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# Ending Sexualized Violence: International Jurisprudence

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**ENDING SEXUALIZED VIOLENCE: INTERNATIONAL JURISPRUDENCE**

**by**

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## **Abstract**

Sexualized violence continues to threaten the autonomy of individuals and violate human rights. Scholars debate the effectiveness of international treaties in addressing this problem. The Convention on Elimination and Discrimination Against Women (CEDAW) of 1979 requires ratifying countries to uplift equality and denounce discrimination of women nationally, in public and private spheres. Examining Bosnia and Herzegovina as a case study shows the effectiveness CEDAW has in creating political and social change. In addition, the Bosnian War illustrates the threat sexualized violence has on individual autonomy. Findings show that CEDAW and grassroots feminist activism are successful together in advocating for social and political change. These results support the power of international treaties when combined with grassroots support for the cause. Over time, social change is possible as a consequence of international jurisprudence, which will help end sexualized violence globally, one individual at a time.

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Today, one in three women will experience some form of sexualized violence (“Facts”). Thirty-five percent of women worldwide have experienced physical or sexual violence by a partner or non-partner. This estimate is based on available data and is not a new phenomenon. Sexualized violence has a central role in society dating back to ancient and biblical records, which continues today. Many references in the Old Testament justify rape as an act inevitable to conflict (Vikman 23). Historically, victories of war symbolically end through mass rapes in the conquered city. Viking culture establishes the end of the war through the rape and pillaging of the conquered land (Coupland). Written novels, art, music, and other surviving cultural depictions have emulated women as prizes of conquest and the violence against women as inevitable to society. History demonstrates sexualized violence as a foundational role in the social and cultural norms of society. In the twentieth century, society begins to acknowledge women through law as humans, prompting a turning point from their status as property. However, this pivot does not lead to a change in the occurrence of discrimination and violence against women. Sexualized violence is a human rights violation and is a significant problem in the world affecting many individuals. This violence takes many forms and affects all persons and identities under both peaceful and wartime conditions. This global problem of sexualized violence persists and requires considerable attention.

A horrific genocide and ethnic cleansing campaign occurred in the early 1990’s in southern Europe known as the Bosnian Genocide. As the Former Yugoslavia failed and broke up into separate nations, the Serbian leader Slobodan Milošević perpetrated genocide on ethnic, religious, and gender division. Milošević ordered an ethnic cleansing campaign to dilute the physical existence of Muslim Bosnians. He ordered mass rapes, instituted rape camps, and mandated torture from his Serbian army to target Muslim Bosnian women to impregnate or kill. Muslim Bosnians, primarily women, were targeted because of their ethnic

identity. Soldiers raped and tortured non-Serbian women and families: there are accounts of family members being forced to rape one another as well as other horrific forms of sadistic torture (Stiglmayer). This horrific genocide officially lasted three years, leaving a significant portion of the population either dead or displaced. In addition, the physical, emotional, and spiritual traumas endured from this genocide are lifelong consequences. This genocide is not isolated in its horrors, representing the profound scope of sexualized violence.

Sexualized violence continues to occur under peaceful conditions, outside of conflict and war. Sexual harassment, marital rape, forced prostitution, sexual slavery, and more, continue to persist globally outside of conflict. The international community has denounced sexualized violence and violations against individuals through declarations of human rights. Additional conventions, treaties, and legislation followed, to protect and condemn other human rights abuses. However, given the existing prevalence of global sexualized violence, what is an effective solution to address and end this injustice? Because international laws condemning these actions exist, what should be implemented to support these declarations? The continuation of this problem demonstrates how norms and standards of behavior fueling this problem have not evolved enough. Can international laws have an impact on pressuring national reforms and create necessary social change? And finally, what other contributing factors can play in a successful change to address and end global sexualized violence? Examining the scholarly breadth of this topic will illuminate both the strengths and shortcomings in the field to solve this problem.

Visible and influential, international treaties can influence change over time and successfully address sexualized violence globally. Although the success of international treaties is contested, their existence shows small increments of change, which will have more significance over time. Accounting for feminism and intersectionality, feminist framed legislation provides the necessary support for grassroots organization, community activism,

and individuals seeking national reform. This global standard of behavior is wide-reaching and powerful, despite its lack of enforcement. International treaties are a first step in addressing a global concern and sparking statewide changes. International condemnation of sexualized violence influences national reform and supports all individuals from this injustice.

### **Background Research**

This paper defines effectiveness as the success of incremental change. There are many ways to approach global issues, and in addressing sexualized violence, effective solutions create change, no matter how significant. Small increments are impactful in the lives of individuals, and the autonomy of individual lives is the primary concern for this paper.

Addressing sexualized violence as a global problem is considerable and crosses many disciplines. This paper deliberately defines sexualized violence as a violation to individual autonomy perpetrated through physical, emotional, and or spiritual violence. There are many definitions available; however, the decision to use this framework is calculated to account for scope and the many forms of sexualized violence. Although sexualized violence predominantly affects women and non-binary gender identifications, men also experience this violation. Violence against women is the predominant focus in this work even though no one person, nationality, gender, or intersectional being is exempt from experiencing sexualized violence. Leading feminist scholar Catherine MacKinnon defines violence against women as “aggression against and exploitation of women because we are women, systemically and systematically” (*Are Women Human* 29). Violence against women is significant because the aggression is purposefully perpetrated against a gendered body. The word systematic references socially patterned sexual violence, such as sexual harassment, rape, sexual exploitation of children, and more. Sexualized violence is also systematic in ways of “intentionally organized” acts, like prostitution, pornography, and torture (MacKinnon, *Are*



*Women Human* 29). These violations take physical, emotional, and spiritual forms in private and public spheres. Violence does not exist solely through brute force that is easily visual and identifiable. In addition to physical violations, sexualized violence is oppressive through emotional, mental, social, and spiritual trauma, violating human rights. Sexualized violence is a human rights violation that needs to end.

