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Title	Provisions in international law to address conflict-related sexual violence
Authors	Scriven, Richard
Publication date	2025
Original Citation	Scriven, R. (2025) 'Provisions in international law to address conflict-related sexual violence', Cork Online Law Review, COLR, 24, pp. 142-158.
Type of publication	Article (peer-reviewed)
Link to publisher's version	https://www.corkonlinelawreview.com/
Rights	© 2025, Cork Online Law Review .
Download date	2026-11-02 00:58:33
Item downloaded from	https://hdl.handle.net/10468/17657

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Edition 24

2025

The Cork Online Law Review

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This edition may be cited as (2025) 24 COLR

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PROVISIONS IN INTERNATIONAL LAW TO ADDRESS CONFLICT-RELATED SEXUAL VIOLENCE

Dr Richard Scriven*

A INTRODUCTION

Sexual and gender-based violence (SGBV) is a worldwide issue impacting millions of people annually, especially women and girls.[1] War, disasters, and other humanitarian situations result in significant increases in these types of abuses.[2] Moreover, sexual violence is intentionally deployed as a component of conflict to demoralise opposing combatants and to terrorise civilian populations.[3] This article examines how international law has responded to these circumstances by putting in place mechanisms to protect individuals from conflict-related sexual violence (CRSV) and to hold perpetrators to account. While international legal systems are making advances to address these pervasive and highly damaging crimes, there are challenges and limitations to how these instruments can assist victims/survivors and vulnerable groups,[4] particularly in terms of implementation.[5] There is a pressing need for greater resolve and coordination by the international community to use the capacities of international legal infrastructures to better protect people and to ensure that justice is pursued. Ineffective and inconsistent application of international law in addressing CRSV erodes its role as a deterrent which continues to leave whole groups, especially women and children in conflict situations.

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[1] World Bank, 'Violence Against Women and Girls – What the Data Tell Us' (1 October 2022) <https://genderdata.worldbank.org/en/data-stories/overview-of-gender-based-violence> accessed 21 February 2025.

[2] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Conflict-Related Sexual Violence: Report of the United Nations Secretary-General*, S/2022/272 (2022); United Nations Population Fund, 'Gender-based violence' (2023) <https://www.unfpa.org/gender-based-violence#readmore-expand> accessed 21 February 2025.

[3] United Nations Secretary-General, *Conflict-Related Sexual Violence Report,* S/2019/280 (2019) 3.

[4] There are on-going discussions about the use of terminology 'victim' and/or 'survivor' in this space, This article will use 'victim/survivor' unless referring to the phrasing from a particular source. For a detailed consideration see also Laura Jane Hepworth, 'Victim? Survivor? The Importance of the Language We Use to Talk about People who have Experienced Sexual Violence' (Rape and Sexual Abuse Counselling Centre Durham,4 July 2022) <https://www.rsacc-thecentre.org.uk/guest-blogs/victim-survivor-the-importance-of-the-language-we-use-to-talk-about-people-who-have-experienced-sexual-violence/> accessed 8 February 2025; Jessica Williamson, 'Sexual Assault Labels, Compassion for Others, Self-Compassion, and Victim Blaming' [2023] VAW.

[5] For a broader discussion of International Law and implementation see also James Crawford, *Brownlie's Principles of Public International Law* (9th edn, Oxford UP 2019) 462; Paola Gaeta, Jorge E Viñuales, and Salvatore Zappalá, *Cassese's International Law* (3rd edn, Oxford UP 2020) 297.

The article's argument progresses in five sections, beginning with an overview of the definition of CRSV and examining its horrifying presence in contemporary conflicts. This leads to a discussion of how international law tools and structures are attempting to protect individuals and groups through the recognition and codification of these acts as crimes and human rights abuses, as well as through compliance mechanisms and practical interventions in conflicts and post-conflict areas. Thirdly, a brief consideration of case law from the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC) highlights the progress being made towards greater accountability as well as the challenges being faced. Then, there is a discussion of how international legal structures can improve and strengthen their capacities to prevent SGBV during conflicts and where it occurs, offer more victim/survivors centred justice. The overall conclusion emphasises the main points and highlights areas of further study.

B CONFLICT-RELATED SEXUAL VIOLENCE

SGBV is a major global socio-legal issue. The World Health Organization estimates that almost one-third of women and girls have experienced either physical and/or sexual violence, often at the hands of current or former partner.[6] This is a substantial public health matter and a mass breach of women's and children's rights.[7] While this is a reality prevalent across all societies and jurisdictions, there is the additional consideration that wars, humanitarian disasters, and other extreme situations lead to increased rates of SGBV.[8] In these contexts, women and girls endure overlapping forms of victimisation and discrimination due to their gender and external conditions.[9]

CRSV in conflict situations is a particular subcategory of the larger issue. It has been recorded in persistent and large-scale terms across on-going hostilities, including in Afghanistan,

[6] World Health Organization, 'Violence against Women' (25 March 2024) <https://www.who.int/en/news-room/fact-sheets/detail/violence-against-women> accessed 21 February 2025.
[7] Organization for Security and Co-operation in Europe, *OSCE-led Survey on Violence Against Women - Main Report* (OSCE, 2019).
[8] Ariadna Capasso and others, 'Patterns of Gender-Based Violence in Conflict-Affected Ukraine: A Descriptive Analysis of Internally Displaced and Local Women Receiving Psychosocial Services' (2022) 37 J Interpersonal Viol 23; Oluwadamilola A Adejumo and others, 'Experience of Gender-based Violence by Internally Displaced Women in Southern Nigeria: A Cross-sectional Study' (2022) 37 JIV 15.
[9] Jennifer J Mootz, Sally D Stabb and Debra Mollen, 'Gender-Based Violence and Armed Conflict: A Community-Informed Socioecological Conceptual Model from Northeastern Uganda' (2017) 41 PWQ 368; Bharat H Desai and Moumita Mandal, 'Role of Climate Change in Exacerbating Sexual and Gender-Based Violence Against Women: A New Challenge for International Law' (2021) 51 EPL 137.

