

# HUMANITY IN CRISES

THE LEGAL FRAMEWORK FOR  
WAR AND DISPLACEMENT



**Editors**

Dr. Huma Khan  
Dr. Kavya Chandel

# Humanity in Crises: The Legal Framework of War and Displacement

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# CHAPTER 7

## War, Gender, and Sexuality: Legal Frameworks Protecting Gender Minority

Dr Uzma

### Abstract

*Not only does war cause devastation, but it also highlights societal injustices. Women and LGBTQI people, who frequently face increased risks like sexual violence, discrimination, and exclusion, are among those most impacted. The response of international law to these realities is examined in this chapter, which charts the evolution of legal safeguards for those whose identities render them particularly vulnerable in times of conflict. Progress has been made from the early silence surrounding gender-based violence to the historic decisions and resolutions that now classify rape and other abuses as war crimes. However, a lot of legal systems continue to use limited, binary conceptions of gender, which means LGBTQI people particularly transgender and non-binary people do not have enough protection.*

### Introduction

Armed conflict has long been a site of profound human suffering and a space where societal inequalities are both exposed and exacerbated. Among the most vulnerable populations during war are women and LGBTQI (Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, and Intersex) individuals<sup>2</sup>. These groups face unique risks, including sexual violence, discrimination, forced displacement, and denial of essential rights. Legal frameworks have gradually evolved to address these challenges, aiming to provide protection, justice, and recognition to marginalized identities affected by conflict.<sup>3</sup>

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<sup>1</sup> Assistant Professor, Integral University Lucknow.

This chapter explores the intersection of war, gender, and sexuality within the realm of international law and human rights. It analyzes the development, implementation, and limitations of legal instruments designed to protect women and LGBTQI individuals during armed conflict. By tracing historical precedents and contemporary legal standards, this chapter reveals how international law both reflects and shapes societal understandings of gender and sexuality in conflict zones.<sup>4</sup>

## Historical Context: Gender, Sexuality, and Armed Conflict

### • Women in War: Traditional Roles and Vulnerabilities

Historically, women have been affected by war predominantly as non-combatants. Their roles have often been relegated to caregiving, maintaining households, and supporting war efforts indirectly.<sup>5</sup> However, these traditional roles have obscured the significant ways in which war has subjected women to targeted violence, including rape and forced prostitution as weapons of war.<sup>6</sup>

For centuries, sexual violence in war was tacitly accepted or ignored. The use of rape as a tactic to terrorize, displace, or ethnically cleanse populations has been documented from antiquity to modern times.<sup>7</sup> Yet, until recent decades, international legal systems did not explicitly criminalize such acts or recognize their gendered nature.<sup>8</sup>

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<sup>4</sup> Engle, K. (2019). The grip of international law on gender and war. *Harvard International Law Journal*, 60(1), 101–145. And True, J. (2016). *The political economy of violence against women*. Oxford University Press.

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<sup>6</sup> Hirsch, M. (2012). Sexual violence and war: Women's roles. *Signs*, 38(3), 683–708.

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And Wood, E. J. (2006). Variation in sexual violence during war. *Politics & Society*, 34(3), 307–342. And Skjelsbæk, I. (2010). Sexual violence and war. *International Feminist Journal of Politics*, 12(2), 159–175.

<sup>8</sup> Moghadam, V. M. (2016). LGBTQI rights in conflict zones. *International Journal of Human Rights*, 20(6), 865–884 & Gopinath, S. (2018). War, violence, and LGBTQI invisibility. *Human Rights Quarterly*, 40(4), 735–760.