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MILITARIZED SEXUAL VIOLENCE AND HIV/AIDS ORIENTED DISABILITY: AN EFFORT TO ALLEVIATE VICTIMIZATION IN THE POST-CONFLICT REGIME

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Introduction

War is not a part of human nature.² External factors such as greed, power, lust, leadership, organised them to kill people belongs to other groups based on colour, race and ethnicity derails human virtues. Past events such as the armed conflicts in the former Yugoslavia, Sierra Leone, Rwanda, and Democratic Republic of Congo remind us the cruelty of war, suffering, death and destruction it entails.³ Due to gender inequalities in a male dominant society, women became the central victims of war, though they are not the reasons of war. Violence against women is one of history's great silences. Combatants continue to use sexual violence⁴ as a tactic of war to terrorize and control civilian populations. It has been widely speculated that sexual violence in armed conflict acts as a key contributor to the transmission of human immuno-deficiency virus (HIV). Conflict related Sexual violence⁵ led to physical harm, mental trauma and also carries an additional risk of sexually transmitted diseases (STD) called HIV/AIDS (Acquired Immuno Deficiency Syndrome). In Africa, "the prime mode of transmission is through heterosexual contact by the combatants, with minor parts played by homosexual contact such

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² War which spurs actual violence against fellow human beings is not actually a war, which depicted as war in the formal society.

³ See, Frits Kalshoven, Liesbeth Zegveld "Constraints on the Waging of War, An introduction to IHL, Cambridge University Press, 4th ed, 2011.

⁴ Sexual violence is defined as acts of sexual nature imposed by force, threat of force or coercion owing to the threat of violence, psychological oppression or abuse of power, which may be perpetrated against persons. Sexual violence includes rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, or any other form of sexual violence of comparable gravity. It is not limited to physical violence and does not have to include physical contact. It can encompass anal and vaginal rape; forced nudity; forced masturbation; forced raping of others; being forced to witness the rape of others, including family, friends pr co-detainees; use of instruments on genitals; trauma, for example through beatings with sticks, wire etc; and verbal sexual threats. See, ICRC guidelines on Mental Health and Psychosocial support.

⁵ "Conflict-related sexual violence "as used in the present report, refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. The term also encompasses trafficking in person when committed in situations of conflict for the purpose of sexual violence/exploitation. See, Report of the secretary-general Antonio Guterres on "*Conflict-Related Sexual Violence*", 15th April, 2017(S/2017/249)

as mother-child transmission, blood transfusion and injecting drug use.⁶ The devastating effects of HIV/AIDS continue to be felt on women and girls in these conflicts. Consequences such as dehumanization, stigmatisation, discrimination, abandonment by the family expel them from the society. Lesser participation in the society on an equal basis with others renders them disabled in the larger community. Intrusion in the mental integrity of the HIV-infected women during armed conflict leaves them in a confused state of mind, loss of peace, stress, and phobia. But these elements of disability is still unaddressed by the Convention on Rights of Persons with Disabilities, 2006 (CRPD). The main concerns of HIV-infection by rape during war should be declared as international crime. To eliminate impunity in the existing legal framework of IHL, Rome Statute should expressly address the conflict related HIV-infection as a war crime and CRPD to ensure the disabled rights be applicable to them. In furtherance of prevention of such crimes, the methods and means of warfare should be regulated in a proper manner.

I-The War Within The War – A Twin Pandemic

Rape has been used as a weapon of war during armed conflict. This weapon unleashes numerous health problems to the survivors of sexual violence. Especially, rates of HIV transmission during sexual violence are believed to be high, because it was notoriously transmitted by the combatants during war. Unfortunately, women are more vulnerable to HIV infection, where the main form of transmission is sexual; and are infected in greater numbers than men.⁷ Statistically the worst hit of HIV is in Africa where rape by an infected man directly exposes women to the virus and the abrasions or tearing of vaginal tissues which may result increase the risk of infection dramatically.⁸ Different patterns of HIV transmission by combatants can be identified in the areas of Rwanda, Democratic Republic of Congo and Sierra Leone of Africa. In Rwanda, many men who knew they were HIV-positive, but sadistically trying to transmit the virus to Tutsi women through rape: planned and purposeful HIV infection

⁶ Zaryab Iqbal, and Christopher Zorn, “Violent conflict and spread of HIV/AIDS in Africa”, 72 The Journal of Politics, (2010), pp. 149-162.

