EXPANDING RIGHTS:

NEW FRAMES FOR VIOLENCE AGAINST WOMEN

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*Introduction*

All human rights campaigns must work to establish standards of violation, legitimate bearers of rights, responsibility to address human rights claims, and implementation mechanisms. But beyond the established human rights model, for “private wrongs” committed by non-state actors and transnational forces, rights campaigns must work to identify new rights standards, find new leverage points, and establish new responsibilities for states and global governance. This involves reframing customary and hidden forms of coercion, reclaiming the citizenship of objectified or dependent Others, and extending state acknowledgement that “the personal is political” (Brysk 2005).

Attention to violence against women benefits from its universal humanitarian appeal and apparent political neutrality, the widespread vulnerability to gendered violence of diverse constituencies of women across countries, cultures, and classes, and a clear fit with the international human rights regime’s core commitment to end bodily harm to innocent victims (Keck and Sikkink 1999). A generation of research on the politics of human rights shows that critical factors for challenging all forms of human rights violations include bringing transnational pressure “from above and below,” naming and framing abuse, using information politics, empowering vulnerable groups, and institutionalizing change through law. Communication power operates through introducing new and effective voices, frames, and performances of human rights claims that resonate with an audience due to bridging narratives (Brysk 2013). Symbolic events can catalyze access including UN conferences, cause celebre, media campaigns, and celebrity activism (Brysk 2013). In the area of women’s rights, “NGOs attempt to influence states’ interests by framing problems, solutions, and justifications for political action.” (Joachim 2003: 247)

Let us consider the dynamics and lessons of new framing to gain attention and response to violence against women, which varies by issue and region but rapidly diffuses into new global repertoires. The lowest barriers to entry and strongest regime response for a human rights claim will be when a clearly visible social problem fits a well-established frame. When an existing frame does not fit completely or garners counter-mobilization, activists may strategically bridge to a different or overlapping frame that elicits greater consensus and coalition-building. It is more demanding, but often necessary for a privatized, naturalized, emerging or invisible problem to create a new frame—and construct corresponding institutional response. Finally, it is important to consider unsuccessful or missing frames, and the cost for advocacy efforts. (Brysk 2013)

*Bringing old wrongs into existing frames: rape as a war crime*

Sexual assault can be framed as a crime, a security problem, an offense against honor, a humanitarian tragedy, a marker of cultural difference by an “uncivilized” enemy, a war crime, or a human rights violation. Even in wartime, rape may serve the social function of a systematic foreign policy, a tool of identity politics, a human “scorched-earth” policy to promote forced displacement, a form of torture, a side-payment to maintain military cohesion, or an opportunistic side effect of a generalized breakdown in social order. Perpetrators may include official militaries, police, civil authorities, paramilitaries, and private parties. The turn to law, and the preference for international humanitarian law and the war crimes frame, must be explained. The conflict frame of “rape as a weapon of war” has the potential to overcome patriarchal notions of consent and legitimate victims as representatives of the aggrieved national or ethnic community, turning shame to martyrdom. For example, recently in Libya, women survivors of rape during the uprising were reclassified as wounded war veterans (Schlanger 2014).

One important factor facilitating the framing of rape as a war crime is the symbolic politics of wartime sexual violence. Once it is acknowledged, conflict rape is perhaps the most individually visible, gratuitously brutal violation of a widespread norm against “physical harm to innocent victims.” Victims are personified, causal responsibility is clear, tribunals provide a stage for testimonials, media are present to cover the conflict, and the receptive audience for claims expands from humanitarian forces to feminists to international peace-keeping and refugee institutions. Violence against women was already a privileged optic for recognition of the many dimensions of gender inequity and women’s rights {Keck and Sikkink, 1999}, and wartime violence was even more visible, recognizable, and understandable as a reparable disruption of normal social order.

Another factor is agency, as the appearance of new conflicts provided a shock to global governance and international law that created space for global civil society mobilization. Even the earliest recognition of wartime sexual violence in the Geneva Conventions (Article 27) was sparked by women’s groups changing the ICRC’s initial Draft (Inal 2013; 97). During the 1990’s, the exogenous shock was the resurgence of war in Europe after 50 years, which allowed activists to graft a new norm to an existing frame by linking rape as violence against women to genocide in Bosnia (Inal 2013; 159). A transnational movement by Asian survivors of World War II sexual slavery revealed the hidden history of that conflict and Japanese state sponsorship, hosting numerous testimonials and eventually receiving limited reparations from a state-managed private “Comfort Women’s Fund.” From the early 1990’s, the Women’s International War Crimes Tribunal provided agenda-setting and evidence for historical accountability and laid the groundwork for the next wave of international law. The push for the inclusion of sexual violence in the Charter of the ICC followed a decade of women’s movement mobilization (Spees, 2003).

