on written language as a discursive practice, operating through the documentation produced by INGOs and international legal institutions, it is important to acknowledge that the gamut of actions that can be considered as discursively meaningful is not

limited to this particular form of practice, and may instead encompass a broad range of linguistic and non-linguistic social practices. It is to the methods of analysing these discursive practices that this chapter now turns.

## **PART II: Operationalising Poststructuralism: Discourse-Theoretical Analysis**

How might we go about translating a poststructuralist theoretical position, supported by the insights of a constructivist conceptualisation of the international system and the actors within it, into a viable, rigorous research project? The answer is not straightforward. The relationship between poststructuralists and questions of methods and methodology has been rendered somewhat unstable by the ontological and epistemological positions of its most notable theorists. Derrida, for example, notably resisted the reduction of poststructuralist research 'to a formal and general method' (Howarth 2000, 44), although Howarth notes that Derrida was not entirely opposed to what he referred to as a 'general marching order' of poststructuralist analysis (Derrida, 1981, quoted in Howarth 2000, 44). As a consequence, poststructuralists have, so far, largely focused on problematising and challenging existing ontological and epistemological standpoints instead of conducting work under a generalised methodology (Hansen 2006; Inayatullah 1998).

This is not, however, to say that the theoretical tradition of poststructuralism is entirely devoid of methodological development since its emergence, nor have poststructuralists dogmatically cleaved to a formal rejection of methodology. For example, both Carol Bacchi (2015; 2016) and Lene Hansen (2006), focusing on problem representations in health policy and the construction of foreign policy identities respectively, have synthesised a poststructuralist ontological and epistemological theoretical standpoint with a rigorous and empirically validated methodological approach to their research. The thesis however, whilst drawing on both Bacchi and Hansen, among others, bases its interpretive approach on Laura Shepherd's Discourse Theoretical Analysis (DTA), outlined in her book *Gender, Violence & Security: Discourse as Practice* (2008). Shepherd uses DTA to analyse the ways in which the concepts of gender, women, security, and the international are

constituted through the discursive practices embodied in the documentation produced in the lead-up to United Nations Security Council Resolution 1325. As will be explored later in this chapter, Shepherd's analytical approach is particularly useful for the subject in terms of her focus on documentary sources as a discursive practice, and her focus shifting away from identity, which has been the focus of a significant amount of poststructuralist-informed discourse analysis, as the focus of analysis in favour of a focus on the construction of concepts.

Prior to outlining Shepherd's conceptualisation of DTA, it is worth reflecting upon the general aims of a discourse analysis that operates within the theoretical and philosophical framework of poststructuralist discourse theory. To briefly summarise the preceding section of this chapter, a discourse is conceptualised as a system of meaning-making practices within which identities, subjects, and objects are imbued with meaning. Meaning-making is never complete, as a discourse can never fully encompass all possible meanings, and therefore discourses are articulated with the aim of providing at least partial fixity, what are referred to as 'nodal points'. Central to this conceptualisation is the rejection of there being extra-discursive meaning, whilst still recognising the materiality of the 'things' that are constituted with meaning through discourse. This collapsing of the realist/idealist divide inherent to discourse theory precludes the use of other forms of discourse analysis, such as Critical Discourse Analysis (CDA), which takes the epistemological view that there are dimensions beyond discourse (Philips and Jørgensen, 2007, cited in Carpentier and De Cleen 2007). As such, the purpose of discourse analysis operating within a discourse-theoretical framework is not to gain access to the realm beyond discursivity (for there is no such realm) nor to arrive at 'objective' knowledge (with all knowledge being contingent and discursively situated). Rather, according to Doty:

The goal of analysing these practices is not to reveal essential truths that have been obscured, but rather to examine *how* certain representations underlie the production of knowledge and identities and how these representations make various courses of action possible (Doty 1996, 5).

Lene Hansen makes a similar point, drawing upon the example of the US War on Drugs; the aim of discourse analysis would not be to ‘fact check’ the statistics on drug use between black and white Americans (although this could certainly form part of the later analysis, what she refers to as ‘second order factual questions’), but rather to interrogate the production of those material facts, such as the distinctions made between ‘criminal’ and ‘acceptable’ drugs (Hansen 2006, 22–23). This has two implications for any discourse theory-informed discourse analysis.

Firstly, discourse analysis, in this context, is not intended to entail the ‘fact-checking’ of human rights advocacy reporting or international legal judgements, nor does it aim ‘to juxtapose the different readings with a view to dismissing one or another of the narratives as “untrue”’ (Shepherd 2008, 31). Indeed, this would run counter to the theoretical underpinnings of poststructuralist research by assuming an objective reality against which discourse can be measured and affirmed as true or found wanting. Instead, I aim to tease out what Shepherd refers to as the ‘regimes of truth’ (2008, 31) produced and sustained in the analysed texts and proffer a critical perspective on them. This is particularly necessary in the context of international legal tribunals, given their principal goal of establishing an ‘objective truth’, not only of events and criminal responsibility for them, but also the substantive elements of crimes. As such, this thesis, akin to Shepherd’s own use of DTA (2008, 32), adheres broadly to what David Howarth refers to as a ‘strategy of problematisation’, where the research ‘seeks to show that dominant discursive constructions are contingent and political, rather than necessary’ (2000, 135).

Secondly, when applying discourse analysis, it is important to consider of the ‘discursive terrain’ or ‘conditions of possibility’ of a discourse. Laclau notes that discourse analysis is ‘a type of analysis primarily addressed not to *facts* but to their *conditions of possibility*. The basic hypothesis of a discursive approach is that the very possibility of perception, thought and action depends on the structuration of certain meaningful field which pre-exists any factual immediacy’ (Laclau 2007, 541, emphasis in original). This field represents a site of contestation: Thomassen argues that ‘the discourses compete on the discursive terrain, taking the latter as their ground, and the discursive terrain works as a horizon for the ways in which it seems possible to

think and act. However, the individual discourses also shape the nature of that terrain when successful' (Thomassen 2017). Discourses, therefore, both influence and are influenced by the discursive terrain in which they are situated. As such, the purpose of discourse analysis is to look for the ways in which discourse structures and circumscribes the ways in which we are able to think of and talk about subjects, and, conversely, structures what lies outside the realm of intelligibility.

Drawing all of the above together, the purpose of discourse analysis in this thesis is therefore not to examine how the particular framings of sexual violence in armed conflict deployed in INGO reporting and international law are supported or contradicted by available evidence (although this is not to say that such an exercise would not be valuable or worthwhile). Rather, the purpose here is to interrogate the first order production and reinforcement of those frames in the first place. I refer to the excerpt from Roxanne Doty given above; *how* is sexual violence, in conflict more broadly and against men in particular, constituted through the discursive practices of the organisations and institutions under study, and what courses of action are rendered possible or impossible as a consequence? This informs the layout of the remainder of the thesis; the following two chapters concern themselves with *how* sexual violence against men is discursively constructed by both INGOs and international law. The final chapter then considers what avenues of action are enabled or occluded by the production and reinforcement of the identified regimes of truth. It is to identifying these regimes of truth, through the application of Discourse Theoretical Analysis, that this chapter now turns.

### **Interpretive Schema: Discourse Theoretical Analysis**

In her conceptualisation of Discourse-Theoretical Analysis, Shepherd suggests searching for a variety of representational practices, which she divides into two categories. The first category involves searching for:

The 'forms of thought' or linguistic structures that provide a sense of order in the texts, thus constructing the meaning of the concepts with

which I am concerned. In the identification of representational practices specific to gender, for example, I look for instances of gendered identities described 'as' or 'like', statements about gendered identities that can be problematised and emphasis on aspects of gender provided by placement within the text and/or repetition (Shepherd 2008, 30).

On the basis of this, I search for a variety of practices in the text, such as the manner in which the text is structured; for example, considering the discursive implications of the foregrounding of a particular concept or subject within a text, or the burying of another in a footnote. I move beyond Shepherd's analytical schema at times, given the marginalised nature of sexual violence against men (as discussed in Chapter II), and consider the manner in which the structure of the text may marginalise or occlude the signifiers and concepts with which I am concerned. I also integrate the insight of Carol Bacchi's 'What is the Problem Represented to Be' (WPR) approach to complement and deepen the level of analysis provided by Shepherd's DTA. In particular, where Shepherd mentions 'statements that can be problematised' as a representational practice to look for in the texts, I take this further by considering Bacchi's call to consider 'what is left unproblematic in this problem representation (2016, 9); effectively, considering what is occluded by that particular representational practice. In effect, I consider what is being silenced or marginalised when searching for and identifying representational practices in the text.

The second category of representational practices that Shepherd suggests the researcher look for in the text includes:

Articulations of subjects and objects, what Doty terms predication, which 'affirms a quality, attribute, or property of a person or thing' and the positioning of these subjects and objects in relation to each other in the texts. ... For example, I look at the multiple ways in which violence is represented, as legitimate, as gendered, as threatening to civil society, and so on, and investigate how these predicates affirm the properties of violence within these narratives (Shepherd 2008, 30–31, citing Doty 1996).

Here, Shepherd's DTA converges with predicate analysis. The analysis of predicates and predications refers to the attaching of verbs, adverbs, and adjectives to nouns, which constitutes and modifies the meaning of the 'thing' – be it identity, subject, or objects – signified by the noun (Milliken 1999, 232). As such, I look for the ways in which the key concepts with which I am concerned – for example, 'sexual violence' or 'sexual violence against men' – are predicated upon particular signifiers which constitute them as having particular attributes. Shepherd further suggests looking for the manner in which subjects and objects are positioned in relation to each other in the text. This draws on the concept of differentiation and articulation, as outlined earlier in this chapter. The search for this particular form of representational practice broadly conforms to Farkas, Schou, and Neumayer's approach to DTA, in which they analysed how the meaning of different signifiers was constituted and modified through the linking of various signifiers and nodal points together into a 'chain of equivalence' (2018, 469). On the basis of this, I also search for the ways in which particular nodal points, signifiers, or groups of signifiers are related to and linked to each other, and the manner in which these established linkages and chains modify the meanings of the signifiers involved.

Whilst Shepherd's DTA forms the core of the interpretive strategy that informs the analysis of the texts, she provides few sensitising questions for informing the analysis of what courses of actions the uncovered discursive formations make possible or prohibit; a key feature of discourse analysis as conceptualised earlier by Doty (1996, 5). As such, whilst DTA remains the key source of interpretive strategies for analysing discourses of sexual violence against men, it is to Bacchi's 'What is the Problem Represented to Be' (WPR) approach that I turn to provide a sense of analytical direction when considering the courses of action that are rendered possible or impossible in later chapters of the thesis. In particular, Bacchi and Goodwin call for researchers to 'consider the effects of identified problem representations' (2016, 23) as part of a WPR analysis. Broadly, this refers to developing an understanding of how problem representations play out in people's lives (2016, 23). Translated into the particular context of the research that this thesis is conducting, this particular approach would involve asking what the identified discourses of sexual violence in conflict and sexual violence against men *mean* for male survivors, international law,

human rights advocacy, and further efforts to combat the issue. This forms the guiding analytical framework for Chapter VII. In addition, as a final step to a WPR analysis, Bacchi states that the researcher should consider the scope for questioning, disruption, and replacement of the identified discourses (2016, 9; Bacchi and Goodwin 2016, 23–24), with the aim of destabilising the taken-for-granted facts that the discourses constitute. This particular analytical guide forms the basis for the concluding thoughts of the thesis in Chapter VIII.

The aim of this section of the chapter has been to outline the theoretical purpose of the chosen methods and the manner in which a poststructuralist understanding of discourse can be translated into a viable and empirical set of methods. However, whilst the analytical schema of both Shepherd and Bacchi are central to the research conducted in this thesis, neither spend any significant amount of time on discussing the practicalities of conducting empirical research; the identification and collection of sources, the actual application of the analysis to the text, and so on. This is a key element of any significant document-based research project, and it is to a consideration of the actual processes and issues of laying the groundwork for and conducting this research that this chapter now turns.

### **PART III: The Practicalities of Discourse-Theoretical Analysis**

In order to investigate the construction of discourses of sexual violence against men in armed conflict, I applied the DTA approach outlined above to a broad spectrum of documents produced by influential human rights advocacy INGOs and international criminal tribunals. Whilst the practices of both INGOs and international legal statutes and institutions exert a significant influence on both the discourses of sexual violence, in conflict more broadly and against men in particular, and each other, as discussed previously in Chapter IV, the methods of selection and collection of the texts they produce, as well as the particular issues connected to their use, vary to a significant degree. The documents produced by INGOs and international legal institutions can differ substantially, in both form, content, intent, and the manner of their collection. As such, this part of the chapter discusses the location, selection, and collection

procedure for, as well as issues related to the use of, documents produced by INGOs and international legal institutions separately. It then proceeds to discuss the process by which the DTA approach outlined above was applied in practice to the collected documents.

### **International Non-Governmental Organisation Documents**

In total, 415 documents collected from 12 INGOs were analysed. Initially, the research design called for a much greater number of INGOs to be included in the analysis, and documents from over 50 organisations were collected. However, it was quickly established that this represented a significant body of text, and concerns were raised over the time needed to analyse all the documents. As such, the number of INGOs from which documents were analysed was restricted to 12 of the largest and most influential INGOs. The following INGOs were selected: CARE International, Freedom from Torture, Human Rights Watch, the International Committee of the Red Cross, International Crisis Group, International Federation for Human Rights, International Rescue Committee, Médecins sans Frontières, Oxfam, Tearfund, and the World Organisation against Torture. These INGOs were selected on two bases. Firstly, they have each produced a significant amount of documentation on sexual violence in armed conflict, either in the form of documenting its use in particular conflicts, or providing conceptual overviews in policy papers. Furthermore, all of them have reported on sexual violence against men to some extent. In all cases, these organisations have explicitly recognised the existence of sexual violence against men at times in their advocacy work. However, they have at times also, as will be detailed in Chapter V, reported on acts of violence against men that could be construed as sexual violence, but categorised such acts under another form of non-sexual violence, such as torture. Secondly, all hold respected positions in the advocacy community, and exert significant influence on policy; for example, most of the included INGOs have provided evidence to the now-concluded House of Lords Select Committee on Sexual Violence in Conflict (for example see House of Lords 2015) and are ongoing partners in the UK government's Preventing Sexual Violence Initiative (see PSVI 2017).

Once the final group of INGOs from which texts would be drawn had been established, the document collection phase of the project began. The overwhelming majority of documents consist of reports that detail human rights abuses in a particular conflict. A minority of these reports consist of reports on the state of human rights worldwide, or reports and policy documents on specific forms of human rights abuses such as gender-based violence, sexual violence, or torture. The rationale behind the usage of these particular types of document is based upon their embodiment of the processes by which INGOs seek to affect change in the world, as conceptualised by Keck and Sikkink (1998, 18–25) and discussed in greater depth in Chapter III; the documents are manifestations of the information, symbolic, leverage, and accountability politics that INGOs engage in to achieve their policy goals. They represent one of the principal means by which information on human rights abuses are disseminated to the wider world. In addition, such documents are produced for a variety of audiences; the international community, states, the United Nations, national and international policy-makers, the media, and the general public. The potential reach of the discourses within the documents as a consequence of this wide audience is considerable. Furthermore, and more specifically, these documents represent a key source of data on the use of sexual violence in armed conflict; as such, the discourses of sexual violence (re)presented and (re)enforced within them holds the potential to shape responses to the issue.

The INGOs in question maintain particularly useful online archives or libraries of much of the material they publish; it is from these that relevant texts were selected. Once the online archives of the relevant INGO were located, documents that pertained to armed conflict were collected. In some cases, the archive search tools would contain filters that could exclude documents that did not pertain to abuses in conflict. In other cases, the archives were searched manually for documents that related to conflict. Once documents were collected from each of the INGOs, they were subject to a keyword search to narrow them down to those that contained references to sexual violence, sexual violence against men, or both. The keywords included terms that applied more generally to the topic – such as ‘rape’, ‘sexual violence’, ‘sexual assault’, and ‘gender-based violence’ – as well as terms that apply more specifically to sexual

violence against men – ‘testicle’, ‘penis’, ‘genital’, ‘castration’, and so on. The separate keywords for sexual violence against men were adopted because, as will be discussed in the following chapter, this issue is often not characterised as ‘sexual violence’, but rather as ‘torture’ or more general ill-treatment. As such, signifiers that relate to body parts and acts of violence specific to men aided in collecting documents in which this particular framing appeared. The collected documents were then checked, and those with only one or two references to sexual violence were discarded; these contained little in the way of useful empirical material on sexual violence, which overwhelmingly consisted of a recognition that sexual violence had occurred within the conflict or conflicts under study. Once these documents had been discarded, there remained a pool of 415 documents, which were subsequently imported into NVivo. The application of DTA to these documents is discussed in detail at the end of this chapter.

Before continuing, it is worth noting that INGOs have been criticised on the basis of the accuracy of some of the claims they make in their advocacy work. For example, Cohen and Green have noted the transformation of unverified claims over the extent of rape during the civil war in Liberia into ‘fact’ as a consequence of INGO advocacy work, despite the verified rate of sexual violence being significantly lower than claimed (2012, 446). As discussed in the previous chapter, INGOs operate in an international system where available attention, money, and sympathy are in short supply (Bob 2002, 37), and reporting on human rights abuses may, albeit with the best of intentions, be skewed in favour of generating attention for campaigns. As such, questions may be raised as to the validity and accuracy of any analysis of these documents. However, it needs to be reiterated that the focus of Discourse-Theoretical Analysis is not the ‘fact-checking’ of documentation, but rather the production of those first-order facts in the first place. As such, the ‘accuracy’ of the analysed INGO documentation matters little within the context of this research. Indeed, those factual inaccuracies form an integral part of the discursive fabric of the texts and are worthy of analysis in and of themselves.

## International Legal Documents

Chapter III characterised international law as a source of discourse that plays an active part in constituting the world and the subjects with which it engages, rather than merely reflecting an 'objective' reality. I identified two particular sources of international law that are relevant to sexual violence in armed conflict; the various statutes and instruments of international human rights, humanitarian, and criminal law, and the case law through which international criminal jurisprudence is constituted and contested. In total, 42 international legal documents were collected, of which 8 were international humanitarian and criminal conventions and statutes, and 34 were instances of trial judgements from international criminal tribunals. Whilst the sheer number of INGOs that deal with sexual violence in armed conflict necessitated a selection procedure to focus on the most relevant sources in order to bring the pool of documents down to a realistic number, a similar procedure was not required for sources of international legal documents. In terms of statutes, the comparatively limited number that explicitly deal with sexual violence in armed conflict, and the short length of such provisions, meant that all relevant documents could be collected and analysed. Similarly, the comparatively limited number of international criminal cases ensured that documents could be collected from all trials that covered sexual violence in armed conflict.

International legal statutes relating to sexual violence in armed conflict were collected from either the United Nations document repository, or the archive of the International Committee for the Red Cross. Documents produced by the trial chambers of international criminal tribunals were collected from the respective websites of the tribunals, each of which maintain a comprehensive database of court materials. Whilst the considerable volume of legal documentation that is produced in the course of a criminal trial contains of a wealth of empirical material to draw upon, it was decided early on to focus solely on the judgements handed down by the trial chambers. This was done for two reasons. Firstly, the sheer volume of documentation produced by a single trial would represent a significant obstacle in terms of the time required to analyse each document, and for an uncertain return on relevant material. This is not to say that the material contained in these documents would not be interesting or of

empirical value, but that the time required to search each document and verify that it contained relevant material would not necessarily be commensurate with the amount of usable empirical material this would generate. Secondly, and on a related note, the judgements represent the culmination of the trial process, and thus encompass the material produced throughout the trial; it represents the greatest source of relevant empirical material contained within a (comparatively) small space. Furthermore, these documents provide a detailed account of the logic of the trial chamber with regards to the elements of crimes, which represents a rich textual source of the discursive terrain in which representations of sexual violence in international law and beyond are made.

Relevant judgements were collected from the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia, the Special Court for Sierra Leone, and the International Criminal Court. Whilst all of the courts provide a record of the cases in which instances of sexual violence were charged, these were not relied upon, given the tendency of various organisations to subsume sexual violence against men into the category of torture. As such, whilst all of the cases that were listed in such records were collected, each of the judgements were subject to a keyword search in a similar manner to the collected INGO documents, as detailed earlier in this section, in order to ensure that all instances of sexual violence against men were included, regardless of the manner in which it was charged. The documents were subsequently imported into NVivo in the same manner as documents drawn from INGOs.

### **Applying Discourse-Theoretical Analysis**

Once the documents were collected and imported into NVivo, the DTA approach outlined earlier in this chapter was applied to them. It should be noted that this did not involve an unaltered mimicry of Shepherd's approach; there are significant differences, principally in terms of the number of documents subject to analysis. Whereas Shepherd focused on a comparatively small number of documents related to the genesis of UNSC Resolution 1325, this thesis draws upon a significantly wider range of documents, with 415 INGO documents and 42 international legal texts

forming the foundation of the analysis. The in-depth reading and analysis of the entirety of each of these documents, some of which – in the case of some of the international criminal judgements – are in excess of 1,000 pages, was not practical within the time constraints available. To address this, elements of the methods adopted by Tregidga, Kearins, and Milne (2013), who also utilised a discourse-theoretical informed analytical strategy but with a significantly larger document set, were incorporated into the analytical scheme of the thesis. Tregidga et al. suggest in interpretive process in which extracts that relate to the key concepts under study after the documents have been read are taken from the texts on the basis of apparent research interest, coded, and then analysed for key themes (2013, 107–8). This process was judged to be more time efficient with a minimal reduction in the value of the empirical data derived.

Whilst manual coding would allow for an easier consideration of the relevant sections of text in the wider context of the remainder of the document, the organisational advantages proffered by NVivo were considered to outweigh the drawbacks of CAQDAS software, given the size and length of some of the documents and the ability to easily compare and visualise codes across documents. Finally, the documents were subject to several read-throughs, and were coded according to the principles of Shepherd's DTA outlined earlier, and in line with Tregidga et al's approach discussed above. For example, the texts were searched for sections relevant to the research aims of the thesis. Then, instances of text, for example, where the meaning of 'sexual violence' was modified through predication or emphasised through placement in the text or repetition were coded and tagged. The codes were then grouped thematically to aid the teasing out of overall themes and to assist in structuring the analysis section of the paper.

This was an inherently interpretive approach, which raises questions of validity, reliability, and generalisability. This thesis is firmly situated in a poststructuralist and feminist theoretical standpoint, both of which are postpositivist approaches and therefore opposed, or at the very least suspicious of, 'scientific' methods and ontologies of social and political research. As such, in terms of reliability, it is difficult to adhere to an idea of what a positivist researcher might conceive of as 'reliable'

research and analysis, as this would imply that the results of the research would be both 'replicable' and 'objective'. However, the positivist emphasis on objectivity or neutrality in research is problematic; research within the field of society and politics is inherently ideological and subject, and attempts to claim 'objectivity' or 'neutrality' serve only to obscure this (Lather 1986, 64). This is not to say, however, that poststructuralist research is diametrically opposed to the concept of reliability, or that discourse analysis is simply a case of 'whatever goes'. Lene Hansen, in the context of her research on the discursive construction of identity in foreign policy, provides a useful rebuttal to those critics of poststructuralism who argue that it is devoid of methodological rigour that is equally applicable to this thesis:

It is sometimes polemically argued by poststructuralism's critics that poststructuralism sees *any* reading as equally valid, that "anything goes". But this is misleading insofar as the methodology of discourse analysis insists on readings based on explicit discursive articulations of signs and identities and that one has to pay careful analytical attention to ... Thus if analysis overlooks important signs, if it misinterprets the stability between linked and juxtaposed signs ... or if it fails to identify the connections between identities and policy, then it makes a weaker reading. But to say that it is possible to establish methodological and theoretical criteria for good discourse analysis is not to say that there is one reading that will *exhaust* all others, or that texts cannot be subject to multiple research questions and thereby to multiple and complementary readings (Hansen 2006, 45, emphasis in original).

In other words, the impossibility of analysing discourse to the extent that the possibility of alternative analyses would be exhausted does not infer that poststructuralist work is inherently unreliable. Rather, there are better ways of 'doing' discourse analysis, but even this does not close off the possibility of alternative interpretations. As such, this methods chapter attempts to demonstrate the reliability of my chosen approach by clearly stating the ontological and epistemological assumptions that inform the analytical strategy (Shepherd 2008, 32–33), and by clearly outlining the processes by which I arrive at my conclusions (including the precise methods of interpreting discourse) and by demonstrating how these conclusions are based upon the collected evidence (Blaise 2005, 91). In doing so, I open up my approach to the analysis of the data to scrutiny by the reader and, if necessary, a critique of its reliability.

My responses to questions of validity in poststructuralist work are similar to my responses to questions of reliability. If validity is a measure of the appropriateness of a given set of research methods for studying a particular ‘thing’, then, rather than seeking to quantify this, I have sought instead to present the methodological foundations of this thesis as clearly and as transparently as possible in order to open it up to any critique regarding its ‘appropriateness’. Ultimately, however, I make a claim as to the validity of this particular piece of research because the analytical strategies I have outlined thus far ‘will enable me to “get at” what I want to analyse and therefore produce valuable and interesting work’ (Shepherd 2008, 33).

