The Politics of Counting and Reporting Conflict-Related Sexual and Gender-Based Violence: The Case of Myanmar

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Abstract

Scholars, states and international organizations have begun to systematically count, document and compare sexual and gender-based violence (SGBV) in conflict-affected countries. Qualitative and quantitative studies point to a “tip of the iceberg” phenomenon, where there is a high prevalence but low level of actual reporting of SGBV. We investigate the conditions in which SGBV is reported or, more significantly, is not reported to discover the trends of reporting in politically oppressive environments where SGBV is thought to be occurring. We ask how the power to report in local conflict-affected areas is affected by national political tensions and pervasive gender discrimination. Reporting of SGBV in Myanmar, a country that has experienced multiple, protracted conflicts since independence, is examined. Analysis of open-access reports over a fifteen-year period reveals a pattern of silence that we argue is rooted in pervasive discriminatory civil and physical practices against women. Engaging with the deeply politicized and gender discriminatory context of conflict-affected societies, enables us to see the anomalies of SGBV data and to highlight significant gaps in our knowledge about SGBV.

KEYWORDS

Conflict-related sexual and gender-based violence, ethnic conflict, human rights reporting, feminist methodology, Myanmar

Introduction

Sexual and gender-based violence (SGBV) remain largely “silent and hidden” crimes in conflict-affected settings. Over the past two decades since the introduction of the 1998 Rome Statute on SGBV and UN Security Council women, peace and security resolutions, scholars and activists have sought to identify patterns of SGBV in multiple settings. Important work has been done in this field. For example, Cohen and Nordås (2014) have quantified and coded SGBV reports over a 20-year period (1989-2009) to explain SGBV patterns in civil war.¹ Women Under Siege has created an online, accessible qualitative database of testimonials from women and men who have experienced SGBV across historical and present day conflicts (Women’s Media Center 2016). The adoption of UNSCR Resolution 1960 (2010) has led to the UN Office of the Special Representative on Sexual Violence providing annual reports to the Security Council on situations of sexual violence in conflict-related situations (Ban 2012, 2-3). Taken together these and other efforts push beyond the reporting silence to understand the relationship between sexual violence and conflict (Buvinic et al. 2013, 120). However, our knowledge and research on SGBV is greatly constrained by the “tip of the iceberg” phenomenon (Palermo et al. 2014), where a high prevalence but low level of actual reporting of SGBV is the norm in so many contexts. Silence and shame are precisely the intention of SGBV and its perpetrators, with devastating and powerful effect in communities (Korac 1998; Schopper 2015). Even in crisis situations where humanitarian access is unrestricted, documentation of SGBV may still be insubstantial in terms of the actual extent of the violence (Bain 2014).

Feminist methodology and research sensitizes us to “the importance of learning about the silences and absences in familiar institutions or about marginalised or excluded people’s experiences” (Ackerly, Stern and True 2006, 14). Sjoberg (2015, 441) argues that sexual violence sends a gendered message and is directed towards women (and some men) who are victimized both individually and collectively as markers of group feminization. This requires us to think seriously about gender, women, men and violence, and to think seriously about what consequences gender and reporting silence has for identifying SGBV. When silence is the objective, how do we make sense of the reporting that does exist and the conditions that facilitate the reporting of SGBV? To answer this question we explore the case of Myanmar, which has been widely reported as a situation of concern for SGBV and is currently undergoing a dramatic transformation toward democracy and peace.