Wartime sexual assault is only mentioned obliquely in the Geneva Conventions as an offense against honor and dignity, and is not included among the “grave breaches” that merit universal prosecution. Similarly, the extensive use of numerous forms of sexual violence by the Nazis was not mentioned at the Nuremberg trials. Perhaps the first international prosecution for wartime rape was at the Tokyo War Crimes trials, centering on the massive and bloody assault on tens of thousands of Chinese women by Japanese forces known as the Rape of Nanking. However, the judgment distinguished between “understandable” battlefield rapes and persisting rapes in pacified areas, and established a hierarchy of victims by class and race (for example, castigating the assault and sometimes enslavement of Dutch women in Indonesia but ignoring the massive systematic enslavement of hundreds of thousands of Southeast Asian so-called Comfort Women). These trials also provided evidence that may shape our analysis and response to wartime rape (and command responsibility in this case) that Japanese commanders told troops with tacit permission to rape to “avoid problems later” by paying off women or killing them afterwards {Henry, 2011: 51}

The international legal status of conflict rape is silent throughout the Cold War, but returns to prominence with the emergence of systematic sexual violence as a strategy of ethnic cleansing in the Balkan wars of the 1990s, extremely visible in the heart of Europe. The International Criminal Tribunal for the Former Yugoslavia followed the finding of a UN Commission of Experts that found patterns of rape with looting and intimidation of target group, rape with fighting and deportation, rape in detention camps, detention for rape and forced impregnation, sexual enslavement and “entertainment” of soldiers, most prominently by Bosnian Serb forces but carried out by several parties to the conflict. Accordingly, the Tribunal successfully prosecuted sexual violence in a series of landmark cases. The ICTY’s Tadic case convicts the perpetrators of ordering rape as an “instrument of terror,” while the Celebic case highlights command responsibility and the status of rape as torture. Finally, the 2001 Foca verdict establishes rape and sexual enslavement as crimes against humanity. {De Vito, 2011}

During the contemporaneous conflict in Rwanda, it is estimated that over 250,000 women survived extremely violent rape--and many of the women murdered among the 800,000 victims of the genocide were sexually assaulted before being killed. As in Bosnia, forced pregnancy was often an explicit goal of repeated gang rape by enemy ethnic perpetrators. The pattern of long-term sexual enslavement was more present in Bosnia, but brutal rape of children and elderly women was more common in Rwanda. The original indictment of the International Criminal Tribunal for Rwanda that did not include rape was amended after a push by women’s and human rights groups, and catalyzed when a prosecution witness spontaneously recounted the rape of her 6-year old daughter by 3 Hutu Interahamwe {Henry, 2011}. The resulting Akayesu case of the ICTR established rape as a form of genocide and a violation of group as well as individual rights. While the Rwanda tribunal established an extremely valuable record of the prevalence and patterns of genocidal rape, poor investigations and prosecutions diminished the number of convictions for massive sexual violence to a handful, and also excluded crimes that did not fit the genocide frame (Buss 2010).

More recently, another notable development of transitional justice jurisprudence has come through the hybrid international-domestic Sierra Leone Special Court on war crimes. In that protracted civil war, extensive sexual violence against civilians by rebel groups was mixed with other egregious war crimes such as forced amputations, kidnapping, and brutalization of child soldiers. Accordingly, that tribunal included sexual violence in 4 of 5 indictments, and added forced marriage as a “crime against humanity” punishable by the ICC. But in a checkered pattern of human rights accountability, sexual violence was separated from other forms of physical harm, war rape separated from other kinds, and forced marriage separated from harmful traditional arranged child marriage--consent of family {Grewal 2012}.

The pinnacle of the international legal regime is the incorporation of rape as a war crime in the statute of the International Criminal Court. Two notable features of the ICC experience is the mobilizing role of law for transnational networks including civil society and sympathetic states, and the deepening of procedural responsiveness beyond setting new norms. The ICC recognizes rape and forced pregnancy as crimes against humanity with universal jurisdiction and potential autonomous prosecution (vs. Security Council referral). This milestone in global governance was attributed to the influence of a coalition of dozens of NGOs, the Women’s Caucus for Gender Justice, which revised the 1994 civil society coalition draft of the Rome Statute. Then, from 1997 on, the Women’s Caucus coordinated with the U.S. and other key states for gender-friendly provisions--Australia, Bosnia (motivated by war crimes against Muslim women in the Balkan wars), Canada and the Netherlands (which consecutively chaired the conference), Costa Rica, Mexico, Sweden and South Africa (which chaired working groups). This experience drew on and in some cases mobilized policy within the active states--such that despite the U.S. subsequent equivocation on the ICC, it retains an active engagement on war crimes against women. Moreover, the mobilization went beyond norms to procedures, securing guidelines for gender representation and expertise in judges, the Prosecutor, and procedures regarding collection of evidence and protection of witnesses. During the ICC’s difficult DRC case (vs. Katanga 2008), the Court did not drop charges of sexual violence due to pressure from victim groups. {Cakmak 2011}