Finally, in terms of generalisability, positivist critics who would ask how the findings of any given piece of research might be applied to other settings again fall afoul of a poststructuralist epistemology. Firstly, discourses are inherently contingent and situated within a particular social and historical context that shaped and provided the conditions of possibility for their emergence (Shapiro 1989, 18–20). As such, the analysis of discourse will always be particular the subject of inquiry – it would not be possible, for example, to generalise the findings of this thesis to organisations and institutions beyond human rights INGOs and international law. As such, the purpose of poststructuralist analysis is to ‘foreground ideographic work that documents particularity and singularity rather than nomographic research that seeks to generalise’ (Merlingen 2013). Secondly, this thesis, as detailed earlier in this chapter, has sought to strike a balance between the analysis of a broad range of documents from different sources and the practicalities of intensive discourse analysis. Obtaining a comprehensive overview of the ways in which human rights advocacy INGOs and international law have discursively constituted the issue of sexual violence against men would be far beyond the capabilities of one person, given the inconceivably broad range of documents that could be drawn upon to develop such an overview. However, the focus on particularly prominent and influential INGOs, and on trial judgements produced by international criminal tribunals, is intended to enable me to make arguments and draw conclusions about what likely represent dominant and influential discourses of sexual violence against men within global politics.

## **PART IV: Conclusions**

This chapter has introduced the methodology and methods, as well as the underpinning ontological assumptions, of this thesis. It has argued that a Discourse-Theoretical Analysis, based upon a poststructuralist, discourse theory-informed ontology and epistemology, represents a viable and empirical approach to the analysis of documentary sources. The insights of Shepherd's conceptualisation of Discourse-Theoretical Analysis form the foundation of the interpretive strategy, with insights from other poststructuralist researchers being used to flesh this strategy out and adapt it to the needs of this particular research project. The following chapters present the results, and the analysis of those results, of the application of this DTA-informed interpretive strategy to texts produced by human rights advocacy INGOs and international legal institutions. It is to the analysis of how sexual violence against men in armed conflict has been represented by INGOs that this thesis now turns.

## CHAPTER V – INGO DISCOURSES OF SEXUAL VIOLENCE AGAINST MEN

The purpose of this chapter is to present the discourse-theoretical analysis, as outlined previously in Chapter IV, of the articulations and representations of sexual violence against men in armed conflict produced through the advocacy documentation of several influential human rights INGOs. How, and in what manner, is sexual violence against men in armed conflict, as well as violated male bodies, rendered as either visible or invisible through these advocacy activities? What forms do these representations (in)visibilities take? This chapter argues that representations of sexual violence against men can be understood as falling into three broad discursive strands; marginalised, framed as torture, and understood as gender-based violence.

The chapter is organised around these discursive strands, and is structured as follows. Part I, 'Marginalising Sexual Violence against Men', notes the myriad ways in which the issue is rendered as a secondary concern or as a less legitimate subject of humanitarian and advocacy interest. This, it is argued, occurs through a variety of textual and representational practices, which include sex-specific understandings of sexual violence, its absence from substantive discussions on prevention and policy recommendations, the conflation of gender with women, and comparisons between sexual violence against women and men. Part II, 'Sexual Violence against Men as Torture', discusses the framing of sexual violence against men as a form of torture, rather than as sexual violence. Noting that sexual violence against women is universally constituted as sexual violence *and* torture, it delves into the framing of specific forms of sexual violence against men solely as a form of torture, rather than as sexual violence and torture or as sexual torture. Part III, 'Sexual Violence against Men as Gender-Based Violence' presents the rare but significant representations of sexual violence against men as a valid subject of humanitarian concern, and as couched within a framework of gendered power relations, and thus constitutes it as a form of gender-based violence.

## **PART I: Marginalising Sexual Violence against Men**

This first discursive strand of sexual violence against men relates to the variety of textual and representational practices that serve to implicitly or explicitly marginalise the issue. Out of 415 collected documents, 207 of those address sexual violence against men. Of those 207, 113 present it as a form of sexual violence, rather than, for example, torture, as will be discussed in Part II of this chapter. However, despite this recognition, the problem is still represented in a manner that serves to marginalise it or even exclude it entirely from broader understandings of sexual violence. In this part of the chapter, I map the ways in which sexual violence against men is marginalised in the analysed documentation. I begin with a discussion of the instances in which INGOs constitute sexual and gender-based violence in a way that explicitly precludes the possibility of sexual violence against men by rendering them as forms of violence specific to women. This is noted to not be a universal feature of the documents, with many recognising that sexual violence against men can and does occur during armed conflict. However, I then contend that these recognitions of sexual violence against men usually consist of a few lines or a paragraph of text, which often amounts to the only appearance of male victims in the documents. They are noticeably absent from in-depth policy discussions and recommendations for addressing the abuses detailed in the documents. I then move to consider how sexual violence and vulnerability to violence is constituted in the context of gender and gender inequality. I note that women are constituted as being the most vulnerable to and suffering the most from sexual violence in armed conflict, as well as armed conflict more broadly, as a consequence of deeply entrenched gender inequalities that exacerbate (and in turn are exacerbated by) the violence experienced by men. Male victims, however, are not understood within this context of gender power relations, and as a consequence are further marginalised, as they are seen to not suffer from sexual violence to the same extent as women, who are not only physically violated, but also reinforced in their status as the lowest in society.

## Sex-Specific Definitions

The definition of sexual and gender-based violence in armed conflicts that the reports base their advocacy on play a key role in determining what may – and perhaps more significantly in the context of this thesis – what may not be classified as sexual violence. Whilst many of the analysed documents include standard terminology (such as ‘sexual and gender-based violence’), several instead explicitly render sexual violence, and gender-based violence more broadly, as something specific to women and girls. For example, Amnesty International, in a report on war crimes committed in Eastern DRC, states that:

In the course of the current conflict in the Democratic Republic of Congo (DRC) gender-specific violence against women, including rape, has been widespread. It has been perpetrated by members of the DRC security forces and military and by members of armed opposition groups sponsored by Rwanda and Uganda. Rape has frequently been used as a weapon of war (Amnesty International 2000a, 7).

Similarly, Human Rights Watch, reporting on the violations of women’s rights in Afghanistan committed by the Taliban prior to the US-led invasion in 2001, states:

The extreme violence and discrimination against women under the Taliban, the authorities currently ruling most of Afghanistan, follows years of deteriorating conditions for women. Successive regimes have imposed severe restrictions on women’s rights, while warring factions have targeted women for gender-specific violence, such as rape and forced marriage, because they are women and/or because they belong to a certain ethnic group (Human Rights Watch 2001, 6).

Here, the violence being perpetrated against women, including but not limited to rape and sexual violence, is predicated upon being ‘gender-specific’ rather than ‘gender-based’. In the latter excerpt from Human Rights Watch, the violence is further predicated on a female victim, in that it is articulated as occurring on the basis of the victim’s sex. In these cases, sexual violence against men is arguably erased; there is little space for discussion of non-female victims when rape and sexual violence is

articulated as 'gender-specific'. This articulation of gender-based violence, including sexual violence, as being predicated on a female victim is also reflected in the use of the CEDAW definition by some reports as a source of legitimacy for their advocacy. For example, an Amnesty International report, in noting the applicable international human rights law standards to cases of sexual violence in Nigeria, state the following:

The definition of discrimination against women contained in Article 1 of CEDAW includes violence against women: "*The definition of discrimination includes gender-based violence, that is, violence directed at a woman because she is a woman or that affects women disproportionately*" (Amnesty International 2006, 19, emphasis in original).

This representation of gender-based violence (including sexual violence) functions in much the same way as the excerpts above; gender-based violence is predicated upon the necessity of a female victim. However, unlike the previous excerpts, the CEDAW definition used in several reports also acknowledges that gender-based violence can also be violence that 'affects women disproportionately'. Whilst this could conceivably be interpreted to include male victims of sexual and gender-based violence, the predication of the gendered aspect to the violence upon the necessity of the violence being directed 'disproportionately' at women would seem to establish a discursive synonymisation of the concepts of 'women' and 'gender'; to put it another way, in this particular articulation of gender-based violence, violence is only considered to be 'gendered' if is targeted at women in particular or mostly at women. The effect of this is to somewhat lazily constitute gender as relating only to women.

Whilst this synonymisation of sexual or gender-based violence and violence against women, and the broader synonymisation of women and gender, is more prevalent in earlier reports, more contemporary reporting on sexual violence in armed conflict occasionally constitutes the subject in the same manner. For example, the International Committee of the Red Cross, in a broadly-focused report on gender-based violence, discusses violence against women and girls:

I am starting with the premise of what we do know: That GBV (or VAWG - violence against women and girls *which will be used interchangeably in this contribution*) threatens the lives, wellbeing and livelihoods of half of the population in emergencies, and that the onus is on us as humanitarians to address this violence (International Committee of the Red Cross 2015b, 23, emphasis added).

This is a fully acknowledged but largely uncritical synonymisation of gender-based violence and violence against women and girls. It functions in the same manner as those excerpts examined above. To reinforce the notion that gender-based violence and violence against women and girls *can* be used interchangeably is to, arguably, further reinforce the idea that these two signifiers refer to the same signified – in this case, the use of violence against women and girls. Ultimately, this particular conceptualisation serves to conflate sex and gender; sex-specific violence is described using the concept of gender. This broadly conforms to some prevailing trends in sexual violence discourse at all levels of international politics; Lara Stemple has noted the tendency of international human rights instruments to conflate sexual violence with violence against women in a manner that fails to challenge those masculinities that enable sexual violence in the first place and serves to render women as defenceless victims (2009, 635).

### **Acknowledging Sexual Violence against Men**

It should, however, be noted these articulations of definitions of sexual and gender-based violence as forms of violence specific to women do not appear universally in the documents. As discussed previously, significant proportion of documents that engage with sexual violence against men in armed conflict now explicitly categorise such violence as sexual, as opposed to a form of non-sexual torture, as has been the claim of much of the existing literature on the subject. To take a representative example from the analysed documentation, a Médecins Sans Frontières report on the use of sexual violence in the Ituri region in north-eastern DRC notes that:

Between 2% and 4% of victims of rape or sexual abuse that come to our health facilities are men or boys. Some of these acts of violence

take place during periods of detention. Patients report being forced to have sexual intercourse with female fighters or female guards, and even other prisoners. Others are raped by other men. The majority of these incidents of violence are committed publicly, in order to humiliate the victim (Médecins Sans Frontières 2007, 18).

The International Committee of the Red Cross, in a report documenting their research efforts in the DRC, similarly states that:

The International Committee of the Red Cross would like to offer some insight into the lessons learned and the continuing challenges in preventing and responding to sexual violence against women, girls, men and boys in the Democratic Republic of the Congo and, more specifically, in the provinces of North and South Kivu (International Committee of the Red Cross 2014).

Finally, the International Crisis Group, also reporting on the use of sexual violence in the DRC, asserts that:

Former CNDP leaders and FARDC commanders have a horrendous record of causing severe suffering to civilians during their operations and of active involvement in the illegal exploitation of natural resources in North Kivu. Sexual violence has taken a catastrophic toll on the Kivu population and must be addressed decisively, most importantly by holding civilian and military abusers accountable for their actions. Illustrating the dramatic breakdown of Congolese society, rape, practised by men and teenagers, on women and girls of all ages, but also on men, has become not just a weapon of war but also a widely-practised procedure for determining power relations (International Crisis Group 2009, i).

The above excerpts are broadly representative of the general trend in the recognition of sexual violence against men and boys in the analysed documentation that can be observed across the range of INGO reporting from 2000 to 2019. This recognition often takes one of two forms, although these forms are not mutually exclusive; the first is the articulation of the signifiers 'men' and 'women' (and sometimes 'girls' and 'boys') into a chain of equivalence in relation to their representation as victims of sexual violence. This is seen in the above excerpts from the International Committee

of the Red Cross, where 'women, girls, men and boys' (2014) are represented as being subject to sexual violence, and the International Crisis Group. The second form of recognition, as seen in the first excerpt from Médecins Sans Frontières, consists of an often separate and more in-depth discussion in which more detail on the issue is provided, such as the extent of the problem, the forms it takes, and the underlying reasons behind the violence.

### **Recognised but Absent**

These recognitions, however, often do not equate to in-depth consideration of or attempts to address sexual violence against men. A frequent pattern in the analysed documentation is the marginalisation of the problem through a recognition of its existence in a given conflict, but then its absence from the remainder of the report. This usually takes the form of a superficial recognition early in the report, or a more in depth section detailing the forms and extent of the violence, as discussed previously this section, but then a notable absence from discussions on prevention mechanisms, post-trauma care, applicable international legal standards, and/or impacts on victims more broadly. To take a representative example, an Amnesty International report on the use of mass rape in the Democratic Republic of Congo published in 2004 includes a section, albeit a comparatively short one, on sexual violence against men and boys when noting the indiscriminate nature of rape in armed conflict. The report, in this section, notes:

A hitherto unreported aspect of sexual violence is the large number of men who are also victims of sexual violence. Some men have been subjected to rape in the presence of their wives or children. Although male rape is reported much less frequently than the rape of women, one Congolese activist noted that "the rape of men is much more frequent than you might think. However, it is very difficult for the victims to speak out and condemn the violence to which they had been subjected" (Amnesty International 2004b, 19).

This excerpt is notable in that, firstly, it acknowledges the lack of attention paid to sexual violence against men, and, secondly, further notes that the extent of sexual

violence against men is likely greater than suggested and that male victims faced specific challenges to coming forward with their experiences. In this sense, it represents a more nuanced and informed approach to sexual violence against men than is the norm in INGO reporting on the subject. However, despite this, in practice this report acknowledges men and boys as victims of sexual violence but then excludes them when making policy recommendations to relevant parties. Whilst several of the policy recommendations are phrased in such a way as to be able to conceivably include both men and women, the majority focus solely on women, with the phrase 'violence against women' apparently used as a stand-in for 'sexual violence in armed conflict'. For example, whereas the report first calls on the transitional government of the DRC to 'meet the health care needs of survivors of sexual violence and make the rehabilitation of the national health care system a priority' (2004b, 42), which is phrased in a non-gender specific manner, the majority of the recommendations, which principally concern prevention and combatting sexual violence, are all specific to women. For example, the Amnesty International calls on the DRC to 'condemn and prevent sexual violence against women' (2004b, 43), and provides several sub-recommendations for achieving this aim. Similarly, the report further recommends that 'governments worldwide' 'stop supporting armed groups responsible for violence against women' (2004b, 44) and 'end the misuse of arms to perpetrate violence against women' (2004b, 44). These broad recommendations are followed by a series of more focused recommendations on how to achieve those broader aims, which are similarly focused specifically on sexual violence against women.

Further examples of this can be found in other texts. Another Amnesty International report, this one also focusing on acts of sexual violence committed in during the conflicts in the DRC, notes the following:

A largely unreported aspect of sexual violence in eastern DRC is the number of men who are also victims of sexual violence. Because of the high level of prejudice associated with male rape, very few survivors come forward to report attacks. Jean-Baptiste is a 22-year-old from a village near the shores of Lake Edward in Lubero territory. He told Amnesty International that he was returning home from his field in late January 2008 when a female *Mayi-Mayi* fighter stopped him and

held a knife to his chest. She then forced him off the path to an isolated place in the bush and demanded sex, telling him “If you refuse, I will kill you”. Still holding the knife against him, she then forced him to have intercourse with her (Amnesty International 2008, 12).

This excerpt is significant in that it constitutes sexual violence against men as poorly understood and likely widely underreported, as well as acknowledging the particular challenges faced by male survivors in coming forward with their experiences. However, in a manner akin to the previous excerpt, despite this acknowledgement of the potentially widespread use of sexual violence against men, male survivors do not appear in the rest of the text. For example, when making recommendations for parties to the conflict, the text states:

Urgent measures are needed to protect Congolese women and girls from continuing rape and other forms of sexual violence. To date, the Kivu peace process and negotiations with the armed groups have failed to make headway in ending these crimes and bringing the suspected perpetrators to justice ... Amnesty International is urging that all parties to the conflict immediately honour their commitment to halt attacks against civilians, and by incorporating specific projects to deliver justice and adequate medical care to survivors of rape and other forms of sexual violence into its programmes for reconstruction and development (Amnesty International 2008, 14).

Here, the only visible victims that are presented as requiring protection from sexual violence are women and girls. Men and boys, despite being recognised earlier, are not represented as needing protection, nor do they figure into the actions needed to address the needs of those subject to sexual violence. The sexually violated body in need of protection in this case, when it comes to the steps required to enact such protection, is decidedly female.

A final representative example can be seen in a Human Rights Watch report which similarly acknowledges the use of sexual violence against men and boys (as well as female perpetrators of such violence) during the 1991-2001 conflict in Sierra Leone. However, later in the report, as in the above two examples, the discussion of the

applicable international legal standards prohibiting sexual violence in Sierra Leone is prefaced with the following statement:

Women and girls have, since time immemorial, been subjected to sexual and gender-based violence, including rape and sexual slavery, during armed conflict. Mass rape of women and girls was documented during the Second World War as well as in more recent conflicts in such diverse countries as the former Yugoslavia, Rwanda and the Democratic Republic of Congo. Sexual violence has traditionally been considered as the inevitable by-product of armed conflict and has been mischaracterized by military and political leaders as a private crime or the unfortunate behaviour of renegade soldiers (Human Rights Watch 2003, 53).

Here, women and girls are represented as both the sole subject of international legal prohibitions on the use of sexual violence in armed conflict as well as the vast majority of (if not only) victims of such violence. Given that the invoking of international legal prohibitions forms a cornerstone of INGO advocacy on human rights abuses in armed conflict, this particular excerpt would appear to constitute such advocacy efforts as focusing solely on women and girls, despite the recognition of male victims of sexual violence earlier in the text.

### **Women, Gender, and Violence**

In a small number of cases, sexual violence against men is acknowledged as either a possibility or as occurring within a given conflict but is then explicitly stated to not fall within the focus of the document. In many cases, no reason is given for this choice. For example, a Tearfund report on addressing the needs of sexual violence survivors in eastern DRC contains the following statement:

This study focused particularly on sexual violence against women. We are aware, through Curran, Zengele and Mukamana's study, that men and boys may also be victims of sexual violence but our study focused only on women and we hope that other studies will consider the problems faced by men (Tearfund 2014, 4).

Similarly, a Human Rights Watch report on the use of sexual violence by armed groups during the conflict in the Central African Republic states:

Human Rights Watch also heard credible reports of armed groups committing sexual violence against men and boys, but research conducted for this report focuses on violence against women and girls (Human Rights Watch 2017b, 20).

In these excerpts, sexual violence against men is explicitly stated to be outside the focus of the report, despite both reports ostensibly having gender-neutral titles; the stated focus is on 'sexual violence' rather than 'violence against women' or 'sexual violence against women'. The representation of sexual violence against men as external to the subject of the report, even if recognised as a serious abuse, again serves to constitute the violated body of the sexual violence victim or survivor principally as female. Furthermore, whilst Tearfund 'hope that other studies will consider the problems faced by men' (2014, 4), as a representative practice this simply constitutes the deferring of attention and action into an unspecified point in the future. In addition, the use of the term 'other studies' would seem to imply a call for *others* to instigate research into the issue – there would be no need for Tearfund to include this statement were sexual violence against men on their agenda. Similarly to the absence of the needs of male survivors from policy recommendations outlined above, this gives some indication as to the priorities of INGOs when it comes to addressing sexual violence against men, in that they are still largely operating on the assumption of a female victim.

This is reflected in the manner in which women are constituted in the documents. Sexual violence in armed conflict is usually represented as an issue that overwhelmingly, and sometimes solely, affects women and girls. For example, Amnesty International, on a 2004 report on violence against women in conflict, states the following:

Violence in conflicts devastates the lives of both men and women, but systematic rape, as seen in many recent conflicts, is primarily directed at girls and women. Rape, mutilation and murder of women and girls are common practices of warfare, committed both by government forces and armed groups (Amnesty International 2004c, 9).

Whilst qualified by saying sexual violence is 'primarily' directed at women and girls, this excerpt largely constitutes sexual violence as something that is suffered uniquely by women and girls; the experiences of women and girls are differentiated from those of men and boys. Women and girls suffer sexual violence in conflict, whereas men and boys, it is implied, suffer other forms of violence. This differentiation in experience is made in a more explicit fashion by an International Rescue Committee report from 2016:

Men and boys have been targeted in killings, forced recruitment and arbitrary detention, including by security forces and civilian vigilante groups. Women and girls have suffered and continue to face grave violations including forced marriage, sexual violence and exploitation. Over 2,000 women and girls have so far been abducted. The use of rape as a weapon of war is a common feature of this conflict, and thousands of women and girls have found themselves pregnant and subject to stigmatization by their communities as a result (International Rescue Committee 2016, 5).

This excerpt is significant as it articulates a clear distinction between the experiences of men and women in armed conflict in terms of the violence that they are subject to. Sexual violence is constituted again as an issue that largely affects women, whereas men are represented as suffering more from murder, arrest, and forced recruitment. This particular representation of the differing violence suffered by men and women during armed conflict appears frequently throughout the analysed texts, and is frequently predicated upon gender inequality. A 2019 Oxfam report on women in conflict zones notes the role that gender inequalities play in exacerbating the situation of women in armed conflict and the role that conflict plays in dismantling any progress on women's rights:

In contexts of war, gender inequalities tend to deepen, resulting in a disproportionate impact on women and girls. For them, armed violence implies a double burden: they must endure not only the same atrocities as are visited on all the civilian population, but also existing discrimination and inequalities against women (Oxfam 2019, 11)

There is no question that wars cause profound devastation on entire populations. But for women, who rarely carry arms on the battleground or are responsible for sparking the violence, these effects are multiplied. Gender inequalities, engrained in the countries analysed in this report, are exacerbated in times of conflict and revert any progress achieved on women's rights (Oxfam 2019, 24).

This representation of women in armed conflict, and the underlying reasons behind their suffering in such situations, is broadly consistent across the analysed documents. Here, women's greater suffering in armed conflict is articulated into a causal relationship with gender inequality and their lower status in society; pre-existing gender inequality is constituted as both exacerbating the violence suffered by women in conflict as well as being worsened by the presence of armed conflict. Women's vulnerability in armed conflict is, therefore, constituted as intrinsically linked to their unequal status in society. In addition, in a similar manner to the previous excerpt discussed above, this excerpt quite explicitly places women and girls as external to the category of 'combatant' and firmly within the body of 'civilians'. The predication of the violence suffered by women and girls as also happening to 'all of the civilian population' serves to render them as both part of this civilian body – that is, as 'not-combatants', but also distinct from it in terms of the scale of the violence perpetrated upon them. In addition, with the statement that women 'rarely carry arms on the battlefield' comes the implied assumption that it is largely men who carry arms and, by extension, perpetrate the vast majority of both violence in general and violence against women in armed conflict. Men and women are articulated into a dichotomous binary; active and violent men against peaceable and passive women.

Similar conceptualisations of women's suffering as stemming from entrenched gender inequalities are also applied to sexual violence. A near-universal feature of the discourse of the analysed reports is the linking of inequality, discrimination against women, and women's low position in society to the use of sexual violence during

conflict. For example, many articulations of sexual violence against women in armed conflict broadly resemble the following excerpt from an Amnesty International report on the use of sexual violence in South Sudan:

Both the incidents that occurred during the second civil war and the endemic levels of sexual violence during the current conflict can only be fully understood when placed in the longer-term context of gender dynamics within South Sudanese society. Sexual violence is facilitated by the overall status of women and girls in South Sudanese society as subordinate to men, and the resulting discrimination that they experience in their everyday lives. It is also motivated by patriarchal structures and gendered concepts of power that position men as “protectors” of women (Amnesty International 2017a, 18).

Human Rights Watch offers a similar conceptualisation of sexual violence against women in armed conflict. In their 2007 report on abuses perpetrated by both rebel and pro-government forces in Côte d’Ivoire, Human Rights Watch states that:

The low status of women and girls in law and custom contributes to the extent to which they are vulnerable to sexual violence. The fact that sexual violence during the conflict predominantly involved men raping women reveals that conflict-related rape, like most rape, reflects a dynamic of gender inequality and subordination. This power dynamic is deeply embedded in social attitudes (Human Rights Watch 2007, 5).

Both of the excerpts above explicitly articulate sexual violence against women in armed conflict into a causal relationship with gender inequality and pre-existing gender dynamics; the use of sexual violence in conflict is ultimately conceptualised as being predicated on women’s low status in society. As such, sexual violence against women is represented as an intrinsically gendered phenomenon. Furthermore, this in turn represents it as a largely structural issue that requires significant social and cultural change to alleviate, although several documents recognise individual agency in the commission of sexual violence. In addition, whilst gender inequality is the most frequent lens through which INGOs have articulated their understanding of sexual violence against women in armed conflict, there is also a widespread recognition of the intersectionality of identities and the role this plays in

informing both the vulnerability of individuals to and the use of sexual violence. For example, the World Organisation against Torture, in a report on violence against women in 2002, notes that:

In the case of Sri Lanka, violence and other forms of discrimination against women are widespread. When this generalized violence is further analysed through the lens of racial discrimination, it appears that women from ethnic minorities are doubly disadvantaged as a consequence of both their ethnicity and of their gender. Information received by OMCT reveals that Tamil women are frequently discriminated against by police and members of the armed forces and that this discrimination most often takes the form of rape and other forms of sexual violence.