The surface line of thought surrounding sexualized violence begins with excusable myths. Social rape myths excuse this unjust behavior as a consequence of sexual drive. These ideas manifest in understanding rape as natural occurrences stemming from biology (Seifert 35). Rape myths justify the idea that gendered aggression is inevitable and unavoidable in any society (Weiss). In wartime, rape is seen as “regrettable side effects of the war” (Seifert 36). This understanding of rape, as inevitable to conflict and society, enforces the norms that the violation of personal autonomy does and will continue to occur (Niarchos). These myths produce norms that constrain the definition of rape socially and legally, making it more difficult to reform behavior.

Legislation is an approach to sexualized violence to punish those who execute these crimes and provide justice for victims. This liberal approach shifts the focus from gender to violations to the citizen. Laws address this problem by mitigating the effects of the violation, not targeting the causes until significant time passes. However, domestic and international laws often fail to convict many cases of rapes due to the norms and myths surrounding the image of sexualized violence (Connell 510). Many experiences of rape when reported, “are not treated as criminal by the criminal justice system” (Estrich 8). Laws often fail to account for the scope of sexualized violence and fails to recognize a significant amount of crimes. Feminist and intersectional theorists work to explain this failure in the law by exposing the lack of feminism in the laws while providing a framework for how to best approach the legislation.

Although many nations recognize actions of sexualized violence as unjust and illegal, laws often fail because the legislation lacks a feminist perspective. Useful jurisprudence accounts for the intersecting identities that contribute to individual experience in society. The legal definition of rape in The United States is heteronormativity formulated around penetration and the male perspective, rather than the perspective of one who experiences this violation. Penetration is a defining feature of rape and is, “a very male point of view on what it means to be sexually violated... rape is defined by what men think violates women” (MacKinnon, *Feminism Unmodified* 87). The violator should not define the experience of violation. Instead, criminalized acts should be defined by those who experience injustice. This formation of the law acts as an additional form of violence and discrimination for victims. There are many reasons for low conviction rates, including the failure of legislation to represent the experience of violation wholly. To convict a case of rape, the one violated must prove their experience was not consensual sex. However, many factors blur this distinction; Mackinnon suggests, “maybe they were coerced by something other than battery, something like economics, maybe even something like love” (*Feminism Unmodified* 88). Many coercive and social pressures contribute to a violation beyond brute force. These pressures include economics, religion, manipulation, status, and more. Non-feminist laws stem from the misconceptions of rape myths and household social norms regarding sexualized violence. When the law erects from one image of a violation, it prohibits the recognition of any variation beyond that one form. This jurisprudence constricts the variety of sexual violations and acts as a further injustice against the victims. Beyond rape, laws continue to be narrow and restrictive to the experiences of sexualized crimes. Additionally, intersectionality is integral to approach oppression and injustice (Crenshaw). Beyond gender, class, race, religion, and ethnicity, identities intersect and contribute to the treatment and

experience of individuals (Kline 141). Laws should extend a broad scope to account for intersectionality.

Enacting feminist jurisprudence has significant effects on society. Recently, a significant victory for human rights and addressing sexualized violence was criminalizing sexual harassment in The United States. The legal recognition of sexual harassment as a crime proved the success of taking a “women's experience of violation seriously enough to design a law around it” (MacKinnon, *Feminism Unmodified* 103). Women who experienced sexual harassment demanded legislative reform to recognize this injustice. This legal recognition directly addresses the problem of sexualized violence and continues to influence social change. This represents the effectiveness of laws created by those who experience an injustice (MacKinnon, *Feminism Unmodified* 105). Laws are a mode of the agency to protect oneself from harm, and they provide the ability to change social norms that fuel violations. Adoption and creation of more feminist laws will protect and uplift individual lives.

Beyond feminist framing, scholars debate the effectiveness of legislation in creating social change. History demonstrates how social norms can change, organically and through laws. Norms “rest on a community's beliefs about what is appropriate for an actor under some specific condition,” which influence national and international laws (Frieden 469). These beliefs can evolve over time and through legal reform. Communities are built upon norms and understand them as standards of behavior. Identifying norms can be difficult, especially when they are absent from the law; norms are internalized and produced through free will. International norms exist as universal morals and bases for human rights. When governments violate norms, citizens protest and demand change (Frieden 480). These powerful national norms, pressures, and moral obligations drive nations to sign international laws and enact national change to promote peace.