Democratic Republic of the Congo, Ethiopia, Haiti, Myanmar, South Sudan, Syria, and Ukraine.[10] Sexual violence has also been highlighted as being perpetuated by members of the Israeli military and Hamas in the Gaza conflict.[11] Wars and conflicts create circumstances that exacerbate existing levels of violence.[12] CRSV constitutes a range of abuses and violations, such as rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilisation, forced marriage, and other physical, emotional and psychological acts perpetrated against someone's consent and will.[13] These patterns of violence are generally explained in two ways: firstly, conflicts generate climates of lawlessness and impunity that exacerbate pre-existing discrimination and biases.[14] Normative structures of law and order diminish or even breakdown entirely, removing these protections. Secondly, SGBV is an intentional and systematic component of combat perpetrated by individuals and groups in state forces, non-state armed groups, terrorist organisations, and criminal networks.[15] It is a 'deliberate and brutal… weapon of war and/or tactic of terrorism',[16] designed to traumatise, destabilise, and punish whole communities, as well as being used to consolidate control of areas and resources.[17] This is a deeply concerning dimension that involves heinous, criminal and cruel acts becoming a common component of conflict. Moreover, it is often conducted along ethnic and national divisions that further dehumanise and stigmatise perceived opponents,[18] while also being a tool

[10] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Conflict-Related Sexual Violence: Report of the United Nations Secretary-General*, S/2023/413 (2023) para 3; Dara Kay Cohen and others, 'Sexual Violence in Armed Conflict' (Sexual Violence Data) <http://www.sexualviolencedata.org> accessed 21 February 2025.

[11] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Mission Report Official Visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* (OSRSG-SVC 2024) paras 71, 72; United Nations General Assembly (UNGA) *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel* (11 September 2024) UN Doc A/79/232, paras 62-69.

[12] United Nations Secretary-General (UNSG), *Conflict-Related Sexual Violence Report*, s/2020/487 (UNSG 2020) para 60; Sara De Vido, 'Violence Against Women's Health through the Law of the UN Security Council: A Critical International Feminist Law Analysis of Resolutions 2467 (2019) and 2493 (2019) within the WPS Agenda' (2020) 74 QIL 3.

[13]Independent International Commission of Inquiry on the Syrian Arab Republic, *'They came to destroy': ISIS Crimes Against the Yazidis'* (2016) A/HRC/32/CRP.2; UNSG (n 12) para 4; Office of the Special Representative (n 10) para 3.

[14] Caterina E Arrabal Ward, *Wartime Sexual Violence at the International Level: A Legal Perspective* (BRILL 2018) 60; Office of the Special Representative (n 10) para 4.

[15] Office of the Special Representative (n 10) para 3; Ragnhild Nordås and Robert Nagel, *Continued Failure to End Wartime Sexual Violence*, PRIO Policy Brief 7 (PRIO 2018) 2.

[16] United Nations, *The Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence* (UN 2020) 6.

[17] Office of the Special Representative (n 2) para 9.

[18] Tonia St. Germain and Susan Dewey *Conflict-Related Sexual Violence: International Law, Local Responses* (Lynne Rienner Publishers 2012) 2; Rosemary Grey, *Prosecuting Sexual and Gender-Based Crimes at the International Criminal Court: Practice, Progress and Potential* (Cambridge UP 2019) 69; Douglas Page and Samuel Whitt, 'Confronting Wartime Sexual Violence: Public Support for Survivors in Bosnia' (2020) 64 JCR 676.

to strengthen in-group cohesion.[19] Although women and girls are most frequently the targets, there is increased attention being paid to sexual violence against men and boys[20] and only more recently the recognition of LGBTQI+ victims/survivors.[21] CRSV is extremely harmful with significant physical, mental, and social effects, including long-lasting stigmatisation and the complexities of children born as a result of these abuses.[22] In response to these multifaceted issues, it is recognised that there are a range of preventative, protective, humanitarian, and health policies and actions required at different scales from the local to the global.[23] SGBV occurs across borders and as such, its brutal and systemic character morally and legally demands concrete responses from regional and global bodies. International law is being deployed as one of the areas which can contribute to addressing SGBV during and surrounding hostilities.

C INTERNATIONAL LAW AND FRAMEWORKS

There has been an evolving response to SGBV in conflicts from the overlapping areas of International Human Rights Law (IHRL), International Humanitarian Law, and International Criminal Law (ICL), alongside developments in the UN security apparatus. This has involved progressive trajectories from a relative silence on the matter to formal codifications and concerted efforts to mobilise national and transnational actors. This section outlines some of the main advances in this area and the obstacles to achieving greater protection for individuals and groups.

[19] Dara Kay Cohen and Ragnhild Nordås, 'Do States Delegate Shameful Violence to Militias? Patterns of Sexual Violence in Recent Armed Conflicts' (2015) 59 JCR 877; Ellen Anna Philo Gorris, 'Invisible Victims? Where are Male Victims of Conflict-Related Sexual Violence in International Law and Policy?' (2015) 22 Eur J Women's Stud 412; Kathryn L. Overton and Sally Sharif, 'Agents with Principles? Preventing Conflict-Related Sexual Violence with Human Rights Laws and Norms' (2023) 45 HRQ 490.

[20] Sarah Solangon and Preeti Patel, 'Sexual Violence Against Men in Countries Affected by Armed Conflict' (2012) 12 Confl Secur Dev 418; David Eichert ''Homosexualization' Revisited: an Audience-Focused Theorization of Wartime Male Sexual Violence' (2019) 21 IFJP 409; UNSG (n 12) 4; Jelke Boesten, 'Sexual Violence as a Weapon of War in Ukraine' (2022) 377 BMJ o1172.

[21] Human Rights Council, *Data collection and Management as a Means to Create Heightened Awareness of Violence and Discrimination based on Sexual Orientation and Gender Identity Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity* (2019) A/HRC/41/45; Alon Margalit, 'Still a Blind Spot: The Protection of LGBT Persons during Armed Conflict and other Situations of Violence' (2019) 100 Int Rev Red Cr 237.

[22] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *In Their Own Words: Voices of Survivors of Conflict-Related Sexual Violence and Service-Providers* (OSRSG-SVC 2021); Carlo Koos and Summer Lindsey, 'Wartime Sexual Violence, Social Stigmatization and Humanitarian Aid: Survey Evidence from Eastern Democratic Republic of Congo' (2022) 66 JCR 1037.