Information received by OMCT suggests that ethnic minority women in Sri Lanka are targeted by members of the Sri Lankan police and security forces for acts of violence and that this violence overwhelmingly takes the form of rape, sexual assault and harassment (World Organisation against Torture 2002, 24).

Here, it is noted that the intersection of the victim's identities of 'women' and 'Tamil' (an ethnic minority) serve to exacerbate the discrimination they face. Whilst ethnicity is frequently cited in the documentation, additional factors that may exacerbate sexual violence or further inform its use are also identified across the documents. For example, Amnesty International notes that:

While some women are targeted for reasons other than their gender, many are singled out simply because they are women and for reasons inherently linked to the conflict – to sow terror within communities to force them to flee; to wreak revenge on the enemy; to control the sexual and reproductive rights of female combatants; or to exploit women and girls as sexual slaves. Women human rights defenders are also targeted to silence or punish them when they expose abuses. Over the last few years there has been a marked increase in threats against such women leaders, especially those working with forcibly displaced communities, campaigning for land restitution, or representing survivors of conflict-related sexual violence (Amnesty International 2012, 5).

In this excerpt, gender is represented as the key variable in informing the use of sexual violence in armed conflict – the use of sexual violence in conflict is predicated upon the identity of the victims as ‘women’, and textual priority is given to gender as the key dynamic at play behind instances of sexual violence. However, additional factors are represented as potential bases for the use of sexual violence. Political affiliation or activities, represented here through the lens of the targeting of women human rights defenders, is articulated into a causal relationship with sexual violence in armed conflict. Further factors that are provided in the documentation include religious and cultural affiliation, but these are generally represented as being secondary to gender as a factor in motivating the perpetration of sexual violence against women.

### **Comparisons of Women and Men**

Sexual violence against men, by contrast, is rarely conceptualised in gendered or intersectional terms, with most acknowledgements of the issue structured along the same lines as the patterns identified previously, where it is notably absent from policy recommendations or more detailed conceptualisations of violence in conflict. The experiences of male survivors are rarely contextualised within a framework of gendered power relations, and the repeated connections made between women and gender serve to emphasise gender as ‘women’s issues’ (Shepherd 2008, 120). In some cases, the gendered dimension of sexual violence against women – and the presumed absence of this dynamic in the case of sexual violence against men – is used to constitute female victims as suffering ‘more’ than male victims. For example, a 2002 Amnesty International report on the use of torture by Turkish security forces during the conflict with the Kurdistan Workers Party (PKK), states the following:

During incommunicado detention in police or gendarmerie custody, women and men are routinely stripped naked. Methods of sexual abuse include electro-shocks, beating on the genitals and women’s breasts, squeezing the testicles and rape. Both men and women are subjected to sexual torture. But violence against women feeds off their discrimination in society and serves to reinforce it. The consequences of sexual torture are even more far-reaching for women than for men,

because they involve the risk of pregnancies and ostracism from their own family and social group. Therefore, many women and girls prefer not to report rape and sexual abuse in custody (Amnesty International 2002, 18).

A similar representational practice can be seen in a further Amnesty International report from 2011 on rape and sexual violence in armed conflict and its status within international criminal and human rights law, which makes the following statement:

Perpetrators' use of sexual crimes embody gendered discrimination in that these crimes target the gender identity and sexual identity of victims – whether the victims are men or women. Due to the lower status of women in society, the harmful impact is often more serious to women. However, victims may experience the effects of rape as a crime as sexualised discrimination and humiliation, their identity within society, based on gender roles, is often entirely demeaned – in ways that play on discriminatory sexual stereotypes, of both genders (women are targeted for sexual violence as a way of humiliating men, emphasising that they cannot protect women in their families, when this is a social or cultural requirement) (Amnesty International 2011, 45).

In this excerpt, sexual violence against men is acknowledged as a gendered form of violence and equated with sexual violence against women as a form of violence that attacks the 'gender identity and sexual identity of victims' (2011, 45). However, this is then subject to qualification by the phrase 'due to the lower status of women in society, the harmful impact is often more serious to women' (2011, 45). Sexual violence against women is constituted as the more damaging, and therefore more urgent, form of violence. By contrast, sexual violence against men is constituted as less damaging as men are constituted as occupying a higher place in society. These representations of women as suffering more due to their lower status in society reflects predominant understandings of gender present in many of the reports that tend towards an essentialist understanding of women, men, and their roles and positions in society, as discussed earlier in this section. In addition, given that sexual violence against women is being positioned in opposition to sexual violence against men in terms of the harm being done, there is an implicit assumption that sexual violence against men does not have social or cultural consequences, such as social ostracism, and, in the case of

the latter excerpt, that men face fewer barriers to reporting sexual violence than women. As such, whilst the suffering of male victims of sexual violence is acknowledged here, as is the gendered and sexual nature of that suffering, it is still marginalised compared to violence against women in that the harmful impacts are constituted as 'less' serious.

Similar comparisons between sexual violence against women and men are made on the basis of the assumption that sexual violence mostly affects women, as discussed earlier in this section, and has been historically marginalised. For example, an Amnesty International report from 2004 on abuses committed in the Central African Republic states the following:

The focus of this report on conflict-related violence against women does not mean that AI [Amnesty International] ignores or underestimates the abuses that men also suffered during the conflict. In addition to the risks of injury, death or torture, men also suffered from sexual violence in some cases.

In one case, a man was sexually assaulted by a woman combatant. 22-year-old VM was forced by an MLC woman combatant to have sex with her on 12 December 2002. He met a group of about 10 MLC combatants with local civilian guides in the bush near Damara. After the combatants robbed and beat him, he was taken to one side and forced to undress by a woman combatant. She forced him to have sex with her and threatened to tell her male colleagues to beat him again if he refused. He was treated for injuries and dehydration resulting from the beatings.

AI deplores and works to end those abuses as well. However, this report focuses on the abuses suffered by the women of the CAR as a response to the fact that women and girls are now the majority of victims of conflict the world over and that their suffering has often been ignored or misunderstood (Amnesty International 2004a, 5–6).

A similar example can be seen in another Amnesty International report published in 2017, this one focusing on the struggles of war rape victims in Bosnia in obtaining assistance and legal recourse:

Women were not the only victims of rape during the war. An estimated 3,000 men and boys were also subjected to various forms of sexual

violence in detention camps. As men are less likely to report such crimes or speak out about them in public, the number is likely higher. A focused study on the consequences of rape and sexual violence suffered by men during the war would be of significant value; however, this particular research focuses on the legacy of such war crimes on female survivors, who were affected by them in greater numbers (Amnesty International 2017b, 14).

In these excerpts, not only is the responsibility for addressing sexual violence against men deferred to an unspecified actor at an unspecified point in the future, akin to the examples discussed above, the comparative visibility of male and female victims and survivors of sexual violence in Amnesty International's advocacy materials is directly predicated upon the extent to which they are victimised; women and girls are ultimately rendered as more visible in the report as a consequence of their being 'the majority of victims of conflict' and their suffering as 'ignored or misunderstood'. As Grey and Shepherd note, the 'logic of the vast majority' serves to deny the materiality of the sexually violated male body (2012, 122), and, as will be discussed in Chapter VII, the representation of women and girls as the majority of victims is built on shaky empirical foundations and serves to elide the issue of sexual violence against men.

To briefly summarise before continuing, sexual violence against men, whilst often now recognised in a majority of reports, remains on the margins of concern in a significant number of the analysed texts. Largely absent from concrete discussions on prevention and response policies, implicitly constituted as standing outside of the framework of gender relations that informs and exacerbates the use of violence against women, and directly contrasted to sexual violence against women, it occupies a somewhat ambiguous place within advocacy; recognised, but kept to the margins. This position is further exacerbated by the still-frequent representation of such violence as a form of torture, rather than as sexual violence, to which this chapter now turns.

## **PART II: Sexual Violence against Men as Torture**

Whilst recognitions of sexual violence against men are now more widespread in INGO advocacy, as discussed in Part II above, the representation of sexual violence against men as a form of torture is still a frequent occurrence, appearing in 86 of the analysed documents. However, in marked difference to sexual violence against women which is constituted as *both* sexual violence and torture simultaneously, sexual violence against men is frequently constituted *solely* as torture, and not sexual violence. Whilst this is arguably a subtle difference, it is one that, when repeated across numerous documents, has important effects, which are discussed in more detail in Chapter VII. Representations of these forms of violence are rarely linked to signifiers – such as ‘sexual’ or ‘gendered’ – that would constitute it or acknowledge it as a form of sexual violence. The violence is therefore classified as torture rather than sexual violence. In this part of the chapter, I chart the various ways in which different forms of sexual violence against men have been subsumed into the general category of non-sexual torture. In particular, I note three forms of violence towards men that appear to be particularly susceptible to being constituted as torture, rather than as sexual violence; violence towards the genitals, enforced nudity, and anal rape with objects. Each of these is expanded upon in turn in this part of the chapter.

### **Torture and Sexual Violence against Women**

Before continuing, it is worth contextualising the discussion in this section of the chapter by highlighting the predominant representations of sexual violence against women as a form of torture. This particular representation is a frequent occurrence in the analysed documentation, appearing in 41 reports. In these reports, sexual violence against women is simultaneously represented as a form of sexual violence and as a form of torture. To take a representative example, Amnesty International, in a 2007 report on the conflict in the Côte d’Ivoire, states the following:

As a weapon of war, rape is used strategically and tactically to advance specific objectives in many forms of conflict. It is used to conquer,

expel or control women and their communities in times of war or internal conflict. As a form of gender-based torture it is used to extract information, punish, intimidate and humiliate. It is the universal weapon employed to strip women of their dignity and destroy their sense of self. It is also used to terrorize and destroy entire communities (Amnesty International 2007, 9).

A Freedom from Torture report on the use of sexual violence and torture in the DRC makes a similar statement, and further develops the policy and legal linkages established between sexual violence and torture in armed conflict:

While this report highlights the close link between sexual violence and torture they are considered separately from each other in the DRC. Rape and other serious forms of sexual violence are very rarely charged as acts of torture and institutional and policy frameworks do not fully consider this link. This runs counter to the current increasing recognition that rape can amount to torture under international law. For example, in the *Celebici* Case, the International Criminal Tribunal for the former Yugoslavia (ICTY) identified the elements of torture with reference to the Convention against Torture. The Tribunal recognised that rape inflicts severe pain and suffering, both physical and psychological (Freedom from Torture 2014, 23).

The successful framing of sexual violence against women as a form of torture is considered to be a significant victory for feminist campaigners against sexual and gender-based violence (Edwards 2011, 257), as the ability to articulate such violence as both sexual violence and torture enables campaigners to take advantage of the well-developed norms prohibiting the use of torture in armed conflict (MacKinnon 1994; 2006). Indeed, as discussed here, and as will be elaborated on later in Chapter VII, the issue surrounding the framing of sexual violence against men as a form of torture does not necessarily stem from the framing itself. What will be discussed in this section of the chapter, however, is the *sole* framing of sexual violence against men as torture. Below, I delve into the numerous instances where INGOs have constituted violence against men that could be construed as sexual as a form of non-sexual torture instead. As I argue later in the thesis, this has significant implications for how we understand and respond to sexual violence against men.

## Torture and Genital Violence

Blunt force trauma, or other forms of violence such as constriction or crushing, directed towards the male genitalia is a frequent occurrence within the accounts provided to the studied INGOs by either survivors or witnesses. However, this form of violence is also frequently categorised as a form of 'torture', as opposed to 'sexual violence' or 'sexual torture'. The potential sexual and/or gendered elements to such violence are absent in such accounts, and the violence itself is not described as being sexual, save for any notions of sexuality that arise from the use of signifiers relating to the male genitalia. Such representations of violence towards the genitals appear across the breadth of the analysed INGOs. For example, Human Rights Watch, in describing the 'torture' (2005, 28) of a farmer by government soldiers in Northern Uganda, relays the following testimony:

Soldiers of the 11<sup>th</sup> Battalion were also responsible for torture. ... [A forty-year old farmer] said: 'They made me lie down and started caning me and kicking me so many times. Then they tied a rope around my testicles and pulled on it. They took me unconscious to Cwero barracks where I stayed one night (Human Rights Watch 2005, 28–29).

Here, the use of a rope to constrict the survivor's testicles is predicated upon the concept of 'torture'; the description of the violence is prefaced by the phrase '[the soldiers] were also responsible for tortures'. As such, the violence described by the survivor is categorised as torture, rather than as torture accompanied by sexual violence, or sexual violence as a form of torture, as seen in similar incidents of violence towards female survivor's genitalia. At no point in the document is the use of violence towards the male genitalia articulated as 'sexual' or 'gendered'. A section on the use of rape and sexual violence by both the Lord's Resistance Army and the Ugandan People's Defence Force appears in the document, but only relates to instances of such violence committed against women and girls. The inclusion of violence towards the genitals within discussions of broader torture rather than within a section on sexual violence arguably constitutes trauma to the genitals as a form of non-sexual torture. Further similar examples can be observed throughout the text. For example, FIDH, in the case of a young Syrian man arrested for participating in

demonstrations in Aleppo, notes that during his detention in a local military security branch:

On a twenty day period, he was subjected to several methods of torture. He was electrocuted on his genital parts and hung on gallows until losing [sic] consciousness. This particular method of torture was repeated three times (FIDH 2011, 17).

Amnesty International, documenting abuses committed by Thai security forces against Muslim insurgents during 2007 and 2008, describes the case of a farmer detained by a joint military-police force:

The soldiers then stuck a sewing needle into his fingertips. He was hanged upside down again, and had a needle stuck under his eyes and on his cheeks. They also took off his pants while he was upside-down and stuck the needle into his genitals. They struck and kicked him repeatedly on the chest with their boots, splashed water on him, pepper-sprayed his face four times, and drenched him in beer, an act offensive to Muslims, for who alcoholic beverages are sinful (Amnesty International 2009, 17).

This particular excerpt was situated in a section entitled 'Torture and Ill-Treatment in Southern Thailand' (2009, 13). Similarly to the excerpts from Human Rights Watch and FIDH above, the report does not articulate this form of violence in relation to sexual violence. Where sexual violence is discussed in the reports, incidents of violence towards the genitals are more frequently excluded from these sections and are rather included in other sections that deal with torture. Furthermore, descriptions of acts of violence against the genitals are situated alongside acts of torture that are traditionally not conceptualised as being sexual in nature; examples from the above excerpts include water torture, beatings, and the use of needles. As such, violence against the genitals is constituted as outside the range of violence that can be considered as being sexual or gendered – it is, in effect, not presented as a form of sexual violence. This broadly confirms Carlson's arguments concerning the tendency on the part of investigators to equate violence towards the genitals with forms of

violence other than sexual violence (2006). The implications of this representation of this particular form of violence will be discussed later in Chapter VII.

### **Torture and Enforced Nudity**

Enforced nudity is represented in much the same way as violence towards the genitals, in that it is often constituted as torture rather than as a form of sexual violence. In addition to this, enforced nudity is often presented as a prelude to torture, rather than as a damaging form of violence and/or torture in of itself. To take a representative example, in a joint report published in co-operation with several other prominent NGOs, the World Organisation against Torture (OMCT), in the case of Ilie Ilascu, arrested by the Moldovan government in the secessionist region of Transnistria, noted that:

He [Ilie Ilascu] was subjected to torture and mock executions, and his state of health steadily deteriorated. In 1999 one of his friends reported: 'Ilie is forced to remain undressed in his concrete cell to ensure that he doesn't conceal anything in his clothes. He is constantly subjected to psychological pressure and is even advised to hang himself' (CINAT 2001, 24).

A similar representation of enforced nudity is found in a 2017 report produced by Oxfam on the experiences of refugees in Libya. Documenting a survivor's testimony, the text states:

The guards passed us food through a slit in the door. Sometimes they came in and punished and humiliated us, like obliging us to stand naked while they were grabbing us by our ears. When I was too tired from overwork, the soldiers would come in, force me to lie down and beat me everywhere with sticks (Oxfam 2017, 5).

Much in the same manner as violence directed towards the genitals, enforced nudity is constituted as a form of or as a prelude to torture, rather than as a form of sexual violence in its own right. This form of violence is grouped under the broader rubric of

(implicitly non-sexual) 'torture', rather than as a form of sexual violence. In the absence of adjectives that would modify the meaning attached to the concept of enforced nudity – such as 'sexual' or 'gendered' – and the positioning of the signifier 'enforced nudity' amidst descriptions of other forms of torture that are rarely, if ever, constituted as sexual torture (such as beatings, psychological abuse, and water torture, among others), enforced nudity is more strongly equated with torture rather than as sexual violence.

### **Torture and Male Rape**

A further trend relating to the construction of sexual violence against men as a form of torture, rather than as a form of sexual violence, is the curious absence of terms like 'rape' and 'sexual assault' when describing acts of violence that could conceivably be conceptualised as either. Unlike sexual violence against women, which is almost universally framed in terms of rape and sexual assault, there are several instances within the analysed documentation in which the use of objects inserted into the rectum of male victims is described using the phrases along the lines of 'inserted into' or 'forced to sit upon' rather than rape. For example, the following excerpt from an Amnesty International report on the torture of Kurdish prisoners by Turkish military and security forces, notes that:

In 1999, Amnesty International received a number of reports of unacknowledged detention and torture of Kurdish villagers ... One of the detainees disclosed to his lawyer that: "They did not take us to toilets, so that we had to excrete where we hung. We were covered with excrement as we could not clean ourselves when we were hung. Later, they put excrement on the truncheon and inserted the truncheon into my mouth. *They inserted the truncheon into my anus* [...] throughout the eight days they forced me to sit naked on the concrete floor, and without allowing me to lie down (Amnesty International 2000b, 2, emphasis added).

Similar phrasings of such acts appear in other documents, produced by other INGOs. For example, in describing the torture of several detainees in Darfur by Sudanese armed forces, the International Federation for Human Rights notes that:

Five men, belonging to the Ta'aisha tribe were arrested on 1 April 2003 at the Rehaid Albirdy police station and transferred to Nyala prison on 23 July 2003 until the convening of their trial at a criminal court in Darfur. It was during detention at the police station that they were allegedly subjected to torture. This alleged torture included being beaten with sticks on their arms and legs, being flogged with a water hose, having their testicles crushed, being cut by knives, and mouth of a bottle being inserted into the anus (FIDH 2004, 13).

This excerpt, firstly, further demonstrates the rendering of violence towards the genitals as a form of torture, as discussed in above, through both the predication of descriptions of the violence upon the word 'torture' (rather than 'sexual torture' or 'sexual violence/assault') and the establishment of a chain of equivalence between all the forms of violence presented in the excerpt, in that they are all represented as forms of ultimately non-sexual torture. Secondly, and perhaps more notably, the excerpt also includes a description of the anal rape of a male detainee with a bottle. However, similarly to the excerpt from Amnesty International given above, the act itself is not articulated as 'rape' or 'sexual violence'. Instead, the phrase 'inserted into the anus' is used. This is in contrast to the highly consistent manner in which sexual violence against women, including rape with objects, is described as 'rape', 'sexual violence', or 'sexual assault' in the documentation. A 2015 report from Human Rights Watch, also reporting on the conflict in Darfur, describes the testimony of one male survivor in a similar manner to the excerpts above:

Hassan, a 26-year-old teacher living in the village of Daya, between Golo and Rockero, described how the RSF tortured him and raped and killed his three sisters:

...

"I was in the school [in a nearby village] to my house and saw the Janjaweed. ... My three sisters were captured. My grandmother was beaten. I was captured. They searched me and took my ID. They then tied my hands behind my back. ... They [partially] buried [a glass soda] bottle into the ground and forced me to sit on top of it [so that half the bottle entered my anus]. They asked you if you are a rebel and if you do not say yes then they kick the bottle out from under you [and break the glass]. I fell on the broken glass. I can no longer control my urination. ... They raped [my three sisters]. They took them one by one

out of the house [to another hut]. After they raped them they burned them [alive] (Human Rights Watch 2015, 69–70)

The above excerpt is particularly interesting, in that not only is the violence experienced by Hassan represented in terms other than ‘rape’, but that violence is constituted as ‘torture’ – despite the violence he was exposed to conforming to pre-existing understandings of rape in INGO advocacy – whereas the violence experienced by his sisters is represented specifically as ‘rape’. This reflects the broader trend in the documentation where sexual violence against women is much more consistently constituted and acknowledged as sexual violence, whereas sexual violence against men remains much more inconsistently represented; whilst some documents recognise rape with objects as a form of rape, others, like the documents from which the above excerpts are drawn from, do not equate such acts with the act of rape. The term ‘rape’ has a symbolic meaning which constitutes the act in the mind of the reader as a particularly egregious and serious one (McGlynn 2008, 78). This therefore raises the question of what symbolic meanings do we lose when the terminology of rape is not used?

The representation of sexual violence against men, whilst no longer the most predominant representation to be found in INGO reporting, remains a significant and frequent occurrence within the analysed documents. In contrast to sexual violence against women, which is almost universally constituted as *both* a form of sexual violence and a form of torture, acts of violence against men that could be construed as sexual are most often constituted solely as torture, which threatens to close off the discursive space in which these forms of violence could be articulated as sexual. Even in those cases where sexual violence against women is acknowledged and reported on, forms of sexual violence that are common to both women and men in a given conflict are represented in an incongruent fashion; in one of the examples given above, the rape of a woman is characterised as sexual violence, yet the rape of a man with objects is instead constituted as torture. These representations raise numerous questions as to the implications of framing sexual violence against men as torture, which will be addressed later in Chapter VII.

### **PART III: Sexual Violence against Men as Gender-Based Violence**

Parts I and II of this chapter have focused principally on the representations of sexual violence against men that serve to marginalise the issue or render it as external to the problem of sexual violence in armed conflict. However, further highlighting the inconsistency with which sexual violence against men is constituted in the analysed documentation, there exist a minority of reports in which sexual violence is acknowledged as a form of sexual violence without the concomitant representational practices that serve to marginalise the issue discussed in Part I. In these instances, sexual violence against men is represented in much the same way as sexual violence against women, and these reports evince a deeper conceptualisation of this form of violence that is integrated more fully into pre-existing understandings of sexual violence against women, rather than an addendum, as seen again in Part I of this chapter. It is to these representations that this chapter now turns.

Whilst these representations are in a significant minority in the analysed, they remain significant. As will be discussed further in Chapter VII, these particular representations demonstrate the possibility for a more comprehensive representation of sexual violence against men that integrate the issue more fully into existing understandings of sexual violence against women. The representations detailed in this part of the chapter fall in to two broad categories. The first consists of a more consistent acknowledgement and inclusion of male victims in the text, such as taking the needs of male survivors into consideration in the recommendations of an advocacy document, in contrast to some of the representational practices presented in Part I. The second consists of representational practices that broaden the concept of gender beyond its representation as largely women-specific, as discussed in Part I, and seek to articulate an understanding of sexual violence against men that is grounded in gender theory and integrates with existing understandings of sexual violence against women. This, I argue, make it possible for sexual violence against men to be considered as a form of gender-based violence. These representational practices are dealt with in turn below.

## Incorporating Men into Policy

In contrast to those representational practices discussed earlier in the chapter, several documents do both acknowledge male victims and include them when making substantive policy recommendations. Discussions of sexual violence against men in these documents remain a consistent, if somewhat rare, feature throughout the length of the texts, and policy recommendations contain specific references to addressing sexual violence against men and the needs of male survivors. For example, Amnesty International, in a 2017 report on the use of sexual violence in the conflict in South Sudan, calls on national and international humanitarian organisations to develop and implement:

Programmes to raise awareness of the prevalence of sexual violence in the context of the conflict in South Sudan and its impact; and which reduce stigmatization of victims of sexual violence, including men (Amnesty International 2017a, 68).

Here, textual emphasis, through the use of the phrase ‘including’, is placed upon male victims and the need to reduce the stigmatisation they face. This serves to highlight the extreme stigma that male survivors are reported to face in coming forward with their experiences. The significant level of stigma is highlighted earlier on in the text, as seen in the following excerpt. In addition, the report contains several further recommendations specific to addressing sexual violence against men, and the remainder of the recommendations are phrased in such a way as to conceivably be applicable to both female and male survivors. As such, sexual violence against men is acknowledged without the concomitant marginalisation seen in the representational practices detailed in Part I; it is constituted as a form of violence that is deserving of political and advocacy attention, which is called for through the development of specific policy recommendations, or through the framing of broader policy recommendations in a less sex-specific manner.

In addition, these sex-specific recommendations also often include a statement referring to the need to break down the stigma that faces male survivors and collect

more comprehensive data; this comparative absence of reliable information on sexual violence against men is at times acknowledged as the consequence of this particularly strong stigma that male survivors face. For example, Human Rights Watch, in a 2013 report on the legacy of the Sri Lankan civil war, notes the following:

The issue of male rape and sexual violence against men has neither been raised nor addressed [by the government of Sri Lanka]. Suppressed by victims and perpetrators alike, male rape remains a taboo subject and strategies to combat it have been glaringly absent (Human Rights Watch 2013, 45).