Many scholars contribute to this debate and critique the effectiveness of creating change through laws. The “hollow hope” theory, coined by Gerald Rosenberg, argues against the influence courts have on social change. This theory views the courts as “constrained,” and having little effect without outside pressures and influences. Rosenberg finds little evidence that court cases are responsible for social change alone when evaluating women's rights court cases in The United States. His results show a lack of change of public opinion on abortions in as a consequence of the ruling in *Roe v Wade*. He finds the highest increase in abortions before the decision of the court case, invalidating the cases direct responsibility for social change regarding abortions. This argument takes the stance that the courts follow and adapt to social changes, not the other way around (Rosenberg 179). In addition, the focus should be on the many contributing factors to change, not only the courts. However, this viewpoint is criticized for lacking distance and for misguided examination. The hollow hope theory is critiqued for only looking at immediate direct social responses to legislative reform (Schultz). Laws can “grant legitimacy to certain claims and to redefine norms of institutional action” (Schultz 74). Laws legitimize social changes and contribute to social reform. In addition, important social debate arises from court decisions and influences public opinion. However, this scholarly work prompts an effective shift from legislation to focusing on the power of social organizing and activism.

Nongovernmental and grassroots organizations use collective action to create institutional, political, and social reform. Local organization is an integral space for protesting injustices and demanding action. Civic engagement is essential in influencing social, political, and economic reform (Wandersman 232). Change is possible when nongovernmental organizations (NGOs) work with international actors to put pressure on national governments (Wandersman 234). Grassroot movements and NGOs influence global and domestic reform, which is particularly compelling for women's and human rights (Geske

89). Social movements and local organization “affects policy change and is essential to the development of progressive social politics” (Weldon 245). Civil mobilization puts pressure on policy-makers to reform legislation that will lead to positive changes in public opinion. Sexualized violence stems from institutional and social inequality. To influence significant changes in the private and public spheres, NGOs advocate for international action and legal reform (Geske 90). NGOs demand attention from the international community, which pressures nations from above and produces change over time. International conventions often arise from NGO pressure. Equality and sexualized violence is advocated locally and legitimized through international conventions and treaties, which together influence significant political and social change over time.

International treaties address global conflicts by binding countries together to end conflict and promote a more peaceful world. These treaties are agreements made during international conventions concerning conflicts. States sign and adopt international law for many reasons, including public pressure, moral motivation, and self-interest. However, personal interest is the driving force for ratification. Most international treaties require national adoption, which is costly and unfavorable. The effectiveness of international treaties in creating change is widely debated.

International treaties approach conflict and injustice by influencing international cooperation. Collective action facilitates understandings and agreements over “unifying principles” (Frieden 459). There are two main types of international laws; customary international law, which develops slowly after recognizing norms; and international treaties, which generally take place in a convention and are ratified by states. When a country ratifies and signs international law, they are bound by the terms and restraints of the treaty. However, one of the most significant flaws in international treaties is the lack of enforcement and universal adoption. Because these laws reflect the public interest, the nations that sign them,

have incentives to uphold them. When nations ratify international human rights treaties, they generally enact similar national changes and comply with the terms of the treaty (Von Stein). However, problems of enforcement arise because of the many conflicting interests of different states. Many reasons contribute to a nation's decision to sign international treaties and the majority stem from personal interest. Nations comply to treaties when they have personal interests in doing so, whether it is from belief in the cause, fear of collateral consequences, or individual incentives (Hathaway, "Why do countries commit?"). These direct and indirect benefits of ratification support nations to comply with the terms.

International relations theory provides different predictions for the effectiveness of ratifying countries: normative theory supports effective change, realist theory predicts no change, institutionalism expects better practices to be associated with ratification, and liberalism anticipates a sufficient change in democracies and not other forms of government (Hathaway, "Do human rights" 1965). Looking at human rights treaties, nations that ratify these treaties have better practices than states who do not ratify. However, the results do not determine whether treaty ratification is responsible for better practices or if the factors that lead to ratification, including the nation's positive human rights practices, are responsible (Hathaway, "Do human rights" 1989). Overall, quantitative results do not support the causation of treaty ratification leading to better human rights practices overall. Against what the theories predict, countries who ratify are found to be less likely to comply with the treaties than countries who do not ratify (Hathaway, "Do human rights" 1989). Similarly, sometimes those with the lowest human rights practices are more likely to ratify these treaties than those with existing human rights practices (Hathaway, "Do human rights" 1999). With genocide and torture conventions specifically, ratification of treaties is associated with worse practices (Hathaway, "Do human rights" 1999). Although counterintuitive, quantitative

analysis of human rights treaties does not find a strong relationship between ratification and better human rights practices. Some possible reasons and factors contribute to these results.

These findings lack a significant focus on the long-term impact of treaty influence. Many factors contribute to minimal change after ratification. First, nations may not enact institutional reform because there is no enforcement or monitoring post-ratification. Also, nations often aspire to comply but are unable to make the institutional changes effectively. On the other hand, many ratifying countries make national changes, which generates other nations to follow. In addition, democracies are unlikely to make changes with treaty ratification because their institutions already uphold human rights. In the end, treaties are a clear framework for “perceptions of what constitutes acceptable behavior” (Hathaway, “Do human rights” 2021). The influence of the treaty effects states whether or not they ratify. Although costly, significant results follow through more enforcement and pressure to comply with international treaties.

International jurisprudence is an approach that will help end sexualized violence globally over time. Although there are many possible solutions, international treaties are visible and influential in their declaration. Whether nations ratify or ignore the treaty, all nations are exposed to the standard of behavior the international community wants to display and demand. Some countries may never change their practices, but having these treaties promotes necessary social change condemning this injustice. Comprehensive and feminist international treaties promote standards of behavior for the world to adjust to. In addition, when women's groups organize nationally, international legislation supports their cause. Activism succeeds when supported by international recognition of their purpose. Over significant time, international laws supporting and empowering women will provide agency for this necessary change. International law can provide essential support for a local

organizing activist causes to succeed and influence normative changes over time, ending this injustice, one individual at a time.