Studies on patterns of human rights violations during conflict argue that a particular reporting narrative often emerges that is shaped by warring parties (Fujii 2010). The problem with these narratives is the silent security dilemma that arises for populations who are not safe to speak (Hansen 2000, 287). The consequence of their silence takes multiple forms in the case of sexual violence. One particular reporting narrative has been applied to sites of “epidemic” sexual violence such as Liberia, Sierra Leone and Democratic Republic of Congo (DRC), where sexual violence in conflict has been described as acts of savagery in a lawless environment – irrational acts by irrational human beings (Baaz and Stern 2013, 25). Yet analysis of the sexual violence in these conflicts has been found to be quite “rational,” involving the precise targeting of particular populations by particular individuals and groups, often informed by specific gender norms and political context (i.e. Cohen and Hoover Green 2012; Marks 2013). Then there is the “non-event” narrative in situations such as Northern Ireland and Philippines, where patterns of sexual violence may be present but not reported as conflict-related (Swaine 2015, 774; Davies, True and Tanyag 2016, 465). Internally displaced women, in particular, are extremely vulnerable to this perception because of their political exclusion and physical dislocation (Swiss and Jennings 2006, 2-3; Vu et al. 2014). If these attacks cannot be coded as “conflict-related” sexual violence due to these acts taking place in the “private” sphere of the tent, or because humanitarian workers fear for the safety of those willing to report for other – often political – reasons (Roth et al. 2011), then there will be no apparent record of sexual violence in that situation (True 2012, 127). Finally, in some countries and amongst particular political and ethnic groups, the exposure of SGBV takes on “immense strategic and symbolic value” (Clark 2014, 461; see also Wood 2006). The narrative created may lead to the “over-visibility” of some SGBV crimes that are politically acceptable or attributable to perpetrators outside of the group (Leiby 2009, 465-466). That story may preserve the silence concerning other forms of SGBV taking place within the group. In these neglected situations, victims of SGBV become more marginalized and more silenced (Alzate 2008; Davies, True and Tanyag 2016). Equally, in situations where SGBV is given international attention, cases of localized gender-based violence can be subsumed, even overlooked, if they do not conform to the dominant narrative.

The Myanmar conflict has been widely acknowledged as a situation where SGBV has taken place. However, nearly all of the reports have attributed sexual violence to one group – the Myanmar armed forces (hereafter referred to as “Tatmadaw”). Yet, given the risk profile of this context, do reports of military actors committing rape against ethnic

minority women represent the mere “tip” of knowledge about the pervasive forms of SGBV committed in this country? More broadly, what are the political conditions that affect reporting of SGBV in Myanmar and what silences exist within the narrative(s)? Myanmar has been the site of sustained civil war, political instability, natural disaster, poverty and underdevelopment for several decades. The civil war has produced difficult-to-access areas (non-government controlled zones) that remain sites of intense civil conflicts and discrimination. International presence is not permitted at these sites, and there is extreme political sensitivity to any foreign intervention. Myanmar is also a country with high levels of gender inequality and gender discrimination. In such a deeply patriarchal society the female leadership of Aung San Suu Kyi, leader of National League for Democracy Party (NLD), has been the “exception rather than the rule” (Transnational Institute 2016, 11). Thus, reporting conflict-related sexual violence in Myanmar has been described as “breaking the silence” against the country’s patriarchy (Women’s League of Burma 2002; GEN 2015). Our analysis of Myanmar permits an in-depth analysis of the political conditions that influence SGBV reporting and how a particular reporting narrative emerges that may not reflect the complexity or the scale of SGBV.

The article has three parts. First, we provide background to the fragile setting of Myanmar by documenting the significant political, institutional, conflict-related and gender-based constraints to report sexual violence. Second, we explain how our approach to analyzing conflict-related SGBV interrogates the reported data for its patterns as well as its absences and gaps. The methodology purposively contextualizes SGBV data within conflict dynamics, political struggle and local understandings of gender relations, as well as examining how they affect the opportunity to report. Third, with this methodology we analyze reports in Myanmar over a fifteen-year timeframe. Because we are interested in the relationship between the reporting narrative and the local gendered context, we combine two methods – trend analysis of SGBV reporting and qualitative interview research. Our mixed method approach aims to illustrate the politics of counting and reporting SGBV, most visible through the lens of a particular, located case study, and to contribute to scholarly debate about the most appropriate methodology for SGBV reporting in any range of conflict situations.