A similar statement is found in the 2017 Amnesty International report on South Sudan discussed above:

Sexual violence against men and boys in South Sudan's conflict remains largely invisible, despite indications that it occurs with some frequency. This is due to common assumptions – and misperceptions – that sexual violence only involves male perpetrators and female victims. In addition to this, in South Sudanese culture and society – where homosexuality is derided and sex between men is a criminal offence – sexual violence against men carries an even deeper stigma for the victim than sexual violence against women. As a result, it is likely that incidents of sexual violence against men and boys in South Sudan are severely underreported (Amnesty International 2017a, 41).

In these excerpts, the representational practices employed diverge from those discussed earlier in Part I, in that sexual violence against men is both acknowledged as a form of sexual violence, and is differentiated from sexual violence against women on the basis that they may face greater barriers to coming forward with their experiences. Furthermore, both excerpts contain a criticism of pre-existing 'misperceptions' of sexual violence, acknowledging that the focus on the female victim/male perpetrator dichotomy has served to obscure the experiences of those who fall outside of these categories. Ultimately, these representations serve to construct a deeper and more nuanced understanding of sexual violence against men, that constitutes the violence as sexual, as an issue in need of addressing, and as having particular challenges that these attempts to address it must acknowledge.

However, these representations are couched in a much broader understanding of gender, compared to those discussed in Part I, to which this part of the chapter now turns.

### **Men, Gender, and Violence**

The representations of gender that predominate throughout the corpus of analysed texts discussed in Part I largely constitute the concept in a manner that synonymises it with ‘women’ or ‘women’s issues’; this particular understanding of gender can be seen at work across the spectrum of INGO advocacy and humanitarian work (Turner 2019). However, in a minority of documents, this particular conceptualisation of gender is challenged, where this focus solely on women, whilst acknowledged as a significant achievement, is noted to be, at times, counterproductive, and may even exacerbate social tensions. For example, a 2012 report produced by Oxfam, detailing their community protection and gender work, makes the following statement, which is worth reproducing at length:

Conflicts in Africa’s Great Lakes Region have been the focus of some excellent and groundbreaking research on gender roles, and sexual and other gender-based violence. However, this has not always translated into policy and practice. In narratives of sexual violence in the DRC, women have been simplistically presented as ‘victims’ and men as ‘criminals’ or perpetrators of abuse. This has overlooked the fact that men are also subject to sexual and other violence, and denied other roles for women besides ‘victimhood’. These portrayals have had a negative impact on community dynamics, creating conflict and hostile relations between some men and women, and reinforcing the idea of militarised masculinity and other gender stereotypes that perpetuate inequality. Men’s sense of identity has also been altered and frequently undermined by the war. As it has become impossible to fulfil pre-war ascribed gender roles, the conflict has triggered a crisis of masculinity that has, at times, been exacerbated by aid agencies’ almost exclusive focus on women. NGOs working exclusively to valorise women’s rights have done harm, and risk continuing to do so, if they do not address this crisis of masculinity and the rights of men who have also been abused during the conflict (Oxfam 2012, 5–6).

Here, men are constituted as worthwhile subjects of humanitarian gender work; the report quite explicitly aims to move beyond what they refer to as a 'simplistic' focus on women as victims and men as perpetrators. In addition, the excerpt notes that the use of sexual violence against men may have been obscured through this exclusive focus on this dynamic. The range of identities that are possible for men and women in humanitarian work is expanded; men are acknowledged as both victims and viable subjects of gender analysis, and 'victim' is rendered as one of multiple identities that women can occupy. This represents a significant break from the conceptualisations of gender discussed in Part I; gender is expanded beyond a narrower focus on women only, into a focus on both men and women, the relationships between and within these categories, and the impacts of gender on both.

These broader conceptualisations of gender, and who counts as an appropriate subject for gender work, can be seen in representations of sexual violence against men in several reports. For example, a joint CARE International and Promundo report on refugee men and boys notes the following:

Sexual violence, perpetrated by other men, is also believed to be used as a means to humiliate or to enforce power differentials. The international community in general has been slow to recognise the risks of gender-based violence and sexual exploitation that boys and young men face when travelling unaccompanied by family or relatives. Indeed, sexual violence experienced by boys and young men is sometimes conflated with homosexuality or perceived as consensual sex going wrong (CARE International and Promundo 2017, 11).

Similarly, Amnesty International, in the 2017 report on the conflict in South Sudan discussed earlier, states the following about the underlying causes of sexual violence against men:

Sexual violence against men and boys has occurred in the context of attacks against civilian homes and villages, alongside other acts of violence. Men and boys are particularly at risk of sexual violence while in custody; most of the cases included in this report occurred during arrests or while in government detention. The acts perpetrated include rape with objects, forced sterilisation through castration, and other

torture focused on sexual organs. The motives of sexual violence against men – as women – have been to embarrass, humiliate and assert power over the victim. There is often an ethnic dimension to the incidents and, in some cases, such as castration, the motives may have included preventing the victims from procreating (Amnesty International 2017a, 41–42).

The same report also states the following:

Sexual violence against both men and women is also linked to gendered perceptions of power and dominance. In South Sudan, as in many other societies, men are considered to represent strength and virility, and see it as their role to “protect” women, including by controlling their sexual activity. Sexual violence against women is therefore a way of communicating to the target population their impotence to protect their wives, sisters and daughters, while sexual violence against men suggests emasculation and disempowerment of the individual victim, the family and the community. In addition, most South Sudanese communities are patrilineal and social organization is based on male lineage. The ability of men to procreate, therefore, carries great significance, and is seen as critical for continuing family lines. This cultural norm has served as motivation for violence against men targeted at hindering future procreation (Amnesty International 2017a, 20).

The above excerpts represent the underlying causes and dynamics of sexual violence against men as stemming from the same gender norms and relations as those that inform the use of sexual violence against women. For example, the use of the term ‘as women’ (2017a, 41) in the second excerpt serves to establish a chain of equivalence between sexual violence against women and men; sexual violence, it is argued, is perpetrated against women and men for the same reasons, these being humiliation and the exertion of power over the victim, among others. The understandings of sexual violence against men propagated through these reports are fully couched within an understanding of this form of violence as inherently gendered. The Amnesty International report on South Sudan, for example, conceptualises the violence committed against men as a consequence of the association between men and virility. This further diverges from the predominate representations of sexual violence against men discussed in Part I; whereas those representations did little beyond acknowledge the violence as sexual, without fully explaining how this violence

could be integrated into their understandings of sexual violence against women, these representational practices not only provide a much more detailed explanation of the reasons behind the use of sexual violence against men, but also constitutes it as a form of gender-based violence, which is largely absent in other representations. This further reflects the representation of men as necessary and valid subjects of attention in a gender analysis discussed at the beginning of this part of the chapter. In addition, these representations do not necessarily differentiate between sexual violence against women and men, as also seen in Part I. Instead, sexual violence against both women and men is conceptualised as stemming from the same source, without reference to the comparative extent or severity of such violence.

The representations of sexual violence against men in armed conflict elaborated upon in this part of the chapter represent a significant minority of the overall corpus of analysed texts. However, they remain significant because, as will be elaborated upon in Chapter VII, these representations of sexual violence against men demonstrate the possibility for a deeper and more detailed understanding of sexual violence against men that does not 'compete' for analytical attention with sexual violence against women, but rather can be integrated into existing approaches to conceptualising sexual violence in conflict in general. In doing so, sexual violence against men can be brought into the category of gender-based violence, reflecting the findings of much of the feminist literature on the subject.

#### **PART IV: Conclusions**

This chapter has sought to outline the predominant representations of sexual violence against men that have emerged from 19 years of INGO advocacy on sexual violence in armed conflict. I argued that it is possible to classify discursive representations of sexual violence against men in armed conflict into three distinct strands. In the first strand, in which the issue is often recognised but then marginalised, sexual violence against men is not constituted as a gendered form of violence, in distinct contrast to sexual violence against women. Furthermore, the textual and conceptual foregrounding of sexual violence against women further serves to push sexual

violence against men to the margins of concern through the representation of women as suffering more – in terms of both numbers and the trauma experienced – than men. This discursive strand is the most frequent that appears in the documents. The second, where sexual violence against men is constituted as torture, sought to outline the ways in which various forms of violence against men are constituted solely as torture, in comparison to sexual violence against women which is almost universally constituted as both sexual violence and torture. The third and final strand consisted of the rare instances, in contrast to those representations in Part I, in which sexual violence against men was both included in detailed policy recommendations and constituted as a form of gender-based violence. Ultimately, the variety of different ways in which sexual violence against men has been constituted indicates a particular inconsistent approach to the issue on the part of the studied INGOs, in comparison to the highly consistent approach to sexual violence against women that was observed across the documents.

Each of the discursive strands presented in this chapter hold significant implications for how we understand, conceptualise, and respond to both sexual violence against men and sexual violence in conflict more broadly. Whilst I have engaged to some extent with these implications throughout this chapter, they are discussed, in conjunction with the findings of the following chapter on international law, in greater depth in Chapter VII. However, whilst in this chapter I have made some initial arguments as to the problematic consequences these representational practices may have, it is important to recall the positive progress that has been made in recognising sexual violence against men in armed conflict. Whilst still marginalised in most cases, or framed as a form of torture, a majority of the analysed documents nevertheless recognise it as a form of sexual violence. This stands in distinct contrast to the situation in the early 2000s, when the issue barely registered on the agendas of a significant majority of human rights advocacy and humanitarian INGOs (DeIzotto and Jones 2002). Given the total lack of attention paid to the issue in previous years, even a simple recognition that the problem exists represents promising progress. This progress can also be seen in the increasing prosecutions of sexual violence against men in armed conflict by various international criminal tribunals, and it is to

international law, and the manner in which it represents sexual violence against men, that this thesis now turns.

## **CHAPTER VI – INTERNATIONAL LEGAL DISCOURSES OF SEXUAL VIOLENCE AGAINST MEN**

The aim of this chapter is to present a discourse-theory informed analysis of how sexual violence against men is represented in various forms of international legal discourse, such as international humanitarian and criminal statutes, but most notably in the jurisprudence and case law set out in trial judgements and sentencing judgements produced by the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Tribunal for the former Yugoslavia (ICTY), the Special Court for Sierra Leone (SCSL), and the International Criminal Court (ICC). Similarly to the previous chapter on INGO discourses of sexual violence against men, this chapter examines how instances of the issue are (re)articulated and (re)presented in these documents, paying close attention to instances where the problem is silenced or marginalised. Furthermore, in a manner similar to the previous chapter on INGO discourses, this chapter considers how international law structures the discursive terrain, within which articulations of sexual violence against men can or cannot be made through the role it plays in defining and categorising crimes. I argue that, like human rights INGOs in the previous chapter, international law has constituted sexual violence against men in a varied fashion, in which sexually violated male bodies are frequently, although not consistently, obscured from view.

I contend that this variable framing of sexual violence against men occurs on two levels, which this chapter is structured around. Part I considers the evolution of international law as it relates to sexual violence in armed conflict, and argues that sexual violence against men occupies an ambiguous place within this body of law. I contend that, whereas some statutes and instances of case law can adequately incorporate sexual violence against men, others, whilst not necessarily worded in terms that explicitly constitute the crime of sexual violence as something specific to women, nevertheless constitutes the problem in such a way that sexual violence against women is foregrounded and calls into question the place of sexual violence against men. Building on Part I, Part II details the manner in which individual Trial Chambers have represented sexual violence against men. I argue that the strands in INGO representations of the issue discussed in Chapter V – sexual violence against

men as marginalised, sexual violence against men as torture, and sexual violence against men recognised as sexual/gender-based violence – are equally applicable to representations of the issue in individual Trial Chamber judgements.

## **PART I: The Status of Sexual Violence against Men in International Law**

Despite the comparatively dry and descriptive language that characterises international law in comparison to the more ‘emotional’ and normative style of writing in INGO reporting as seen in the previous chapter, international legal texts still represent a rich source of discursive practice that are worth examining. In particular, their role in constituting the categorisation of acts central to the process of law is critical to structuring those ‘conditions of possibility’ (Foucault 2002, xxiv) that enable particular discourses and meanings to emerge (or not) in the first place. Considering this role in the context of sexual violence against men, this section of the chapter asks how the crime-categories of sexual violence and rape are discursively constituted by international law whether there is a space for sexual violence against men to ‘fit’ into current legal understandings of rape and sexual violence in armed conflict.

I argue that the applicability of existing international legal jurisprudence to sexual violence against men is somewhat ambiguous. Existing international human rights and humanitarian instruments contain few direct references to sexual violence in armed conflict, and those that do are usually made within the context of documents that seek explicitly to address violence and discrimination against women. Within international criminal law, the source of most current legal understandings of sexual violence in armed conflict, the status of sexual violence against men remains ambiguous due to the varying applicability of different definitions that have emerged from the jurisprudence of several key cases and the Elements of Crimes to the Rome Statute of the ICC. In this section, I first briefly address international human rights and humanitarian law, before going on to deconstruct the different categorisations of sexual violence in the case law of the ICTR and ICTY and the Elements of Crimes to the Rome Statute of the ICC. Key cases in the development of international criminal

jurisprudence on sexual violence are analysed, and the discursive landscape they construct with reference to sexual violence against men is considered.

### **International Human Rights Law**

International human rights law refers to the set of rules, entrenched either in treaty law or customary international law, that establish a basis on which individuals and groups can expect and claim certain rights that must be protected and respected by their states (International Committee of the Red Cross 2015a, 35–36). International human rights law provides a foundation of rights that is focused towards a specific theme (such as civil, social, or political rights) or towards a specific group (such as the rights of disabled, rights of women, or the rights of migrant workers) (Çali 2010, 283). As such, the ambit of international human rights law is broad and covers a wide spectrum of rights and contexts.

Focusing on sexual violence in international human rights law in particular, we see very few explicit references to sexual violence against men in armed conflict. Several instruments specifically prohibit the use of gender-based violence, including sexual violence, against women both within and outwith armed conflict, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), instituted in 1981, and the Declaration on the Elimination of Violence Against Women (DEVAW), adopted by the United Nations General Assembly in 1993. However, given that these instruments are specifically aimed at tackling violence and discrimination, including sexual violence, against women, they are not applicable to instances of sexual violence against men. As such, they are not discussed in detail here. Broader international human rights treaties are often invoked as applying to sexual violence, but, as Dustin Lewis notes, key instruments such as the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR) do not contain explicit references to the kinds of sexual acts that both men and women are subject to in armed conflict (2009, 19).

The general absence of these explicit references to sexual violence against both men and women, with the exception of the prohibitions on gender-based violence against women in CEDAW and DEVAW, mean international human rights law does not play a significant role in shaping either the articulations of sexual violence against men or the discursive terrain of sexual violence discourse more broadly. Whilst instruments such as the CAT are invoked as covering sexual violence in armed conflict, this is largely done by INGOs in their advocacy campaigns, as seen in the documents analysed in the previous chapter, or in the context of international criminal tribunals when justifying whether rape or sexual violence meets the required threshold for torture, as will be discussed later in this chapter and in the following chapter. Furthermore, whilst international human rights law has been found to apply during times of armed conflict alongside international humanitarian law in several rulings by the International Court of Justice (ICJ), those rulings have interpreted it as *lex generalis* in contrast to international humanitarian law as *lex specialis*; international humanitarian law, as the framework specific to the governance of armed conflict, takes precedence over international human rights law in situations where both may apply (Todeschini 2017, 206). As such, although international human rights law is not suspended during armed conflict, it is (as *lex generalis*) superseded in actual legal proceedings by international humanitarian law (as *lex specialis*). Therefore, when analysing the articulation of sexual violence *in armed conflict*, it is the provisions of international humanitarian law that structure the discursive field of the law. Therefore, it is to the role of international humanitarian law in articulating sexual violence in armed conflict, and the space it leaves for consideration of male victims, that this section now turns.

### **International Humanitarian Law**

International humanitarian law refers to the body of rules, derived from both international treaties or customary international law in a manner similar to international human rights law, that regulate the actions of participants of armed conflict – of both an international and non-international character (such as civil war) – in terms of their conduct towards the prosecution of armed conflict and their conduct towards non-combatants (International Committee of the Red Cross 2015a, 4). As

discussed in the previous section, it takes precedence over international human rights law in the context of armed conflict when provisions in these two bodies of law overlap. Several key treaties regulate the use of particular weapons in armed conflict (such as the Convention on the Prohibition of Biological Weapons 1972 and the Convention prohibiting Certain Conventional Weapons 1980) and set out standards for acceptable conduct in the context of naval warfare (such as the Hague Conventions VI through XIII of 1907). However, this section of the thesis focuses only on those treaties that regulate the conduct of parties to armed conflict towards people who are not or no longer taking part in hostilities, as other elements of international humanitarian law, such as those outlined briefly above, as sexual violence falls outside the ambit of these treaties.

The core of international humanitarian law that regulates the conduct of armed conflict in terms of protection of non-combatants consists of the four Geneva Conventions of 1949 and the three associated Additional Protocols of 1977 and 2005. These Conventions and associated Additional Protocols, along with certain other humanitarian conventions and instruments, do contain explicit prohibitions of rape and sexual violence in armed conflict, in contrast to international human rights law. Whilst not defining rape and sexual violence in any detailed manner, nor containing any specific references to sexual violence against men (Mouthaan 2012, 20), these prohibitions form much of the legal basis upon which various international criminal tribunals have prosecuted perpetrators of war crimes and crimes against humanity; many of the cases prosecuted through international criminal tribunals analysed later in this chapter. Prior to the Geneva Conventions and the Additional Protocols, prohibitions on rape in armed conflict were scarce, albeit present. For example, whilst the crimes of rape and sexual violence are absent from both the Hague Regulations of 1899 and 1907 or the Nuremberg Charter of 1945, key early instances of international humanitarian law, the crime of rape is explicitly prohibited by the Lieber Instructions of 1863 (Meron 1993a, 425–26). Furthermore, as Meron notes, the Hague Regulations could conceivably be interpreted as prohibiting rape and sexual violence based upon a broad reading of Article 46, which relates to the respecting of ‘family honour and rights, the lives of persons, and private property’, although such a reading has rarely occurred in practice (1993a, 425).

Whilst these provisions provide some basis for the prohibition of rape and sexual violence in international humanitarian law, in practice it is the Geneva Conventions and associated Additional Protocols that provide the most stringent protections in international humanitarian law. The prohibitions within the Geneva Conventions and Additional Protocols can be separated into two broad categories; firstly, there are broader protections against violence that are generally interpreted to prohibit the use of rape and sexual violence, in a similar manner to several international human rights treaties. Secondly, there are provisions within both the Geneva Conventions themselves and the Additional Protocols that provide further detail on existing provisions within the Conventions that explicitly prohibit rape and sexual violence. In terms of the first category, Common Article 3 of the Geneva Conventions does not explicitly include sexual violence and rape in the list of acts that are prohibited at any time:

The following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned purposes:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture;

...

(c) outrages upon personal dignity, in particular humiliating and degrading treatment (Art. 3, Geneva I 1949).

However, this is broadly interpreted to incorporate acts of sexual violence and rape (Askin 1997, 329–30; Haffajee 2006, 211). In addition, the International Committee of the Red Cross (ICRC) has adopted a broad interpretation of Article 147 of the Fourth Geneva Convention – which classifies “wilfully causing great suffering or serious injury to body or health” as both war crimes and grave breaches of the conventions – that encompasses the act of rape (Meron 1993a, 426; Russell-Brown 2003, 358). These broader provisions that are generally interpreted to cover rape and sexual violence are then further modified with two articles from the Additional Protocols, which provide additional detail to Common Article 3 and more explicitly renders rape and sexual violence as being covered under the protections of the Conventions.

Article 75 of Additional Protocol I notes that 'outrages upon personal dignity' includes 'indecent assault' and 'humiliating and degrading treatment':

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

...

(b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault (Art, 75, Additional Protocol I 1977).

Common Article 3 is further modified by Article 4 of Additional Protocol II, which explicitly forbids the use of rape and indecent assault against civilians and non-combatants:

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 [non-combatants] are and shall remain prohibited at any time and in any place whatsoever:

(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

...

(e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault (Art. 4, Additional Protocol II 1977).

The final set of protections within the Geneva Conventions and Additional Protocols consist of further prohibitions that apply specifically to female non-combatants in armed conflict. The Fourth Geneva Convention states:

They [protected persons] shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault (Art. 27, Geneva IV 1949).

A similar prohibition is present in Additional Protocol I:

Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution, and any other form of indecent assault (Art. 76, Additional Protocol I 1977).

Considering the totality of protections against rape and sexual violence in the Geneva Conventions, what we see is a broadly inclusive articulation, given that most instances of the signifiers of ‘rape’ and ‘indecent assault’ are not predicated on or placed in a relationship with any other signifier that would restrict the range of possible meaning in such a way as to preclude male victims. However, some of the articulations of rape and sexual violence in the Geneva Conventions and Additional Protocols are potentially problematic. The articulation of ‘women’ in relation to ‘object’ and ‘protected in particular’ in Additional Protocol II is somewhat disconcerting, as it would seem to constitute women as passive objects (as opposed to subjects or agents) – which is in of itself troublesome<sup>1</sup> – in need of greater protection from certain violences than others. Whilst women certainly are vulnerable to sexual violence both within and outwith armed conflict, this foregrounding of women in some of the prohibitions of the Conventions serves to place textual emphasis on women, rape, and sexual assault. Women’s vulnerability, and therefore implied victimhood, is rendered more visible to the reader through the explicit linkage between the signifiers ‘women’, ‘rape’, and ‘indecent assault’. Whilst men and boys are covered by other articles of the Conventions and the more detailed prohibitions outlined in the Additional Protocols, the comparative absence of the signifiers ‘men’ and ‘boys’ from the text means that men and boys fade into the background as part of the more amorphous categories of ‘civilians’ and ‘non-combatants’. This resembles some of the representational practices of INGOs discussed in Chapter V, and has much the same effect. The troublesome implications of this particular discourse will be considering later in Chapter VII.

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<sup>1</sup> Feminist researchers have repeatedly voiced concerns over both the articulation of rape as an attack on women’s honour and the ways in which women have been consistently rendered as passive subjects in discourses of rape (cf. Copelon 1995; Meron 1993b)

As such, whilst the Geneva Conventions and associated Additional Protocols ostensibly provide a discursive space in which violence inflicted on men in armed conflict could be understood as rape or indecent assault, the articulation of these particular forms of violence within Article 27 of the Fourth Geneva Convention and Article 76 of Additional Protocol II serve to foreground sexual violence against women and somewhat obscure male victimisation in this regard. However, the Conventions and Additional Protocols contain very little detail on what actually constitutes rape, indecent assault, or humiliating and degrading treatment. In practice, until the entering into force of the Rome Statute in 2002, the negotiations over the actual substantive definitions of these crimes – and what may and may not be categorised as such – were largely within the purview of the various ad-hoc tribunals set up towards the end of the 1990s. It is to these international criminal tribunals, and these negotiations over the substance and meanings of the crimes articulated within the Geneva Conventions, that the chapter now turns.

### **International Criminal Law**

International criminal law refers to the body of law that exists to hold individuals to account for the most egregious breaches of international humanitarian law and international human rights law; in particular, it exists to prosecute crimes that fall into the three broad categories of war crimes, crimes against humanity, and genocide (Gaeta 2010, 264). Like both international humanitarian and human rights law, international criminal law is derived from both treaty law and customary international law. For example, the definition of genocide used by the ICTR, ICTY, and ICC, is derived verbatim from the Genocide Convention of 1948. However, it is largely from the case law of individual international criminal tribunals and the establishment of the Rome Statute and associated Elements of Crimes that the jurisprudence on sexual violence in armed conflict that forms the key subject of inquiry in this chapter has emerged.

The statutes upon which the various ad hoc tribunals have been founded largely only serve to circumscribe the competencies and remits of the courts without reference to the actual elements of particular crimes. For example, both the Updated Statute of the ICTY and the Statute of the ICTR, state that the crime of rape as a crime against humanity falls under the remit of the tribunals (United Nations Security Council 2009, 6; 2010, 61). The statute of the ICTR further states that ‘outrages upon personal dignity, in particular humiliating or degrading treatment, rape, enforced prostitution and any indecent assault’ as violations of Common Article 3 of the Geneva Conventions (United Nations Security Council 2010, 61) also fall under the remit of the Tribunal, a provision that is not replicated in the Statute of the ICTY. Similarly, the Statute of the SCSL states only that ‘rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence’ as crimes against humanity (United Nations Security Council 2002, 1) and ‘outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault’ as violations of Common Article 3 of the Geneva Conventions (United Nations Security Council 2002, 1–2) fall under the remit of the Court. Whilst acts of sexual violence are frequently prosecuted under alternative or additional charges, such as cruel or inhuman treatment, persecution, or torture, these similarly only appear as listed items under the remits of the Tribunals rather than as fully fleshed-out definitions of the crimes.