[23] Mootz and others (n 9) 368; Boesten (n 20) o1172.

CRSV is clearly a violation of human rights. It infringes on key universal principles such as the right to life, the right to human dignity, or the prohibitions on torture or cruel, inhuman or degrading treatment,[24] but the violations have also been more precisely set out in several instruments.[25] In 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[26] provided a definitive platform in IHRL to protect against SGBV for women and girls. The Committee on the Elimination of Discrimination against Women elaborated on these rights and state obligations in General Recommendations, particularly in General Recommendation No 30 on women in conflict prevention, conflict and post-conflict situations.[27] The convention and its interpretation through General Comments allows for the committee to review actions and policies on CRSV in the state reporting process,[28] and for victims/survivors to pursue individual communications and seek justice for particular incidents.[29] This illustrates the different means by which international legal mechanisms can be used to highlight this issue and further state actions to protect and support individuals. Similarly, the Convention on the Rights of the Child, adopted in 1989, provides explicit guarantees of safety for persons under eighteen-years of age in and after conflicts[30] and from sexual abuse more broadly[31] and also holds states responsible for their relevant commitments.[32] At a regional level, the 2011 European Convention on Combating Violence against Women and Domestic Violence (the Istanbul Convention) makes reference to additional vulnerabilities

[24] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 7; see also Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987)1465 UNTS 85 art 1.
[25] Germain and Dewey (n 18) 4; Gorris (n 19) 415.
[26] Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).
[27] Committee on the Elimination of Discrimination against Women, 'General Recommendation No 19: Violence Against Women' CEDAW/C/GC/19 (1992); Committee on the Elimination of Discrimination against Women, 'General Recommendation No 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations' CEDAW/C/GC/30 (1 November 2013).
[28] Committee on the Elimination of Discrimination against Women, 'Concluding observations on the ninth periodic report of the Russian Federation' CEDAW/C/RUS/CO/9 (30 November 2021) para 33; Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Ninth Periodic Report of the Bolivarian Republic of Venezuela' CEDAW/C/VEN/CO/9 (31 May 2023) para 15.
[29] Committee on the Elimination of Discrimination against Women, 'Views Adopted by the Committee Under Article 7 (3) of the Optional Protocol, Concerning Communication No. 116/2017', CEDAW/C/76/D/116/2017 (26 August 2020) (*SH v Bosnia and Herzegovina*).
[30] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 3 UNTS 1577 (CRC) arts 38, 39.
[31] ibid, arts 19, 34.
[32] Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Congo*, CRC/C/COG/CO/5-6 (1 March 2024) paras 27, 55; Committee on the Rights of the Child *Concluding Observations on the Combined Third to Sixth Periodic Reports of South Africa*, CRC/C/ZAF/CO/3-6 (11 March 2024) paras 47.

of women and girls in conflict situations.[33] This convention also demonstrates a state party's obligations towards the victims/survivors from other jurisdictions, as in the cases of Syrian[34] and Ukrainian refugees.[35] These examples reveal an overall trajectory involving greater recognition of SGBV surrounding hostilities in human rights law with accompanying tools that expand on states obligations, safeguards for individuals, and potential routes for justice. Nonetheless, this progress is limited by the wider issue of gaps in human rights compliance and the dependency on states to fulfil their obligations.[36]

Concurrently, International Humanitarian Law has developed stronger provisions around sexual violence. The Fourth Geneva Convention (1949),[37] and the two Additional Protocols (1977),[38] protected women against rape, but did not make it war crime.[39] While the initial definition framing it as an honour crime was antiquate, greater elaboration expanded the interpretation to include 'humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault,'[40] which is also valued as being gender neutral.[41] These expressions are significant in articulating humanitarian law's role in safeguarding people directly impacted by fighting and incorporates criminal liability for perpetrators.[42] Also, these principles are drawn on within ICL (discussed in the next section).

Progress on addressing SGBV in conflicts through the UN security infrastructure has been a recent change that has strengthened these other strands of international law. Several UN

[33] Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (adopted 11 May 2011, entered into force 1 August 2014) CETS No 210 (Istanbul Convention) Preamble, arts 2, 3.
[34] Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *GREVIO Baseline Evaluation Report Turkey* (GREVIO 2018) para 332. Although, it should be noted that as of 1 July 2021, Türkiye withdrew from the Istanbul Convention.
[35] Council of Europe, 'Group of Experts on Action against Violence against Women and Domestic Violence' (GREVIO), *GREVIO Baseline Evaluation Report Luxembourg* (GREVIO 2023) para 231.
[36] Audrey L Comstock, *Committed to Rights: UN Human Rights Treaties and Legal Paths for Commitment and Compliance* (Cambridge UP 2021) 3.
[37] Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (Fourth Geneva Convention).
[38] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609.
[39] Darryl Robinson and Gillian MacNeil, 'The Tribunals and the Renaissance of International Criminal Law: Three themes' (2016) 110 Am JIL 201.
[40] Protocol II (n 38) art 4.2(e); Malaika Rajandran, 'Sexual Violence and International Law' (2004) 23 Refugee Sur Q 60; Fionnuala Ní Aoláin, 'Gendered Harms and their Interface with International Criminal Law' (2014) 16 Int. Fem J Pol 624.
[41] Gorris (n 19) 412.
[42] Germain and Dewey (n 18) 3.

Security Council resolutions which focused on CRSV,[43] were important points in the acknowledgement of SGBV as a major component of warfare and an issue of international peace and security.[44] In addition, they established an applied architecture, including the Team of Experts on the Rule of Law and Sexual Violence in Conflict,[45] and the Security Council's Women, Peace, and Security agenda,[46] which are designed to support national authorities in developing and implementing justice systems that recognise and prevent CRSV.[47] These moves have been welcomed as enriching the international community's response. However, this system is restricted by funding issues and the necessity for local actors to cooperate.[48] Also, a related obstacle is sexual abuse associated with some peacekeeping missions that problematises UN interventions more broadly.[49] While Security Council resolutions are generally non-binding international law, they still have practical impacts and contribute to an overall shift within the international arena to tackle SGBV.