Who Counts? Mapping SGBV in Myanmar

Conflict has affected Myanmar since its independence from Britain in 1948. The Karen ethnic group and the Communist Party of Burma were amongst the first non-state

armed groups to revolt against the central government, followed by the Arakanese, the Kachin, the Karenni and the Mon, among others (South 2008, 44). The government imposed martial law in an attempt to end the uprisings. In 1962, the military took power in a coup (junta) and decades of civil conflict followed. Myanmar has experienced one of the most protracted civil conflicts in Asia. The majority of the conflict has taken place in areas populated by minority ethnic groups, but brutal crackdowns on protestors and political opponents has occurred in urban areas where there is more ethnic diversity (as recent as 2007). The economy suffered and international sanctions intensified after the military brutally suppressed protestors in 1988, and then again in 1990 after the military refused to acknowledge the results of a parliamentary election.

Myanmar has been regularly reported to the UN for nearly two decades for state-sponsored human rights violations, protracted displacement and use of child soldiers by the Tatmadaw and non-state armed groups (UNGA 2006). The annual UN Secretary-General reports on conflict-related sexual violence have cited Myanmar since 2012. The reports refer to sexual crimes being committed almost exclusively by the state armed forces against ethnic minority civilian populations, mostly women and girls, in low- to medium-intensity civil conflicts throughout the country (Ban 2012, 12-13; 2016, 18). Reports of violence have continued in a country undergoing immense political reform with three elections in five years, a transition to democracy and a negotiated peace process involving eighteen non-state political and military parties.²

The Uppsala Conflict Data Program puts the total battle-related deaths in Myanmar from 1989 and 2015 at 16,238. There are also large displaced populations on the borders of Thailand, China and Bangladesh. In addition, approximately half a million people remain displaced inside Myanmar due to conflict (UNHCR 2015). Indiscriminate attacks, imprisonment and unlawful killing of civilians have been documented by numerous organizations (International Human Rights Clinic 2014, 14-15). Since 1995 there has been an intensified effort by the Tatmadaw to “double” their forces to end the civil conflict (Selth 2009, 11). This led to heightened eviction, relocation, displacement and atrocities, with attacks in villages in Karen, Mon, Shan and Kayin states as well as Arakan. In 2007, protests in Yangon again took place against the military junta followed by further brutal suppression (UNGA 2007). Then in May 2008 the worst natural disaster the country had seen, Cyclone Nargis, devastated the country: 84,000 were confirmed dead and 53,000 remain missing. Over 2 million people were displaced in a country of 53 million (IFRC 2011).

Weeks after the disaster, the junta reluctantly permitted humanitarian actors to access the devastated areas (Haacke 2009, 274). At the same time, the State Peace and Development Council continued with its 2008 constitutional reform. These reforms led to the November 2010 parliamentary elections and the introduction of regional assemblies in addition to the 650-seat federal parliament (ICG 2011). In 2012, by-elections were held in a number of seats and the opposition NLD party led by Aung San Suu Kyi won the majority of those seats – and paving the way for the November 2015 election, where the NLD won the majority of federal parliament seats (Brunnstrom and Schectman 2015).³ The longest-running civil war(s) may be coming to an end with the signature of eight ethnic and political armed groups to the National Ceasefire Agreement in October 2015 and the Panglong Conference in August 2016, the first event where all but one of eighteen ethnic and political armed groups met with the state to discuss a national ceasefire and move towards a federal governance arrangement (Htut 2016).

Myanmar therefore is in a rapid state of transformation. However, despite the regime change the UN Special Rapporteur on human rights in Myanmar continues to highlight ongoing egregious human rights abuses, including forced displacement, imprisonment and torture, forced recruitment of children by both the military and non-state armed forces, and widespread sexual violence in conflict areas (see Lee 2016).⁴ Impunity extends to all forms of SGBV, whether perpetrated by military or non-military perpetrators in the recent ceasefire agreement.⁵

At present, only one crime of sexual violence – rape – exists under the Myanmar Penal Code. Rape is defined as a crime by a man who “has sexual intercourse with a woman under circumstances falling under any of the five following descriptions” (*Myanmar Penal Code* 1861, art. 376).⁶ The five circumstances are rape against her will, without her consent, with her consent but through fear of death or “hurt,” with her consent “when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married,” and finally “with or without her consent, when she is under fourteen years.” Rape is defined as penetration “sufficient” to constitute sexual intercourse. Non-consensual sexual intercourse “by a man” with his own wife, providing she is 13 years of age or older, is not rape.