## **Methodology**

This project works to show the effectiveness of international treaties on ending sexualized violence globally. Analysis of The Convention on Elimination and Discrimination Against Women (CEDAW) and Bosnia and Herzegovina, develop on the previous scholarly work. CEDAW illustrates the shortcomings and benefits of ratification. The case study of Bosnia and Herzegovina supports the ratification of CEDAW to produce political and social change. The study of the post-war country also emphasizes the atrocities of sexualized violence during and post-war. In addition, CEDAW ratification in Bosnia and Herzegovina shows the power of social change and the empowerment of women over time. Together, the legal analysis and case study support the effectiveness of international treaties in addressing and ending global sexualized violence over time.

Solving global sexualized violence is an enormous task, and if there were a clear solution, this problem would not be as immanent. Because of the nuanced nature of this issue, there are countless approaches available. This is one possible approach and should not be the only attempt at addressing and solving this problem.

## **Analysis of CEDAW**

There exist over sixty international treaties from the United Nations, beginning in the late 19th Century to promote peace. The major international treaty focusing on ending violence against women resulted from the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The well-known Declaration of Human Rights treaty did not explicitly account for the treatment of women and children, which prompted the creation of CEDAW. CEDAW is commonly known as the international bill of rights for



women and denounces gender discrimination (“UN General Assembly”). The treaty serves to protect women and children from violence and human rights injustices. In ratifying this convention, nations agree to enact national institutional changes compliant with the terms of CEDAW. Although many countries have ratified, The United States, Japan, and China stand alongside others, as non-ratifying states. By not ratifying, these powerful countries make a powerful statement against the autonomy of women.

Because all nations have different ethics and human rights standards, implementation and adoption of international treaties are challenging to enforce. The international community endows human rights for all humans: regardless of status or identity, just because one is a human being (Frieden 493). The general universal norm of “perpetrating violence against innocent persons” is generally condemned as wrong and immoral universally (Frieden 477). However, violence continues to exist globally. CEDAW makes significant efforts to end violence against women by declaring specific definitions to the international community. These definitions serve as the universal standard to facilitate communication and collect action. The convention defines discrimination against women as, "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (“UN General Assembly”). In signing CEDAW, a government acknowledges this as the official definition and agrees to take all national measures to end gender discrimination and ensure the advancement of women.

The treaty addresses discrimination in six distinct and purposeful parts. After the introduction, part one address discrimination, policy requirements, human rights, and prejudice. This portion goes further to denounce human trafficking and exploitation of

women through prostitution. Part two address the need for equality in the political sphere through political rights, representation, and nationality. Part three addresses education, employment, health care, economic equality, social equality, and specifically the empowerment of rural women. Part four address the law and marriage. Sections five and six detail the committee responsibilities and plans for revisions and disputes.

Comprehensive and detailed, the contents of each section of the document illustrate the requirements for signatories to uphold and modify through their institutions. National legislation, regulations, customs, and practices that do not protect the rights of women must be changed, rejected, and replaced with non-discriminatory policies. In addition, it requires new initiatives to be implemented to protect and establish the legal rights of women. Article Three declares that signatories must take all measures, including legislatively, “to ensure the full development and advancement of women, for guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms based on equality with men,” politically, economically, socially, legislatively, and culturally (“UN General Assembly”). Signatories must make efforts to not only uplift the equality of women politically through governmental institutions but also in the private and social spheres. Article Nine ensures that women cannot be left stateless, specifically if a woman marries an undocumented man or that man changes his nationality, the woman must still have her stateship. In terms of education, CEDAW declares that women must have equal opportunity for education. Article Ten grants women universal opportunities and the right to work as men. Article Eleven requires job security through maternity leave and prohibits discrimination in the workplace because of marital or maternity status. Healthcare service access, including family planning, must be granted to all women. Anything beyond the phrase “family planning” is not detailed. Social security, economic services, recreational, and sports opportunities must also be free from discrimination. Marriage is required to be registered, and the government must set a legal age

limit for marriage. This age is not determined by the document. In addition, the rights of spouses must be equal between spouses. The gendered language is omitted from article sixteen regarding marriage rights. Overall, political and civil rights must not discriminate against gender. The document ends with procedures and requirements for the CEDAW committee and The United Nations. There are systems in place in case of disputes or conflicting interpretations of the text, but there lacks specific detail for reinforcement or punishment in the case that a ratifying country does not comply. However, the report provides a standard for countries to strive towards.

In the total of 197 countries, 109 countries have signed and ratified as a state party, 13 are signatories, and 75 countries have taken no action. The United States, China, India, Egypt, Democratic People's Republic of Korea, Iraq, Israel, and Japan lead the list of states who have not acted. Among these strong states follow most of the Middle East, many countries in Africa, and some South American countries (“Status of Ratification”). The document requires all ratifying states to make appropriate reforms to uphold the Convention and eliminate discrimination against women. It also requires all institutions to reflect the contents of the document domestically, including the equality of men and women to equal access in all public and private spheres. CEDAW serves to be a universal code to protect and uplift the human rights of women but has difficulties in enforcement and widespread adoption.

