



ARTICLE

BETWEEN WAR AND PEACE: Gender-Based Violence and the Response of International Human Rights Institutions

Ana Luisa de Oliveira Ribeiro*

Abstract

Gender-based violence in contexts of war constitutes one of the most persistent and neglected human rights violations, disproportionately affecting women and girls. This article analyzes, from a legal-international and critical perspective, the response of international institutions to gender-based violence in armed conflicts, focusing on the contemporary wars in Palestine and Sudan. The objective is to understand the effectiveness of the protection mechanisms established in the Rome Statute and, in particular, in United Nations Security Council Resolution 1325 (2000), which marks its 25th anniversary in October 2025. The methodology is based on bibliographical research, including the analysis of legal articles, UN reports, and decisions of the International Criminal Court. In this context, although international law has advanced in recognizing sexual crimes and gender-based violence as war crimes and crimes against humanity, institutional responses still lack effectiveness, especially in the face of prolonged and politically complex conflicts. Finally, the study advocates for strengthening the gender perspective in international justice and for the need for a structural reform of multilateral institutions to ensure real protection and reparation for victims.

Keywords - human rights; gender-based violence; Rome Statute; Resolution 1325; Palestine; Sudan; international justice.

I. INTRODUCTION

Armed conflicts continue to expose the structural intersections between gender, power, and violence. Far from being accidental or collateral consequences of war, gender-based crimes constitute systematic instruments of domination that reinforce patriarchal and colonial hierarchies.

In recent decades, international human rights law has advanced significantly in recognizing sexual and gender-based violence as crimes under international law. The Rome Statute of the International Criminal Court (International Criminal Court, 1998) represented a historical milestone by defining rape, sexual slavery, forced prostitution, and forced pregnancy as war crimes and crimes against humanity, as established in Articles 7(1)(g) and 8(2)(b)(xxii). However, despite these normative advances, widespread violations persist in contexts such as

* PhD Candidate in Human Rights at the Universidad de Salamanca (Spain) and Legal Adviser at the Public Prosecutor's Office of the State of Minas Gerais (Brasil).

Palestine and Sudan, where women and girls continue to suffer the devastating effects of conflict, occupation, and forced displacement (HUMAN RIGHTS WATCH, 2021).

This article examines the duality between war and peace from the perspective of gender-based violence, seeking to understand how international institutions — particularly the International Criminal Court (ICC) and the United Nations — respond to such violations. Twenty-five years after the adoption of UN Security Council Resolution 1325 (United Nations, 2000), which recognized the fundamental role of women in peacebuilding, the gap between formal commitments and their effective implementation remains significant (UN WOMEN, 2025). The persistence of violence against women in conflict zones reveals both the limitations and the colonial foundations of the global human rights system (QUIJANO, 2000).

The study aims to explore the connection between gender, conflict, and international justice, drawing on feminist and decolonial theories to argue that gender-based violence in war must be interpreted not only as a legal issue but also as an epistemological and political one (MOHANTY, 2003).

The central hypothesis is twofold. First, sexual and gender-based violence functions as an intentional mechanism of domination, representing a continuation of colonial control over women's bodies and territories. Second, the responses of international institutions, although normatively progressive, remain limited by eurocentric structures that often marginalize local and feminist knowledge from the Global South (SANTOS, 2014). By examining the cases of Palestine and Sudan, the article seeks to contribute to the debate on how to transform global justice into a more inclusive and decolonial practice, capable of recognizing women not only as victims but also as active political subjects in processes of resistance and peacebuilding.

II. GENDER-BASED VIOLENCE AS A WEAPON OF WAR: HISTORICAL BACKGROUND AND LEGAL CLASSIFICATION

Gender-based violence in contexts of war represents one of the most brutal and persistent forms of denial of human rights. Historically treated as an inevitable side effect of armed conflicts, this form of violence has been progressively recognized by the international community as a deliberate strategy of war, used to terrorize civilian populations, destroy community bonds, and impose political, ethnic, or religious domination. This legal and political recognition, however, is relatively recent, an outcome of decades of mobilization by feminist movements, jurists, and international organizations that exposed the systematic and political dimension of sexual violence in wars (COPELON, 2000).