As such, the case law of, and precedent established by, international criminal tribunals takes on a particular significance as it is through the negotiations and contestations over definitions within the trial chambers that the discursive terrain, the boundaries of what may and may not be understood as ‘sexual violence’ and ‘rape’, is at least partly shaped by. In the absence of established understandings of rape and sexual violence, amongst other crimes, in international law, the ad-hoc tribunals of the 1990s were found themselves required to develop their own interpretations of the elements of crimes. For example, the *Akayesu* Trial Chamber noted in its findings on the law applicable to the case that ‘the Chamber must define rape, as there is no commonly accepted definition of this term in international law’ (The Prosecutor v. Jean-Paul Akayesu (Judgement) 1998, para. 596). It was not until the entering into force of the Rome Statute and the associated Elements of Crimes in 2002 that a

detailed understanding of the specific elements of the crimes of rape and sexual violence emerged in international treaty law (Zawati 2007, 29, 33). Therefore, much of the international legal jurisprudence, and much of the meaning-making of the process of international law, on sexual violence in armed conflict is to be found within both the case law of the various ad-hoc criminal tribunals set up in the 1990s and the Elements of Crimes of the Rome Statute. It is to a detailed analysis of these cases and treaties, and how they constitute sexual violence in armed conflict, that this section now turns.

### **Tadić**

The *Tadić* case was the first decision of a Trial Chamber of the ICTY, with judgement being rendered on 7 May 1997. It concerns the actions of Duško Tadić, also known as 'Dule', in the Prijedor municipality and the concentration camps at Omarska, Keraterm, and Trnopolje during the Bosnian War in 1992. Tadić was charged with 31 counts of various crimes against humanity and war crimes, but was found not guilty of 9 counts of murder due to insufficient evidence and 11 counts were declared inapplicable due to the victims not being protected persons under Article 4 of the Fourth Geneva Convention of 1949 (ICTY 1997). A further 3 counts of 'forcible sexual intercourse' were withdrawn at the request of the Office of the Prosecutor (OTP), as the key witness was too frightened to testify, and a further witness was discredited upon cross-examination (Askin 1999, 101). Tadić was ultimately found guilty of 11 counts of persecutions and beatings committed at various locations throughout the Prijedor municipality.

It is interesting to note that despite the relative lack of attention paid to sexual violence against men at the international and legal levels at the time, *Tadić* represented the first instance in international criminal law of the prosecution of acts of sexual violence committed against men. The Trial Chamber, in its factual findings as to the events that occurred at the camp at which Tadić was present, states that:

From that body of evidence before the Trial Chamber it can be concluded ... that G and Witness H were compelled to and did take part in the sexual assault [forced oral sex] on Fikret Harambić as alleged and that G was compelled sexually to mutilate him by biting off one of his testicles (Prosecutor v. Duško Tadić (Judgement) 1997, para 198).

However, despite the positioning and predication of the violence as being specifically sexual in nature (the event being described as the ‘sexual assault on Fikret Harambić’), the event is instead charged as cruel and inhumane treatment. Kelly Askin argues that this is potentially a consequence of ‘the vague and misleading language of international humanitarian law instruments regarding gender-based violence’ that serves to obscure the sexual element of the act (1999, 101). Indeed, as seen earlier in this chapter, the Geneva Conventions and Additional Protocols rarely use language that is specific to rape and sexual violence – except in the case of prohibitions specific to the use of sexual violence against women – and instead often use the more ambiguous terms of ‘indecent assault’ or ‘humiliating and degrading treatment’ (for example, in Art. 4, Additional Protocol II 1977). Despite the failure of *Tadić* to prosecute acts of sexual violence against men specifically as sexual violence and the withdrawal of the charges of sexual violence against women, it nevertheless remains an interesting case, not in the least because it represents a conviction of sexual violence against men, and that it constitutes an act of genital mutilation and forced oral sex between male prisoners specifically as sexual assault. However, it also arguably the first in a series of judgements that charges sexual violence against men as crimes other than sexual assault, sexual violence, or rape – something that Manivannan contends serves to marginalise and minimise sexualised trauma to the male genitalia (2013, 662) – a common articulation of sexual violence against men that also appears frequently in INGO reporting, as discussed in Chapter V, and one to which this chapter will return to in Part II. Ultimately however, the *Tadić* decision, whilst a landmark in its prosecution of acts of sexual violence against men during the conflicts in the former Yugoslavia, does little to advance the jurisprudence of sexual violence in armed conflict in terms of the articulation of what actually constitutes rape and sexual violence. Instead, this was left to the *Akayesu* decision.

## Akayesu

Jean-Paul Akayesu was *bourgmestre* (mayor) of the Taba commune, Gitamara prefecture in central Rwanda during the Rwandan Genocide. On 2 September 1998, the ICTR found him guilty of 9 counts of genocide and crimes against humanity, including rape, murder, and torture, carried out within Taba commune during 1994. Akayesu was found, in his capacity as *bourgmestre* for the Taba commune, to have directly – through orders, incitement, or instigation – and indirectly – through consent and acquiescence – contributed to the genocide, rape, torture, and murder of Tutsis in the commune (The Prosecutor v. Jean-Paul Akayesu (Judgement) 1998, paras. 12-12B).

Following the withdrawal of specific charges of rape and sexual violence in the *Tadić* decision as discussed previously, it fell to the *Akayesu* Trial Chamber to be the first instance of a prosecution of rape and sexual violence in international law. As such, *Akayesu* represents a landmark decision in international criminal law, not only for being the first such prosecution, but also for its key findings regarding the meaning and definitions of rape and genocide (Askin 2005, 1007), which were without precedent in international law. Given the landmark nature of the finding, it is worth reproducing in full:

597. The Chamber considers that rape is a form of aggression and that the central elements of the crime of rape cannot be captured in a mechanical description of objects and body parts ... Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

598. The Chamber defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. Sexual violence, which includes rape, is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive (The Prosecutor v. Jean-Paul Akayesu (Judgement) 1998, para. 597-598).

The *Akayesu* definition of rape has been widely lauded for its broad definition and abstention from defining rape and sexual violence purely in mechanical terms (Chenault 2008; Fountain 2012, 253). By defining rape as a form of ‘physical invasion of a sexual nature’, and also bringing in the non-consent or coercion of the victim, *Akayesu* opened up the scope of acts which could be conceived of and charged as rape; the Trial Chamber contended that definitions of rape within national jurisdictions were usually predicated upon non-consensual sexual intercourse, and noted that this could potentially exclude variations on the act of rape that involve the use of objects or orifices that are not necessarily considered sexual (1998, para. 686). This includes male victims, given that to be charged as rape, an act only requires a physical invasion of a sexual nature and that the victim does not consent. Unlike some more mechanical definitions of rape, where body parts are specified, *Akayesu* does not imply or assume the sex of the perpetrator or victim. Furthermore, the *Akayesu* decision also defines sexual violence, which includes but is not limited to rape, as a crime against humanity:

The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact (The Prosecutor v. Jean-Paul Akayesu (Judgement) 1998, para. 688).

Whilst not finding that the crime of ‘sexual violence’ falls into its own category, instead bringing it under the rubric of ‘other inhumane acts’ and ‘outrages upon personal dignity’, the even wider-ranging definition of sexual violence again opens the arena of international law to stories of sexual violence against men. The absence of the discursive linkage between ‘sexual violence’ and ‘physical contact’ as seen in the definition of rape means that *Akayesu* conceivably allows for an even broader scope of acts to be classified as sexual violence, such as enforced nudity or masturbation, where there is a sexual element to the act and there is no consent, but the act would otherwise not fit under other more mechanical definitions. Furthermore, similarly to the findings on rape, the absence of any predication of the act of rape or sexual violence on any gender-specific pronouns or physical characteristics ostensibly provides scope for the application of this particular definition of rape and sexual

violence to male victims as well as female victims. In terms of its impact on the discursive terrain of sexual violence discourse, *Akayesu* arguably enables more and varied stories of sexual violence to be told within the Trial Chambers.

### **Mucić/Čelebići**

The *Mucić* case, often referred to in case law as the *Čelebići* case, after the camp in which the defendants carried out their crimes, concerns the actions of Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo at the aforementioned camp in Konjic municipality in central Bosnia-Herzegovina, during a period of several months during 1992 (ICTY 1998a). Zdravko Mucić, Hazim Delić, and Esad Landžo were all found guilty on numerous counts, including murder, cruel and/or inhuman treatment, torture, rape as torture, and wilfully causing great suffering or serious injury to body or health, with the remaining accused, Zejnil Delalić, acquitted of all counts that pertained to him (ICTY 1998a).

*Čelebići* affirmed the *Akayesu* definition of rape. However, its most significant contribution is its finding relating to the relationship between sexual violence, rape, and torture. Namely, the Trial Chamber found that the characteristics of the rape were similar enough to the crime of torture for rape and sexual violence to be charged as torture in addition as a crime in of itself. Whilst the link between torture, rape, and sexual violence was articulated in the *Akayesu* decision (1998, para. 687):

495. The Trial Chamber considers the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity ... Rape causes severe pain and suffering, both physical and psychological. The psychological suffering of persons upon whom rape is inflicted may be exacerbated by social and cultural conditions ... Furthermore, it is difficult to envisage circumstances in which rape, by, or at the instigation of a public official, or with the consent and acquiescence of an official, could be considered as occurring for a purpose that does not, in some way, involve punishment, coercion, discrimination or intimidation. In the view of this Trial Chamber this is inherent in situations of armed conflict.

496. Accordingly, whenever rape and other forms of sexual violence meet the aforementioned criteria, then they shall constitute torture, in the same manner as any other acts that meet this criteria (Prosecutor v. Zdravko Mucić et al. (Judgement) 1998, para. 495-496).

Given that the *Mucić* decision that rape qualifies as torture is based on the *Akayesu* definition, which as discussed earlier allows space for stories of sexual violence against men to be told, this finding arguably leaves space for both certain acts of violence against men to be considered as sexual violence or rape, and sexual violence against men to be considered as torture. This finding arguably has the potential for a much more significant impact than the findings of *Akayesu* on attempts to combat sexual violence against men. As noted by Sivakumaran (2007, 254) and Mouthaan (2012, 3), acts of sexual violence against men are frequently recorded under the rubric of torture rather than sexual violence. In the context of sexual violence against women, the drawing of the link between rape and torture was seen as a beneficial move as it would allow for the charging of acts of rape and sexual violence under the provisions that prohibit torture, which was subject to significantly more well-developed international norms and legal protections (MacKinnon, 1993, 2006, cited in McGlynn 2008, 72). However, as will be discussed in greater depth in Chapter VII, the framing of acts of sexual violence against men solely as torture holds troubling implications for how we understand such violence. Whilst, as will be discussed in the next section, the classification of acts of violence against men as torture rather than sexual violence does not always occur in legal decisions, the equating of rape and torture remains problematic for an issue where the trauma men suffer during armed conflict is characterised as torture and the sexual element elided.

### **Furundžija and Kunarac**

Anto Furundžija is a former member of the Croatian Defence Council (*Hrvatsko vijeće obrane* or HVO), the military organisation of the unrecognised breakaway state of the Croatian Republic of Herzeg-Bosnia that formed during the Bosnian War. On 10 December 1998, he was found guilty by a Trial Chamber of the ICTY for acts committed during 1993 at a command post of a special unit of the military police

known as the 'Jokers', which he commanded, in the village of Nadioci (ICTY 1998b). Specifically, for the torture and rape of a female civilian during an interrogation with an unnamed second soldier, Furundžija was found guilty on two counts, one of torture as a Violation of the Laws or Customs of War, and one of outrages upon personal dignity, including rape, as a Violation of the Laws or Customs of War (ICTY 1998b). The case is notable for being the first case brought to trial at the ICTY to focus entirely on acts of sexual violence. Furthermore, it also represents a divergence in approaches to conceptualisations of sexual violence in international criminal jurisprudence, as discussed below.

The *Kunarac et al.* case, also referred to collectively as the *Foča* case after the municipality in which the accused were alleged to have carried out the crimes detailed in the indictment, concerns the actions of Dragoljub Kunarac, Radomir Kovač, and Zoran Vuković in Foča municipality from early 1992 to mid-1993 (ICTY 2001). All ethnic Serbs, Kunarac had command responsibility over a reconnaissance, whilst Kovač and Vuković were low-ranking members of a military unit operating in the same area. All were found guilty on multiple accounts of torture, rape, and enslavement as violations of the customs of war and as crimes against humanity for the rape and enslavement of numerous women at various locations throughout the Foča municipality (ICTY 2001).

The *Furundžija* and *Kunarac* decisions represented a departure from the case law on sexual violence laid down by the *Akayesu* decision. Both Trial Chambers moved away from the more expansive and conceptual definition adopted by the *Akayesu* decision, and instead moved towards a more mechanical approach. Whilst *Furundžija* acknowledged the formulation of rape present in *Akayesu*, the decision contended that this definition had no basis in international treaty or customary law, and, in the absence of such a definition in international law, it was argued that the basis for any understanding of rape and sexual violence should be derived from a study of provisions in national law (1998, para. 176-177). As such, based on a reading of relevant national legal provisions on sexual violence and rape, the *Furundžija* Trial Chamber found that:

185. [The] following may be accepted as the objective elements of rape:

The sexual penetration, however slight:

Of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or

Of the mouth of the victim by the penis of the perpetrator

By coercion or force or threat of force against the victim or a third person

186. As pointed out above, international criminal rules punish not only rape but also any serious sexual assault falling short of actual penetration. It would seem that the prohibition embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, threat of force or intimidation in a way that is degrading and humiliating for the victim's dignity (Prosecutor v. Anto Furundžija (Judgement) 1998, para. 185-186).

This finding was supported by the *Kunarac* decision, albeit with modifications to the understanding of the role of coercion or force plays in the crime of rape and sexual violence (cf. Prosecutor v. Dragoljub Kunarac et al. (Judgement) 2001, paras. 438-464). In terms of setting out the discursive terrain of sexual violence in international law, the *Furundžija* and *Kunarac* decisions are problematic when considering sexual violence against men. *Furundžija* acknowledges that whilst several national jurisdictions conceptualised rape only in terms of an assault on women, others define rape more broadly in that they acknowledge rape can be perpetrated against both men and women (1998, para. 180). The decision, in terms of its jurisprudence on sexual violence, is then framed in broadly gender-nonspecific terms. However, a closer discourse-theoretical reading of the text provides an alternative perspective, in which, despite the conceptualisation of rape and sexual assault as ostensibly gender-neutral, male victims are marginalised.

The repetition of the term 'penis' when describing the objects used by the perpetrator to inflict the violence on the victim, despite the absence of sex-specific pronouns, serves to constitute the body of the perpetrator as male. This particular articulation of sexual violence is undermined by research that indicates both men and women

commit acts of sexual violence during armed conflict (Sjoberg 2016), and also by later decisions of the ICTY, such as *Karadžić*, that find acts of sexual violence against both men and women were perpetrated by women as well as men. The implicit rendering of perpetrators as male serves to reinforce a female victim/male perpetrator dynamic within the decisions that elides acts of violence that do not adhere to this binary. Furthermore, similarly to the *Furundžija* decision, the *Kunarac* decision bases its finding of the elements of rape and sexual violence on a reading of domestic statutes concerning rape (cf. paras. 443-456). In many cases, these definitions of rape are explicitly predicated upon a male perpetrator and female victim. In some cases, decisions that have drawn upon the *Furundžija* and *Kunarac* definitions have made this binary more explicit. For example, the *Kvočka* Trial Chamber, when setting out the elements of rape, asserts:

The Trial Chamber agrees with the factors set out by the Trial Chamber in *Kunarać*, defining rape as a violation of sexual autonomy. In order for sexual activity to be classified as rape:

- (i) The sexual activity must be accompanied by force or by threat of force to the victim or a third party;
- (ii) The sexual activity must be accompanied by force or a variety of other specified circumstances which made the victim particularly vulnerable or negated *her* ability to make an informed refusal; or
- (iii) The sexual activity must occur without the consent of the victim (Prosecutor v. Miroslav Kvočka et al. (Judgement) 2001, para. 177, emphasis added).

The predication of victim on gender specific pronouns (in this case, ‘her’) constitutes the victim as female and discursively eliminates the space for stories of sexual violence where the victim is male. Similarly, the *Gacumbitsi* decision notes that:

The Chamber is of the opinion that any penetration of the victim’s vagina by the rapist with his genitals or with any object constitutes rape, although the definition of rape under Article 3(g) of the Statute is not limited to such acts alone (The Prosecutor v. Sylvestre Gacumbitsi (Judgement) 2004, para. 321).

Here, the perpetrator is explicitly constituted as male (through use of the term ‘his genitals’) and the victim as female, with the association between ‘victim’ and ‘vagina’. Although *Gacumbitsi* acknowledges that the definition of rape is not just limited to these acts, the choice to foreground and explicitly state this particular definition of rape serves to emphasise this particular configuration of the act, namely a specifically male perpetrator and a specifically female victim. As such, the *Furundžija* and *Kunarac* definitions, and the decisions that draw on the case law established by them, serve to complicate the discursive terrain by providing a competing and more specific definition of rape and sexual violence that arguably limits the space in which such violence towards men can be articulated, either through implicitly constituting the body of the perpetrator as male and the victim as female, or, in some cases, explicitly predicating descriptions of the victim as female and descriptions of the perpetrator as male.

### **The Rome Statute**

Case law generated from the prosecutorial activities of the ad-hoc criminal tribunals founded in the 1990s was amongst the key driving forces behind existing trends in sexual violence jurisprudence in international law, despite its ambiguous conceptualisation of sexual violence with regards to male victims. The *Akayesu*, *Furundžija*, and *Kunarac* Chambers were required to negotiate their own understandings of sexual violence and rape due to the absence of sufficiently detailed understandings in existing international customary and treaty law. However, the promulgation of rape and sexual violence prosecutions by the various Trial Chambers of the ad-hoc tribunals coincided with the negotiations over the Rome Statute, which resulted in what Patricia Sellers has described as ‘a legal climate beyond its [the ICTR and ICTY] jurisdiction that made it conducive to draft several sex-based crimes into the Rome Statute of the ICC’ (2004, quoted in Halley 2008, 12). Aided by a concerted and highly effective campaign by the Women’s Caucus for Gender Justice that sought to significantly enhance gender recognition and protection against sex-based crimes, the final conceptualisations of sex-based crimes included in the Rome Statute and the associated Elements of Crimes were based upon the jurisprudence of the existing ad-hoc tribunals but went far beyond the mandate of the ICTR and ICTY,

encompassing as they did a far broader range of the forms that sexual violence could take (Chappell 2016, 101).

As such, the Rome Statute represents the first instance of a detailed articulation of sexual violence and rape in armed conflict outside of the case law of previous international criminal tribunals. Furthermore, as these tribunals have either been dissolved (in the case of the SCSL), completed all cases brought before it with only cases against fugitives outstanding (in the case of the ICTR), or are in the process of deciding upon the final appeals of several cases (in the case of the ICTY), the ICC remains the tribunal through which most charges of sexual violence and rape in armed conflict will be brought. As such, the Rome Statute and Elements of Crimes play a central role in structuring the discursive framework in which present and future prosecutions of sexual violence in armed conflict will occur. Therefore, a departure from the earlier focus on case law to a focus on treaty law is justified.

The Rome Statute and Elements of Crimes provide a significantly expanded range of crimes related to sexual violence in armed conflict, including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and sexual violence. Only one of these crimes – enforced pregnancy – is sex-specific. The crimes that most often resemble those experienced by men in armed conflict are constituted as follows. On rape:

The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body (International Criminal Court 2011, 8, Article 7 (1) (g)-1).

On enforced sterilisation, the Elements of Crimes defines it as:

The perpetrator deprived one or more persons of biological reproductive capacity.

The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent (International Criminal Court 2011, 9, Article 7 (1) (g)-5).

Sexual violence, a catch-all category beyond rape, is constituted as:

The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such a person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent (International Criminal Court 2011, 10, Article 7 (1) (g)-6).

It should be noted that Article 8 reproduces the definitions of these particular crimes as war crimes, albeit with the requirement that the perpetrator commits the act with knowledge or intention that the conduct would be part of a systematic or widespread attack against a civilian population removed and replaced with a stipulation that they occur within a conflict of either an international or non-international character and that the perpetrator be aware of the existence of an armed conflict (International Criminal Court 2011, 13).

The understanding of various forms of sexual violence provided within the Elements of Crimes to the Rome Statute arguably occupies a middle ground between the broad understanding of the issue of *Akayesu* and the mechanical approach adopted by *Furundžija* and *Kunarac*. Whilst rape and enforced sterilisation are still predicated upon the mechanical configurations of the act, with the sexual element of rape being derived from the sexual organs involved, they are still phrased in such a way as to reasonably incorporate men as well as women, making no reference to gender-specific pronouns or body parts. However, it should also be emphasised that the predication of rape upon the concept of 'invasion of the victim' potentially precludes the rape of men by women. Whilst the rape of men with objects by female perpetrators (as Cohen (2013), for example, notes as occurring in the civil war in Sierra Leone) fits in to this understanding, rape by the enforced penetration of the perpetrator by the

victim does not, as the body that is being ‘invaded’ is not the victim. Whilst there are few recorded incidents of women raping men in armed conflict, the subject is nevertheless more extensively documented in peacetime society (for example in Sarrel and Masters 1982; Struckman-Johnson 1988). The possibility that such violence may fall outside of the legal definition of rape, however, is worrying, and links in to broader concerns over the visibility of sexually violated men in advocacy and law, as discussed previously in Chapter V, and as will be discussed in greater depth in Chapter VII.

By contrast to the more mechanical approach adopted for enforced sterilisation and rape, the articulation of sexual violence adopted by the Rome Statutes bears a significant resemblance to that of *Akayesu*, in that the only requirement for an act to fall in to the category of sexual violence is that it be of ‘a sexual nature’ and committed through coercion and/or force, or under conditions that are coercive. Like *Akayesu*, the reduction of this crime to the elements of a ‘sexual nature’ and ‘coercion’, rather than a reliance on specific body parts, arguably open up a far greater range of crimes against both women and men to be constituted as sexual violence.

It should be noted, however, that a discursive field, established by the various statutes and jurisprudence of international criminal law, in which sexual violence against men could conceivably be included under the category of rape or sexual violence, does not guarantee that this will occur in individual cases. The ICC’s record on prosecuting acts of sexual and gender-based violence has been described as ‘dismal’ (Amann 2014, cited in Chappell 2016) and, as I will discuss in Part II of this chapter, the manner in which particular instances of sexual violence against men have been constituted by individual trial chambers of international criminal tribunals varies significantly, in the same way that such representations vary in INGO reporting. To summarise Part I briefly, this section has sought to establish the ambiguity with which existing international statutes and case law can be applied to sexual violence against men; whilst the space for understanding such violence as a form of sexual violence arguably exists, in some instances, notably *Furundžija* and *Kunarac*, the legitimate victim of sexual violence is heavily implied to be female. This section has sought to

contextualise the following discussion on the manner in which sexual violence against men has been represented in individual trials.

## **PART II: Sexual Violence against Men in International Criminal Tribunals**

So far, this chapter has focused on how the bounds of the crime-category of sexual violence in armed conflict have been constituted with respect to sexual violence against men. Now, I move to consider how individual instances of sexual violence against men presented in judgements produced by various trial chambers have been represented. In this section of the chapter, I argue that these representations can be categorised into the same three strands that were identified in INGO discourses in the previous chapter. The first is the ‘marginalised’ strand, in which sexual violence against men is not necessarily ignored or ‘written out’ of understandings of sexual violence more broadly, but is either explicitly or implicitly, and through a variety of textual and representational practices, marginalised and pushed to the side. The second is the ‘torture’ strand, in which sexual violence against men is instead represented solely as torture, or similar non-sexual crime. Finally, the third is a more ‘progressive’ representation of the issue, in which sexual violence against men is recognised and prosecuted as sexual violence, without the textual and representational practices seen in the first strand. In this section, I address each of these strands in turn.

### **Marginalising Sexual Violence against Men**

Much like the first discursive strand identified in Chapter V that runs through a significant proportion of the analysed INGO documentation, there are several instances within the collected trial judgements in which sexual violence against men is marginalised. Again, this can occur through implicit or explicit means, and through a variety of textual and representational practices. In many instances, sexual violence against men is not directly mentioned, but is still marginalised as a form of violence through the foregrounding of sexual violence against women as the most ‘legitimate’

subject of anxiety – and therefore in need of specific protections – and the absence of men from such provisions. The previous section has already gone some way to demonstrating this discursive strand in the statutes and case law relevant to sexual violence; in particular, it noted the protections specific to women in the Fourth Geneva Convention and Additional Protocol I, as well as the tendency of the definition of sexual violence contained in the *Furundžija* and *Kunarac* decisions to implicitly constitute the perpetrator as male and the victim as female.