⁷ Over 37.9 million people globally were living with HIV at the end of 2018, and around 570000-1.1million have died of HIV in 2018. More than 70% young women were living with HIV/AIDS than men in Africa In sub-Saharan Africa, four in five new infections among adolescents aged 15-19 years are in girls and 15-24years are twice living with HIV than men. For more reference see, Global HIV/AIDS statistics – 2019 fact sheet <https://www.unaids.org/en/resources/fact-sheet> (Accessed on 15th December 2019).

⁸ United Nations Development Fund for Women, report on “Women, War and Peace- The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building”. Editor-Gloria Jacobs (2002).

of women has been a tool to ethnic warfare.⁹ Distinctively, in Congo, fetishism was developed among the combatants, where they believe that having sexual relations with a pre-pubescent child or a post-menopausal woman will make them immune from disease of HIV. Likewise, it will cure them if they already have HIV, and will be protected from injury and death during combat, or will be strengthened in other ways.¹⁰ In Sierra Leone, rebels favoured the young women or girls whom they believed to be virgin: no longer virgins, have less chance of marriage.¹¹ All of these patterns clearly depict the toxic masculinity in war. Though United Nations peacekeeping has a distinguished history of helping many states and peoples to emerge from conflict with the hope of a better future, regrettably many peacekeepers have committed such egregious crime of sexual violence on the civilian population during war. The cause of such violation is the alcohol consumption and sexual starvation.¹²

Problems of HIV infected survivors: addressing introduced disability in times of war

Conflict related HIV infection subjugates women into innumerable atrocities which affect them physically, mentally, psychologically and socially vulnerable in the society. In addition to the stigma of having been raped, rape survivors living with HIV/AIDS are also marginalized, insulted and belittled because of their infection.¹³ Ethically blinded people, socially exclude, ostracize and abandon the victims of AIDS. Sometimes on fear of stigmatisation infected women reluctant to inform their partners about the infection reduces the opportunity of medical treatment.¹⁴ In the patriarchal society, women themselves responsible for what happened to them, women and girls who survive rape are sometimes accused of not having resisted enough,

⁹ Sexual violence perpetrated against tutsi women as a means of dehumanizing and subjugating tutsi, it was inflicted by the hutu to degrade not just individual women but the larger group of which she is a part. See, International Panel of Eminent Personalities report on “*Rwanda: The Preventable Genocide*”

¹⁰ Refer, Amnesty International report on “*Mass rape: Time for Remedies*” in Democratic Republic of Congo (2004).

¹¹ Sierra Leonean society places high value on virginity. So, the intentional action of men over women depicts the reality of inequality, discrimination placed against women and they were forced to dead in post-conflict regimes. See, Human rights watch report on “*We Will Kill You If You Cry*” sexual violence in Sierra Leone conflict, Vol.15, No.1, 2003.

¹² Peacekeepers raped women and make it as a consensual transaction by offering money, food to the victims of rape. Here rape termed as “rape disguised as prostitution”. For detail analysis, refer UN General Assembly resolution A/59/710 where Prince Zied Ra’ad zied al-Hussain report on “A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations.

¹³ Many married infected women faces discrimination in their community and in the family itself. Husbands of the women, after knowing their wife are HIV infected isolated them from the family. Even though they are not infected as a result of rape, they assumed to be so due to widespread acts of genocide in the so called war. See Amnesty International report on “*Marked for Death*”, *rape survivors living with HIV/AIDS in Rwanda* (2004).

¹⁴ Already they stigmatized on basis of sexual violence, HIV infection exacerbates the situation of the survivors and reduce the physical, medical capacity to cope up with the disease, alarms them they are ‘marked for death’. See Amnesty International report on “*Marked for Death*”, *rape survivors living with HIV/AIDS in Rwanda* (2004).

of having somehow consented to sex or of having cooperated with their attackers.¹⁵Painfully, women always remain silent when people affront them with huge accusations. Women widowed by AIDS suffer the injustice of both statutory and customary law that militates against their being able to retain marital property. Ultimately, they have turn for survival of sex trade and prostitution.¹⁶Often, these survivors, is prevented from expressing their opinion and seen as morally reprehensible leads to psychological impairments. Victims frequently suffer from psychological trauma and stigmatisation by their families and society.¹⁷There is a popular saying in law: law makers should not be the law breakers, likewise, the peacemakers should not be the peace breakers. Instead of ensuring peace they are breaking there rules by increasing the incidence of medical problems, including the risk of contracting or transmitting HIV. Psychological consequences such as fear and psychological dysfunction (delirium, apathy, constant feeling of dejection, general loss of interest, panic attacks, difficulty concentrating) may prevent from accomplishing ordinary daily task.¹⁸Sleep disorders, nightmares, apathy, selfloathing and suicide are not uncommon responses.¹⁹ Arguably, the stigma of the disease still keeps it underreported. Through this psychological consequence, stigma, discrimination, HIV infected women were unable to effectively participate in the society on an equal basis with others, renders them as disabled persons: persons with introduced disability.²⁰