Collectively, these developments represent progress in appreciating the horrific scale and impact of CRSV. This displays a broader paradigm shift that requires states and international organisations to consider this issue and how they will address it before, during, and after conflicts.[50] For too long CRSV was a neglected topic, which was seen as inevitable and unpreventable.[51] Gradually there has been a cluster of human rights and international humanitarian legal instruments, alongside UN systems, that have contested that position and put in place new support and compliance systems. The next section briefly examines how ICL has contributed to providing degrees of accountability and deterrence.

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[43] For example, United Nations Security Council (UNSC) *Res 1820* (19 June 2008) UN Doc S/RES/1820; UNSC, *Res 1888* (30 September 2009) UN Doc S/RES/1888; UNSC, *Res 2467* (23 April 2019) UN Doc S/RES/2467.
[44] T Vishnu Jayaraman, 'Rape as a War Crime' (2009) 45 UN Chron 76.
[45] UNSC, Res 1888 (n 43) para 8.
[46] United Nations Security Council (UNSC) Res 1325 (31 October 2000) UN Doc S/RES/1325; United Nations (n 16) 6; UN Department of Political and Peacebuilding Affairs (DPPA), 'Gender, Women, Peace and Security' (DPPA 2024) <https://dppa.un.org/en/women-peace-and-security#:~:text=The%20Policy%20outlines%20five%20priorities,political%20processes%3B%20d > accessed 25 February 2025.
[47] Office of the Special Representative (n 10) para 7; Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, 'UN Team of Experts on Rule of Law and Sexual Violence in Conflict' (OSRSG-SVC 2024) < https://www.un.org/sexualviolenceinconflict/our-work/team-of-experts/> accessed 28 February 2024; UN Verification Mission Colombia, UN Department of Political and Peacebuilding Affairs (DPPA), *From Words to Action: The Experience of UN Political Missions in Colombia on Women, Peace, and Security* (DPPA 2020) 33.
[48] Nordås and Nagel (n 15) 2.
[49] Audrey L Comstock, 'The UN Voluntary Compact and Peacekeeping Abuse: Assessing a Soft Law Solution for Sexual Exploitation and Abuse' (2023) 27 IJHR 473.
[50] UNSG (n 12) para 10.
[51] MP Broache and Juhi Kore, 'Can the International Criminal Court Prevent Sexual Violence in Armed Conflict?' (2023) 22 JHR 79.

D INTERNATIONAL COURTS

ICL has an important function in protecting individuals and groups from CRSV. The recognition of sexual violence as a most serious criminal matter is crucial for protecting individuals and providing justice. There has been a broad evolution in this sphere; from a near absence of CRSV in the Nuremberg and Tokyo Tribunals,[52] to the ad hoc tribunals concerning the atrocities in the former Yugoslavia and Rwanda recognising CRSV as a war crime and a crime against humanity.[53] Building on this progress the 1998 Rome Statute of the International Criminal Court categorises these abuses as serious crimes.[54] Successes and challenges in pursuing justice in this area are revealed by looking at examples from the ICTY and the ICC.

I International Criminal Tribunal for the Former Yugoslavia

The ICTY along with the International Criminal Tribunal for Rwanda were key in establishing the prohibition on and punishment for CRSV.[55] Significantly, rape was enumerated as a crime against humanity in the ICTY charter,[56] representing a new departure in recognising these crimes. Then, the Tribunal's case law expanded the definition of sexual violence in ICL providing both legal precedent and prominent recognition for the scale and brutality of the acts perpetrated.[57] The Yugoslav Wars are estimated to have included the sexual assault of between twenty five thousand and forty thousand women and girls.[58] These abuses occurred in the context of ethnic cleansing with the purpose of violating and destroying the identity of victims; although crimes were carried out by all sides, Bosnian Muslim women and girls suffered most.[59] These incidents featured in numerous ICTY trials developing important jurisprudence.

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[52] Rosemary Grey, 'Conflicting Interpretations of 'Sexual Violence' in the International Criminal Court' (2014) Aust Fem S 274; Tanja Altunjan, 'The International Criminal Court and Sexual Violence: Between Aspirations and Reality' (2021) 22 Ger LJ 879.

[53] Mythili Rajiva and Tatjana Takševa 'Thinking Against Trauma Binaries: The Interdependence of Personal and Collective Trauma in the Narratives of Bosnian Women Rape Survivors' (2021) 22 Fem Theory 423

[54] Avory Faucette, 'Improvements in the Legal Treatment of Systematic Mass Rape in Wartime Where Do We Go From Here?' in Germain TS and S Dewey (eds.) *Conflict-Related Sexual Violence: International Law, Local Responses* (Lynne Rienner Publishers 2012) 56.

[55] Alexandra Adams, 'The Legacy of the International Criminal Tribunals for the Former Yugoslavia and Rwanda and Their Contribution to the Crime of Rape' (2018) 29 EJIL 749.

[56] Statute of the International Criminal Tribunal for the Former Yugoslavia (adopted 25 May 1993) UN Doc S/RES/827 art 5(g); Statute of the International Criminal Tribunal for Rwanda (adopted 8 November 1994) UN Doc S/RES/955 arts 3(g), 4(e).

[57] Ward (n 14) 63; Altunjan (n 52) 880.

[58] United Nations Security Council, *Letter dated 24 May 1994 from the Secretary-General to the President of the Security Council* (1994) S/1994/674 paras 102-109, 232 – 253; Faucette (n 54) 59; Rajiva and Takševa (n 53) 405.

[59] Faucette (n 54) 59; Inger Skjelsbæk, 'Victim and Survivor: Narrated Social Identities of Women Who Experienced Rape During the War in Bosnia-Herzegovina' (2006) 16 Fem Psych 394.