In individual cases, sexual violence against men is not necessarily marginalised directly in the same manner as observed in the analysed INGO documentation, but rather the motivations and assumptions that are constituted as underpinning the use of sexual violence are constituted in different ways for women and men, in a similar manner to representations of men as ‘external’ to gender (except in their capacities as perpetrators) discussed in the previous chapter. For example, in numerous cases, the explanation for why sexual violence happens to women and girls is predicated on the assumption that women and girls are inherently vulnerable to this particular form of violence. For example, the following excerpts constitute sexual violence as something that will always occur during periods of conflict when combatants and women and girls are placed together:

Karemera testified that it would be ridiculous to believe that soldiers would not commit rape during war. The Chamber agrees that there is a heightened risk that the strong will abuse the weak during a war when law and order is suspended and, especially, that soldiers and other combatants, if not restricted by their superiors, will commit rapes against women and girls of the opposite party to the conflict (The Prosecutor v. Édouard Karemera et al. (Judgement) 2012, para. 1475).

In Omarska camp, approximately 36 women were held in detention, guarded by men with weapons who were often drunk, violent, and physically and mentally abusive and who were allowed to act with virtual impunity. Indeed, it would be unrealistic and contrary to all rational logic to expect that none of the women held in Omarska, placed in circumstances rendering them especially vulnerable, would be subjected to rape or other forms of sexual violence. This is particularly true in light of the clear intent of the criminal enterprise to subject the targeted group to persecution through such means as

violence and humiliation (Prosecutor v. Miroslav Kvočka et al. (Judgement) 2001, para. 327).

In addition, the violence suffered by Ms. Čećez in the form of rape, was inflicted upon her by Deliđ because she is a woman. As discussed above, this represents a form of discrimination which constitutes a prohibited purpose for the offence of torture (Prosecutor v. Zdravko Mucić et al. (Judgement) 1998, para. 941).

At Trnopolje there was no regular regime of interrogations or beatings, as in the other camps, but beatings and killings did occur ... Because this camp housed the largest number of women and girls, there were more rapes at this camp than at any other. Girls between the ages of 16 and 19 were at the greatest risk (Prosecutor v. Duško Tadić (Judgement) 1997, para. 175).

The last excerpt from the *Tadić* decision is particularly explicit in making the link between the presence of women and girls and the occurrence of sexual violence and rape. As such, women and girls are constituted as being inherently vulnerable to sexual violence by virtue of being women and girls. The fact they are women and girls is constituted as explanation enough. Besides from the problematic assumption that men will always rape women in conflict given the chance, an assumption that does not take into account instances of armed conflict where soldiers have not raped or sexually assaulted either men or women (Wood 2006; 2009), this narrative of women's vulnerability to violence stands in contrast to narratives of men's vulnerability to violence, both sexual and non-sexual. When describing men's vulnerability, the Trial Chambers consistently predicated this vulnerability to violence on the fact that they were in a position of incarceration or detention. For example:

Whilst the status of the victims as civilians cannot be taken into consideration as an aggravating factor since it is already an element of the crimes charged, their vulnerability as detainees in the particular circumstances of the case, is considered an aggravating factor (Prosecutor v. Ranko Češić (Sentencing Judgement) 2004, para. 49).

The Trial Chamber finds that there can be no doubt that Milan Simić's victims were in a position of inferiority and of acute vulnerability, *being in the custody and control of the Bosanski Samac authorities*: they had all been in detention for several months, during which they had already

suffered extensive and brutal beatings at the hands of others; they were defenceless and had no possibility to protect themselves (Prosecutor v. Milan Simić (Sentencing Judgement) 2002, para. 70, emphasis added).

Whilst the concept of gender is rarely invoked directly in trial judgements, the above excerpts arguably constitute sexual violence against women as a form of gender-based violence; the violence is committed against them because they are women, and because the perpetrators are men. Indeed, this particular representation of sexual violence and women in conflict would chime with the significant amounts of feminist research – as detailed in Chapter II – that argues that rape and sexual violence are expressions of unequal gendered power dynamics between men and women, that the toxic masculinity that is inherent to soldiering and warfare results in sexually violent men that rape women in order to bolster their own sense of masculinity and to further feminise and humiliate the women, and by extension, the ‘enemy’ group (see, for example, Baaz and Stern 2009; 2013; Hague 1997; Morus 2012). However, the same cannot be said for men; here, their vulnerability to violence is predicated upon their status as captives, rather than because they are men. Scholarship on the subject has argued that men are subject to sexual violence as a consequence of their gender, just as women are; namely, the sexual violation of men is a symbolic attack on their masculinity, a means of the perpetrator to bolster his own sense of masculinity through the appropriation of the masculinity and feminisation of the enemy ‘other’ (Sivakumaran 2005; 2007; Solangon and Patel 2012; Zarkov 2001). Little discursive space is left to consider the sexual violation of men through this lens by constituting them as vulnerable on the basis of their position as captives rather than potentially vulnerable through their status as men. As such, whereas women are constituted as inherently vulnerable to sexual violence on the basis of their sex, which may carry advantages in terms of prevention and prosecution, the telling of the story of male victims precludes understanding their victimisation in similar terms. The implications of this particular representative practice are discussed in the following chapter.

## Sexual Violence against Men as Torture

As intimated above, whilst the discursive terrain established by the various statutes and items of case law relating to sexual violence does provide space for representations of violence against men as instances of specifically sexual violence, as will be discussed in the following section, this does not ensure that these kinds of representations will always emerge. In many instances, in a similar manner to those representations observed in INGO documentation in the previous chapter, sexual violence against men is instead constituted solely as torture, or a similar non-sexual classification of violence. For example, the Mucić decision describes an instance of trauma inflicted on the genitals:

In a detailed account of this event, Mirko Đorđić described how Esad Landžo removed Vukašin Mrkajić's trousers and placed a slow-burning fuse against his bare skin around his waist and genitals. He ordered the victim to put the trousers back on, whereupon he set light to the fuse ... the Trial Chamber finds that the intentional act of placing a burning fuse cord against Vukašin Mrkajić's bare body caused the victim such serious suffering and injury that it constitutes the offence of wilfully causing great suffering or serious injury to body or health under Article 2, and cruel treatment under Article 3 of the Statute (Prosecutor v. Zdravko Mucić et al. (Judgement) 1998, para. 1038-1040).

As discussed in the previous chapter, violence towards the genitals is one of the more common sexual crimes experienced by men during armed conflict (Carlson 2006). However, this particular passage instead constitutes trauma towards the genitals as aimed at causing great suffering and serious injury – the violence is not predicated as sexual. Whilst violence towards the genitals certainly causes significant suffering and injury, the decision, in constituting it in this manner, closes off avenues for also considering this violence as particularly sexual. For example, Zarkov notes that violence towards the penis may have ethnic and gendered dimensions, whereby it is both a signifier of the virility of the male and the virility of the nation (2001). Considering the extreme ethnic dimension that characterised the wars in the former Yugoslavia, the elision of the sexual or gendered dynamics underpinning certain forms of violence may rob us of valuable insights into the meanings that lie behind

their infliction. Further examples where the violence towards men is predicated more as a non-sexual infliction of pain or humiliation include the *Simić*, *Hategekimana*, and *Brđanin* decisions:

Counts 7, 8 and 9 charge that one night in June 1992, in the hallway of the gymnasium of the Bosanski Samac primary school, Milan Simić kicked and beat Safet Hadžialijagić, and placed the barrel of his gun in Safet Hadžialijagić's mouth. While Milan Simić kicked and beat him, other men repeatedly pulled down Safet Hadžialijagić's pants and threatened to cut off his penis (Prosecutor v. Milan Simić (Sentencing Judgement) 2002, para. 4).

Witness QCL testified that people's identity cards were checked at the roadblocks in order to verify their ethnicity and that, as a Tutsi, he was beaten, searched, disrobed and insulted by soldiers from the Ngoma Camp throughout the genocide on a daily basis (The Prosecutor v. Ildephonse Hategekimana (Judgement) 2010, para. 186).

On 26 June 1992, Omarska camp guards tried to force Mehmedalija Sarajlić, an elderly Bosnian Muslim, to rape a female detainee. He begged them "Don't make me do it. She could be my daughter. I am a man in advanced age." The guards laughed and said "Well, try to use the finger." A scream and the sound of beatings could be heard, and then everything was silent. The guards had killed the man. The Trial Chamber, by majority, finds that the threat of rape constituted a sexual assault vis-à-vis the female detainee (Prosecutor v. Radoslav Brđanin (Judgement) 2004, para. 516).

The final excerpt is particularly notable from a discursive viewpoint. It is interesting to note here that the threat of rape made against the victim is articulated as sexual assault, but not the threat to force someone to rape, which could be considered as rape or sexual assault under existing case law, particularly *Akayesu*. Similarly to violence against the genitals, some forms of violence that could be constituted as being sexual in nature – in this case, trying to force someone to rape another – are not articulated as sexual assault. The implications of this discursive strand will be addressed in a more in-depth fashion in the following chapter.

## Recognising and Prosecuting Sexual Violence against Men

The final identified strand is broadly equivalent to the final 'sexual violence as sexual and gender-based violence' strand detailed at the end of the previous chapter on INGO discourses. This discursive strand consists of acts of sexual violence against men have been both prosecuted and constituted as crimes of a sexual nature. To take but a few examples, the *Karadžić* decision describes multiple instances of Bosnian Muslim men and women being raped and sexually assaulted by Bosnian Serb soldiers and guards or forced to engage in sexually degrading acts, either with each other or with other guards:

When one of his female relatives was taken away, a male detainee tried to follow her but could not; he was later taken by two men to the cellar and shown where she had been raped ... he was also raped two and a half weeks after being detained; he was brought to the basement at least 30 times and raped on almost every occasion. He was tied to a desk, he was verbally abused, pliers were used to mistreat him, and he was raped by police truncheons and similar objects (Prosecutor v. Radovan Karadžić (Judgement) 2016, para. 991).

Other acts of sexual violence included male and female detainees who were ordered to undress, dance, and perform sexual acts in front of Bosnian Serb soldiers. In other incidents detainees were forced to remove their underwear and bite or suck each other's penises while soldiers stood by and laughed. In another incident detainees were forced to lick the buttocks of a Bosnian Serb woman, who threatened to slit their throats if they did not comply (Prosecutor v. Radovan Karadžić (Judgement) 2016, para. 2503).

The Chamber subsequently found that 'Bosnian Muslim women, men, girls, and boys were subject to rape and other acts of sexual violence' (para. 2506) as a form of cruel and inhuman treatment, itself a form of persecution. This decision is surprising in the way it constitutes sexual violence against men and boys in relation to sexual violence against women and girls (when considered in the context of the past marginalisation or exclusion of men and boys from sexual violence discourse); no particular distinction is made between sexual violence against women and men beyond the different forms

that the violence took, in contrast to some earlier decisions. As such, the text places sexual violence against men and women in a relationship of similarity with each other.

The recent decision of the *Ntaganda* Trial Chamber of the ICC contains similar representations of sexual violence against men. For example, the Trial Chamber, in its findings on rape as a crime against humanity and as a war crime, states:

941. The Chamber found that all incidents described above resulted in an invasion of the victim's body through an act of penetration, as required by the Elements of Crimes. It is therefore satisfied that the first material elements of the crime against humanity of rape and the war crime of rape are met.

942. The Chamber notes that, in most instances, the acts constituted of the penetration of the victim's vagina by a male perpetrator's sexual organ. In other instances, the penetration of the victims' genitals was made using another body part of the perpetrator, or of a third person, such as when a UPC/FPLC commander inserted his fingers in the vagina of a 13-year-old girl in the aftermath of the assault in Mongbwalu, and when a male civilian detained in Kilo was made to penetrate with his hand the vagina of a co-detainee. The Chamber also found that UPC/FPLC soldiers used sticks and 'bits of wood' to penetrate the genital openings of some women and anal openings of some men after the 'pacification meeting (The Prosecutor v. Bosco Ntaganda (Judgement) 2019, paras. 941-942).

The representations of sexual violence against men contained in this excerpt are analogous to those in the *Karadžić* judgement, in that little textual distinction is made between sexual violence against women and men. The penetration of the genital openings of women and the anal openings of men are placed into a relationship of equivalence with each other through the connecting word 'and' within the context of a discussion on the findings concerning rape, constituting both forms of violence as equal in terms of their status as rape. Whilst women are foregrounded in the text, this is unsurprising given that most of the charges relate to acts of rape perpetrated against women. Furthermore, the Trial Chamber emphasises the applicability of the provisions for rape in the Elements of Crimes of the Rome Statute to both women and men, stating that 'the concept of 'invasion' is intended to be broad enough to be

gender-neutral'. Accordingly, 'invasion', in the Court's legal framework, includes same-sex penetration, and encompasses both male and/or female perpetrators and victims' (The Prosecutor v. Bosco Ntaganda (Judgement) 2019, para. 933). Despite the somewhat problematic conflation of the concepts of 'gender' and 'sex', the emphasis placed on the inclusion of male victims in prosecutions of acts of rape and sexual violence, similarly to the *Karadžić* decision, marks a significant break with the previously inconsistent approaches detailed earlier in this chapter.

Another example is to be found within the *Bagosora* decision. In describing acts of violence that occurred at a roadblock in Kigali, the decision notes that:

These locations [civilian roadblocks] were sites of open and notorious slaughter and sexual assault. Several witnesses, including Dallaire and Beardsley, observed dead men and women around roadblocks throughout Kigali, including children. The bodies of the dead were frequently piled near the roadblocks and at times were collected by local officials. Female victims were left lying on their back with their legs spread and stained with semen. Dallaire saw objects crushed or implanted in vaginas, breasts cut off, stomachs opened and the mutilated genitals of men (The Prosecutor v. Théoneste Bagosora et al. (Judgement) 2008, para. 1908).

The location of descriptions of violence towards the genitals of men next to descriptions of sexual violence towards women, and the predication of all of these descriptions on the term 'sexual assault' towards the beginning of the excerpt, serves to constitute violence towards men's genitals as a sexualised form of violence. Whilst the Trial Chamber was not convinced beyond reasonable doubt that the defendants were directly or indirectly responsible for these acts, the telling of the events in this particular way remains discursively significant.

One final example is to be found in the *Mucić/Čelebići* decision, where the Trial Chamber finds that the act of forcing two men to perform fellatio on each other constitutes a crime against humanity:

The Trial Chamber finds that the act of forcing Vaso Đorđić and Veseljko Đorđić to perform fellatio on one another constituted, at least, a fundamental attack on their human dignity. Accordingly, the Trial Chamber finds that this act constitutes the offence of inhuman treatment under Article 2 of the Statute, and cruel treatment under Article 3 of the Statute. The Trial Chamber notes that the aforementioned act could constitute rape for which liability could have been found if pleaded in the appropriate manner (Prosecutor v. Zdravko Mucić et al. (Judgement) 1998, para. 1066).

It is interesting to note the tone of near-reproach in the text; whilst the acts were ultimately charged as inhuman treatment and cruel treatment, the Trial Chamber notes that the act of enforced fellatio would satisfy the requirements for rape. As such, whilst the violence itself is classified under different charges, the interjection by the Trial Chamber serves to reinforce the act of enforced fellatio as an act of specifically sexual violence, namely rape. A similar passage can be seen in this excerpt of the *Sesay* decision from the SCSL:

1307. The Chamber finds that the conduct of AFRC/RUF rebels in forcing approximately 20 captive civilians to have sexual intercourse with each other and slitting the genitalia of several male and female civilians constituted a severe degradation, harm and violation of the victims' personal dignity....

1308. Again, the Chamber observes that the Prosecution did not particularise the conduct that constitutes other forms of sexual violence and did not plead forms of sexual violence committed against male victims (Prosecutor v. Issa Hassan Sesay et al. (Judgement) 2009, para. 1307-1308).

It is worth noting that the Trial Chamber, despite the failure of the Prosecution to plead sexual violence against men, still concluded that sexual violence against both women and men had been carried out by AFRC/RUF rebels (Prosecutor v. Issa Hassan Sesay et al. (Judgement) 2009, para. 1309), differentiating it from the *Mucić/Čelebići* decision, where the violence was ultimately prosecuted as inhuman and cruel treatment.

The excerpts detailed above are distinct from those given in the previous two strands, as they firstly acknowledge sexual violence against men as a serious violation on a par with sexual violence against women, and secondly do not constitute women or men as suffering to a greater or lesser extent than each other as seen frequently in INGO representations of sexual violence and in some instances of relevant international legal statutes and case law. It is worth reiterating at this point that, whilst this strand is broadly analogous to the one presented at the end of Chapter V, they differ in that international legal discourses of sexual violence rarely contain explicit articulations of gender and gender relations. Indeed, whilst more focused gender work occurs behind the scenes of international law (Chappell 2016), and gender relations and roles are articulated through the judgements, as seen earlier in this section of the chapter, the term 'gender' itself still rarely appears in the individual judgements of trial chambers. Nevertheless, I have grouped this strand together with the final strand of Chapter V, as they arguably represent a more 'progressive' discourse of sexual violence against men in which the issue is treated in a considerably different and sensitive manner to the other representations identified in both sets of documents. It is to the implications of this approach, among others, that the thesis turns to in the next chapter.

### **PART III: Conclusions**

This chapter sought to present the results of the discourse-theoretical analysis of a variety of international legal statutes and documents produced by international criminal tribunals in order to understand the ways in which sexual violence against men has been constituted in and through these texts. I contend the position of sexual violence against men within the existing international legal framework is somewhat ambiguous, with some statutes and items of case law arguably more able to adequately include the issue than others. From this, I contend that the discourses of sexual violence against men seen within individual Trial Chamber judgements can be classified broadly along the lines of those seen in INGO documentation, as discussed in Chapter V. The first involves the marginalisation of sexual violence against men, in this case operating through some of the statutes and case law discussed in the first part of the chapter, and also through the articulation of the apparent dynamics that

underpin the vulnerability of women and men to different forms of violence in armed conflict. The second involves the framing of sexual violence against men as a form of torture and/or inhuman or cruel treatment, again in a similar manner to the framing of the issue as torture by INGO reporting. Finally, the third strand consists of a more 'progressive' approach to the problem, whereby it is recognised, charged, and prosecuted as a form of sexual violence on a similar basis to sexual violence against women.

The ambiguity and inconsistency with which international law has treated sexual violence against men reflects a similar inconsistency in INGO representations. This is perhaps indicative of a broader uncertainty over how to engage with the issue, although as discussed in Part IIC of this chapter, and like INGO advocacy on sexual violence, there are encouraging signs of a discourse in which the problem is conceptualised as sexual violence and charged as such. Each of the discursive strands identified in both this chapter and Chapter V, however, hold significant implications for how we understand and respond to not only sexual violence against men, but also sexual violence more broadly. It is to a discussion of these implications that this thesis now turns.

## **CHAPTER VII – IMPLICATIONS OF INGO AND INTERNATIONAL LEGAL DISCOURSES OF SEXUAL VIOLENCE AGAINST MEN**

The previous two chapters explored the manner in which sexual violence against men has been discursively constituted in documentation produced by both international human rights INGOs and international legal institutions, particularly trial chambers of international criminal tribunals. They suggested that representations of sexual violence against men across these texts can be broadly categorised into three different strands that articulate (or do not articulate) the issue in several significantly different ways: firstly, the issue is discursively marginalised, either explicitly through the articulation of sex-specific understandings of sexual violence in armed conflict, or implicitly through the textual and conceptual foregrounding of sexual violence against women; secondly, it is represented as torture instead of sexual violence; and thirdly, it is acknowledged as a form of sexual and/or gender-based violence without the concomitant marginalisation seen in the first strand. Ultimately, discourses of sexual violence against men in armed conflict in human rights advocacy and international law can be characterised as highly inconsistent and variable, in contrast to the particularly homogenous representation of sexual violence against women.

In this chapter, I seek to interrogate the implications that each of these discursive strands hold, not only for how we conceptualise, understand, and respond to sexual violence against men in armed conflict (or, in many cases, how we do not do these things), but also for the broader field of sexual violence more generally. What work do these discourses do? What do they make (im)possible? And what potential challenges do they present to researchers, practitioners, and policy-makers? The absence of a single, unifying discourse of sexual violence against men that runs throughout the texts complicates this task; indeed, the inconsistency of such discourses represents one of the overall findings of this research project, and will be reflected on in the final chapter of this thesis. As such, in this chapter I seek to draw out some of the more salient and prominent themes seen across both INGO and international legal documentation and, drawing on relevant feminist scholarship from the study of violence, gender, and conflict, consider their potential ramifications.

I discuss the implications of each of the strands identified in the previous two chapters in turn. Part I delves into the 'marginalised' strand and discusses the implications for both sexual violence against men and our understanding of gender more broadly. It contends that the marginalisation of sexual violence against men not only risks reinforcing widely held mis-conceptualisations of the issue, but also may serve to construct problematic understandings of gender that reinforce patriarchal and essentialist conceptualisations of the roles men and women adopt in conflict. Part II considers the work that the framing of such violence solely as torture does, and, while noting the benefits that additionally conceptualising sexual violence against women as torture may have, argues that the manner in which sexual violence against men has been represented in the analysed documents serves to elide both the existence of the issue and the gendered dynamics that underpin such violence. Finally, Part III discusses the implications of representations of sexual violence against men as gender-based violence. Whilst acknowledged as the most infrequent representation of sexual violence against men, I argue that it nevertheless represents significant progress towards a deeper and more nuanced understanding of men, women, sexual violence, and gender in armed conflict. However, I also caution that, in bringing men into understandings of gender-based violence, care must be taken to avoid undermining valuable feminist observations about gender and gender hierarchies.

## **PART I: Sexual Violence against Men, Marginalisation, and Questions of Gender**

Chapters V and VI documented the numerous ways in which both human rights INGOs and international law have discursively marginalised sexual violence against men in armed conflict. In some cases, this takes the form of the use of sex-specific understandings of sexual and gender-based violence, in which sexual violence against men is not acknowledged as a possibility. This broadly aligns with Lara Stemple's findings that many instruments in the UN human rights canon are often worded in such a way as to explicitly exclude male survivors of sexual violence – a consequence of the genesis of such instruments in highly successful campaigns for

women's rights (2009, 605–6). However, in many cases, the analysed documents did not necessarily *explicitly* exclude sexual violence against men from their broader conceptualisations of sexual violence; rather, in many cases this exclusionary practice functioned through a more nuanced and implicit foregrounding of sexual violence against women to the extent that they are effectively constituted as the sole legitimate victim of this form of violence. For example, Additional Protocol I to the Geneva Conventions notes the particular need to protect women in armed conflict from rape and indecent assault (Art. 76, Additional Protocol I 1977), thus constituting women as the primary victims of such violence. Men, by comparison, are conspicuously absent from such conceptualisations, even when they could conceivably be included, or only briefly acknowledged. Again, this resembles Stemple's findings, where men generally only appear in terms of their perpetration of violence or in an instrumentalist capacity as potential allies in reducing violence in UN instruments on sexual violence (2009, 624).

This set of representational practices have a number of implications for how we understand and respond to sexual violence in armed conflict, as well as how we conceive of the concept of gender. Firstly, either the explicit or implicit framing of sexual violence as a form of violence that is unique to women risks feeding in to the widely held misconception that men cannot be subject to sexual violence or assault (Sivakumaran 2007, 256). Despite significant progress in attaining greater recognition and attention for sexual violence against men, the belief that men cannot be victims of sexual violence or assault is still widely held (Féron 2015, 37; Misra 2015, 143–44; Penn 2014). By articulating an understanding of sexual violence in armed conflict that is predicated upon female victims, many of the documents not only risk obscuring the fact that both women and men can suffer sexual violence, but also diminish the discursive space in which discussions of male victims can be had; if sexual violence is defined as something specific to women, then particular forms of violence inflicted on men that could be construed as being sexual in nature are constituted instead as external to the category of sexual violence.

Secondly, such representations have implications for how we conceive of gender, and the possible roles that men and women may occupy during armed conflict. The textual

priority given to female victims of sexual violence – either through their foregrounding as the principal victims of sexual violence and/or conflict, or through the explicit articulation of sexual violence as a form of violence specific to women – constitutes and constrains the ways in which both women and men can be perceived as specific kinds of subjects and actors in armed conflict. As discussed in previous chapters, the repeated emphasis on women as the primary victims of sexual violence, or the organising of definitions in such a way as to preclude the possibility of men as victims of sexual violence, serves to constitute the identity of women in conflict principally in terms of victimhood. Men, by contrast, through their absence from discussions or definitions of sexual violence, except in terms of their perpetration of such violence, are constituted primarily as perpetrators. This stems from the oppositional manner in which the identities of men and women are constructed; as Gentry and Sjöberg have argued, ‘male and female have classically been presented on a polarised spectrum. What man is (or supposed to be) woman cannot be, and what woman is (or supposed to be) man cannot be’ (2015, 22). Cottet supports this, noting that constituting women as weak and as victims implicitly constitutes men as the opposite: as strong and dominant (2018, 93). As such, men and women in armed conflict are articulated into a dichotomy where men are understood as active/powerful/violent and women, in opposition to this, are understood as passive/powerless/peaceful. This (re)inscription of this particular set of gender relations have been observed frequently throughout policy and advocacy relating to armed conflict, and have come under significant criticism by a broad spectrum of feminist scholarship (cf. Carpenter 2006; Grey and Shepherd 2012; Tiessen 2015).