*Selective framing: trafficking as “sex slavery”*

International recognition of trafficking as a form of contemporary slavery has been swift and relatively influential in inspiring policy change, although insufficient to stem the problem as root causes continue. International treaty standards are strong; Optional Protocols to the Convention on the Rights of the Child address Child Prostitution and Child Soldiers, while a separate 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children has been signed by over eighty-eight countries. The United Nations has hosted annual conferences since a landmark 1996 Stockholm World Congress Against Commercial and Sexual Exploitation of Children and sponsored multiple programs under the ILO, UN Development Program, UNICEF, and other agencies. The Stockholm conference involved not only 122 countries but also 105 representatives of international organizations and 471 nongovernmental organizations (Kane 1998MERGEFORMAT). Sex trafficking is uncontroversially recognized as a violation of rights of physical integrity; in 1990, the United Nations Human Rights Commission appointed a Special Rapporteur on Traffic in Children and Child Prostitution. Regional intergovernmental coordination initiatives have been launched with UN backing in Southeastern Europe, West Africa, the Mekong Delta (UNICEF 2001) and North America. In addition, the European Union funds special programs, including victim reintegration by the seventy-six-state International Organization for Migration (Kyle and Koslowski 2001MERGEFORMAT).

The frame of transnational sexual labor exploitation was initially established as “white slavery” (Kempadoo and Doezema 1998MERGEFORMAT). It thus taps into the moral capital of the antislavery campaign, often deemed the first modern human rights movement. One indicator of this linkage is the US Trafficking Office creation of an award for the “abolitionist of the year” to reward State Department representatives attentive to the issue in their embassies (Brinkley 2006MERGEFORMAT). In a morally regrettable yet politically powerful semantic move, white slavery emphasizes the “unnatural” threat of enslavement to a portion of a population generally exempted from this peril. Differential attention to Eastern European women promotes ready identification by Western publics with the subset of victims who are culturally and racially similar. Talk of slavery taps into Judeo-Christian religious imagery that appears to transcend ideology, avoiding more challenging sociological frames of labor exploitation or the highly contested issue of immigration rights. But this frame is historically associated with prohibition of prostitution and draws some religious advocates who also view voluntary sex work as a form of enslavement and accordingly campaign to ban it.

The trafficking frame also draws on the most palatable form of feminism: the struggle to end violence against women. Internationally, the humanitarian protection rubric and transnational networks combating violence against women have succeeded in gaining much greater response than equally costly but chronic or contested economic, cultural, or social rights struggles (Keck and Sikkink 1998MERGEFORMAT). Trafficked women, as “people out of place” (Brysk and Shafir 2007) bridge the universal individual claims of displaced persons and the claims of traditional family values—as they are uprooted from the ascribed protection of home and family.

However, this successful but selective frame comes at a price for rights, because of what it leaves out. Anti-trafficking policies framed to protect “innocent” women from sexual slavery ignore or slight prior sex workers or other women who migrate voluntarily to engage in sex work but are subsequently exploited. International policy and especially American policy focuses disproportionately on East‒West traffic, culturally recognizable European victims, and youth, when the vast majority of victims are interregional in the global South. Finally, policies often aim to stop commercial sex rather than the violence, exploitation, and other harms associated with it—and slight the sexual abuse occurring within other forms of labor and migration (Brysk and Choi-Fitzpatrick 2012).

*Strategic frame shift: FGM—from rights to health and back*

Unlike the match between trafficking and a preexisting frame of sex slavery, advocates contesting FGM had to search for a fit between the harms of the practice and a variety of broader rubrics, including children’s rights, individual self-determination, health, and gender discrimination. Campaigns against FGM were met with counterclaims of cultural rights, unlike trafficking, but the shift from humanitarian health to women’s rights to health rights eventually enabled the most universal claim to modernizing norms. Finally, unlike the fortuitous match between trafficking and a diverse coalition, FGM initially drew upon the relatively weak sector of global civil society concerned with gender issues in developing countries—but the widening of the appeal to health brought in charismatic health professionals with greater leverage on enforcing states and global institutions. (Baer and Brysk 2009)

When the Economic and Social Council of the United Nations asked the WHO to study FGM in 1958, WHO leadership refused because FGM was seen as a cultural matter, not as an international medical issue (Boyle 2002MERGEFORMAT: 41). But by the late 1970s and early 1980s, UN subcommittees began to study FGM and began providing outlets for national governments and NGOs to discuss the health issues related to FGM (Boyle 2002MERGEFORMAT: 48). One such forum was the WHO-sponsored Seminar on Harmful Traditional Practices Affecting the Health of Women and Children in Sudan in 1979.