In the *Foča* case, the extensive sexual abuses and rape of Muslim and Croat women were found to be crimes against humanity and war crimes.[60] The case *Prosecutor v Furundžija* articulated how 'rape and serious sexual assault in armed conflict'[61] was prohibited under customary international law and provided a definition of rape,[62] as well as finding rape to be torture and an outrage upon personal dignity under the 'Laws or Customs of War'.[63] The *Čelebići* case concluded that sexual violence could constitute torture under the Fourth Geneva Convention[64] and it found that commanders could be held criminally liable for CRSV perpetrated by persons under their control.[65] Nonetheless, it did not provide a definition of sexual violence which undermined its application in future cases.[66] Additionally, command responsibility is a complex area and its nature in terms of CRSV remains ambiguous.[67] The tribunal also ruled that sexual assaults on men and forced sexual acts were crimes under international law.[68] These judgments and others have been highly significant in solidifying the serious nature of CRSV in ICL and establishing accountability for perpetrators and military commanders who encourage or facilitate these crimes. Additionally, the International Criminal Tribunal for Rwanda provides comparable case law, including finding rape to be a form of genocide.[69]

Previously wartime sexual violence had been classified as an 'inevitable' by-product of conflict, but these tribunals reframed these abuses as torture, crimes against humanity, and genocide for which individual perpetrators and commanders could be held responsible. CRSV had been at best ignored and even accepted as an unavoidable aspect of conflict. The case law from the ICTY established a new standard that clearly defined these abuses as criminal acts under international law and illustrated that persons can be held accountable. These trials are

[60] *Prosecutor v Kunarac, Kocač and* Vuković (Foča case) (Judgement) IT-96-23-T & IT-96-23/1-T (22 February 2001) paras 687, 704, 715, 744, 745, 782, 822; see also *Prosecutor v Kunarac, Kocač and* Vuković (Foča case) (Appeal Judgment) IT-96-23-T & IT-96-23/1-T (12 June 2002) paras 288, 289, 313, 335.
[61] *Prosecutor v Furundzija* (Trial Judgement) [1998] IT-95-17/1-T paras 168; see also *Prosecutor v Karadžić* (Trial Judgement) [2016] IT-95-5/18-T paras 923, 2506.
[62] *Furundzija* (n 61) paras 174 – 189.
[63] ibid paras 269, 275.
[64] *Prosecutor v Mucić, Delić, Landžo and Delalić* (Čelebići case) (Judgement) [1998] IT-96-21 para 496; Robinson and MacNeil (n 39) 201.
[65] *Prosecutor v Mucić* (n 64) para 775.
[66] Grey (n 52) 274.
[67] Elies van Sliedregt, 'Command Responsibility at the ICTY—Three Generations of Case-law and still Ambiguity'; Bert Swart, Alexander Zahar, and Goran Sluite (eds) *The Legacy of the International Criminal Tribunal for the Former Yugoslavia* (Oxford Academic 2011) 379.
[68] *Prosecutor v Stakić* (Trial Judgement) [2003] IT-97-24-T paras 35, 241, 806, 872, 882; *Prosecutor v Cesic* (Sentencing Judgement) [2004] IT-95-10/1-S paras 13, 14; *Prosecutor v Todorovic* (Sentencing Judgement) [2001] IT-95-9/1-S paras 37-41.
[69] *Prosecutor v Akayesu* (Trial Judgement) [1998] ICTR-96-4-T paras 731 – 733; Narelle Fletcher, 'Sociolinguistic Challenges of Prosecuting Rape as Genocide at the International Criminal Tribunal for Rwanda: the Trial of Jean-Paul Akayesu' (2022) 35 IJ Semiot L 1597.

also noteworthy for raising public awareness,[70] allowing victims/survivors to outline the abuse they endured, and for the court to recognise the severity of the crimes and their ongoing impacts on victims/survivors specifically and post-conflict societies more broadly.[71] Although, there are inherent limitations in these developments since the case law has inconsistencies and there is an absence of coherent definitions of key crimes.[72] The poor and hostile treatment of victims/survivors who served as witnesses was also a source of criticism of the ICTY.[73] For example, in *Prosecutor v Dusko Tadić*, charges of rape as a crime against humanity were dropped when a witness did not testify out of fear of reprisal and a cross-examination discrediting another witness.[74] Situations such as this undermine the overall pursuit of justice for the women and girls systemically abused as part of ethnic cleansing campaigns. The ICTY presents a complex study. Overall, the ad hoc international tribunals of the 1990s set out an overdue recognition of CRSV, but innate weaknesses remained. Some of these threads are reflected in how the ICC has dealt with these matters in recent years.

II International Criminal Court

After the success of the ad hoc tribunals, the ICC was set up as a permanent independent institution to provide justice for the most serious crimes.[75] Significantly, sexual violence was enumerated as a crime against humanity and a war crime in its statute.[76] However, the court has a poor record in providing justice for CRSV with only two final convictions for sexual crimes: *Prosecutor v Ntaganda* and *Prosecutor v Ongwen*.[77] While these judgments are welcome, the low rates of accountability for these widespread crimes during conflicts weaken the body's effectiveness as a deterrence.[78] This critique can be made concerning the overall

[70] Page and Whitt (n 18) 677.
[71] *Prosecutor v Mucić* (n 64) para 938; Skjelsbæk (n 59) 387; Janine Natalya Clark, 'Working with Survivors of War Rape and Sexual Violence: Fieldwork Reflections from Bosnia-Hercegovina' (2017) 17 Qual R 424; Grey (n 18) 70.
[72] Faucette (n 54) 63.
[73] ibid 65.
[74] Prosecutor, *Order on the Prosecution Motion to Withdraw Counts 2 through 4 of the Indictment without Prejudice, Prosecutor v Tadić* [1996] Case No IT-94-1-T; CB Coan, 'Rethinking the Spoils of War: Prosecuting Rape as a War Crime in the International Criminal Tribunal for the Former Yugoslavia' (2000) 26 N Carolina JIL 5
[75] Philipp Kastner, *International Criminal Justice in Bello?: The ICC between Law and Politics in Darfur and Northern Uganda* (Martinus Nijhoff Publishers 2012) 13.
[76] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 arts 7(1)(g), 8(2)(b)(xxii), 8(2)(e)(vi), 42(9), 43(6), 54(1)(b), 68(1); UNSC, Res 2467 (n 43) para 15; Rajandran (n 40) 61.
[77] *Prosecutor v Ntaganda* (Judgment) [2019] ICC-01/04-02/06; *Prosecutor v Ongwen* (Trail Judgement) [2021] ICC-02/04-01/15.
[78] Altunjan (n 52) 884.