The reduction of the identities of women and men to these broadly essentialist understandings of gender roles has significant consequences for both female and male victims of sexual violence in armed conflict. As Parpart and Marchand argue, ‘stereotypical essentialising of women as ‘victims’ and men as ‘perpetrators’ of political violence and armed conflict ... in treating both men and women as ‘objects’, denies each their agency and associated voices as ‘actors’ in the processes’ (1995, cited in Moser and Clark 2001, 4). By precluding men from consideration as victims of sexual violence and implying that women are by and large the sole victims, the documents (re)inscribe and perpetuate the ideas that men cannot be victims of such

violence and that men in conflict inhabit powerful, agential, and aggressive identities through their implicit or explicit representation as perpetrators. Similarly, if women and girls are repeatedly represented as victims of (sexual) violence first and foremost, then the possibility of conceptualising or understanding them as inhabiting roles that they may take as agents (rather than victim subjects) (Hansen 2010, 24; Tiessen 2015, 99) for positive change, or indeed as perpetrators of violence (Gentry and Sjoberg 2015; Sjoberg 2016), during armed conflict is precluded. As such, breaking down this narrative of violent/perpetrator men and nonviolent/victim women is not only crucial for deconstructing the widely held perception that men cannot be subject to sexual violence, but also for deconstructing those patriarchal/gendered limits on what women can be; as Gentry and Sjoberg argue, women will always be treated as lesser in society so long as the identities of men and women are constructed in comparison and in opposition to each other (2015, 22). Moving beyond this and acknowledging possibility that both women and men can and do hold a far greater number of (frequently overlapping) roles in armed conflict beyond what the simplistic and oppositional dichotomies into which their identities are often articulated would suggest, would arguably enhance the depth of our conceptual understanding of sexual violence and gender in armed conflict, open up greater spaces for discussions of male victims of sexual violence, and deconstruct potentially anti-feminist discourses that produce and reinforce essentialist views of women through INGO and international legal activities.

The representation of women and girls as the most frequent (or as the vast majority of) victims of sexual violence (and conflict more broadly) is a common feature of many of the analysed INGO documents. In some cases, as detailed in Part I of Chapter V, the lack of attention paid to sexual violence against men is explicitly justified on the basis of sexual violence against women being more widespread and therefore, presumably, of more immediate concern. However, such a representation relies on contestable empirical foundations and serves to reinforce particular understandings of men and women in armed conflict. With the relatively recent emergence of evidence that suggests sexual violence against men and boys is not only a feature of numerous armed conflicts throughout history but also a potentially commonplace occurrence, the claim that women and girls remain the primary target of such violence

becomes more difficult to empirically sustain (Zalewski 2018, 29; Shepherd 2008, 115). This is exacerbated when considering that any statistics or data on sexual violence, within or outwith armed conflict and perpetrated against women or men, are ultimately unreliable. Disclosure bias has a significant impact on the collection of data on sexual violence, with both female and male victims widely acknowledged as being reluctant to report their experiences, for a variety of reasons (D. K. Cohen and Nordås 2014, 421; Roth, Guberek, and Green 2011, 25–27). This is acknowledged in many of the analysed texts, with many acknowledging that sexual violence against women is likely highly underreported. In a similar manner, some also acknowledge that men face particular barriers in coming forwards with their experiences as well (for example in Freedom from Torture 2017, 55; Human Rights Watch 2017a, 17). Statistics for sexual violence against both women and men likely significantly underreport the true extent of both forms of violence. Furthermore, as Cohen and Green (2012) have noted, the harsh system in which INGOs operate requires them to make strong claims in order to attract attention and funding, which may result in the spread of inflated and/or unverified (or unverifiable) claims concerning the incidence of certain forms of violence, including sexual violence. As such, the claim that ‘women and girls represent the vast majority of victims of sexual violence/conflict’ is arguably unsustainable on the basis of the current impossibility of ascertaining the ‘true’ extent of sexual violence in armed conflict. Furthermore, in a similar manner to the representations detailed earlier in this section, phrases such as ‘the vast majority’ serves to discursively silence male victims and deny the materiality of the violated male body (Grey and Shepherd 2012, 122). As such, essentialist dichotomies of female victim/male perpetrator are once again reinforced.

In some cases, as detailed again in Part I of Chapter V, the trauma experienced by male victims of sexual violence is contrasted with that of female victims. This representation of sexual violence against women as more harmful than sexual violence against men follows a similar pattern to the representational practices discussed above, in that it is used to justify the omission of male victims from a given report. In these instances, sexual violence against women is represented as more egregious and more harmful because it occurs within and because of the context of a patriarchal gender hierarchy in which women are placed below men and that serves

to inform and exacerbate the use of sexual violence (for example, in Amnesty International 2002; 2011). This would suggest, however, that gender does not apply to male victims of sexual violence; gender is treated almost as a variable, in which its presence through women adds further injury to the already extensive list of traumas experienced by victims of sexual violence. This ultimately, and somewhat lazily, conflates gender with women (Shepherd 2008, 120), and reflects trends observed in other areas of humanitarian work (cf. Turner 2019, 601). In addition, uncritically positioning men as a monolithic perpetrator group at the top of a gendered power hierarchy – and not applying a gender analysis to victimised men – risks obscuring the ways in which unequal power relations and hierarchies are established between men that not only can be used to understand sexual violence against men (as discussed in Chapter II), but also the ways in which these contestations *within* gender contribute to and sustain patriarchal and unequal power relations (Connell and Messerschmidt 2005; Dolan 2016; Hooper 2012).

Furthermore, the comparison of women and men's trauma raises a broader concern relating to the problems inherent to comparing human suffering. It is possible to argue the opposite, that sexual violence is worse for men:

Penetration of the female body remains 'less shocking' than that of the male body, because of the definition of the male corporeal boundary is contradicted directly by such penetration, in a way that the boundaries of the female body are not (Graham 2006, quoted in Zalewski 2018, 30).

Such comparisons of suffering are, however, besides the point; 'ultimately, it should not be the case that 'women' or 'men' have their needs met because they suffer, quantifiably, more; treating gender as a variable in this way limits the ways in which it is possible to understand violence, gender and security' (Shepherd 2008, 116). It is possible to argue the relative severity of trauma experienced by sexually violated women and men is immaterial; not in the sense that the trauma is immaterial – the materiality of the suffering of both women and men is very real – but that considerations of who suffers the 'most' are, at worst, counterproductive and establish hierarchies of victimhood in which only those who suffer the most are acknowledged

as legitimate subjects of humanitarian and legal inquiry. This is not to say that there are no serious research questions to be found in the work that gender does through the sexual violation of both female and male bodies and the potentially differential impact it has on victims; such work would help to illuminate what Zalewski notes are the different ways in which gender works when embodied in a masculine or feminine state (2018, 29). However, the representation of sexual violence against men as ‘less traumatic’ than that of women (and the justification of the absence of male victims on the basis of this) threatens to attract attention away from the very material harms experienced by both women and men. As Shepherd states, ‘the idea that careful research on gendered violence could degenerate into point-scoring over whether men or women suffer more is positively worrying’ (2008, 116).

The representations discussed in this part of the chapter can be understood as fitting into (and stemming from) a broader scepticism in human rights advocacy circles as to the necessity of more fully addressing the needs of male survivors of sexual violence; interviews with various actors in the field indicate that attitudes towards female survivors as the ‘real’ victims and men as the ‘real’ perpetrators continue to predominate within international policy and advocacy communities (Gorris 2015, 419–20). This may partly be a consequence of the limited funding and attention available to advocacy communities, as discussed in Chapter III, and the resultant fear that incorporating male victims into broader programmes on sexual violence may further dilute these already scarce resources and retard hard-won progress on sexual violence against women (Féron 2015; Storr 2011). This ties in to Cohen, Green, and Wood’s argument that the study of sexual violence suffers from a broader selection bias (2013, 10). Providing a definitive genealogy of the genesis of these discourses is, however, beyond the scope of this thesis, and would likely require numerous interviews with relevant actors in the field. Nevertheless, the manner in which sexual violence against men has often been represented, particularly in INGO discourses, would appear to reflect a broader belief that women are the principal victims of armed conflict and sexual violence.

To briefly conclude, it is somewhat paradoxical to note that, despite what is often an explicit commitment to addressing both sexual violence against women and the

systemic gender inequalities that inform its use made by INGOs, and a commitment to finding the 'objective' truth of violence by international law, the analysed documents evince a set of discourses that not only obscure sexual violence against men, but also largely serve to reinforce and sustain structures of gender relations that feminists have spent many years attempting to illuminate and dismantle. Instances of sexual violence against men being marginalised in the documents can be understood as broadly symptomatic of a largely essentialist and rigid understanding of gender in which women are equated with victims and men with perpetrators, leaving little discursive space for considerations of those who do not fall into those categories. However, as noted in Chapter V, it is still nevertheless significant that sexual violence against men is now more frequently acknowledged as sexual violence (albeit concomitantly with a set of representative practices that then marginalised the issue) than it is constituted as torture, a practice that has drawn significant criticism from various scholars (for example, Mouthaan 2012; Sivakumaran 2007). The representation of sexual violence against men as torture, however, remains a common occurrence within the analysed texts, and it is to the implications of this that I now turn.

## **PART II: Sexual Violence or Torture?**

Whilst sexual violence against men is now often articulated as a form of specifically sexual violence in the analysed documents, the representation of such violence as a form of torture remains a frequent occurrence. As discussed earlier in the thesis, the subsuming of sexual violence against men into the broader rubric of torture has been the subject of much criticism in the literature (cf. Mouthaan 2012; Sivakumaran 2007). In this part of the chapter, I consider the work that the representation of sexual violence against men as a form of torture does, and the potential implications it holds for our understandings of and responses to the issue.

The representation of sexual violence against women as simultaneously occupying the categories of both 'sexual violence' and 'torture' is widespread in the analysed INGO documentation. A significant majority of these documents, where sexual

violence is discussed in depth, note that rape and other forms of sexual violence are considered to be meeting the criteria for torture under various international legal provisions, drawing in particular on the initial establishment of this link in the *Čelebići* judgement of the ICTY. The linking of sexual violence and torture is a significant feminist victory (Edwards 2011, 257), and is viewed as a highly beneficial move. as it allows for the charging of acts of rape and sexual violence under the provisions that prohibit torture, which are subject to significantly more well-developed international norms and legal protections (MacKinnon 1994; 2006; Pearce 2003, 559). For example, framing rape and sexual violence as the war crime and/or crime against humanity of torture firmly places the subject within the remit of the United Nations Security Council (Anderson 2010, 249). Furthermore, recognising rape and sexual violence as torture, an inherently political form of violence, assists in breaking down the perception of rape as a 'private' matter by clearly placing it into the realm of politicised violence (Blatt 1992, 843; Edwards 2011, 257). Finally, as Aswad notes, the rendering of rape as torture allows for greater recognition that the harms of rape always meet, and in many cases exceed, the threshold for pain and suffering set by contemporary definitions and understandings of torture (1996, 1943).

The linkages established between sexual violence and torture undoubtedly represents a significant transformation in conceptual approaches to sexual violence in armed conflicts, which has, in turn, been widely adopted by international human rights advocacy and international criminal tribunals, as discussed in previous chapters. However, in the case of sexual violence against men, I contend that the framing of such violence as torture must be treated with particular caution, for two reasons. The first relates to a sense of caution over this trend, as such a development may have unintended and problematic conceptual consequences, and the initial feminist push to recognise sexual violence and torture must be understood as a product of its time. As Gray and Stern have noted, whereas sexual violence in armed conflict has acquired a status as a particularly egregious and illegitimate form of violence, the same cannot be universally said for torture; recent debates in some quarters have sought to justify or legitimise the use of torture (2019, 1036). Categorising sexual violence as torture therefore risks '[opening] up space for framing such violence as a potentially legitimate tactic of warring' (2019, 1037). Whereas

international prohibitions on torture during the initial feminist campaigns for change during the 1980s and 1990s may indeed have been stronger, the partial erosion of such prohibitions in recent years throws the validity of this approach to sexual violence against men into doubt. Furthermore, Edwards, whilst supportive of the move to classify sexual violence as torture, acknowledges that enabling particular forms of violence to be classified as both torture and sexual violence may ultimately result in a lack of clarity; is a particular instance of violence rape, torture, or rape as torture? (2011, 257). The representation of sexual violence against men, as well as women, can therefore result in a degree of conceptual confusion in which the collapsing of the categories into each other both exacerbates uncertainty over the character of the violence and opens up sexual violence to a potential degradation of the hard won norm against its use in armed conflict.

The second relates to sexual violence against men more specifically, focusing in particular on the manner in which such violence has been represented as torture. Whilst sexual violence against both men and women in conflict has been represented as torture, the manner in which this representation has been articulated has often differed substantially. The key distinction is that sexual violence against women, as presented in Part I of Chapter V, is consistently represented as amounting to sexual violence *and* torture; instances of rape, for example, are concomitantly constituted as sexual violence and torture, and both sets of norms and international statutes relating to these forms of violence are invoked as part of the advocacy process, or when prosecuting such acts. By contrast, sexual violence against men, as discussed in Part III of Chapter V and Part II of Chapter VI, is frequently *solely* constituted as torture; acts of violence – for example, trauma inflicted to the genitals or enforced nudity, drawing on representations presented in Chapter V – that could be constituted as sexual violence are instead only represented as a form of torture. The signifiers that would construct the meaning of the violence as sexual are absent, which categorises the violence into the broad range of torture methods that are not understood as being explicitly sexual, and excludes it from the category of sexual violence.

The apparent tendency of both human rights INGOs and international criminal tribunals to sometimes constitute particular forms of violence as torture – rather than

as torture *and* sexual violence, or just as sexual violence – is troublesome, for several reasons. Firstly, as noted earlier in Part I of this chapter, there remains an entrenched misconception amongst policy-makers, practitioners, and medical personnel that sexual violence does not or cannot happen to men. The framing of particular forms of violence solely as torture, rather than as sexual violence, threatens to exacerbate this by ‘hiding’ sexualised forms of violence against men within the non-sexual category of torture. Such shifts away from using the language of sexual violence towards a more generalised language of torture to describe such acts does little to break the entrenched taboos surrounding the subject.

Secondly, acts of sexual violence, including those frequently classified as forms of torture, often have particular sexual and gendered consequences that the conceptual category of torture is ill-equipped to deal with and may serve to obscure. The consequences for male victims of sexual violence are, beyond the physical and psychological (without wishing to diminish the severity or importance of either of these), particularly gendered or sexual. Sexual violence can often result in sexual dysfunction, acute or chronic damage to the genitals and anus, and sexually transmitted infections (Lunde and Ortmann 1990; Lunde et al. 1980; Oosterhoff, Zwanikken, and Ketting 2004). Sexual dysfunction itself has a gendered element, as survivors often express fears of ‘no longer being able to function as a man’ (Van Tienhoven, 1992, cited in Oosterhoff, Zwanikken, and Ketting 2004, 71). Survivors often express fears that they are now, or were, homosexual as a consequence of the violence they experience (Oyango and Hampanda 2011; Sivakumaran 2005), and that they no longer feel as though they are ‘a man’ (Peel 2004; Sivakumaran 2007; Storr 2011). This is unsurprising, as sexual violence against men, as discussed in Chapter II, is broadly conceptualised as the feminisation of the victim (and concomitant masculinisation of the perpetrator) through attacks on the masculinity of the victim (Sivakumaran 2007; Skjelsbæk 2001; Solangon and Patel 2012). For example, blunt force trauma to the genitalia and complete or total castration – forms of violence which are often constituted as torture, both by INGOs (as detailed in Chapter V) and international criminal tribunals (in the *Tadić* case, for example) – is discussed in terms of an assault on the symbol of masculinity and virility, and therefore male power (Myrtilinen 2018, 79). As Clark notes, male Bosnian survivors of trauma

inflicted on the genitals preferred not to speak of their own experiences during interviews as a consequence of the particular difficulties of acknowledging attacks on the symbol of their manliness' (2017, 293).

I contend that the concept and/or category of torture is ill-equipped to deal with or draw attention to these facets of particular forms of violence, and the representation of these forms of violence *solely* as a form of torture risks eliding both the gendered dynamics that underpin such violence and the gendered and sexual consequences that survivors must face. Whilst the definition of torture varies from instrument to instrument, broadly speaking, international law refers to torture as the infliction of violence and pain by political agents in order to achieve certain political goals (Mouthaan 2012, 17; Rodley 2002, 489–93), and it is this broad definition that many of the studied INGOs draw upon (for example in Amnesty International 2014, 41; Human Rights Watch 2009, 18). Whilst that may capture the purely mechanical aspects of certain forms of violence, as well as at least the partial intent of such violence, it does little to open up a space in which the impacts on the survivor, or the intent of the perpetrator, can be discussed in gendered terms, as this is implicitly constituted as extraneous to the crime via its exclusion. The concept of torture foregrounds particular understandings of violence – that is, violence inflicted for a specific and political purpose – that arguably cannot fully capture the meaning of sexual violence against men. In this sense, the practice of framing of sexual violence against women as torture avoids this issue because it is constituted as *both* sexual violence and torture. As such, the violence can be understood as both a gendered form of sexualised violence and a form of violence inflicted for political ends. By contrast, because it is often framed solely as torture and not as sexual violence, much of the conceptual depth of sexual violence against men is obscured.

It is worth emphasising at this point that the possible implications of representing sexual violence against men as a form of torture as detailed above are not inherent to the practice itself; rather, these implications relate to the practice of solely constituting it as torture, rather than as sexual violence or as sexual violence and torture. When represented in conjunction with sexual violence, the torture frame may be advantageous. Not only does framing it as sexual violence open it up to

conceptualisation as a gendered form of violence, but representing such violence as torture arguably draws attention to the fact that these forms of violence frequently occur in the context of detention and alongside other forms of torture (Carpenter 2006, 94). In addition, as Gorris notes, male victims often prefer to recount their stories using more non-descript words like ‘torture’ (2015, 415). Being able to frame it as both sexual violence and torture may provide male survivors, who are otherwise uncomfortable with framing their experiences in terms of sexual violence, with an avenue through which they can relate their experiences more comfortably.

As Sivakumaran (2007, 256) states, the challenge facing attempts to garner greater recognition and awareness of sexual violence against men is almost the opposite of the feminist campaigns to have sexual violence recognised as torture detailed above; there is a need to push for forms of violence that have hitherto been understood as torture to now be recognised as both torture and sexual violence. The purpose here is not to argue that sexual violence in armed conflict (or, indeed, sexual violence more broadly) should *not* also be considered a form of torture. As detailed earlier, the rendering of rape and sexual violence as a form of torture has been an important victory in feminist campaigns for change, and arguably has served an important purpose in dismantling perceptions of sexual violence as a ‘private’ matter and strengthening the range of international legal statutes that prohibit its use. In addition, framing sexual violence against men as a form of torture, alongside as a form of sexual violence, has the potential to enable a broader conceptual understanding of the issue that acknowledges the fact that many reported instances of such violence occur during detention and alongside various forms of non-sexualised violence. The point, however, is to urge caution; as this section has sought to demonstrate, and has been shown in the previous two chapters, the repeated representation of particular forms of violence against men *solely* as forms of torture, rather than – or as well as – forms of sexual violence, risks obscuring both the gendered and sexual elements of such crimes as well as the very existence of sexual violence against men in armed conflict.

### **PART III: The Way Forward? Sexual Violence against Men as Gender-Based Violence**

I now turn to the final discursive strand identified in Chapters V and VI; sexual violence against men, where it is acknowledged as both a form of sexual violence and gender-based violence and where men are understood as gendered identities that can and do occupy a variety of identities in armed conflict. In comparison to the two previous strands discussed, I argue here that this strand represents a more 'progressive' understanding of sexual violence against men that not only enhances our understanding of how sexual violence against both women and men functions, but also opens up space for discussion of men as gendered beings in line with much of the feminist research that has been done on this subject. However, I also provide a cautionary warning; whilst this particular strand represents an encouraging development in advocacy on sexual violence in conflict, we must also take care to not ultimately obscure the decades of valuable feminist insight and campaigning that placed sexual violence on to the agenda in the first place.

Before continuing, it should be noted that the representation of sexual violence against men as a form of gender-based violence is one that appears principally in documentation produced by INGOs; as discussed in Part II of Chapter VI, the concept of gender is rarely explicitly invoked in the judgements of international criminal trial chambers. Rather than directly conceiving of men and women as gendered beings, the trial chambers instead represent gender implicitly through the articulations of the identities and roles of men and women in armed conflict. In a similar vein, gender is rarely incorporated into discussions of sexual violence. This is not to say, however, that the prosecution of sexual violence against men specifically as a form of sexual violence is any less valuable than the conceptualisation of such violence as gender-based by the studied INGOs, or any less an encouraging development. As discussed in Chapter VI, the development of broadly-inclusive statutes and case law, such as the *Akayesu* decision, have opened up a discursive space in which men can be considered as victims of sexual violence, and acts of sexual violence against men have been charged and prosecuted as crimes of sexual violence, as seen in decisions like *Karadžić*. Furthermore, gender is not entirely absent from international criminal

law. As Louise Chappell has noted, much of the work on gender occurs behind the scenes of international law; for example, gender justice advocates played a pivotal role in informing the development of the Rome Statute and continue to play a role in the development of ICC frameworks for addressing gender injustices (2016, 1–3). Whilst the position of sexual violence against men in international law remains a site of contestation – evidenced, for example, by the rejection of the *Ongwen* Trial Chamber of the motion to consider evidence of sexual violence against men and boys (Grey, O’Donohue, and Krasny 2018) and the *Kenyatta* ruling on forced male circumcision discussed in Chapter VI – there nevertheless remains space for crimes committed against male victims to be considered, charged, and tried in the same manner as sexual violence against women.

To recall the discussion from Chapter V, this excerpt from a CARE International and Promundo report on vulnerable men and boys neatly encapsulates this more nuanced approach to gender:

Sexual violence, perpetrated by other men, is also believed to be used as a means to humiliate or to enforce power differentials. The international community in general has been slow to recognise the risks of gender-based violence and sexual exploitation that boys and young men face (CARE International and Promundo 2017, 11).

This conceptualisation of men in armed conflict addresses the issues raised with predominant understandings of gender discussed earlier in Part I of this chapter, in that it reflects broader feminist understandings of gender operating not only between men and women, but also within those categories as well, rather than reducing gender to a simplistic and essentialist exertion of power of men over women. Furthermore, it also reflects much of the scholarship on sexual violence against men in armed conflict, in that it explicitly allows sexual violence to be conceptualised as the assertion of power over other men through the rendering of victims as feminised, and therefore as ‘lesser’ than the now masculinised perpetrators (Skjelsbæk 2001; Sivakumaran 2007). Such an understanding also opens up new spaces in which the intersectionality of this particular form of violence can be discussed. For example, as Hague (1997), Myrtilinen (2018), and Zarkov (2001) have noted, sexual violence

against men not only has gendered motivations and consequences for the victim, but can also serve as a symbolic emasculation of the broader ethnic or religious (to name but a few) group to which the victim belongs. Conceptualising gendered power relations as operating both between and within genders enables a more comprehensive and nuanced understanding of a wide range of violence. As such, a discursive space is opened up for sexual violence against men to be understood as an intersectional form of gender-based violence, in the same manner as sexual violence against women.

Whilst still comparatively rare, the appearance of more progressive discourses of men and sexual violence appearing in some of the most prominent INGOs is indicative of the significant progress made in understanding and addressing the issue. Whilst DelZotto and Jones (2002) – and their finding that, out of 4,076 NGOs that addressed sexual violence in armed conflict, only 3% mentioned male victims at all – are still widely cited as evidence of the lack of attention paid to male victims of sexual violence, this is arguably no longer entirely representative of the landscape of international advocacy on sexual violence. All of the INGOs analysed in the course of this thesis address sexual violence against men; often unevenly, and often with particularly problematic implications (as discussed in this chapter), but this still represents a vast increase in the amount of attention paid to the issue. The emergence of more progressive understandings of both gender and sexual violence against men, albeit in only a few documents, represents a promising new step in this process, where discursive spaces are opened up where sexual violence against both women and men can be accounted for, and the gender relations that sustain patriarchy, whether exerted between or within genders, can be acknowledged and critically examined as part of a broader feminist project.

I argue, however, that caution must be exerted. The emergence of sexual violence against men as a field of study and the manner in which it is frequently excluded from programmes that aim to address sexual violence more broadly have led to calls for sexual violence to be approached from a gender-neutral or gender-inclusive framework (for example in Dolan 2014a; 2014b; 2016; Stemple 2009), where understandings of gender structured around a binary relationship are replaced with a

'flattening' (Zalewski 2018, 32) of gender in which both men and women can be conceived as victims of gender hierarchy. The implications of such a binary and static structure, and the value of broadening our conceptualisation of the subject positions which men and women may adopt (or be forced in to) in armed conflict have been considered earlier in this chapter, with the former theorised to be ultimately counterproductive to feminist goals, and the latter a promising and nuanced way forward. Such a move, however, has sparked concern from feminist scholars and advocates. Anne Marie Goetz provides a succinct commentary on the source of these concerns:

Wartime rape has been framed as an almost gender-neutral weapon of war. Taking the feminist social change project out of the definition of and the solutions to these problems makes response efforts patronising and in the end, ineffective. The project becomes the protection of victims. Not changing the social relations that make this violence so powerful as a means to control women (Goetz 2014).