The United States stands out not only as the single western democracy and as one of the most powerful countries that have not ratified CEDAW. Opponents of CEDAW support this decision and argue that U.S. ratification would not lead to more international aid or domestic change, instead it would only act as a formality (Munson). The United States takes measures to provide foreign assistance and makes domestic efforts to uphold the equality of women without ratifying. In 1980 President Carter signed the treaty, but this was rejected by

the Senate (Munson). The U.S. has many reasons for their dismissal of the document, mainly a lack of alignment with their interests and agendas. Another concern for the U.S. in ratifying the Convention is the necessary reforms to domestic law that would be necessary (Halberstam 57). However, U.S. ratification would bring power and legitimacy to the treaty, influencing others to ratify and uphold the document. International visibility is powerful and the U.S. ratifying CEDAW would be influential for change.

The effects of CEDAW are contested, and little scholarly work shows the effectiveness of CEDAW in producing better policies and practices for empowering women globally. As an international treaty, CEDAW is generally marginalized and acts as a subset of The Universal Declaration of Human rights, which fails to explicitly detail the treatment and discrimination of women (Weldon). Opponents criticize the treaty for lack of enforcement, domestic policy requirements, and committee composition (Munson). Also, it is difficult to determine the direct effects of ratification of CEDAW, primarily because of the lack of international enforcement (Hill). Although there is not much research specifically on CEDAW's effects, the work that exists generally supports minimal effectiveness overall.

CEDAW is most effective alongside national feminist activism. A study examined 70 countries from 1975 to 2005 and found that the contributing force to national policy change reflecting CEDAW, was strong national feminist activism (Weldon). Feminist activism is effective in pressuring national changes when backed by CEDAW. There are three main factors for this finding. First, feminist organizing produces visualization and educates the public on the issue. Second, feminist activism challenges normative gender constructions in society. Finally, these issues place pressure on a nation to enact policy and institutional changes from social demand (Weldon). This activism also calls into question the lack of institutional reform from their nation as required by the ratification of CEDAW. CEDAW can support effective national change when combined with social demand. Strong national

feminist movements in nations who ratify CEDAW, pressure the government to implement institutional change (Weldon 245).

CEDAW is successful overall in producing statistically significant effects on women's political rights. A quantitative study finds significant positive results in the political rights of women, slightly less effective social rights, and having no impact on economic equality for ratifying states (Englehart). These findings result from CEDAW requiring a change in public and private spheres, as well as, "the minds of individuals" (Englehart). The effectiveness of CEDAW in producing effective political change for women supports successful systematic empirical results for international treaties effects on human rights (Englehart). Like most research on international treaties, time is required for the impact to take place and be noticed. A more comprehensive understanding of CEDAW's impact requires more time to understand its full effect.

These findings support the positive effect CEDAW has on influencing better practices for women's empowerment and equality. To accomplish this goal, the United States needs to ratify CEDAW. As a leading nation, this will signal a stronger standard for treatment of women globally. Although the United States takes its own measures to empower women, participating internationally with CEDAW will add validation to the scope of the document. However, even without the support of the United States, CEDAW can support grassroots women's activism and reflect changes internationally. When women organize nationally for themselves, they are more powerful when CEDAW, or accompanying international legislation, provides support. Although the effects of CEDAW require more time to pass to fully understand its power, its existence empowers and strengthens national women's organization. CEDAW provides agency for successful activism to influence institutional and social reform, slowly empowering women and ending sexualized violence.

### **Case Study: Bosnia and Herzegovina**

Bosnia and Herzegovina illuminates the effectiveness of international treaties on creating national reform to end sexualized violence. Bosnia and Herzegovina, commonly referred to as BiH, is a new country formed from the breakup of the Former Yugoslavia and the aftermath of the horrific Bosnian War. The Bosnian War was a genocide that occurred officially between 1992 and 1995 (Belloni 15). After the former Yugoslavia broke up when the states declared their desire to secede, Serbian leader Slobodan Milošević, declared war against the Muslim people. The strategic use of violence, including various tactics of sexualized violence, fueled the genocide (Stiglmeier). The sexualized violence in this genocide is known as “war rape.” This war rape existed to directly “inflict trauma” and destroy family units, which became a crucial component of ethnic cleansing (Diken 111). Rape was an essential tool for ethnic cleansing and a sex-specific torture campaign against women. Having generational effects on the population and ethnic composition of BiH, pregnancy was a consequence of this war. There is an estimate of between 20,000, and 50,000 reported rapes, and more unreported, from the war (Diken 112). Slobodan Milošević ordered an ethnic cleansing campaign against the Muslim Bosnians by implementing rape camps, sadistic torture, and more.