For centuries, international humanitarian law ignored the gender-based violence or treated it as secondary violation. The Geneva Conventions and their Additional Protocols included general provisions for the protection of civilians' physical and moral integrity, but without explicitly naming rape or other forms of sexual violence as autonomous crimes. It was only with the establishment of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) in the 1990s that international jurisprudence began to recognize rape and sexual slavery as war crimes, crimes against humanity, and, in certain circumstances, acts constituting genocide (COPELON, 2000).

These precedents paved the way for the Rome Statute of the International Criminal Court, adopted in 1998 and in force since 2002. The Statute consolidated, within a multilateral treaty, the express recognition of gender-based violence as a serious international crime, incorporating it into both the list of crimes against humanity and war crimes.

Article 7(1)(g) of the Rome Statute provides that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity constitute crimes against humanity when committed as part of a widespread or systematic attack against any civilian population. Furthermore, Article 7(2)(f) defines “forced pregnancy” as the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or committing other grave violations of international law.

Similarly, Article 8 of the Statute, which classifies war crimes, includes in (2)(b)(xxii), for international armed conflicts, and (e)(vi), for non-international armed conflicts, the same acts: “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence constituting a serious violation of the Geneva Conventions.” Thus, the Rome Statute not only recognized these practices grave offenses but also broke with the historical tradition that had relegated sexual violence to a position of invisibility.

However, legal recognition does not eliminate practical challenges. Significant gaps remain between law and reality: difficulties in investigating crimes in war contexts, victim stigmatization, scarcity of evidence, lack of training among investigators and judges, and political obstacles that hinder the functioning of the International Criminal Court.

Gender-based violence, therefore, should not be understood merely as a social or cultural phenomenon but as a political instrument of war—aimed at controlling bodies and reproduction, symbolically destroying the enemy, and imposing a hierarchical gender order (COPELON, 2000).

At the same time, the codification of these crimes represents a civilizational milestone. It reaffirms that peace and international security cannot be achieved without gender justice—and that the female body, historically used as a battlefield, must be recognized as a subject of rights rather than an instrument of war.

The Rome Statute, together with resolutions such as UN Security Council Resolution 1325 (2000), inaugurated a new protection paradigm, one that seeks to integrate gender perspectives into international justice mechanisms and peacebuilding processes.

Nonetheless, the effectiveness of this paradigm depends on the political will of states and the capacity of international institutions to apply their norms in a non-selective and decolonized manner (ENLOE, 2014). Recent wars in Palestine and Sudan—analyzed in the following chapters—demonstrate that, even in the presence of a robust normative framework, gender-based violence continues to occur with impunity, revealing the deep gap between proclaimed rights and lived realities.

Thus, understanding gender-based violence as a weapon of war is the first step toward recognizing that the struggle for gender justice is inseparable from the struggle for peace.

It is not merely about punishing perpetrators but about transforming the structures that allow bodies to be turned into territories of power and domination. In this sense, international

law must serve not only as an instrument of repression but also as a tool for symbolic and emancipatory reconstruction.

III. UN Security Council Resolution 1325 (2000) and the “Women, Peace and Security” Agenda After 25 Years

The adoption of United Nations Security Council Resolution 1325, on October 31, 2000, represented a historic milestone in incorporating a gender perspective into the international peace and security agenda. For the first time, the Security Council formally recognized that war affects women and men differently, and that the effective participation of women is essential for conflict prevention, peacebuilding, and post-conflict reconstruction.

The Resolution 1325 emerged in a context of profound transformation, in which civilian populations became the main targets of armed violence, and women, in particular, became recurring victims of systematic rape, forced displacement, and other forms of sexual violence. The pressure from feminist and human rights organizations was decisive in leading the UN to acknowledge that international security could no longer be conceived without including women's security and protection from gender-based violence.