By contrast, for international feminist advocates, FGM was a “tool of patriarchy and a symbol of women’s subordination” (Boyle 2002MERGEFORMAT: 46). Thus, in the 1970s and 1980s, Gloria Steinem, Mary Daly, Fran Hosken, and other feminist leaders condemned FGM and urged international organizations and NGOs to take up the cause (Walley 1997MERGEFORMAT). As an important step toward globalizing the issue, feminist organizations renamed the issue, from the relatively neutral “genital cutting” or “female circumcision” to the far more emotive “female genital mutilation” (Keck and Sikkink 1998MERGEFORMAT: 20). But African leaders protested the perceived imposition of Western cultural ideals, and feminist groups, international organizations, and human rights NGOs initially encountered unexpected resistance from the very people they aimed to assist—African women, including many who opposed the practice but resisted the intervention, often highlighting the interdependence of collective cultural rights and development issues with individual self-determination.

International reluctance to view FGM as a rights issue began to change in the 1990s, with the post‒Cold War strengthening of human rights discourse (Boyle 2002MERGEFORMAT). By the mid-1990s international bodies had shifted from an emphasis only on the medical consequences of FGM to a model based on human rights (Boulware-Miller 1985). In 1990, the Committee on the Elimination of Discrimination against Women adopted General Recommendation No. 14, which expressed the Committee’s concern over the continued practice of FGM and urged governments to support efforts to eradicate the custom (United Nations 1990). A 1993 UN Declaration on the Elimination of Violence Against Women explicitly included FGM within the category of violence against women (United Nations General Assembly 1993: Article 2). The 1993 UN World Conference on Human Rights in Vienna, a milestone in making FGM a human rights issue, called for the elimination of violence against women including traditional practices that take place in the private sphere (“Vienna Declaration and Programme of Action” 1993). The International Conference on Population and Development (ICPD) held in Cairo in 1994 also highlighted the interconnections between women’s health and human rights regarding FGM.

Since about 2000, the tensions among African women, Western feminists, African leaders, health and development NGOs, and international organizations have been reduced through the rise of a less controversial combined “health rights” framing for the issue, which appeals internationally but does not alienate locally. A critical component in the reframing was the entry of highly legitimate and “neutral,” non-feminist medical and humanitarian professionals as interlocutors between the rights community and national sensibilities. As a result, dozens of African countries outlawed the practice during the 1990s and 2000s, but perhaps just as important for implementation, African states began to encourage more holistic attention to women’s health rights and transnational support for some humanitarian programs of local women’s empowerment. In 1998 the WHO, UNICEF, and the United Nations Population Fund issued a strong and influential joint statement against FGM, calling FGM a violation of the rights of women and girls to the highest attainable standard of health (World Health Organization et al. 1997). This represents a breakthrough from the communicable disease model of public health to a rights-based perspective, and in a 2008 update of the joint statement, the WHO goes on to assert universal reproductive rights. The 2008 norm-setting standard calls FGM a practice with “no known health benefits” that reflects “deep-rooted inequality between the sexes” and is an “extreme form of discrimination against women” (World Health Organization “Eliminating”).

The WHO has a Department of Reproductive Health and Research (RHR), which is a joint endeavor with several other UN agencies to “strengthen the capacity of countries to enable people to promote and protect their own sexual and reproductive health and that of their partners, and to have access to, and receive, high-quality sexual and reproductive health services when needed” (World Health Organization 2008 “Sexual Reproductive” : 5). The WHO now uses its legitimacy as a public health organization and source of knowledge to promote attention to issues of sexual and reproductive health (also manifest during the AIDS crisis and struggle for access to generic anti-retroviral medications). A study sponsored by the WHO was published in *The Lancet* in 2006 on the links between FGM and maternal and infant mortality and health consequences (World Health Organization 2006).

Reframing from above has been met with vernacularization, and conscious programs of collective norm change from below. The Tostan program for women’s health rights begins by bringing together village women to imagine a vision for their future, and teaches them the international human rights treaties their country has signed. Classes and village outreach by class members make extensive use of testimonial and theater and builds toward collective abandonment of FGM as a threat to women’s health and self-determination. A woman leader of one of the first villages to publicly abandon FGM/C, in 1996, explained that key elements were the realization that most women in the world do not practice it, an understanding and visibility of their bodies, and a new understanding of their rights. “It was this knowledge that made us confident in our right to choose for ourselves what happens to our bodies….” (Molloy 2013, 19) The Tostan program now works in six West African countries, and has reached three million people whose villages have pledged to abandon FGM—as well as expanding discussions of child marriage and women’s participation in local leadership.

*The long march towards a new frame: femicide*

The new frame of “femicide” has dramatically increased attention to gender-based killing in the public and private sphere. Like genocide, the term femicide was crafted by an academic observer seeking to provide a common rubric and mobilizing frame for a pattern of massive violations. Feminist activist Diana Russell first used the label femicide for gender-based killing in 1976 at the global civil society-organized Brussels First International Tribunal on Crimes Against Women, and went on to publish an anthology on world-wide observations of domestic violence and culturally mandated patterns such as honor killings and dowry deaths.