Pursuing a rape conviction under one of the circumstances above is an ordeal in Myanmar (see Aung 2016). There are few government services and little policing protection or legal redress for sexual violence (see Faxon, Furlong, and Phyu 2015). Health clinics and hospitals are not permitted to treat a rape victim without permission granted by the local police (GEN 2013, 7-8). In practice, this means that a rape survivor cannot receive medical treatment until they report first to the police. The police have a reputation for deferring rape victims back to family members or the local Myanmar Women Affairs Federation (MWAF – a military wives association with representatives across the thirteen provinces) to reach an agreement between the two families – of the rape victim and perpetrator – to “settle the dispute” (interview at Myanmar Human Rights Centre, Yangon, August 19, 2015). Even if a rape victim wishes to pursue prosecution, there are immense legal obstacles to the investigation and prosecution of rape cases. Police are known to falsify evidence and coerce victims and witnesses; the Courts permit testimony of the rape victim’s previous sexual history to be used against them, admissibility of evidence is at the Court’s discretion and the alleged perpetrator can easily buy an acquittal (GEN 2013, 9; Cheeseman 2015, 148, 185).

In a country where rape of a civilian by another civilian is greeted with such a culture of impunity, it is not difficult to see the difficulties that marginalized women and men (due to ethnicity, religion, politics or displacement) face in reporting SGBV in conflict areas. Ethnic and religious marginalization has been further exacerbated in Myanmar by new laws that legalize ethnic divisions and authorize state control over women’s bodies. These laws permit regional authorities to enforce control on birth spacing and require women seek the permission of regional authorities to marry non-Buddhist men (directed in particular against Muslim and Rohingya populations). Minority women’s ethnic, religious or political affiliations are exacerbated by their subordinate gender status (Win 2015). They are more vulnerable than men to poverty (26 percent of the total population live in abject poverty) and more likely than men to be displaced due to conflicts and ongoing natural disasters (UNDP 2015). Female parliamentary representation is low – just over 13 percent since November 2015 parliamentary elections (was 4% in the previous parliament) (AGIPP 2015, 16). There is even lower representation in state and regional assemblies (where 70 percent of the population live in rural areas) (Minoletti 2015, 9).

As a further indication of the context for gender inequalities and discrimination in Myanmar, the OECD’s (2014) Social Institutions and Gender Index (SIGI) provides a

composite score of a country's position across five sub-indices: Restricted Physical Integrity, Discriminatory Family Code, Son Bias, Restricted Civil Liberties and Restricted Resources & Entitlements. The SIGI range spans from "Very Low" (discrimination) to "Very High." Myanmar's SIGI score is "High," placing it between Lebanon and Ghana. However, in common with our findings about situations where sexual violence is widespread and systematic (Davies and True 2015), Myanmar's score under particular sub-indices illustrates the daily violence and discrimination experienced by women. Under the sub-index Restricted Civil Liberties, Myanmar's score is "Very High" – above Mali and Liberia and just under Nigeria (OECD 2014). The civil liberties that are restricted by law and practice include women's access to public space, freedom to gather and assemble, and freedom to marry and engage in traditional, customary or religious practices that do not discriminate against women. Women also experience constraints on their movement and choice of residence in conformity with traditional, government or religious practices. As discussed there is very low political representation of women and no legislative, party or electoral quotas to promote their political participation. On Restricted Physical Integrity, as shown in table 1 below, Myanmar also scored "High," which places it in same spectrum as Nigeria, Guinea-Bissau, Central African Republic and Afghanistan. This sub-index refers to the types of violence and restrictions placed on women's bodies. In practice it means violence against women (VAW) is pervasive in Myanmar society, compounded by the fact that there are few legal frameworks in place to protect women or provide follow-up services after experiencing gender-based violence, and little baseline knowledge on the extent of violence experienced by women in that society (OECD 2014).