The legal fundament of the Resolution 1325 is structured around four central pillars: the participation of women at all levels of decision-making; prevention of conflict and gender-based violence; protection of the rights of women and girls during and after conflict; and post-conflict reconstruction and recovery, ensuring gender equality and justice in peace processes (UN, 2000)

From a legal and political standpoint, Resolution 1325 inaugurated a paradigm shift—from a traditional view of women as passive victims of conflict to an active conception of women as political agents and agents of social transformation. This discursive reconfiguration was essential to expanding the scope of gender justice and aligning the UN agenda with the normative framework established by the Rome Statute. Both share the understanding that lasting peace requires confronting impunity and recognizing gender-based violence as a war crime and a crime against humanity.

However, fewer than 30% of countries with national action plans have adopted effective monitoring mechanisms, and most fail to allocate sufficient financial resources. Moreover, the underrepresentation of women at peace negotiation tables remains alarming: according to 2024 data, only 17% of peace negotiators and 8% of mediators were women (UN WOMEN, 2025).

The gap between norm and reality can be explained, in part, by the non-binding nature of Security Council resolutions when not backed by coercive measures, but also by structural resistance within international political and military systems themselves. The patriarchal logic that underpins security institutions, both national and multilateral, continues to marginalize the gender perspective, treating it as a peripheral or “soft issue” compared to the “hard” issues of defense and geopolitics. Thus, the formal recognition of women's importance in peacebuilding has not yet translated into real political power (FIGUERUELO BURRIENZA, 2013). In the words of the professor Àngela Figueruelo Burrienza:

Lo antes dicho requiere de un nuevo contrato social, en el cual las mujeres seamos plenos sujetos de derechos y no meros objetos de los mismos; sólo así podemos abandonar el ámbito privado en el que hemos estado recluidas durante siglos y pasar a ocupar los

espacios públicos correspondientes en una sociedade democrática avanzada (p. 10, 2010).

Another critical issue concerns the instrumentalization of the gender agenda in contexts of international intervention. In some cases, the rhetoric of protecting women does not reflect a genuine commitment to women's emancipation or post-conflict social reconstruction. This contradiction exposes the risk of a "selective peace," in which women's protection becomes a political argument, emptying Resolution 1325 of its transformative potential.

Recent conflicts in Palestine and Sudan clearly illustrate this tension between normative ideals and the reality of violence: in both cases, gender-based violence has been used systematically, while the international response remains fragmented and insufficient.

In this context, the connection between Resolution 1325 and the Rome Statute acquires renewed significance. On one hand, Article 7(1)(g) and Article 8(2)(b)(xxii) and (e)(vi) of the Statute provide the legal basis for criminal accountability for rape, sexual slavery, and other forms of sexual violence in armed conflict. On the other, Resolution 1325 and its successors complement this framework with a preventive and transformative approach, focused on inclusion and social reconstruction. Together, these instruments form a dual axis of criminal action, and in the international aspect too: repressive and restorative (DE LA TORRE, 2010).

Nevertheless, there remains a deficit of accountability that undermines the credibility of the international system for the protection of women. Gender equality and peace are not automatic achievements but political constructions that require will, resources, and institutional transformation. The challenge now is to move from rhetoric to action, integrating the gender perspective not only into diplomatic declarations but also into concrete practices of prevention, mediation, justice, and post-conflict reconstruction.

As the Resolution itself reminds us, peacebuilding goes beyond a ceasefire. It requires creating conditions in which women and girls can live free from violence and fully participate in the reconstruction of their societies. This will only be possible when international institutions, including the UN and the International Criminal Court, recognize that gender justice is an essential condition for lasting peace—not an appendix, but the very ethical and political core of peace itself.

IV. THE ROLE AND LIMITS OF INTERNATIONAL INSTITUTIONS IN BUILDING PEACE WITH GENDER JUSTICE

International human rights institutions were conceived, in the aftermath of the Second World War, as guardians of peace and of the universal dignity of humankind. However, as armed conflicts have become more complex and protracted, and as gender dimensions have come to be recognized as central to the dynamics of war, a structural contradiction has emerged: the international system that purports to guarantee equality is, at the same time, heir to a global order marked by coloniality and patriarchy (BURRIENZA, 2010).