(Russell 2013).

The frame remained dormant until it reemerged internationally in response to a decade of the public serial murders of hundreds of women at the U.S.-Mexico border starting in the mid-1990’s. Mexican women and international feminist activists had been campaigning for recognition and response to the murders from the late 1990’s, with local protests and scattered media attention in The Nation, LA Times, New York Times, Washington Post, and 60 Minutes. By the turn of the millennium, cultural coverage and academic consideration of the murders had increased tremendously. Gaspar de Alba chronicles songs by Tori Amos, At the Drive-In, Lila Downs, Los Tigres del Norte, and Los Jaguares; twenty on-line films including an Amnesty International expose and documentary by Lourdes Portillo-“Senorita Extraviada (2001)”, two Hollywood films, one Mexican film; her own mystery, poetry, two journalistic books, an academic monograph; and panels at the American Studies Association, MLA, National Association for Chicano Studies, Stanford, University of Texas, and UCLA (over 1500 attended in 2003). All of this local and global attention helped pressure the Mexican government to investigate and even prosecute several alleged perpetrators (though these prosecutions are questioned by many activists and journalists). The UCLA conference generated resolutions for a bi-national commission to investigate, later adopted by Mexico with U.S. pressure, and a “Ni Una Mas” petition (Gaspar de Alba 2010). The latter rubric spread throughout the Americas, and later became the source of massive protest and legal reforms in Argentina from 2012-2015.

Systematic legal response in Mexico, a critical mass of international mobilization, and expansion through the region came with the addition of the femicide frame. The femicide frame gained new salience in 2004—when Mexican politician Marcela Lagarde read Russell’s work and invited her to a Juarez conference. The Mexican leader went on to chair a Mexican Congressional commission on the murders, now labeled as a femicide, and promoted the use of the term at international events. 2004 also saw a V-Day march in Juarez with feminist leaders Eve Ensler, Jane Fonda, and Sally Field offering transnational solidarity and international celebrity status for the issue. The frame spread rapidly to neighboring Guatemala, which was experiencing a similar wave of gender-based killings--with 27,000 reports by the first six months of 2010--and a 2008 campaign led to a new law (Decree 22) and a Presidential Commission Against Femicide. In Guatemala, the recognition of femicide led to more prosecution and sentencing, especially in high-profile cases; but it remains weak in implementation across the board. (Schulman 2010).

At an international human rights level, “The femicides in Ciudad Juarez were the subject of the UN Human Rights Commission’s first inquiry under the optional protocol of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) undertaken by the CEDAW Committee.” (True 2013: 84) In 2009, the Inter-American Human Rights Court’s Cotton Field judgment against Mexico for failure to investigate and prosecute the murders of half a dozen among the hundreds who disappeared recognizes this kind of state responsibility for sexual violence by ostensibly non-state perpetrators, building on a regional jurisprudence of state accountability for violence by paramilitary death squads. The court ordered over a dozen remedies, and along with mandated reparations to victims’ families, the Mexican state has passed legislation against “femicide” as gender-based violence, which has increased institutional attention and resources for both borderland murders and increasing domestic violence. Femicide laws have spread throughout Mexico’s Central American neighbors to grapple with a similar phenomenon; in tiny Guatemala, almost as many women disappear as Mexico, while in Honduras, homicide is the second leading cause of death in women of reproductive age (UN Women 2013).

By 2012, the UN had launched a series of special conferences on Femicide, bringing together reports and advocacy against the Latin American murders alongside dowry deaths in India, honor killings in the Mideast, female infanticide and sex-selective abortion in India and China, and even witch burnings in Africa (“Femicide” Vienna Liaison Office). The impact of the new frame for mobilizing global pressure on governments and even socializing states can be seen in the report by Mexico’s representative to a UN conference:

”In Mexico we have learned our lesson from the painful events in Ciudad Juarez that led to recommendations and a sentence of the Inter-American Court of Human Rights against our country, as a result, we have created a new legislation to sanction Femicide, the death of women and girls by the mere fact of being women or for their gender, we have also built investigation protocols for femicide crimes, disappearance of women and sexual violence.”

(UN Special Rapporteur on Violence Against Women: 2012)

*Missing frames, lagging rights: reproductive rights and sexual self-determination*

Reproductive rights are the most recent, contingent, and contested rights in both international and domestic law. Rights to marital and reproductive self-determination garner the most reservations in the widely subscribed CEDAW treaty. Many states do not recognize marital rape or a woman’s right to terminate a pregnancy, and displaced or migrant women often lack access to reproductive health services and legal protection from sexual abuse. Sex workers almost everywhere are more vulnerable to violence, systematically denied protection, and often abused by police. In many countries, prosecution of sexual assault or trafficking for sexual exploitation demands proof of failure to consent-in contrast to response to parallel forms of non-sexual violence like robbery or debt bondage. Moreover, the characteristic form of abuse of women’s bodily integrity is sexual violence, and its harms often include potentially fatal sexually transmitted disease, forced pregnancy, and/or damage to reproductive capacity. Gendered lack of reproductive rights and health rights may compound the consequences of the violation, and discriminatory and even abusive treatment of victims by police and legal institutions has been labeled a “second assault.” (Human Rights Watch 2006) Women’s reproductive roles increase vulnerability to violence, while sexual self-determination lags behind women’s rights as workers, citizens, and civilian victims of war and disaster.