*** Table 1***

The political, legal, institutional and cultural context of Myanmar reveals a situation where SGBV takes place with widespread and systematic impunity. SGBV is severely under-reported inside and outside of conflict situations. Moreover, attempts to report and document these crimes face immense social, legal and economic obstacles. Currently, there is no incentive to end state-sanctioned immunity for SGBV crimes in ongoing peace agreements and reluctance in some quarters to adopt legislation to prevent VAW. In such an unequal and discriminatory context it is crucial to study the available reports on SGBV to establish where SGBV is reported and where it is not. The purpose is to reveal patterns of reporting and non-reporting, areas of silence and gaps in

our knowledge of SGBV, both to prioritize further investigation and to highlight the limitations of existing quantitative analysis of SGBV based on limited reports.

Interrogating Silence – A Mixed Methods Approach

In a conflict-affected context where gender discrimination is so high that it restricts women's civil liberties, who has the political power to report SGBV and how does that power inform collective knowledge of the problem? Existing research highlights how, with rare exceptions (Lake 2014), survivors are generally not willing to share or officially report their SGBV experiences (Buss 2014). This reticence is heightened in situations of ongoing political violence where women's bodies are frequently the sites of struggle over the social, cultural and biological reproduction of groups (Schott 2011). Previous research also reveals how difficult it is to achieve protection for SGBV survivors in conflict situations. The risk of (unintended) harm is often greater than the perceived benefit of reporting from the perspective of both survivors and humanitarian agencies on the ground (OCHA 2015; Schopper 2015). In Myanmar we were told of this struggle between the need to report ongoing sexual violence versus the harm that reporting could bring to different environments: "Reports like that [a military rape in a village that gained international attention] actually increased the insecurity for survivors on the ground... When we see reports like that come we see a drop in survivors reporting" (interview with INGO official, Yangon, August 17, 2015).

This incident clearly demonstrates that not every institution adopts the same methodology to determine which reports are documented, which locations are relevant for reporting and which cases should be reported as "widespread and systematic" SGBV (Swaine 2015).⁷ The political dynamics of the conflict and gender relations in the displacement camp, the military compound, the village or the capital city determine which actors have access, trust and safety to report SGBV (see O'Gorman 2013; Clark 2014). As a result, different methodologies and competing priorities within organizations can lead to multiple and contradictory reports for the same situation (Cohen and Hoover Green 2012, 451).⁸

Our mixed method approach looks for patterns as well as gaps and absences in reporting by analyzing SGBV reports along several dimensions: the year of reporting over a fifteen-year period since 1998, the type of SGBV reported, the perpetrator reported, the individual survivor and group targeted, the site of the violence and the timing of the report (lagged or in the same year). We consider these patterns in relation

to major contextual dimensions such as the conflict phase and toll of battle-deaths, key crisis events and levels of gender inequality, international humanitarian actors and media attention. The fieldwork interview data further grounds the analysis of SGBV reporting trends and patterns in Myanmar.⁹

To facilitate the longitudinal analysis of SGBV reports in Myanmar we created a database to code all reports of “sexual violence” and “gender-based violence” by year since 1998 (coinciding with the adoption of the 1998 Rome Statute). We used three sources to document reports of SGBV occurring in the territory of Myanmar: one new aggregator site (Factiva), one UN document reference site (Universal Human Rights Index) and one combined news aggregator/UN reference site (UNHCR RefWorld).¹⁰ Each of these searches produced, on average, 1000-2000 reports from media, governments, non-governmental organizations (NGOs) and international non-governmental organizations (INGOs). Each report was then individually coded against the variables set out in table 2. This dataset coded nearly 400 reports of SGBV in Myanmar from 1998 to 2015. The collection of reports provided for triangulation and corroboration of the reporting data to reveal patterns of who routinely reports SGBV, who is routinely reported on and who is routinely reported as the target of the violence.