Problems of HIV affected survivors: repercussions of introduced disability

As a result of sexual violence, the children were born to the victim faces severe discrimination and often referred as “*children of the enemy*”, “*enfants non-desires*” (unwanted children) or

¹⁵ Survivors of sexual violence often named as ‘dirt or shame’ because of the type of violence used against them. The honour paradigm always associated with violence against women especially rape. It is not the honour of women but the honour of men who rapes is questioned. Refer, Amnesty International report on “*Mass rape: Time for Remedies*” in Democratic Republic of Congo (2004).

¹⁶ Human rights watch report on “*policy paralysis: A call for action on HIV/AIDS-Related Human rights Abuses against Women and Girls in Africa*” (2003).

¹⁷ For detail analysis, refer UN General Assembly resolution (UNGA) A/59/710 where Prince Zied Ra’ad zied al-Hussain report on “A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations.

¹⁸ Evelyne Josse, “They came with two guns: the consequences of sexual violence for the mental health of women in armed conflicts, International Review of Red Cross, (2010) vol.92, no.877.

¹⁹ Geneva Centre for Democratic controlled of Armed forces report on “*Women in an Insecure World*” violence against women facts, figures and analysis, edited by Marie Vlachovd and Lea Biason, 2005.

²⁰ Persons with introduced disability: women who were not disabled out of birth or accident during lifetime but were intentionally infected with HIV by combatant. This HIV infected women were termed as disabled in accordance with Article 1 of Convention on Rights of Persons with disabilities which states that “persons with disabilities includes those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

“enfants de maunis souvenir” (children of bad memories), or “children of hate”.²¹ Specifically, infants of women infected by HIV stigmatised from the society.²² These children may be forced to wander the streets or simply find themselves homeless, where they are vulnerable to rape or may engage in survival sex. Within days of their mother’s death, children may find themselves forced to fend for themselves, although often they are too young to provide for themselves and their siblings. Particularly, their health deteriorates, their nutrition is poor, and they are vulnerable to all manner of abuses.²³ These children are also termed as disabled due to these HIV-related consequences.

II-Challenges In The Existing Legal Framework

The International legal framework is still in lacunae to directly address the conflict based sexual violence-HIV infection *in bello*. However, certain laws have impliedly beefed up the matter in issue. Identically, The Convention on rights of Persons with Disabilities (CRPD) does not refer directly the disease ‘HIV’ in the definition of disability. Although the CRPD accepts the evolving nature of disability (*Preambular fifth recital*) and recognizes the application of International Humanitarian Law IHL (Article 11), the socio-legal concerns of HIV victims remain unattended.²⁴ Preamble paragraph (e) elucidates that disability falls squarely within socio-contextual frame.²⁵ As a matter of evolving nature it encompasses the persons who are socially and psychologically impaired HIV-infected survivors. Intrinsically, persons with disabilities in the situation of armed conflict can be protected under Article 11 read together with Article 6 and 7 where specific reference given to women and children.²⁶ In a tacit manner, the HIV-oriented disability placed under Article 1 of CRPD.²⁷ Some countries have accorded

²¹ Refer, Human rights watch report on “shattered lives” sexual violence during Rwandan genocide and its aftermath, 1996.

²² Refer, Amnesty International report on “*Mass rape: Time for Remedies*” in Democratic Republic of Congo (2004).

²³ Childrens are more vulnerable as same as their mother. It is the responsibility of the society to protect them, but here children’s are cursed by the society. See Amnesty International report on “*Marked for Death*”, *rape survivors living with HIV/AIDS in Rwanda* (2004).

²⁴ Preamble paragraph (e) of CRPD, Recognises that disability is an evolving concept and is a state of participation restriction resulted from interaction between an individual with impairments and environmental barriers. Article 11 of CRPD, obligates the state parties under international law to include international humanitarian law and international human rights law and to take measures for the protection and safety of persons with disabilities in the situations of armed conflict.