One illustration of the rights consequences of this missing frame is the weakness of anti-trafficking campaigns for sex workers’ rights; the sex slavery frame privileges protection over empowerment and rescue over rights. A report by the Global Alliance Against Trafficking shows that anti-trafficking programs too often impinge the rights of the people they are supposed to help. Based on research in a range of sending and receiving countries—Australia, Bosnia and Herzegovina, Brazil, India, Nigeria, Thailand, the United Kingdom, and the United States—the report shows that women who are “rescued” from trafficking may be indefinitely detained against their will in police facilities or shelters, involuntarily deported, forced to provide evidence which puts them and their families at risk, or even abused or harassed by law enforcement officials. In other cases, young female migrants and potential border-crossers are profiled and subjected to preemptive scrutiny and interdiction that impinges their freedom of movement in the name of protecting them from trafficking (GAATW et al. 2009). Thus, some argue more broadly that a “rescue industry” undercuts the rights of migrant sex workers when it types them as “innocent victims” in need of humanitarian protection rather than displaced agents in need of migration rights (Agustin 2007MERGEFORMAT). Under the terms of 2003 legislation, renewed in 2005, US policy has even gone so far as to deny funding to health, migration, and sex worker assistance organizations for anti-trafficking and HIV prevention programs if such NGOs tolerate or advocate decriminalization of commercial sex work, unless the agencies explicitly condemn all prostitution. (Pisani 2008)

Another example of how weak reproductive rights repertoires undermine response to violence against women is the uneven and contested availability of abortion for victims of sexual violence, within countries, post-war, and especially for refugees. International agencies and humanitarian aid providers who govern refugees’ access to health care have monitoring, interventions, and preventive measures for sexual violence—but inconsistent policies and access to abortion. The Global Justice Center advocacy group mounted a campaign in 2010 calling for humanitarian access to abortion under the Geneva Convention health protocols, which was adopted in principle by only the UK, Netherlands, and France—and implemented only by the UK. The EU defers to national legislation of the conflict or refugee host country in this matter (though not other rights of refugees), and the U.S. explicitly forbids overseas funding of abortion services in any humanitarian operation. The UK went on to co-sponsor a series of UN Security Council resolutions in 2013, which called for: “nondiscriminatory and comprehensive health services, including sexual and reproductive health.” and “access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination.” (Global Justice Center 2015)

A final facet of the limiting influence of lack of sexual self-determination is the issue of marital rape--the most common, least acknowledged, and most legitimized form of sexual violence. For example, India’s National Family Health Survey 2005-06 found that 35% of Indian women faced physical or sexual abuse at the hands of their husbands; 14.7% specifically reported sexual violence. (Rajesh 2011) In dozens of countries, the marriage contract negates women’s basic self-determination by requiring irrevocable sexual consent; like a certain form of dictatorship, it is “one woman, one vote, one time.”

Campaigns to include marital rape in domestic violence legislation have struggled to counter norms of patriarchal ownership with self-determination. An instructive illustration of norm contestation comes from the “Three To Be Free” campaign, a transnational legal effort by African feminists modeled on Canada’s Equality Effect that seeks to criminalize marital rape in Kenya, Malawi, and Ghana. Thus far, it has resulted in legal reform in Ghana in 2007, and Malawi in 2015. In Kenya, in response to public debate of the measure, in a town ninety minutes from Nairobi, the 40 year-old head of a town council told a journalist: “I own her. The dowry I paid for her means she’s my property. If my wife refuses to have sex with me, I will rape her. And then I’ll beat her because she didn’t obey me.” Yet a reforming younger woman in the same village, whose educated husband works in the capital says, “We need a delegation to come from Nairobi and tell the people here to change the way we behave. They need to say that women have feelings, that a bully in the house is not good and women are the same as men. The men in the village will listen to people who come from outside.” (Armstrong 2014: 205-214)

*Conclusion*

Acting globally to end violence against women leads to an expansion of human rights frames, claims, and mechanisms. The successful campaign to frame rape as a war crime installs a formerly privatized wrong in the international human rights regime. The globalized commodification of sex in human trafficking gains attention when it is described as a form of pre-modern slavery. Reframing FGM as a health rights claim facilitates coalition-building on global public health, with similar patterns on domestic violence. Campaigns craft new frames: gender-based killing worldwide is framed as “femicide” by activists and a series of UN conferences, revealing new patterns of abuse and responsibility and inspiring waves of legislation and mobilization. But the systematic silences of reproductive rights pose critical challenges to new framing.