This war demonstrates the many horrific forms sexualized violence takes. Gruesome acts of violence deployed with the intent to kill and destroy individuals, physically and emotionally. Accounts show that family members were forced to rape one another or be forced to watch their family raped as an act of violent aggression. This violence had immediate and lasting effects on all the surviving individuals. Rape in the war left lasting physical, emotional, religious, and spiritual injuries (Diken 113). Similarly, the aftermath of the war created a society of people directly affected and traumatized by sexualized violence. Although women were the target, many men and children experienced these horrific

violations. Rape in BiH “had as its purpose to destroy an ethnic group by killing it, to prevent its reproduction or to disorganize it, removing it from its home soil” (Diken 115). In BiH, Muslim women were targeted to impregnate to change the population ethnically. Serbian soldiers raped and violated non-Serbian women, directly dividing ethnic communities and producing only Serbian children (Handrahan 437). Ethnic cleansing intended to end the bloodline of the Muslim Bosnian population. Forced rape served to “inflict trauma” and destroy families. Rape in this war strategically targeted social structures and created destruction by creating a new composition of ethnic communities. This posed problems for the aftermath of the war, physically and socially. Religion played a role in the aftermath, as Muslim women had to deal with the acts not only physically and emotionally, but also religiously. Rape in this war was used to disrupt the ethnic and religious makeup of the communities (Diken 116). Examining personal testimonies shows the tremendous effect this war and sexualized violence had on individuals. People interviewed, defined the war violence as “morally reprehensible” (Basic). Similar to other post-war societies, the aftermath included, shame, a decrease in a population of people, hostility between groups, and emotional and physical scars.

The war was fueled through the consumption and violence against women’s bodies because they were women. These acts directly violated international human rights laws and took an alarming amount of time to end through international intervention. The atrocities of the conflict in BiH provide context for the harm, severity, and threat sexualized violence has on human rights. The conflict ended through the Dayton Accords, which was the international intervention in Dayton, Ohio of the United States in 1995. The presidents of Bosnia, Croatia, and Serbia and mediated by the United States under President Bill Clinton’s presidency, ended with the separation of new countries. The Former Yugoslavia broke up and BiH, established as its own country, began to build itself back up from the war.

Examining post-war BiH as a case study supports the effects of CEDAW and the development of empowering women globally. BiH under the Former Yugoslavia signed and ratified CEDAW in 1980 and 1982. With the fall of the state of Yugoslavia in 1992, the new state of BiH established in 1995 (“Bosnia and Herzegovina Human Development Indicators”). BiH took on the legal obligation of the former Yugoslavia in September of 1993. This succession has the equivalent legal obligation as ratification and is merely a historical formality. At the peak of the war, the Dayton Accords mediated peace and helped provide necessary resources to rebuild a new nation. The Dayton Accords settlement did not specifically address issues of gender and sexualized violence (Pupavac). This is notable when examining the construction and development of the new state. Political, social, and economic rights are the areas of focus for reviewing public and private sphere development after ratifying CEDAW and post-war BiH.

BiH continues to struggle with the balance of implementing democratic values while preserving its culture. New threats to human rights arose in BiH post-war. The implementation of political rights and peacebuilding efforts post-war were not immediately successful. Not uncommon to many peacebuilding and peacekeeping missions, soldiers and peacekeepers sent to ensure peace in BiH perpetrated more harm. They exploited the post-war state of BiH and violated human rights, through rape, human trafficking, and other forms of sexualized violence on citizens (Rošul-Gajić). United Nations operatives disobeyed their own prerogatives and motives by committing injustices against Bosnian people. However, the UN operatives left and with more time, women's groups and women's NGOs have put pressure on the BiH government to implement normative and institutional changes to support the empowerment of women.

BiH has a rich history of religion, culture, and ethnic diversity. Bosnian, Croatian, and Serbian are all three national languages (Kolouh-Westin). Because the war was perpetrated



through ethnic cleansing, and religious and cultural divisions, the post-war construction is followed with lasting divisions (Handrahan). Serbian soldiers raped non-Serbian women, leaving effects on ethnic communities and family structures. The cultural diversity of the country poses obstacles for institutional and social reform. It is integral for the non-western culture of BiH be preserved while making strides towards gender equality in the public and private spheres. Additionally, intersectionality must be upheld and understood when examining the treatment of women and overall human rights. State building efforts post-war were implemented under compliance with CEDAW and other international human rights treaties, to empower women and create equality in all aspects of life in public and private spheres: economic, political, and social.

Supporting the previously stated theories, the economic opportunity and equality of women in BiH is minimal. According to the World Bank, the economy of BiH continues to face challenges due to its economic model. As of 2016, the population of BiH is 3.8 million people with a life expectancy of 77.1 years (“Bosnia and Herzegovina Human Development Indicators”). Unemployment is high and economic opportunity is low, especially for women. Only 35.6% of the employed population are women, while the population capable of working is 51.7% of the population (“UN Committee on CEDAW”). This is a low percentage of working women for the greater geographic area. There are many reasons for this finding, and most stem from the former social divisions systematic for the economy of the previous regime. In addition, the war produced many widows who are disadvantaged as women socially, and economically. Widowship is followed by lower social class status and fewer job opportunities (Handrahan 435). Although legislation was implemented to empower women in all aspects of BiH life, equality in the economic sphere is a slow ascend, paralleling the overall countries economic status.