function of the Court which highlights wider concerns about the effectiveness of international criminal law structures to act as a deterrence for conflict related crimes and to protect civilians and combatants.[79] Additionally in *Prosecutor v Lubanga Dyilo*, the Prosecutor was criticised for not initially bringing charges concerning sexual crimes,[80] and it was subsequently ruled that those charges could not feature in the trial.[81] Then, in 2018 Jean-Pierre Bemba Gombo, the first person convicted for crimes of sexual violence by the Court, was acquitted for crimes against humanity and war crimes, including rape.[82] The Appeals Chamber found that he was convicted for criminal acts that were outside the scope of the charges and, significantly for the prosecution of CRSV, that his command responsibility was limited in the context of the conflict.[83] This latter point weakens the role of the ICTY *Čelebići* judgement in ICL as it restricted the situations in which commanders can be held accountable for CRSV committed by their subordinates.[84] This was seen as further undermining progress in addressing the *de facto* impunity for such crimes.[85]

Nonetheless, there have been findings of CRSV as crimes against humanity and war crimes, including rape and sexual slavery, and the recognition of male victims in *Prosecutor v Ntaganda*[86] and forced pregnancy in *Prosecutor v Ongwen*.[87] Also, the Office of the Prosecutor issued a new policy on sexual and gender-based crimes in 2016 affirming a commitment to pursue those responsible for such abuses.[88] This has been welcomed as expanding the

[79] Samaria Muhammad, Barbora Holá and Anja Dirkzwager, 'Reimagining the ICC: Exploring Practitioners' Perspectives on the Effectiveness of the International Criminal Court' (2021) 21 Int CLR 126.
[80] Niamh Hayes, 'Sisyphus Wept: Prosecuting Sexual Violence at the International Criminal Court'in Yvonne McDermott, *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (William A Schabas, 1st edn, Taylor & Francis Group 2016) 10; Gabrielle Louise McIntyre, 'The Pace of Progress: Addressing Crimes of Sexual and Gender-Based Violence in the Generation After Rome' (2018) 112 AJIL Unbound 177.
[81] *Prosecutor v Lubanga Dyilo* (Appeals Judgment) [2009] ICC-01/04-01/06 74; *Prosecutor v Lubanga Dyilo* (Judgment) [2012] ICC-01/04-01/06 629.
[82] *Prosecutor v Bemba* (Appeals Judgment) [2018] ICC-01/05-01/08 A.
[83] Leila N Sadat, 'Fiddling While Rome Burns? The Appeals Chamber's Curious Decision in Prosecutor v Jean-Pierre Bemba Gombo' (Blog of the European Journal of International Law, 12 June 2018) <https://www.ejiltalk.org/fiddling-while-rome-burns-the-appeals-chambers-curious-decision-in-prosecutor-v-jean-pierre-bemba-gombo/> accessed 25 Feburary 2025
[84] Amnesty International, 'CAR: Acquittal of Bemba a Blow to Victims' (Amnesty International, 8 June 2018) <https://www.amnesty.org/en/latest/news/2018/06/car-acquittal-of-bemba-a-blow-to-victims/> accessed February Feburary 2025; Sadat (n 83).
[85] Sarah Hibbert, 'The Bemba Acquittal: A Blow to the ICC's Legitimacy in a Time of Crisis' (2019) 34 Temp Int Comp L J 97.
[86] *Ntaganda* (n 76) paras 933, 940-42, 946, 954, 955, 974.
[87] *Ongwen* (n 76) paras 207, 2717-2722; Altunjan (n 52) 889.
[88] International Criminal Court, Office of the Prosecutor (ICC OTP), *Policy Paper on Sexual and Gender-Based Crimes* (ICC OTP 2014) 5; International Criminal Court, Office of the Prosecutor (ICC OTP), *Policy on Slavery Crimes* (ICC OTP 2024) 2.

understanding of SGBV in conflict and indicates learning from earlier shortcomings.[89] Moreover, the recent applications for arrest warrants for two Taliban leaders in Afghanistan by the Office of the Prosecutor make substantial references to rape and other forms of sexual violence.[90] On balance, the ICC has been inadequate to address the scale and character of CRSV which has eroded early hopes for greater accountability. Part of the issue is the general weakness of the Court as a body with limited resources that depends on state party cooperation.[91] Nonetheless, this is of little consolation to victims/survivors and those advocating for justice. If international legal frameworks are to be used as an effective mechanism to provide justice and protect people, there needs to be greater investment and focus on the capacities of the ICC and comparable bodies.

CRSV has become a distinct feature of ICL since the 1990s. Cases from the ICTY and ICC show how these bodies have elaborated on the abuses that constitute hostility connected to SGBV and their severity as war crimes, genocide, and crimes against humanity. These advances are substantial in creating legal accountability and deterrence for these crimes.[92] In addition these spaces provide an international arena for sexual violence to be highlighted and for victims/survivors to be heard.[93] However, the ICC's failings in this regard are a serious concern that undermines its preventative function.[94] The current limitations of the Court and a poor record of achieving justice for the victims/survivors of CRSV result in a very weak international framework to prevent and deter CRSV. This is coupled with extremely low prosecution and conviction rates for sexual crimes across jurisdictions. There is significant potential for the ICC to take leadership in holding individuals to account for these crimes, but it will require both commitments from the Court and member states.[95] While there has been progress in international law addressing SGBV surrounding conflicts, there are challenges to ensure international frameworks successfully protect individuals.

[89] Altunjan (n 52) 888.
[90] International Criminal Court, Office of the Prosecutor (ICC OTP), Prosecution's Application under article 58 for a Warrant of Arrest against Haibatullah Akhundzada (ICC OTP 2025) paras 12, 39, 65, 77, 87, 91, 99, 105, 112, 129; International Criminal Court, Office of the Prosecutor (ICC OTP), Prosecution's Application under article 58 for a warrant of arrest against Abdul Hakim Haqqani (ICC OTP 2025) paras 12, 34, 39, 65, 77, 87, 90, 91, 99, 105, 112, 129.
[91] Charles Chernor Jalloh and Amy DiBella, 'Equality of Arms in International Criminal Law: Continuing Challenges' in Yvonne McDermott, *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (William A Schabas, 1st edn, Taylor & Francis Group 2016) 252.
[92] Broache and Kore (n 52) 79.
[93] Rajiva and Takševa (n 53) 423.
[94] Broache and Kore (n 51) 88.
[95] Ní Aoláin (n 40) 626.