²⁵ For brief commentary on the convention, see, Ilias Bantekas, Michael Asheley Stein (ed), “The Convention on Rights of Persons with Disabilities” – A Commentary (2018), oxford university press, pg. 12.

²⁶ Article 6 of CRPD recognises women and girls with disabilities is subjected to multiple discrimination, and obligate state parties to take measures for the fulfilment of human rights and fundamental freedoms. Similarly, Article 7 of CRPD mandates state parties to take measures in the best interest of the children with disabilities.

²⁷ Article 1 of CRPD gives inclusive definition of “Persons with disabilities” where it includes persons having long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. The convention does not

protection to people living with HIV under national disability legislation.²⁸Besides, Article 17 of CRPD protects the mental integrity of the person with disabilities.²⁹In international humanitarian law also, this conflict-related HIV infection not directly find place. But to some extent, Article 27 of fourth Geneva Convention for protection of civilians, 1949 deals with treatment of persons, women shall be protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault and should be humanely treated.³⁰Rape as an International crime recognised under crimes against humanity in the Statute of International Criminal Court ICC (Article 7(1) (g)).³¹Though rape was expressly identified as a violation of the laws of war in the 1863 Lieber Code, International Criminal Tribunal for Rwanda (ICTR) and Special Court for Sierra Leone, still it was not added under war crimes of the statute of ICC (Article 8).³²Customary rules of IHL, rule 93 also deals with rape and other forms of sexual violence.³³In order to ameliorate the atrocities of the UN peacekeepers, Brahimi and Zeid report was passed by the UNSC and UNGA resolutions.³⁴Brahimi

explicitly refer to HIV/AIDS in the definition of disability. However, persons living with HIV have impairments which, in interaction with the environment, results in stigma, discrimination or other barriers to their participation, they can fall under the protection of the Convention. For detailed reference, see, UNAIDS, WHO and OHCHR policy brief: Disability and HIV (2009).

²⁸For example, Russian Federation defines 'persons with disabilities' as persons whose health is impaired by a lasting deterioration of the functions of the organism resulting from disease, injury or deficiencies which affect their daily life. Similarly, in persons with disabilities Australia encompassed all impairment groups, including health conditions such as HIV/AIDS under the definition of disability. See, Ilias Bantekas, Michael Asheley Stein (ed), "The Convention on Rights of Persons with Disabilities" – A Commentary (2018), oxford university press, pg. 12.

²⁹ Article 17 stipulates that physical and mental integrity of the person with disability have to be respected. From this context, first the status of mental integrity of the conflict based HIV infected women to be known. Intentional violence over women intrudes into the integrity of minds: stress, depression, phobia and disfunctioning of organs occurred. According to which this convention has applied to the women with introduced disability.

³⁰ All the four Geneva Conventions under the IHL is to regulate the warfare during armed conflict. Paragraph 2 denounces certain practices which occurred, for example, during the last world war, when innumerable women of all ages, and even children, were subjected to outrages of the worst kind: rape committed in occupied territories, brutal treatment of every sort, mutilations etc. In areas where troops were stationed or through which they passed, thousands of women were made to enter brothels against their will or were contaminated with venereal diseases, the incidence of which often increased on an alarming scale. Refer, ICRC "commentary on fourth Geneva Convention, 1949" <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=25179A620578AD49C12563CD0042B949> (Accessed on 16/12/19).

³¹ Article 7 (1) (g) gives meaning to the term, Crimes against humanity which means rape and other of sexual violence committed widespread and systematic attack against civilian population is a crime.

³² For brief understanding, see Otto Trifftere, Kai Ambos, "The Rome Statute of International Criminal Court – A Commentary", 3rd edition, 2015.

³³ This rule mandates state parties to include it as norm of customary international law applicable in both international and non-international armed conflicts. Refer https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule93 (Accessed on 16/12/19).

³⁴ The, Then Secretary-General, Kofi A. Annan asked Mr. Lakhdar Brahimi to give a report of peace keeping operations, so the report of the panel on United Nations Peace Operation was passed in the UNSC resolution (A/55/305) and asked Prince Zied Ra'ad zied al-Hussain (permanent representative of Jordan) to submit report on "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations" later passed under UN General Assembly resolution A/59/710.