The relative power of framing to secure human rights claims for violence against women is demonstrated in microcosm through the evolution of rape legislation in India, with very different timing and penalties for the same crime depending on the frame, location, and identity of victims and perpetrators. The very limited treatment of public sexual assault by strangers inherited from the 1860 colonial code stood for more than a century, with rare reporting, prosecution, and conviction highly dependent on the race and class of victim and perpetrator—rape was fundamentally framed as an offense against honor or social boundaries. In 1983, after public protest by a burgeoning women’s movement and highly publicized cases of police assault of detained women, a major reform was enacted that introduced the frame of custodial rape and specifically penalized sexual abuse by responsible authorities, bridging to broader rights frames of police abuse. After further protest and publicity by a rising lower-caste movement introduced the frame of caste-based rape as part of anti-discrimination struggles, in 1989 the Scheduled Castes (Prevention of Atrocities) Act recognized the chronic, widespread crime—but offered only economic compensation without criminal penalties. Further recognition of other kinds of inter-ethnic conflict rape did not come until 2013, when a decade of investigations and trials for the 2002 Gujarat riots secured one conviction for the widely reported rape of Muslim women by Hindu nationalists. But Hindu nationalist governments continue to resist parallel claims of conflict rape by Indian troops in Kashmir documented by international human rights groups. Around the same time, as long-standing child protection efforts produced NGO reports and media coverage of sexual abuse of children by criminals, orphanages, and families, India passed the unprecedented 2012 Protection of Children from Sexual Offenses Act. After the widely protested 2012 Delhi gang-rape shifted the agenda to urban insecurity and systematic threats to the mobility of middle-class women, the government’s Verma Commission drafted a modernized 2013 rape law that raised penalties and facilitated prosecution of stranger rape--but explicitly excluded marital rape (unless the wife was under 15). The same year, pressure by increasing numbers of working women and advocacy by labor unions for women’s rights led to India’s first Sexual Harassment in the Workplace Act. Finally, a 2014 Supreme Court case forbidding a village vendetta rape ordered by an officially authorized tribal council asserted universal rights over the legalization of cultural relativist violence.

Using, bridging, and creating frames can expand the power of human rights, even for hidden abuse of powerless people. These new frames then expand the global repertoire of rights struggles.

*References*

AgustÌn, Laura MarÌa. *Sex at the Margins : Migration, Labour Markets and the Rescue Industry*. New York: Zed Books 2007.

Armstrong, Sally. *Uprising : A New Age Is Dawning for Every Mother's Daughter* [in English]. 2014.

Baer, Madeline, and Alison Brysk. "New Rights for Private Wrongs: Female Genital Mutilation and Global Framking Dialogues." In *International Struggle for New Human Rights*, edited by Clifford Bob. Philadelphia: University of Pennsylvania Press, 2008.

Boulware-Miller, May. "Female Circumcision: Challenges to the Practice as a Human Rights Violation." *Harvard Women's Law Journal*  (1985): 22.

Boyle, Elizabeth Heger. *Female Genital Cutting : Cultural Conflict in the Global Community* [in English]. Baltimore: Johns Hopkins University Press, 2002.

Brinkley, Joel. "Modern-Day Abolitionists Battles Slavery Worldwide." *New York Times*, Feb 4 2006.

Brysk, Alison, and Choi-Fitzpatrick, eds. *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*. Philadelphia: University of Pennsylvania Press, 2012.

Brysk, Alison, and Aashish Mehta. "Do Rights at Home Boost Rights Abroad? Sexual Equality and Humanitarian Foreign Policy." *Journal of Peace Research* 51, no. 1 (2014): 13.

Brysk, Alison, and Gershon Shafir. *People out of Place : Globalization, Human Rights, and the Citizenship Gap* [in English]. New York: Routledge, 2004.

Cakmak, Cenap. "The Rome Statue of the International Criminal Court (2002): The Impact of the Coalition of Women's Groups." In *Crimes against Women*, edited by David Wingeate Pike. New York: Nova Science Publishers, 2011.

De Vito, Daniela. *Rape, Torture and Genocide : Some Theoretical Implications* [in English]. New York: Nova Science Publishers, 2011.

GAATW (Global Alliance Against Traffic in Women), Anti-Slavery International, La Strada International, Buhay Foundation, Philippines, LSCW, and Cambodia and Sodireitos. "Statement on a Monitoring Mechanism for the United Nations Convention against Transnational Organized Crime and Each of the Protocols Thereto with Specific Attention to the Protocol to Prevent, Suppress and Punish Trafficking in Persons 9the Human Trafficking Protocol)." www.gaatw.org/statemnts/Statement\_on\_a\_Monitoring\_Mechanism-COPS08.pdf.