E DISCUSSION

There has been a gradual recognition of CRSV and the role of tribunals/courts to enforce the standards in international law. This discussion section considers three main points that arise from the examination so far: the evolving role of international law in relation to CRSV, the need to focus on victims/survivors, and the intersections of international law and national mechanisms. Taken together these matters represent a brief assessment of the current state of this area and suggest ways in which individuals and communities can be better protected.

I International Law in Relation to CSRV

Firstly, international law has established a framework to address CRSV, however there are significant weaknesses in its implementation. There is a broad acknowledgement that this is a serious issue occurring on a global scale that demands a stronger approach. For example, the UN Security Council Resolution 1888 (2009) reiterates the serious nature of the situation and repeatedly calls for greater coordination and cooperation amongst all actors, including UN organs, states, and warring parties, to immediately address CRSV.[96] Also, the need for firmer and more immediate action on preventing sexual violence has been highlighted in contemporary conflicts, including those in Gaza[97] and the Democratic Republic of the Congo.[98] Despite the increasing recognition of these crimes in the international arena, the reality presents a very different picture with impunity for sexual violence and crimes remaining 'the norm and the pace of justice remains painfully slow'.[99] There is a pressing need for international stakeholders and states to use international law and other tools to radically address this situation. The CEDAW Committee has outlined how the international and regional legal framework articulates the human rights standards to which all actors should adhere and how

[96] UNSC, Res 1888 (n 43) para 8.
[97] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Conflict-Related Sexual Violence: Report of the United Nations Secretary-General*, S/2024/292 (OSRSG-SVC 2024) 39; Office of the United Nations High Commissioner for Human Rights (OHCHR), *Six-Month Update Report on the Human Rights Situation in Gaza: 1 November 2023 to 30 April 2024* (UN 2024) 43.
[98] Committee on the Elimination of Discrimination against Women, *Report of the Committee on the Elimination of Discrimination against Women, 85th session (8-26 May 2023), 86th session (9-27 October 2023), 87th session (29 January-16 February 2024)*, A/79/38 (4 April 2024) Decision 87/VI; Office of the United Nations High Commissioner for Human Rights (OHCHR), 'DRC: Deepening Human Rights Crisis Amid Reports of Further M23 Advances' (UN 2025) <https://www.ohchr.org/en/press-briefing-notes/2025/01/drc-deepening-human-rights-crisis-amid-reports-further-m23-advances> accessed 25 February 2025.
[99] Office of the Special Representative (n 2) para 14.

these structures must be implemented through adequate resourcing.[100] There are several challenges in realising these principles, starting with the much broader critique surrounding the enforceability of international law in a global system founded on state sovereignty.[101] Individuals and states can disregard different aspects of international law with varying degrees of repercussion depending on their geopolitical position.[102] The highly visible mass violations of IHRL and humanitarian law in the Ukraine and Gaza conflicts have further emphasised weaknesses around the capacities and function of international legal systems.[103] Another key obstacle is applying schemes that can be legitimate deterrents and can make perpetrators answerable for their crimes.[104] A 'culture of impunity' has been identified as a major obstacle to protecting individuals and communities; greater accountability and confidence in justice systems are key measures that can have a clear and sustained positive impact.[105] ICL structures face interconnected hurdles in administering their mission to hold offenders to account, while inadequate and inconsistent implementation is a perennial issue that undermines human rights laws.[106] Moreover, disjointed and ambiguous jurisprudence concerning CRSV also erodes the effectiveness of ICL.

There is an architecture in place articulating clear standards which are evolving and refining in response to changing conditions. Sexual violence and crimes have been codified in international law and several successful cases have been concluded in international courts. The international community and individual states must mobilise this apparatus through dedication and persistence. UN leadership, human rights committees, and the Security Council have all displayed a commitment on CRSV, while reforms in the ICC also offer expectations for concrete results. These bodies must now ensure that they fulfil these mandates to protect individuals and entire groups from SGBV. States also have a responsibility to cooperate with international legal bodies and to ensure compliance with legal standards on CRSV.

[100] Committee on the Elimination of Discrimination against Women, 'Using the International and Regional Legal Framework to Stop All Forms of Violence against Women and Girls' (CEDAW 2022) <https://www.ohchr.org/en/statements/2022/03/using-international-and-regional-legal-framework-stop-all-forms-violence-against> accessed 8 February 2025.
[101] Rhona Smith, *International Human Rights Law* (9th ed, OUP 2019) 151.
[102] Nico Krisch, 'International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order' (2005) 16 EJIL 369.
[103] Susan Akram and John Quigley, 'Is International Law Still Relevant after the Carnage in Gaza?' (Arab Center Washington DC 2024) <https://arabcenterdc.org/resource/is-international-law-still-relevant-after-the-carnage-in-gaza/> accessed 25 February 2025; Human Rights Council, *Report of the Independent International Commission of Inquiry on Ukraine*, A/HRC/55/66 (18 March 2024).
[104] Faucette (n 54) 53.
[105] United Nations (n 16) 18; UNSC (n 46) 10.
[106] Gerd Oberleitner, 'Does Enforcement Matter?' in Conor Gearty and Costas Douzinas, *The Cambridge Companion to Human Rights* Law (Cambridge UP 2012) 249; Smith (n 101) 161.

International law must be manifested as an active force that maintains humanitarian standards and acts as an effective and present deterrent. Crucially, all actors have a role in addressing the de facto impunity for CRSV. Only then can international legal instruments provide an applied preventive and protective function.