report gives various recommendations for UN peace keeping operations.³⁵ Whereas, Zied report suggested some measures to both the Secretary-General and member states to implement and to improve the prevention, identification and response to this egregious violation of the human rights of the local population, as well as measure for long-term reform.³⁶ The General Assembly and Security Council has adopted numerous resolutions since its inception on wide areas, though they are not legally binding per se, but to some extent, elaborate existing customary rules or contribute to the rapid formation of new ones. But, International Court of Justice have accorded considerable weight to this resolution and heavily relied on resolution in numerous cases.³⁷ Also, for the matter in issue, UNGA and UNSC resolutions were passed to bring out legality to the sexual violence and conflict related-HIV infection. UNSC resolution 1325 expressly concern for women and children during armed conflict and mandates member states to incorporate HIV-awareness programme for military, civilian personnel.³⁸ In continuance the resolution 1820 stresses the sexual violence used as a tactic of war against civilians to be avoided, to provide assistance to the victims of sexual violence during and post-conflict situations and to make full participation of women in the decision-making process.³⁹ For implementation of the resolution 1325 and 1820 two new resolutions of 1888 and 2106 were passed.⁴⁰ Contemporarily in the year 2019 resolution 2475 was passed which recalls CRPD in particular Article 11 on situation of risk and humanitarian agencies and obligates state parties to comply CRPD.⁴¹ Inter alia, one of the key resolutions of UNSC 1308 was passed which address the HIV issue during armed conflict which deeply concerned about HIV/AIDS pandemic severity in Africa and request the Secretary-General to take further step in

³⁵ It laid three principle activities for UN peace operations are; peace-making, peace-keeping and peace-building. Peace-making means addressing the conflicts in progress by using tools of mediation and arbitration. Peace-keeping is the primary military model of observing cease-fires and military, civilians' works together to build peace aftermath of the civil wars. Peace-building is for providing technical assistance for democratic development and promote conflict resolution and reconciliation techniques. Essential complements to effective peacebuilding include support for the fight against corruption, emphasis on HIV/AIDS, education and control and action against other infectious diseases. For brief comments, see UNSC resolution (A/55/305) where Lakhdar Brahimi report on "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations".

³⁶ Following recommendations were given in this report, i) the prohibitions against sexual exploitation and abuse for all categories of peacekeeping personnel is set out in the 2003 Secretary-General's bulletin. ii) General assembly shall authorize the establishment of professional investigative to investigate the allegations of sexual exploitation and abuse, iii) personnel who violate the bulletin should be subjected to disciplinary action and should be fined and pay for the victims. For detail analysis, refer UN General Assembly resolution (UNGA) A/59/710 where Prince Zied Ra'ad Zied al-Hussain report on "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations".

³⁷ In the Case Concerning Military and Paramilitary Activities in and against Nicaragua resolution 2625 (XXV) on Friendly Relations and Cooperation among states for the law on the use of force and intervention was relied.

³⁸ UNSC resolution 1325 adopted at its 4213 meeting on, 31st October 2000.

³⁹ UNSC resolution 1820 adopted at its 5916 meeting on, 19th June 2008.

⁴⁰ UNSC resolution 1888 and 2106 adopted at its 6195 and 6984 meeting on, 2009 and 2013.

⁴¹ UNSC resolution 2475 adopted at its 8556 meeting on, 20th June 2019.

peacekeeping personnel issues to avert the spread of HIV. It further encourages its member states and UNAIDS to cooperate and take serious measure to eradicate HIV infection during armed conflict.⁴²

III-Prevention of conflict related-HIV infection: a tool to eliminate the scourge of past, present and future victims

Rape has been given license, either as an encouragement for soldiers or as an instrument of policy.⁴³This unnatural license should be refuted to the present combatants and to be thwarted to the future combatants. The challenge of protecting women and girls from these AIDS-related human rights abuses is enormous. In furtherance of it, an organised and comprehensive response must be developed to meet the needs of the survivors. Most victims of sexual violence have no medical examination or treatment after their assault as they live in rural areas where no medical services available and they fear that a medical visit will make the rape publicly known.⁴⁴Ensure the absence of fear of exclusion and availability of anti-retroviral treatment to avert mother-to-child transmission of HIV infection in their newborns.⁴⁵Encourage the NGO's to contribute to the health care and social work. Raped women require a range of skilled psychological therapies, which take into account the complex and long term nature of problems experienced, the reluctance to disclose sexual violation, the social stigma associated with rape, the unwillingness of women to seek out help and the fact that they do not wish to be readily identified as rape victims. It is therefore essential to emphasize the relatedness of rape to other forms of physical and psychological trauma and that rape services should be provided alongside other similar counselling devices.⁴⁶Guarantee women's equal rights to land, housing and control of property. State parties shall disseminate the value-specific laws and education to the civilians, combatants in their country. Bring out the nature-based life system to the in futuro combatants: living with nature and morals will lead the life contra to the unnatural things.⁴⁷Rectification of warfare laws to be made because, soldiers "are of a sexually active

⁴² UNSC resolution 1308 adopted at its 4172 meeting on, 17th July2000 on "Responsibility of the Security Council in the Maintenance of International Peace and Security: HIV/AIDS and International Peacekeeping Operations.