Reflecting on the role and limits of these institutions is therefore essential to understand why, even after normative advances such as the Rome Statute and Security Council Resolution 1325, gender-based violence remains a systematic reality in contemporary wars, such as those in Palestine and Sudan.

The universal promise and the problem of selectivity

The Charter of the United Nations (1945) and the Universal Declaration of Human Rights (1948) enshrined the notion that the protection of human dignity should be universal, indivisible, and equal. However, practical experience shows that this universality is conditioned by relations of power among States and geopolitical blocs (MUTUA, 2001).

This selectivity manifests itself, for instance, in the operation of the International Criminal Court (ICC). Although Articles 7 and 8 of the Rome Statute classify rape, sexual slavery, and other forms of sexual violence as crimes against humanity and war crimes, practice reveals an uneven application. Most cases brought before the ICC involve African or Arab countries, while similar crimes committed by Western forces or their allies rarely result in accountability. This asymmetry exposes a colonial dimension of international criminal law: the notion of “barbarism” is projected onto the racialized other, legitimizing a selective justice that preserves the global *status quo*.

The case of Palestine is emblematic: although the ICC Prosecutor has opened an investigation into crimes committed in the Occupied Territories, the process faces intense political resistance from Western powers. This resistance undermines the Court’s credibility and confirms the diagnosis that international justice remains tributary to the geopolitics of domination, rather than to a genuine ethical universalism.

Institutional coloniality and the silencing of global south voices

International institutions, the UN, ICC, Human Rights Council, among others, have been shaped by a Eurocentric matrix that still defines the boundaries of what is considered “legitimate violence” and an “acceptable response.” The very concept of peace is often interpreted as the mere absence of armed conflict, overlooking everyday forms of structural and symbolic violence. Thus, peace in Palestine or Sudan tends to be treated as a matter of ceasefire, rather than of liberation from colonialism, racism, and patriarchy.

As scholars such as (LUGONES, 2008) argue, the coloniality of gender rests upon the idea that women from the Global South must be “saved” by Northern institutions, perpetuating dependency and epistemic subordination. The result is an institutionalized, depoliticized feminism that universalizes the Euro-American experience while marginalizing local forms of resistance, such as Palestinian women’s committees, Sudanese women’s networks, and other community-based organizations that operate outside Western frameworks of legitimacy.

This institutional coloniality is also reflected in the production of international legal knowledge. Most interpretations and reports on gender-based violence in war are produced by experts and universities in the Global North, written in English or French, and rarely incorporate local knowledge. Such dynamics confirm Boaventura de Sousa Santos’s warning about the “monoculture of legal knowledge” which turns international law into an instrument of epistemological exclusion.

V. PALESTINE AND SUDAN: CONTEMPORARY FACES OF GENDER-BASED VIOLENCE IN ARMED CONFLICTS

Contemporary armed conflicts, though situated in distinct geopolitical contexts, share a common feature: the persistence of gender-based violence as a mechanism of domination and social control. The ongoing wars in Palestine and Sudan throughout the 2020s reveal how violence against women and girls remains structured by deeply entrenched colonial, racial, and patriarchal relations. These conflicts not only expose the limitations of international human rights institutions but also underscore the need to rethink international justice from a decolonial and feminist perspective — one capable of displacing the Eurocentric lens that still predominates in protection and accountability practices.

In Palestine, gender-based violence is inextricably linked to the structure of prolonged military occupation and to the apartheid regime denounced by UN bodies and organizations such as Human Rights Watch and Amnesty International. Palestinian women's bodies are targeted in multiple ways: through direct violence — rape, physical assaults, intimidation at checkpoints, arbitrary detentions — and through structural violence — restrictions on mobility, destruction of homes, loss of access to healthcare, and deepening poverty.