*** Table 2***

We relied on the international definition of SGBV (see notes 7 and 8), which enables actors to document and report SGBV as crimes of international concern. This made particular sense for Myanmar given that the little domestic legislation available to guide reports on sexual crimes has led to local reliance on international definitions to call for investigations and legal reform (Faxon, Furlong, and Phyu 2015, 468). Coders were provided with a detailed ICC definition of SGBV, including the elements of crimes, and recorded a report when at least one listed SGBV crime was mentioned and/or the term “sexual violence” and/or “gender-based violence” were used in the relevant report. Reports on domestic violence and/or violence against women were coded separately. We followed the guidance of the Office of the ICC Prosecutor (2014, 22) and the Office of the High Commissioner for Human Rights (OHCHR 2014) on the sources of information that may be taken into account and designated as official (government and international organization reports) versus unofficial (media and civil society/non-government organization reports) when building a profile of reports of SGBV.

In contrast to other studies (Cohen and Nordås 2014; Cohen 2013) the database does not record the intensity or scale of SGBV. Rather, the database compiles information on SGBV reported, where and when it takes place, and in what context. We also coded the report's processes for perpetrator identification (see table 2). As expected, graph 1 shows greater precision in the reporting of SGBV over the years, particularly after Cyclone Nargis in 2008 and Myanmar's constitutional reform in 2011. These significant events created more opportunity for INGOs and NGOs to access Myanmar to document violence in recent years compared to earlier years when the counts of violence were actually higher (i.e. 2007 – see graph 2).

*** Graph 1***

*** Graph 2***

Analysing Patterns of SGBV Reporting and Non-Reporting

Our findings from the analysis of SGBV reports in Myanmar between 1998 and 2015 are fivefold and reflect the context of reporting as the qualitative interview data illustrates.

First, it appears that Myanmar's significant abrogation of women's civil liberties and physical integrity affects reporting on the full range of SGBV. Despite knowledge of the presence of GBV in Myanmar (see Ban 2015, 13; Ma and Kusakabe 2015, 344, 353), there are few reports of GBV in the country compared to reports of sexual violence (particularly in conflict situations). There were 373 reports of sexual violence, most of which were coded because they discussed "rape" in conflict; there were 24 reports on gender-based violence (where the attack was described as the individual being targeted for violence due to their gender). Sexual violence is recognized as an act of political violence, while GBV is not. The lack of local engagement with GBV could be explained by entrenched discrimination in regions such as Rakhine state where, as one of our informants told us, there is an "extreme lack of civil society voice and no voice for women" such that people "do not consider intimate partner violence wrong in any way, so women just won't report it" (interview with INGO official, Yangon, August 17, 2015). Another talked about "hearing all these things [rape and sexual violence] happening" in the area, but there is a reluctance to report on "friends and partners" (interview with local civil society worker in north and northeast Myanmar, Yangon, August 19, 2015).

Second, in the cases where sexual violence was reported as expected, the reports of perpetrators and particularly armed perpetrators were documented (overwhelmingly) as military. This was despite evidence of non-state actor groups (NSAGs) engaging in other forms of restrictions and violence against women such as trafficking and abductions. The majority of reports (320) referred to “armed perpetrators” carrying out the attacks in uniform and/or armed, compared to reports of similar violence by civilians (52), with 18 reports failing to mention (or deciding not to mention) who the perpetrator(s) were. Of the 320 reports on “armed perpetrators,” 319 identified the perpetrator as wearing a Myanmar military or police uniform. There was one report solely on NSAGs carrying out sexual violence, and 26 reports that documented sexual crimes being committed by both NSAGs and Myanmar armed forces. As this shows, few reports discussed sexual violence by non-state armed militias, despite the prevalence of SGBV across all the provinces and ethnic groups in Myanmar (see, for example, GEN 2015) and its pervasiveness in displacement camps and non-government controlled zones (Ban 2015, 12-13).