Following the construction of a new country, BiH has made many political, institutional reforms to generate equality. The BiH parliament implemented many changes to create political equality. In 2003, the Bosnian parliament passed the Gender Equality Law (GEL) to enhance institutional reform to promote gender equality (“Law on Gender Equality in B-H”). Created in response to CEDAW, GEL serves to advocate for justice by prohibiting gender discrimination in public and private spheres. The national law mimics and parallels the conventions of CEDAW in many ways. The law states its purpose to “regulate, promote and protect gender equality, guarantee equal opportunities and equal treatment of all persons regardless of gender in public and private sphere of society, and regulate protection from discrimination on grounds of gender” (“Law on Gender Equality in BiH Consolidated Version”). The comprehensive and detailed legislation prohibits discrimination based on sex, and grants equality between men and women. Within the law, policies grant the right to equal access to resources including healthcare, education, employment, social welfare and sport, and cultural opportunities. The law is compliant with the terms of CEDAW and democratic in its structure. An interesting component is from Article 20, which declares that representation in government institutions must promote equality, which is at least 40% representation of gender. Overall the law is liberal and progressive with its aspirations to eliminate discrimination and promote equality in all phases of life. Legislatively, the country has made strides to empower women politically. As scholarly work showed, this does not guarantee equality in the other spheres of life. Examining the social changes of women in BiH will help to unpack this discrepancy.

In compliance with the terms of the Dayton Accords agreement, BiH held its first elections for parliament in 1996, with the hope to empower women in the political sphere. The first election of 1996 elected only one woman for a total of 57 seats (“Parliamentary Assembly”). Although this is a small portion of representation, this is a significant success

compared to the previous political equality and representation. The BiH parliament is divided into the House of Representatives (42 seats) and the House of People (15 seats), with 57 total elected members. The seven elections since 1996 have seen the following number of women elected to parliament: 1, 9, 4, 7, 8, 11, 12. Currently, the 2014-2018 parliament is 78% men and 21% women: 45 men and 12 women (“Parliamentary Assembly”). Although still underrepresented, the gender makeup difference from the first election to the current seventh is a significant increase in the empowerment of women in the political sphere. However, many factors contribute to this low participation of women in the BiH parliament. First, BiH is a new country existing only over two decades. Not only does the implementation of political equality take time, but the sentiments of the former regime and sexist norms of the culture also continue to exist. The lack of women in parliament is both due to women not getting enough votes from citizens to win and a lack of women running for election in general. The sexist and dividing norms from the regime of the Former Yugoslavia and the horrific events of the Bosnian war persist. In addition, quotas for gender and identity participation in politics are avoided due to the negative communist associations from earlier history (Brunnbauer 157). Party caucuses and party affiliation contribute to this inequality. Many political parties prioritize their own representation overproducing and empowering women candidates. Strategy for political party representation contributes heavily to the makeup of candidates. BiH women are increasingly participating in NGO’s and other women's groups outside of official political institutions (Brunnbauer). This NGO sector, mainly run by women is gaining traction and address women's issues. This area is a space for women to influence the political institutions in their own space. Although the economic and political institutions have more work to accomplish, equality in the social sphere is critically important to examine. Social empowerment has exceeded the strides of economic and political institutions for women, but still has the opportunity for more reform.

Quality of education and health care have had successes and failures in BiH.

Education continued through the war but produced significantly lower standards of quality. BiH introduced private schools post-war. However, the national curriculum has not evolved as quickly as national legislation has. The post-war curriculum adopted new values such as promoting and introducing free markets, foreign languages, computer science, special programs for learning disabilities, devaluing socialism, and an overall focus on individuals, rather than the collective (Kolouh-Westin). Generally, the female to male ratio enrolling in school is close to equal. In 2008/2009, pre-school had 47.7% female enrolment, whereas vocational secondary schools, traditionally for male students, has 34% female enrollment (“UN Committee on CEDAW”). The type of primary and secondary school varies and contributes to widespread results for female enrollment. Overall, there is generally an equal opportunity to education, but BiH has areas to improve by promoting female enrollment and empowerment. In addition to education, health care continues to struggle to evolve towards equality in BiH. Legislation endows equal access to health care regardless of gender; however, contributing factors such as rural and vulnerable women’s opportunities are disadvantaged (“UN Committee on CEDAW”). Strategic Plan Development of Health Service in BiH is working to implement better practices and opportunity for women’s health care, including contraceptives, cervical and breast cancer treatment, and reproductive health (“UN Committee on CEDAW”). The Human Development Reports find positive general trends for life expectancy and suicide rates. Life expectancy started at 72.3 in 1996 and has steadily increased to 77.1 by 2017 (“Bosnia and Herzegovina Human Development Indicators”). Suicide women per 100,000 people went from 3.5 in 2000 to 1.9 in 2015. For men, went from 14.7 in 2000 to 7.1 in 2015 (“Bosnia and Herzegovina Human Development Indicators”). These trends represent positive changes for individuals over time. The education

and health care in BiH have made strides but still, have more to do to uphold equal opportunity and equality for all. Political and social justice will continue to evolve with time.

Personal accounts and testimonies about social changes report on the effects and development of empowerment within the private sphere. Scholar Cynthia Cockburn, speaks to the evolution of equality from her visits to the Medica Women's Therapy Centre in BiH, in 1995 and again in 2012. The center began as a feminist health care center for women and survivors of sexualized violence in the war: rape, torture, loss, and more. In her visit seventeen years later, the center evolved from treating the war violence to addressing domestic violence, non-conflict rape, and harassment. In addition, women were now seeking help to escape prostitution they had been coerced and forced into. Forced prostitution often follows post-conflict communities for economic necessity (Handrahan 434). The feminist medical center shifted its needs from war traumas to the post-conflict forms of sexualized violence, including domestic violence and forced enslavement. This shift in functionality in the center reflects the development of needs and problems of sexualized violence in the post-war country. One woman from the center, Meliha Branković, gave testimony to her perspective on the difference in gender relations in the country. She reports that in one way, the youth culture promotes freedom and an “escape from the restrictions of pre-communist, communist and nationalist gender relations.” However, on the other hand, she notes, the “contemporary youth culture in Bosnia as manifesting a specifically capitalist form of patriarchy, one in which women are no longer idealized as socialist ‘workers,’ nor are national ‘mothers’” (Cockburn). In one way women are liberated from the Yugoslav communist restrictions on women; however, through this liberation, young women evolve through a new capitalist patriarchal power. Although there is progression from the communist oppression of women, a new type of struggle forms from the democratization of the country. The democratization of BiH lead to the construction of patriarchal structures, previously

obsolete to the culture. Although there have been significant strides in the empowerment of women, new threats entered the social sphere.