Gaspar de Alba, Alicia, and Georgina Guzman. *Making a Killing : Femicide, Free Trade, and La Frontera* [in English]. Austin, TX: University of Texas Press, 2010.

Global Justice Center. "The Right to Non-Discriminatory Medical Care, Including Safe Abortion, for Rape Victims in Armed Conflict under International Humanitarian Law (Ihl)." http://www.globaljusticecenter.net/index.phpoption=com\_mtree&task=att\_download&link\_id=617&cf\_id=34.

Grewel, Kiran. "International Criminal Justine: Advancing the Cause of Women's Rights?". In *Conflict-Related Sexual Violence: International Law, Local Responses*, edited by Tonia St. Germain and Susan Dewey. Sterling, VA: Kumarian Press, 2012.

Henry, Nicola. *War and Rape : Law, Memory, and Justice* [in English]. Abingdon, Oxon; New York: Routledge, 2011.

Human Rights Watch. "The Second Assault: Obstructing Access to Legal Abortion after Rape in Mexico." Human RIghts Watch, 2006.

Ingram, Helen, and Anne L. Schneider. "Social Construction (Continued): Response." *The American Political Science Review* 89, no. 2 (1995): 441-46.

Kane, June. *Sold for Sex* [in English]. Brookfield, Vt.: Arena, 1998.

Keck, Margaret E., and Kathryn Sikkink. *Activists Beyond Borders : Advocacy Networks in International Politics* [in English]. Ithaca, N.Y.: Cornell University Press, 1998.

Kempadoo, Kamala, and Jo Doezema. *Global Sex Workers : Rights, Resistance, and Redefinition* [in English]. New York: Routledge, 1998.

Kyle, David, and Rey Koslowski. *Global Human Smuggling : Comparative Perspectives* [in English]. Baltimore: Johns Hopkins University Press, 2001.

Molloy, Aimee. *However Long the Night: Molly Melching's Journey to Help Millions of African Women and Girls Triumph* [in English]. 2013.

Organization, World Health. "Eliminating Female Genital Mutilations: An Interagency Statement--Ohchr, Unaids, Undp, Uneca, Unesco, Unfpa, Unhcr, Unicef, Unifem, Who." http://www.who.int/reproductivehealthpublications/fgm/9789241596442/en/.

Pike, David Wingeate. *Crimes against Women*. New York: Nova Science Publishers, 2011.

Pisani, Elizabeth. *The Wisdom of Whores : Bureaucrats, Brothels, and the Business of Aids* [in English]. New York: W.W. Norton & Co., 2008.

Rajesh, Anuradha Saibaba. "Women in India: Abysmal Protection, Peripheral Rights and Subservient Citizenship." *New Englas Journal of International and Comparative Law* 16 (2010): 32.

Russell, Diana E.H. "Femicide-the Power of a Name." In *Femicide: A Global Issue that Demands Action*, edited by Claire Laurent, Michael Platzer and Maria Idomir. Vienna, Austria: Academic Council on the United Nations System (ACUNS) Vienna Liason Office, 2013.

Schlanger, Zoe. "Libya Set to Pay Reparations to Victims of Rape as a War Crimes." *Newsweek*, June 12 2014.

Shulman, Aaron. "The Rise of Femicide." *The New Republic*, 2010.

Spees, Pam. "Women's Advocacy in the Creation of the International Criminal Court: Changing the Landscapes of Justice and Power." *Signs* 28, no. 4 (2003): 21.

St. Germain, Tonia, and Susan Dewey. *Conflict-Related Sexual Violence : International Law, Local Responses* [in English]. Sterling, Va.: Kumarian Press, 2012.

True, Jacqui. *The Political Economy of Violence against Women* [in English]. New York, NY: Oxford University Press, 2012.

UN Women. "Femicide in Latin America." http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america.

United Nations. "General Recommendation No 14, Female Circumcision." http://www.un.org./womenwatch/daw/cedaw/recommendations/recomm.htm.

United Nations Children's Fund. "Profiting from Abuse." 2011.

United Nations General Assembly. "Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences." Human Rights Council, 2012.

———. "Resolution 48/104: Declation on the Elimination of Violence against Women." http://www.ohchr.org/english/law/eliminationvaw.htm.

"Vienna Declaration and Programme of Action." http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx.

Walley, Christine J. "Searching for "Voices": Feminism, Anthropology, and the Global Debate over Female Genital Operations." *Cultural Anthropology* 12, no. 3 (1997): 33.

World Health Organization. "Sexual Reproductive Health: Research and Action in Support of the Millenium Development Goals: Biennal Report 2006-2007." Geneva: World Health Organization, 2008.

World Health Organization, United Nations Children's Fund, and United Nations Population Fund. "Female Genital Mutilation: A Joint Who/Unicef/Unfpa Statement." Geneva: World Health Organizations, 1997.