In contexts of occupation, control over the female body acquires political value. Practices of humiliation and sexual intimidation are employed as instruments of colonial domination, reinforcing the sense of vulnerability and dehumanization experienced by the Palestinian population. Moreover, the everyday militarization of life — curfews, surveillance, raids — increases the risks of domestic and sexual violence, demonstrating that war and patriarchy operate in an interconnected manner.

The International Criminal Court (ICC), through the Office of the Prosecutor, opened in 2021 a formal investigation into crimes committed in the Occupied Palestinian Territories since 2014. The scope of this investigation includes war crimes and crimes against humanity, potentially encompassing sexual violence violations as defined in Articles 7 and 8 of the Rome Statute. However, the ICC faces intense political resistance, particularly from Western States that contest its jurisdiction over Israel. This resistance reflects what decolonial theorists describe as the coloniality of power and gender: the perpetuation of racial and geopolitical hierarchies that determine whose lives are deemed worthy of mourning and of justice (LUGONES, 2008).

In Sudan, the conflict between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF), which erupted in 2023, reignited a brutal cycle of violence against civilians, especially women and girls. Reports from the United Nations and local organizations document hundreds of cases of gang rape, abduction, and sexual slavery, employed as instruments of terror and political punishment. The city of Darfur, marked by previous genocides, has once again become an epicenter of war crimes.

Sexual violence in these contexts is not incidental but systematic. It is used to destroy family and community bonds, to impose territorial control, and to assert male power amid state collapse.

As in Palestine, the Sudanese case exposes the colonial hierarchy of suffering within the international system. The pain of African women is often portrayed as a humanitarian tragedy, an object of charity or pity, but rarely treated as a matter of political justice.

Coloniality, selectivity, and International Justice

An analysis of the Palestinian and Sudanese cases makes clear that gender-based violence in contemporary wars is not merely a human rights violation but also an expression of global coloniality. The international system of justice and protection, though founded on universal principles, operates under asymmetries of power and legitimacy. The ICC, for instance, is frequently criticized for its focus on Africa and for its reluctance to investigate crimes committed by Western powers or their allies: a phenomenon that reproduces the colonial division between the “civilized,” who judge, and the “others,” who are judged.

Resolution 1325, now marking its 25th anniversary, likewise faces the challenge of overcoming institutional coloniality. Its implementation has been more robust in Northern countries, while the regions most affected by armed conflict, many of them former colonies, remain marginalized. The lack of resources, dependence on donors, and imposition of Western models of women’s empowerment reinforce epistemic hegemony and disregard local forms of resistance and agency (COPELON, 2000).

In both conflicts, the female body becomes a political and symbolic territory where patriarchal domination and colonial control intersect. The Israeli occupation and the Sudanese state collapse each operate, in their own way, through logics of dehumanization sustained by discourses of civilizational superiority. At the same time, the responses of international institutions tend to reinforce victims’ dependence and subordination to the global power system, rather than empowering them as agents of their own histories.

A decolonial reading calls for displacing this logic, recognizing that peace and justice cannot be universal if they remain grounded in Eurocentric parameters (QUIJANO, 2000). It is necessary the Global South have a voice in the formulation and implementation of norms too (SANTOS, 2024). This entails rethinking the roles of the ICC and the UN so that they cease reproducing structural inequalities and begin promoting cognitive and gender justice.

VI. CONCLUSÃO

The analysis undertaken throughout this article demonstrates that gender-based violence in contexts of war is not an accidental phenomenon but a structure deeply rooted in global power dynamics. The cases of Palestine and Sudan show that the bodies of women and girls continue to serve as territories of political, symbolic, and military dispute, revealing how war and patriarchy intertwine to sustain systems of racial, economic, and colonial domination.

The Rome Statute and United Nations Security Council Resolution 1325 represent historic milestones in recognizing the centrality of women’s protection and participation in peace and justice agendas. The Article 7 (crimes against humanity) and Article 8 (war crimes) of the Statute enshrine rape, sexual slavery, and other forms of sexual violence as international crimes, breaking the legal silence that, for centuries, naturalized sexual violence as an “inevitable consequence” of armed conflict. Likewise, Resolution 1325 introduces a political perspective that links peace to gender equality and to the inclusion of women in decision-making processes.