II Centering the Victim/Survivor in CRSV Cases

Secondly, there must be an increased centering of victims/survivors and vulnerable groups in international law processes and arenas. Although international legal components such as human rights committees and the ICC occur at an international level, they are still legal structures that engage directly with individuals impacted and therefore need to follow insights from victims/survivors' experiences of national justice systems.[107] There is recognition for reforms that reframe how victims/survivors are understood and treated,[108] and for processes to be as sensitive and dignified as possible.[109] The ICC is seen as having a solid basis for appropriately treating those impacted by sexual violence,[110] but there is still scope for improvements to enable fuller participation.[111] Any changes should be oriented to the complexities and actuality of victims/survivors situations, such as proper acknowledgment of mental and reproductive health impacts,[112] taboos around victimhood including trans and male survivors/victims,[113] and the highly complicated area of child soldiers.[114] Intentional and coordinated reforms can partially address broader concerns around patriarchal dispositions in criminal justice systems which underline the capacity to effectively protect women and girls.[115] There is also space for legal frameworks to strengthen reparation and restorative practices that appreciate the multiple harms of sexual violence. For example, as part of the Istanbul

[107] Kate Skellington Orr and Elaine Wilson Smith, *Improving Victims' Experiences of the Justice System: Consultation Analysis Final Report* (Scottish Government 2022); Marianne Hester and others, 'What Is Justice? Perspectives of Victims-Survivors of Gender-Based Violence' (2023) Viol Ag Women; Australian Government Attorney-General's Department, *National Roundtable on Justice Responses to Sexual Violence Summary Report* (AGP 2023).
[108] ICC OTP (n 87) 2; Office of the United Nations High Commissioner for Human Rights (OHCHR), *Protection of Victims of Sexual Violence: Lessons Learned* (UN 2019).
[109] United Nations (n 16) 13; Office of the Special Representative (n 22) 2.
[110] *Rome Statute* (n 76) art 68; International Criminal Court, *Rules of Procedure and Evidence* (ICC 2013), Rules 16(1)(d), 17(2)(b)(iii), 70, 71, 72, 88(1), 88(5).
[111] Claire Garbett, 'From Passive Objects to Active Agents: A Comparative Study of Conceptions of Victim Identities at the ICTY and ICC' (2016) 15 JHR 40; Juan-Pablo Perez-Leon-Acevedo, 'Victims and Appeals at the International Criminal Court (ICC): Evaluation under International Human Rights Standards' (2021) 25 IJHR 1598
[112] De Vido (n 12) 4.
[113] Solangon and Patel (n 20) 418.
[114] Rosemary Grey, 'Sexual Violence against Child Soldiers' (2014) 16 Int Fem J Pol 601.
[115] Ní Aoláin (n 40) 622.

Convention monitoring process there have been recommendations to support those affected by hostilities.[116] For international law to be more successful in protecting individuals in conflicts from SGBV, there must be a prioritisation of approaches that support and involve victims/survivors. This is a specific matter that the ICC and other international legal bodies can make significant progress on. Internal processes and methods can be adjusted and reframed to produce a progressive system that empowers victims/survivors, as well provide more effective accountability.

III Intersections of International Law and National Mechanism

Thirdly, international law has a position to influence and further national actions on addressing CRSV, especially given the limitations of international legal mechanisms. Sexual violence surrounding combat is a sub-set of the larger issue of SGBV across societies. It is essential that conflict-based abuses are recognised as serious crimes in ICL, but they must also be acknowledged as a part of broader systemic misogyny.[117] The development of international law in this area should be used to strengthen the capacity of national legal processes to gain justice for victims/survivors and to employ more effective preventions and deterrents.[118] This is the case with the UN's Team of Experts on the Rule of Law and Sexual Violence in Conflict who assist state authorities with measures such as improving accountability through national justice systems in Iraq and the Central African Republic and by putting in place tangible programmes to support vulnerable groups in Ukraine.[119] Given the widespread occurrence of sexual violence, in conflict and non-conflict situations, there is a pressing obligation for international and national mechanism to reinforce each other by demonstrating that alleged perpetrators will be held to account. Relative certainty that ICL and humanitarian law will be implemented is central to protecting individuals and communities from CRSV. The principles and accountability being established, albeit inconsistently, in an international setting should

[116] Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *GREVIO Baseline Evaluation Report Cyprus* (GREVIO 2022) 26; Committee of the Parties, Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), *Recommendation on the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by Bosnia and Herzegovina*, IC-CP/Inf(2022)7 (6 December 2022) 3.
[117] Karen Engle, 'Feminism and Its (Dis)contents: Criminalizing Wartime Rape in Bosnia and Herzegovina' (2005) 99 Am JIL 817.
[118] UNSG (n 12) para7; UNSC, *Res 2467* (n 43) Preamble.
[119] United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, *Annual Report 2023* (SRSG-SVC 2024).

and can transform normative practices at national and local levels.[120] There is considerable potential for international and regional bodies to work with official entities and NGOs for more effectual outcomes. Additionally, high profile events, such as ICC judgments, are a tool that help increase public attention concerning the issues and the rights of victims/survivors.[121] International law has a strong role regarding CRSV which needs to be enhanced and implemented in a manner that targets the most pressing areas and engages with those directly impacted, in conjunction with states and other stakeholders.

F CONCLUSION

Sexual violence remains a prevalent feature of conflicts and crises across the world today. The extent and pervasiveness of these abuses, combined with their brutal and intentional dimensions demands coordinated and determined response from states and international bodies. This article has examined how international law is attempting to respond to these circumstances through mechanisms that can protect people from CRSV through increased awareness and greater accountability for those who perpetuated these crimes. There has been sustained efforts to recognise these crimes in legal instruments and the work of human rights, UN, and regional bodies. Although there has been notable progress with the development of overlapping legal instruments and the jurisprudence of international courts, many barriers remain to implementing an effective system. IHRL offers a framework of safeguards and mechanisms to encourage state actions and highlight violations, albeit with restricted compliance capacities. Similarly, ICL and humanitarian law have pressing functions in setting standards and holding perpetrators responsible. But, despite a promising start with the ad hoc tribunals of the 1990s, the ICC has fallen short of granting justice for many groups and establishing a strong deterrence. The challenge is for international law to have an effective focus on CRSV. This will require purposeful and evolving approaches that centre victims/survivors and vulnerable groups. Moreover, international legal tools and actions must work with and strengthen capabilities and accountability within states to tackle this complex issue. The role of international law in protecting individuals and groups from sexual/gender-based violence in conflicts will become even more significant and relevant in facing the impacts of hostilities, political unrest, and the climate crisis into the future.

[120] Ní Aoláin (n 40) 622.
[121] Page and Whitt (n 18) 696.