This subject is difficult to address. Whilst there is an undoubted need to move towards addressing sexual violence against men more fully, there is at the same time, however, a tension in seeking to deconstruct the representation of women and girls as the most vulnerable in conflict, or in needing particular protection, in that 'the male subject is classically the privileged site of anxiety. And as the aesthetic and corporeal repository of masculinity, re-inscribing masculinity perhaps too easily becomes a site of priority' (Zalewski 2018, 33–34). The same applies to international law, of which men have been the 'traditional subjects' (Chappell 2016, 8). The risk is that we fall back into 'old habits' of focusing on men and undoing the valuable work that decades of feminist campaigning and research has done in bringing the previously ignored experiences of women to the forefront of our consciousness when we think about armed conflict and international relations more broadly. Already we can see signs of this; as discussed earlier in Chapter II, work on men and masculinities is all too easily co-opted into attempts to undermine feminist work (O'Neill 2015; Turner 2019). Drumond details a conversation with a UN gender office, who relayed concerns that the 'men as well' narrative was being used to 'sideline feminist critiques and downplay women's victimisation' (2019, 1285).

The very phrase 'gender-neutral' or 'gender-inclusive' also raises concern. Sexual violence against men is certainly a form of gender-based violence, and men are no less gendered beings than women; but what does gender mean in the contexts of sexual violence against men and sexual violence against women? Recalling Zalewski, and her 'provocations' discussed earlier in this chapter, gender works differently for men and women; whereas theoretical perspectives and victim testimony say that a man who is raped becomes a woman, we arguably could not say that a woman who is raped becomes a man (2018, 30). Does the term 'gender-neutrality' risk hiding the myriad different ways in which gender does different work on and through women and men?

In responding to the questions posed by this section of the chapter, I echo Drumond in emphasising that feminist caution over a move to a gender-neutral framework for understanding sexual violence in conflict should not be conflated with denying the urgent need to integrate men into programmes addressing sexual and gender-based violence (2019, 1285). There is certainly feminist value in considering the myriad ways in which men may also be victimised by gendered power structures, as has been discussed repeatedly throughout this chapter and thesis. The tension, however, lies between an understandable need to more fully integrate male victims of sexual violence into discourses on and responses to sexual and gender-based violence with an equally understandable concern that any such move must be done with care in order to avoid slipping back into 'old habits' of privileging men as subjects of concern and eliding gendered and patriarchal power structures that inform the violence experienced by women in armed conflict. How best to acknowledge and address the gendered harms suffered by men in armed conflict, but without reverting to the situation of not 20 years ago, in which gendered violence against women was all but invisible, and reverting to simplistic and unhelpful 'what-about-the-men'-isms that ride roughshod over vital feminist campaigns for change and do little but push women back into the margins? This has no easy answer (if an answer is indeed possible), and I reflect upon this in the following and final chapter of this thesis.

## **PART IV: Conclusions**

This chapter has sought to consider some of the implications of each of the three discursive strands identified in Chapters V and VI and situate them within existing feminist understandings of both sexual violence and gender. Discussing the first of these strands, it noted that the tendency of both INGOs and international law to either 'write out' sexual violence against men from overall definitions, or minimise the issue by textually and conceptually foregrounding sexual violence against women, has troubling implications for how we understand gender, with these particular representational practices reinforcing essentialist and anti-feminist views of the roles that women and men occupy in armed conflict that ultimately sustain patriarchal gender relations. Furthermore, the marginalisation of sexual violence against men through comparisons to sexual violence against women was argued to both rest on shaky empirical foundations and risked devolving into troubling 'point-scoring' exercises in which one category of victim is legitimated as the primary locus of humanitarian and legal attention over another.

The second strand – 'sexual violence as torture' – emphasised the value that reconfiguring sexual violence as a form of torture had to feminist campaigns for change in the 1980s and 1990s, but emphasised that the discursive context necessitates a move in the opposite direction for sexual violence against men. The framing of certain forms of violence against men solely as torture, instead of sexual violence, risks further propagating mis-conceptualisations about the problem and obscuring the gendered dimensions of such violence, gendered dimensions that the category of 'torture' is ill-equipped to encompass.

The third strand – 'sexual violence against men as gender-based violence' – argued that there exists a small but significant trend of conceptualising men in armed conflict as gendered beings that can occupy a number of different subject positions, which allows for sexual violence against men to be understood as the expression of power relations between men. Such a conceptualisation addresses the concerns raised

about the prior two strands, in that it actively undermines the 'male perpetrator/female victim' binary that seems to predominate throughout much of INGO reporting and international legal activity, and conforms to feminist theorising about gender and sexual violence more broadly. It concluded on a note of caution, however; the need to recognise men as gendered beings, both in terms of their perpetration and victimisation at the hands of sexual violence, whilst vital, must not come at the price of obscuring patriarchal power relations that feminist campaigns have worked so hard to uncover. Furthermore, we must be careful not to slip into old habits of privileging men in armed conflict over women as the subjects of our concern. Such work would undo the vital work done by feminism and feminist campaigns, and would risk downplaying the harms experience by women in conflict and the patriarchal context in which those harms take place. In the process of considering the implications of each of the discursive strands identified in the documentation, this chapter has possibly raised more questions than it has answered. How best, then, to move forwards from the research presented here? I reflect on this question in the final and concluding chapter of the thesis.

## CHAPTER VIII – CONCLUSIONS

Sexual violence against men in armed conflict as a subject of research, advocacy, policy, and legal attention in international human rights is arguably undergoing something of a transformation. Whilst historically marginalised as an object of study and attention in each of these fields, the recent proliferation of research on the subject, the increasing acknowledgement of male victims in policy and advocacy, and recent international prosecutions of perpetrators of such violence would seem to indicate that attitudes towards the issue are slowly starting to shift.

This is not to say, however, that the issue has fully emerged onto the international human rights agenda. Sexual violence against men is still often treated like a problem of secondary concern in comparison to sexual violence against women in advocacy and law, as discussed in Chapters V, VI, and VII. In addition, the increasing visibility of the subject has also somewhat unsettled existing scholarship on sexual and gender-based violence more broadly, as attested to by the ongoing and intensifying debates over the manner in which we should conceive of ‘gender’ and ‘gender violence’ outlined in Chapter II. Sexual violence against men is increasingly acknowledged as both a possibility and as a frequent occurrence during past and ongoing conflicts, and has been conceptualised in academic scholarship as an expression of gendered power dynamics between men that often intersects with other aspects of the victims’ and perpetrators’ identities, such as ethnicity or nationality. This has implications for how we conceptualise and respond to the issue. But, more broadly, what does this mean for our understandings of sexual and gender-based violence against women? Does a focus on men as victims of gender violence risk obscuring the valuable work of feminist researchers and campaigners on highlighting the patriarchal and hierarchal gender relations that inform violence against women?

This thesis sits at the nexus of these ongoing debates on sexual and gender-based violence in armed conflict. At the outset of this study, I sought to explore the ways in which sexual violence against men in armed conflict has been represented and constructed through the various discursive practices of both human rights advocacy

INGOs and international law. In doing so, I ultimately sought to consider what kinds of knowledges and understandings of the issue have emerged from the practices of these organisations and institutions, and, conversely, what kinds of silences, absences, and tensions these understandings might create. This exploration of this terrain demonstrated that human rights advocacy on and international criminal prosecutions of sexual violence in armed conflict have largely been organised around three broad, competing discourses of sexual violence against men that hold significant implications for how we understand and respond to the problem, and for how we understand concepts of gender and sexual violence more broadly.

In this final and concluding chapter, I tie together the various strands of the thesis and present the conclusions that can be drawn from them. In Part I, I set out a broad overview of the direction of the thesis and outline the key arguments that it has made with regards to the representation of sexual violence against men in the analysed texts. In Part II, I more fully explicate the specific contributions that this thesis makes to the field of research on sexual violence against men and sexual and gender-based violence more broadly. Finally, in Part III, I consider what questions are raised by the findings of the thesis, and what questions remain as yet unanswered, and sketch out a preliminary set of suggestions concerning the potential direction of future research on the subject.

## **PART I: Overview of the Thesis**

The starting point of this thesis was a curiosity about the place of sexual violence against men in the international community's discussions of armed conflict, human rights abuses, and gender-based violence. How is the issue constituted? Or, on the basis of the academic literature that has noted the absence of male victims in sexual violence discourse, how has it *not* been constituted? And what would these (absent) representations mean for our understanding of the issue? To answer these questions, I outlined a poststructuralist and feminist-informed approach to the study of international relations and sexual violence against men in armed conflict. This theoretical position necessitated a focus on discourse as constitutive of the

international system, as well as a broadening of what constitutes a 'legitimate' subject of study in IR research. It also entailed a focus on and a sensitivity to constructions of gender, which was conceptualised as the socially constructed 'stories that have been told about men and women' (Sylvester 1994, 4) in line with the poststructuralist feminist theorising of Judith Butler (2006, 2011). The study of men's gendered victimisation was conceptualised as a research project firmly situated within a feminist theoretical framework. Finally, both human rights advocacy INGOs and international law were conceptualised as influential sites of discourse production in global politics, justifying the focus on documentation produced by them in the thesis.

The poststructuralist-informed discourse-theoretical analysis of advocacy documentation produced by key human rights INGOs and trial judgements produced by several international criminal tribunals revealed a set of three discourses running through both of these sets of texts. The first and most frequent discourse, that of 'marginalisation', consisted of those moments where sexual violence against men was written out of understandings of sexual and gender-based violence in armed conflict. In many cases, this was a consequence of sex-specific understandings of sexual and/or gender-based violence, where these were represented as forms of violence specific to women. In other cases, sexual violence against men was recognised in INGO documentation, but then notably absent from substantive policy discussions or recommendations. There was also a tendency of INGOs to use logics of what Grey and Shepherd refer to as the 'vast majority' (2012, 119), with the lack of attention given to sexual violence against men justified on the basis of such violence either being less widespread or less damaging to the victims because it does not take place within the context of gender inequality. As such, I argued that sexual violence against men was rendered external to the category of gender-based violence, as men were not conceptualised as gendered beings. Similar discursive representations could be seen in international law, with sexual violence against women conceptualised as occurring on the basis of the victims' gender, but sexual violence against men occurring because the victims were incarcerated and powerless. Overall, I argue that the consequences of these particular representational practices is either to discursively preclude the possibility of thinking about sexual violence against men, or to implicitly or explicitly constitute the issue as of lesser importance than sexual

violence against women, and to render men as non-gendered beings. It is interesting to note, however, that all of the studied INGOs have acknowledged sexual violence against men at some point in their advocacy literature. Indeed, contrary to the claims of much of the existing academic literature on the subject, this research found that sexual violence against men is now more frequently represented by INGOs as a form of sexual violence rather than torture. Whilst most of these representations occurred in the context of this discourse of marginalisation, it nevertheless represents a significant development in INGO advocacy on sexual violence.

The second discourse, that of 'torture', consisted of those moments in the texts where violence against men that could be construed as having a sexual and/or gendered element – such as violence towards the genitals, enforced nudity, or anal rape directly by the perpetrator or with objects – was instead articulated as a form of non-sexual torture. This thesis argues that the exclusion of such violence from the category of 'sexual violence' serves to inhibit the spaces in which the potentially sexual and gendered dimensions underpinning such acts can be discussed. This stands in direct comparison with sexual violence against women, which is almost universally represented as both a form of sexual violence and torture simultaneously. This research found that this particular representative practice was a common occurrence throughout both the analysed INGO and international legal documents, although, as noted above, not as frequently as the representation of such violence as specifically sexual violence.

The third discourse, that of 'sexual and gender-based violence', consisted of instances in the texts where sexual violence against men was represented as sexual violence and/or gender-based violence, without the concomitant practices of marginalisation detailed in the first discursive strand. Whilst by far the least frequent of the three discursive strands interrogated in the documents, this thesis argues that it nevertheless represents the possibility for a deeper understanding of sexual violence against men that is integrated into and complements existing approaches to conceptualising sexual violence against women. In INGO reporting, the present analysis uncovered that this often took the form of incorporating male victims into the detailed discussions on policy responses to the problem of sexual violence in conflict,

in marked contrast to many of the documents where this was absent, as in the first discursive strand. More frequently, however, men were conceptualised as gendered beings in a capacity other than as perpetrators; in other words, I argue that men and women were represented as being able to hold significantly more roles and identities in conflict than simply perpetrators and victims, respectively. As such, sexual violence against men was represented in explicitly gendered terms in the same manner as sexual violence against women. Whilst international criminal law rarely explicitly invokes the concept of gender in individual judgements, instances where sexual violence against men was represented and charged as sexual violence demonstrate a markedly different approach to the issue than the previous two discursive strands, with the issue represented as a serious violation on a par with, and charged alongside, sexual violence against women.

Ultimately, this thesis argues that sexual violence against men largely remains marginalised or obscured in both human rights advocacy and international law, or buried under the rubric of torture instead of sexual violence. This stands in direct contrast to sexual violence against women, which is constituted in a highly homogenous and visible fashion throughout the INGO and international legal texts. Furthermore, both human rights advocacy INGOs and international criminal law have adopted a somewhat inconsistent approach to the problem of sexual violence against men. Discourses of sexual violence against men can vary significantly from document to document, and even within the body of documentation produced by an individual INGO or international criminal tribunal. Despite this internal variation, however, I argue that it is also possible to recognise some shifts in representational practices in these documents. These shifts are significant because, firstly, sexual violence against men is now more frequently represented as sexual violence rather than torture and acknowledged by all of the analysed INGOs and international criminal tribunals. Secondly, there is a small but noticeable trend towards conceptualising sexual violence against men as a form of gender-based violence in a similar manner to sexual violence against women. Whilst a small shift, it is nonetheless significant in terms of the recognition it implies on the part of INGOs that sexual violence against men does have a gendered dimension.

Each of these discursive strands was argued to hold particular consequences for how we conceptualise and understand sexual violence against men, sexual violence more broadly, and gender. The first discursive strand, 'marginalisation', serves to reinforce problematic myths surrounding sexual violence against men – such as 'men cannot be sexually assaulted' – by framing sexual violence as something that only happens to women and through the absence of sexually violated male bodies. It also constructs a particular configuration of gender relations in which men in conflict are perpetually characterised as violent perpetrators and women in conflict as helpless and passive victims, which occludes the possibility of conceptualising women and men as occupying a variety of overlapping roles and identities during armed conflict. Furthermore, such representations often rely upon an empirically unsustainable and morally troublesome assertion that women suffer more than men during armed conflict, either in terms of the extent of the violence or the impact on the victim, and reify a troubling conceptual synonymisation of 'gender' with 'women'.

The second discursive strand, 'torture', reinforces myths about sexual violence against men in the same way as the 'marginalisation' discourse by reducing the visibility of those male bodies that could be constituted as sexually violated, doing little to break the entrenched taboos or mis-conceptualisations about the issue. The concept of torture is also arguably ill-equipped to encompass the potentially sexualised and gendered motives and consequences of sexual violence against men, as it principally focuses on violence conducted for political motives. This, it was argued, is not necessarily sufficient to fully capture the range of meanings, motives, and harms of acts of sexual violence. Furthermore, whilst the move to classify sexual violence against women as a form of torture may have been beneficial, in that it enabled a previously ignored form of violence to take advantage of the much stronger international norms and legal regime on the prohibition of torture, the same does not necessarily hold for sexual violence against men. Sexual violence against men is already often categorised instead as a form of non-sexual torture. If anything, the challenge is the opposite; there is a need to open up a discursive space in which particular acts of violence against men could be reconceptualised and represented as sexual violence, rather than torture.

The final discursive strand, 'sexual and gender-based violence', by contrast, arguably represents a more 'progressive' approach that does not contain the problematic implications of the previous two strands, and allows for a deeper conceptualisation of sexual violence against both men and women. In INGO documentation, men are represented as gendered beings that can occupy a multitude of different roles and identities during armed conflict, including that of victim. Sexual violence against men is also conceptualised as a gendered form of violence, in that it is conceptualised as a means of enforcing power differentials and hierarchies between men. In doing so, these representations begin to unpick the male perpetrator/female victim binary seen in the other two strands. In international law, whilst, as mentioned above, gender is rarely explicitly invoked, there is nevertheless an encouraging trend towards an opening of a discursive space in which sexual violence against men can be discussed, and charged as, sexual violence. However, I also argue for a cautious approach to this particular discursive strand, noting that care must be taken to not slip back into 'old habits' of privileging discussions of men over women and that a 'gender neutral' approach may not necessarily be the most appropriate way of conceptualising sexual violence in armed conflict, as it risks obscuring the patriarchal gender hierarchies that inform the use of violence against women.

## **PART II: Contributions of the Thesis**

In this thesis, I have made several interconnected contributions to the study of sexual violence against men, as well as the broader field of feminist research on sexual and gender-based violence in armed conflict. The first has been to advance our understanding of how sexual violence against men in armed conflict has been constructed by human rights advocacy INGOs and international law. These organisations and institutions play a significant role in shaping our knowledge and understandings of, as well as responses to, sexual violence in armed conflict. If Doty is correct in her assertion that international relations is built upon contingent representations that are taken as 'truth', and that these shape what can be known about something and action can be taken (1996, 5), then human rights advocacy INGOs and international law, as powerful sites of discourse (re)production in global politics, play a significant role in constituting this 'truth'. Throughout this thesis, I have

sought to deconstruct what is presented as the ‘truth’ about sexual and gender-based violence in armed conflict and to problematise these representations by demonstrating what consequences they may hold for our understanding of sexual violence against women and men and what they ultimately leave out and obscure. In doing so, I have illuminated some of the contestations at the heart of these discourses, and acknowledged the beginnings of what might become a more ‘progressive’ approach to sexual violence on the part of human rights advocacy INGOs and international law.

Secondly, I have sought to contribute to the ongoing research agenda on sexual violence in armed conflict. In particular, I have fleshed out an area of the literature that has received relatively little in the way of significant analysis by conducting what is arguably the first in-depth, discourse-centred study of sexual violence against men and human rights advocacy INGOs and international law. This, I hope, will assist in providing a more complete picture of the status of sexual violence against men in the international human rights policy and legal canon. Furthermore, this research will enable the field to adopt a more nuanced approach to the marginalisation of the issue. As discussed in Chapter II, the view of the position of sexual violence against men on the human rights agenda – particularly in the context of human rights advocacy INGOs – in the literature has remained relatively static, with several recent studies relying on older research to illustrate the absence of the problem in policy and advocacy. However, as Gorris (2015) and Touquet and Gorris (2016), among others, have argued, recent years have seen a shift in policy and advocacy discourses, with sexual violence against men appearing in a more prominent, although still relatively obscure, fashion on the human rights agenda. As such, I have sought to provide a more in-depth analysis of precisely where we stand with regards to the visibility of sexual violence against men. Whilst largely pessimistic, as this form of violence is still largely marginalised or rendered under the rubric of torture, there are still promising developments in both international human rights advocacy and international law.

It is worth acknowledging at this point that this thesis represents a largely exploratory analysis of the ways in which sexual violence against men in armed conflict has been constituted through discourse in advocacy and law. For example, the sheer volume

of INGO documentation on sexual violence in armed conflict, whilst testimony to the considerable progress that has been made in elevating the issue onto the international human rights agenda, complicates attempts to provide a comprehensive analysis of the manner in which these documents conceptualise sexual violence against men. As such, this thesis only focused on the documentation produced after 2000 by twelve of the most influential INGOs working on sexual violence in armed conflict. Similarly, this thesis has also only focused on trial judgements and sentencing judgements. Again, whilst an invaluable textual source and the culmination of the legal process, they represent a fraction of the documentation produced in the course of an international criminal trial, and the discourse analysis of all of this documentation is more than one person could reasonably be expected to achieve within a realistic time frame. Furthermore, this research represents a snapshot of a particular period of time; human rights advocacy and international criminal prosecutions concerning sexual violence in armed conflict are ongoing processes, and future years will likely see the proliferation of a much more extensive body of relevant documentation. It is partly as a result of these limitations that I now turn to considering what form future research on sexual violence against men may (or, perhaps, should) take.

### **PART III: Outlining a Future Research Agenda**

What kind of questions and research agenda on sexual violence against men in armed conflict does this thesis precipitate? As intimated above, this thesis only focused on a dozen of the most significant human rights INGOs currently operating and trial judgements produced by international criminal tribunals due to constraints of time and practicality. Significantly more research could be done in this area, taking into account a much broader range of INGOs and a much broader range of documents produced by international criminal tribunals in order to gain a much more detailed understanding of how these discourses are produced and reproduced across a larger range of organisations and institutions. Furthermore, such research could ideally be supplemented with interviews with key individuals in order to gain insights into the reasons why the discourses produced through these organisations and institutions are so inconsistent, especially when juxtaposed with the highly consistent approaches to sexual violence against women. Furthermore, the discourse-theoretical approach

used by this thesis could be applied to other areas of international human rights policy – such as UN documentation and material produced by the Preventing Sexual Violence Initiative – in order to gain insight from the deconstruction of the discourses produced through these sites of global politics.

Research on sexual violence against men in armed conflict, whilst steadily increasing in size and scope, is still somewhat limited, and there is much that we have either only just begun to explore, or that we do not yet know. One particular area, however, stands out as a subject in need of greatly intensified research. Given the increasing frequency with which sexual violence against men is appearing in international law and human rights advocacy, the debates over how best to conceptualise both violence against men specifically and gender-based violence more broadly is taking on a new sense of urgency; how do we reconcile this particular form of gender-based violence as efforts to acknowledge and address it gain momentum with our existing understandings of sexual and gender-based violence against women? I have sought to engage with this debate, particularly during Chapter VII, where I acknowledge the potential benefits of conceptualising sexual violence against men as a form of gender-based violence, but also remain sensitive to the concerns of some feminist researchers about the impact this may have on theorising and responding to sexual violence against women. To briefly recall this debate, Miranda Alison provides a useful overview of the key questions that drive these discussions:

Some feminists and women's human rights activists maintain that despite its attendant problems, the universalist (and essentialist?) nature of human rights discourse and policy frameworks is necessary in order to promote the cause of women's human rights at the national and international level, and retains the potential to challenge gender structures and injustices (the 'possibilities'). On the other hand, the 'paradoxes' are stark in relation to wartime sexual violence. Do we relinquish the notion of sexual violence as the archetypal women's human rights abuse, and reframe it as a human rights abuse more generally? This would make room for male victims and female agents. However, would this then mean that the fact that women and girls remain the majority (though not the sole) victims and men and boys the majority (though not the sole) perpetrators will become elided? And if that is the case, will national and international activism on the issue lose its current political force in the very same period that wartime

sexual violence seems to be an ever-increasing problem? (If feminists stop talking about rape, who will?) (Alison 2007, 90).

Alison's concerns dovetail neatly with the concerns raised by Drumond (2018; 2019), Meger (2018), and Zalewski (2018) concerning the potential of including sexual violence against men under the rubric of gender-based violence to obscure the gender hierarchies that inform violence against women and to risk sliding back into privileging men as the subject of our concern, as detailed in Chapters II and VII. A definitive answer to this is beyond the scope of this thesis, but to take account of these concerns, I firstly sought to contextualise the discussion around sexual violence against men within these debates in order to remain sensitive to what are entirely legitimate concerns over where this subject of study is taking us, rather than seek to provide an answer to this debate. Secondly, and on a related point, I am somewhat sceptical that an answer to this question exists. A recent article from Maria Stern resonates with my thinking on this, and is worth reproducing at length:

Knowledge — even that produced through critique — can, however, be treacherous. It can lure us into a sense that we have indeed found the answers or posed the correct questions, that we are on the right track, that we are on firm ground. As Zalewski persistently reminds us, any attempt to get gender or sexual violence 'right' is not only already poised to fail according to its own terms, but may blind us to more fruitful questions. Nonetheless, we attempt to descry sexual violence and hold it still so that we can make it (more) visible, catalogue it, probe its harms, stop it, offer succour. We forget that, despite what we have learned, we do not, nor cannot in any definitive sense, *already* know what sexual violence is and does, and therewith we neglect to pose it as an open question (Stern 2019, 1245, citing Zalewski 2010).

Given the poststructuralist leanings of this thesis, I would argue that the aim here has not been to 'solve' the problem of sexual violence against men in armed conflict, nor has it been to provide a stepping stone on the way to a 'solution'. Rather, I view it as an iterative process, part of the back-and-forth of feminist and poststructuralist debate and research on sexual violence and gender in armed conflict. The aim of this thesis has been to contribute to this iterative process, with a hope that it will help inform outcomes for survivors of sexual violence in armed conflict that are at least 'better' than what has come before. I would argue, therefore, in favour of an intensification of

the debates around sexual violence against men and gender-based violence. The conceptual, theoretical, and practical issues at stake over how we choose to conceptualise sexual and gender-based violence, and the positions of female and male victims, are significant; indeed, this debate cuts to the heart of how we should respond to and attempt to prevent this issue in armed conflict.

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