However, the persistence of violations across various regions of the Global South demonstrates that these instruments, though legally robust, face structural limitations. International institutions continue to operate under the logic of the coloniality of power and knowledge, reproducing selectivities that render international criminal justice more punitive

toward peripheral states and more lenient toward hegemonic powers. Palestine exemplifies this imbalance: the international community's reluctance to hold the State of Israel accountable for violence against civilians, including women and children, reveals how the discourse of international legality remains subordinated to the geopolitics of domination.

In Sudan, the pattern of impunity repeats itself. Even in the face of reports documenting the systematic use of sexual violence as a weapon of war, the response of international institutions remains timid, characterized by procedural slowness and the absence of effective mechanisms for the protection of survivors. In both cases, what emerges is the continuity of coloniality, which determines whose lives are deemed worthy of protection and whose can be sacrificed in the name of global stability.

In light of this scenario, it becomes imperative to envision a feminist and decolonial international justice. This requires recognizing women not only as victims but as political and epistemic subjects — capable of producing knowledge and proposing their own paths to peacebuilding. It also entails reconfiguring international institutions so that they cease to function as instruments of colonial hierarchy and instead become spaces of plurality, listening, and reparation.

The construction of lasting peace therefore demands more than the cessation of hostilities: it requires the dismantling of the patriarchal, racial, and colonial structures that sustain wars. Without gender justice, there is no international justice; without decolonization, there can be no true peace. The responsibility of International Human Rights Law in the twenty-first century is to embrace this dual ethical and political task — to reconstruct, simultaneously, the meaning of humanity and the horizon of global equality.

VII. REFERENCES

- AMNESTY INTERNATIONAL. (2024). *Sudan: Widespread Sexual Violence in Conflict*. London: Amnesty International, 2024.
- COPELON, Rhonda. Gender Crimes as War Crimes: Integrating Crimes against Women into International Criminal Law. *McGill Law Journal*. 2000-2001
- CURIEL, Ochy. (2013). *The Heterosexual Nation: An Analysis of Legal Discourse and the Heterosexual Regime from the Anthropology of Domination*. Bogotá: Brecha Lésbica, 2013.
- DE LA TORRE. Ignacio Berdugo Gomes. Lecciones y materiales para el estudio del Derecho Penal - Introducción al Derecho Penal, 2020.
- ENLOE, Cynthia. *Bananas, Beaches and Bases: Making Feminist Sense of International Politics*. Berkeley, CA: University of California Press, 2014.
- FIGUERUELO BURRIENZA, Ángela. Introducción de la perspectiva de género en el Derecho Penal. *Igualdad: retos para el siglo XXI*. Andavira, 2013.
- ICC. *Rome Statute of the International Criminal Court*. Adopted on 17 July 1998.
- QUIJANO, Aníbal. Coloniality of Power, Eurocentrism, and Latin America. *Journal of World-Systems Research*, 6(2), 342–386, 2000.
- LUGONES, Maria. Coloniality and Gender. *Tabula Rasa*, 9, 73–101, 2008.
- MOHANTY, Chandra Talpote. *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity*. Durham, NC: Duke University Press, 2003.

MUTUA, Makau. Savages, Victims, and Saviors: The Metaphor of Human Rights. *Harvard International Law Journal*, 42(1), 201–245, 2001.

OHCHR. *Reports on the Human Rights Situation in the Occupied Palestinian Territories*. Geneva: OHCHR. 2023.

SANTOS, Boaventura de Sousa. *Epistemologies of the South: Justice Against Epistemicide*. Boulder, CO: Paradigm Publishers, 2014.

UN. *UN Security Council Resolution 1325 on Women, Peace and Security*. New York: United Nations, 2000.

UN Women. *Twenty-Five Years of Resolution 1325: Progress and Challenges*. New York: United Nations, 2025.