

# WOMEN AND WAR

by Dr Helen Durham

All over the world — from East Timor to Kosovo, Afghanistan to Sri Lanka — women are suffering due to armed conflict and civil strife. As well as being victims of sexual assault, such as rape, women are the ones that struggle to keep their families and the community together in wars. They have to assume both the motherly and the fatherly roles whilst men are away fighting, they are affected by food shortages, lack of medical care and epidemics. In addition, women risk their lives in mine-infested areas in search of food, firewood and water made scarce by the destruction of wells and reservoirs.

The 1949 Geneva Conventions and their Additional Protocols are the major legal instruments of international humanitarian law (IHL), the laws which exist to provide protection to victims of armed conflict. The Red Cross is the guardian and promoter of these ever important laws. There are over 40 articles in the Geneva Conventions and Protocols which specifically concern women, relating to internment, pregnancy and maternity, mothers of young children, the death penalty and treatment of women combatants and prisoners of war. However, the existence of such laws does not always ensure compliance and there is a great need to continue to disseminate IHL and to prosecute those who breach these laws.

In recent years there have been dramatic developments relating to the prosecution of sexual assault during times of armed conflict. Previous international criminal trials, specifically those post World War II, saw little to no prosecution of rape as a war crime. The creation of the International Criminal Tribunals for the former Yugoslavia and Rwanda by the Security Council of the United Nations in 1993 and 1994 respectively have changed this. In a number of judgements the two Tribunals have not only confirmed that rape and other sexual violence during armed conflict amount to war crimes, but also that in certain circumstances such behaviour is deemed to be genocide and a crime against humanity.

In July of 1998 the international community created a statute for a permanent International Criminal Court (ICC). Hailed as one of the most significant international legal developments since the creation of the United Nations, the ICC will have jurisdiction over genocide, crimes against humanity and war crimes. The crime of aggression is also included in the statute subject to further negotiations for an acceptable definition. The ICC will enter into force after 60 States have ratified the treaty. To date about seven countries have ratified and over 90, including Australia, have signed the treaty.

It is heartening to see that gender crimes are adequately covered in the ICC statute. Article 7, dealing with the definition of crimes against humanity, includes in sub-section (g):

Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or other forms of sexual violence of comparable gravity

This wording is also found in Article 8 which deals with the definition of war crimes, both in international and internal armed conflicts. The strong articulation that sexual violence is unacceptable behavior in any context is warmly welcome by those who have struggled for years to ensure that women's experiences are reflected in international law.

Last year at the 27<sup>th</sup> International Conference on the Red Cross and Red Crescent, the International Committee of the Red Cross (ICRC) made a specific four-year pledge relating to women —

The ICRC is gravely concerned at the occurrence of sexual violence in armed conflict. Sexual violence, in all its forms, is prohibited under international humanitarian law and should be vigorously prevented.

For this reason, the ICRC pledges to put emphasis throughout its



activities on the respect which must be accorded to women and girl children. Focus will be placed on actively disseminating the prohibition of all forms of sexual violence to parties to an armed conflict.

Furthermore, the ICRC pledges to ensure that the specific protection, health and assistance needs of women and girl children affected by armed conflicts are appropriately assessed in its operations with the aim to alleviate the plight of the most vulnerable.

On 25<sup>th</sup> May Australian Red Cross South Australian Division hosted an international seminar on the topic of the protection of women in times of armed conflict in Adelaide on the 25<sup>th</sup> May 2000. Speakers at this seminar included experts from Geneva, as well as eminent Australian academics and individuals who have survived the horrors of war.

The seminar explored both practical and theoretical ways to help protect and empower women who are survivors and victims of war. Papers from this seminar will soon be available on the Red Cross web-site. For further details please contact Michael Reid at Australian Red Cross on 8981 4499.

Australian Red Cross website: <http://www.redcross.org.au/ihl>

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