Although the social equality of women continues to struggle, supportive feminist communities developed and are thriving. Surviving sexualized violence is not the end of oppression imposed on individuals. The social shame and harm that comes from survival are significantly harmful (Handrahan 435). However, in post-war construction, women of both ethnic and oppressed sides are shown to support one another. There exists a "female gender identity linked to peacebuilding" (Handrahan 439). An alliance between Serb and non-Serbian women within the country has been created and serves to be the future of empowerment of Bosnian women.

Women's NGOs and feminist groups are responsible for many institutional and social changes in BiH. They put pressure on the government as collective groups of women, which along with legislation to support them, made women's issues on national agenda (Rošul-Gajić). The vocalization of these NGOs and groups have caught the attention of international and domestic actors. NGO work together with national authorities and international actors fueled important gender and peace security policy, mainly in policy reform and adoption (Rošul-Gajić). Bosnian women's NGOs existed during the war and found success once they gained national and international visibility and support (Rošul-Gajić. 154). National funds and international organizations support BiH NGO work. In 2004, the national SOS hotline 1209 opened for support and protection of victims of family violence ("Global Database on Violence against Women"). Following the national line, four NGO's, Udružene žene-Banja Luka, Budućnost-Modriča, Association of Women Lara-Bijeljina and Ženski centar-Trebinje, operate the emergency hotline 1264, created in 2005 ("UN Committee on CEDAW"). This SOS line serves the area of Republika Srpska, assisting victims of domestic violence and other sexualized violence. For line 1264, there were 11,8808 calls from 2006-2009,

increasing until a decline of calls in 2009. In 2006, 97.4% of the calls were from women (“UN Committee on CEDAW”). Another NGO runs hotline 1209 in Istočno Sarajevo, providing 24-hour help for a wide scope of issues. These NGOs work to support victims of sexualized violence in BiH with external support and funds from international organizations and state resources (“Global Database on Violence against Women”). Bosnian women group together to support one another through these NGO spaces to empower women and advocate for social, political, and economic equality.

Although the effects of CEDAW on the development of BiH is widespread, a conclusion can be made in regards to women's empowerment: the organizing of Bosnian women with support from international legislation promotes pressure on national institutions to create change. BiH made national efforts to implement compliant laws with CEDAW nationally. However, enforcing and implementing feminist legislation was not a fast nor an efficient process. Post-war reconstruction met significant inequality and hardship. The democratization of BiH left the old cultural forms of ethnic and gendered oppression while adopting new discriminations and hierarchical divisions associated with capitalism and patriarchy. Modern alliances between Bosnian women of all identities and status’ lead to national reform and empowerment of women with the backing of CEDAW and other legislation. When Bosnian women worked together, they gained political power to promote their voice and cause. With more time, women in NGO space will succeed in advocating for social and political change to empower women and end sexualized violence.

## **Conclusion**

International treaties effectively create incremental change in ending global sexualized violence. CEDAW influences national reform to empower women and change the norms that fuel sexualized violence. Over time, gradual development will lead to greater respect for individual autonomy. Examining the successfulness of CEDAW and the state-

building efforts of BiH, support this finding. CEDAW is not universally effective alone at ending global sexualized violence. In some nations, with ratification, CEDAW is influential by pressuring national legislative and institutional reforms. In other countries, CEDAW has little or no effect on national changes. However, CEDAW is most effective in supporting local activism against gendered and sexualized injustices. The evolution of Bosnia and Herzegovina demonstrates the possibility of success for political and social change. As a non-western nation, this diverse country has difficulties implementing democratizing changes while preserving their culture. The country will continue to evolve and strive for better standards and norms over time. BiH has empowered women through the law, granting equal rights in compliance with CEDAW. However, this has not taken immediate effect. Women continue to struggle to find employment, have opportunities for health care, and more. Women can run for elected office and participate equally in the political sphere; however, there has not been a wave of women candidates. The culture and norms of the past are still in existence, but through women's groups and NGOs, Bosnian women created a new sphere to voice themselves. With legislation to back them, these women can put pressure on their national government to make the appropriate political changes. It may require significant time to see and experience the full effects of this, but this successful empowerment is powerful and consequential to equality, slowly ending gendered and sexualized violence.

International treaties influence necessary incremental social and political change by addressing and condemning sexualized violence. CEDAW continues to empower women globally to change norms that fuel sexualized violence. With continued ratification from more nations, CEDAW will continue to address the world and promote standards of behavior necessary for protecting individual autonomy. As social change follows legislative measures, sexualized violence will dissipate over significant time. Sexualized violence is a deep threat



to universal personal autonomy, and any incremental change is substantial and meaningful to individual lives.

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