⁴³ Theodor Maron, "Rape as a crime under International Humanitarian Law", The American Journal of International law, (1993), Vol. 87, No. 3, pp. 424-428.

⁴⁴ Human rights watch report on "Seeking Justice, the Prosecution of Sexual Violence in the Congo War", (2005).

⁴⁵ The absence of anti-retroviral treatment stills the rule not the exception in Africa, means that people are dying, not living, with AIDS.

⁴⁶ Ministry of Foreign Affairs Copenhagen, "Warburton Mission II report" EC investigative mission into the treatment of muslim women in the Former Yugoslavia: Report to EC foreign ministers, (1993).

⁴⁷ Unnatural things are nothing but the things which are not natural for example, humans are not born criminals, according to the nature they are smooth, soft. Intrusion of external things such greed, power, lust corrupts them and make unnatural to the creation.

age; they are highly mobile and away from home for long periods of time. They often valorize violent and risky behaviour; they have greater opportunities for casual sexual relations; and they may seek to relieve themselves from the stress of combat through sexual activity'.⁴⁸ Long-period deputation of military man makes them to consume alcohol and may get sexual starvation towards other women. The distribution of safety sexual devices to the combatants and peacekeepers make the situation worse. This act impliedly acknowledges the act of sexual violence rather than condemning it.⁴⁹ Mythological things associated with conflict related sexual violence-HIV infection to be rid of from the society. Often, violence against women couched in terms of 'protection' and 'honour'. Special Rapporteur on violence against women debated the term 'honour' used in the Article 27 of Geneva convention IV, 1949. By using the honour paradigm, linked as it is to concepts of chastity, purity and virginity, stereotypical concepts of feminity have been formally enshrined in humanitarian law. Thus, criminal sexual assault, in both national and international law, is linked to the morality of the victim. When rape is perceived as a crime against honour or morality, shame commonly ensues for the victim, who is often viewed by the community as 'dirty' or 'spoiled'. Consequently, many women will neither report nor discuss the violence that has been perpetrated against them. The nature of rape and the silence that tends to surround it makes it a particularly difficult human rights violation to investigate.⁵⁰The same comment was given by the Kai Ambos for article 7 of ICC statute, the explicit inclusion of rape and other crimes of sexual violence in the Rome Statute is an important advance over their previous categorisation by international instruments as violations of the honour and reputation of women, instead of as criminal acts aimed at the physical and mental integrity of a person.⁵¹Usage of the term 'dignity' which is inherent to the women rather than the term 'honour' will be most appropriate.

⁴⁸ Zaryab Iqbal, and Christopher Zorn, "*Violent conflict and spread of HIV/AIDS in Africa*", 72 *The Journal of Politics*, (2010), pp. 149-162.

⁴⁹ During the training, the condoms were being distributed as a life-saving measure to prevent the spread of HIV/AIDS. For detail analysis, refer UN General Assembly resolution (UNGA) A/59/710 where Prince Zied Ra'ad zied al-Hussain report on "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations.

⁵⁰ For detailed reference, see, Radhika coomaraswamy, "15 years of The United Nations Special Rapporteur on Violence Against Women" its causes and consequences- A critical review,(1994-2009), pg. 15, 16.

⁵¹ For brief understanding, see Otto Trifftere, Kai Ambos, "The Rome Statute of International Criminal Court – A Commentary", 3rd edition, 2015. Pg. 208.

IV-Conclusion

The international legal mechanism has to prevent the militarized sexual violence. The Convention on Rights of Persons with Disabilities, 2006 (CRPD) has to address the persons who are affected with HIV/AIDS through conflict-based regime. The conflict area to be protected and regulated by the International Committee of Red Cross (ICRC) from the sexual offenders. The unsaid sorrow of the women and children who is affected by the HIV conflict-based need to be cured addressed in the international forum. The surviving victims of this introduced disability during the times of war has to be reconciled and treated with dignity. Therefore, the introduced disability in the conflict-based regime necessitates the regulation of the international legal mechanisms during the times of war.