However, we learnt in our field research that some reporting organizations do not record the perpetrator information because getting supporting services in place is the priority. Humanitarian and civil society workers discussed with us how they have had to balance the need to report incidences of targeted violence against certain populations against the possibility of being denied access to assist those populations if they report. Informants told us there are cases of rape being committed by NSAGs. One informant stated, “it’s clear both sides are engaging in sexual violence to certain degrees... it definitely happens across the board” (interview with INGO official, Yangon, August 17, 2015). Another interviewee referred to the “purpose” of NSAGs using sexual violence:

The conflicts are now mostly in the refugee camps and also in the very remote areas. The [sexual] violence cannot only be by the Tatmadaw but also with their own people... Even in one ethnic minority-populated area [removed for civil society worker’s safety] – they found that [rape is occurring] but they don’t mention it widely... For the Tatmadaw you can see very clearly. They use it as a weapon. But for me I now see that [it is] all the armed people, not only the Tatmadaw. Although they [armed group] say it is not used as a weapon they did this [too]... rape issues are everywhere. (interview with local civil society worker in north and northeast Myanmar, Yangon, August 19, 2015)

Third, there was a tendency to attribute the cause of rape to ethnicity. In the longitudinal data nearly all acts are reported as committed by the Tatmadaw, and these reports tend to correlate with the source of the reporting (i.e. particular ethnic groups would report rapes by the military as “ethnic cleansing” directed at their women and girls). Overwhelmingly the reports identify the victim by their ethnicity (292 reports), secondly by their religion (80), and then a long way down from this are reports that mention sexual violence being targeted because of political opposition (9) and finally over economic resources (i.e. land acquisition) (3). One of our interviewees explained this with respect to Kachin state where the Kachin Independence Army (KIA) is fighting government forces: “As far as the women’s groups are concerned, the Tatmadaw are the key perpetrators and that’s our focus for advocacy” (interview with INGO official, Yangon, August 17, 2015). One interviewee noted:

there’s not a lot of buy-in for reporting things... there’s a reluctance to report around anyone who’s in a position of authority because it’s a very small space.... To speak openly about anyone in a position of power committing a crime and committing an act of SGBV is a big risk. It does happen but it’s probably way under-reported. There’s no freedom of movement. You cannot really escape. (interview with humanitarian worker in Sittwe, Yangon, August 17, 2015)

Fourth, we observed that “unofficial” reports, testimonies and incidences collected from civil society and media were the primary sources of reporting. Compared with the 108 reports between 1998 and 2015 authored by the UN or states (i.e. US State Department reports), 162 reports came from local civil society and INGOs, and a further 106 reports came from local and international media bureaus (these were primary reports, not summaries of above report[s]). Similar to the focus on the rape of ethnic women by “Burmese” (the dominant ethnicity of Myanmar Armed Forces) Tatmadaw soldiers, reporting appears to be associated with a political purpose. This is starkly illustrated in Rakhine where one interviewee noted that there remains extreme underreporting on acts of SGBV that target Rohingya women. She argues: “That extreme lack of [local] civil society voice and no voice for [Rohingya] women... illustrates there’s really nowhere else in the country for... a population of a million” (interview with INGO official in Sittwe, Yangon, August 17, 2015). The same interviewee then notes the reporting silence is also lived by those with strong civil society association – their silence is maintained because of the political relationship with the armed group:

We haven’t had access into the non-government [controlled areas – NGCA].... They [local humanitarian workers] will tell us that it’s [rape by NSAGs]

happening but we're not going to report it. We don't want to increase the level of insecurity around this particular survivor. (interview with humanitarian worker Sittwe, Yangon, August 17, 2015)

Another interviewee notes in her attempt to access non-government controlled areas:

The worst part about it for these women in the NGCAs is that they then don't have a civil society group to advocate on their behalf. They cannot go to a civil society group like the KWA [Kachin Women's Association] and say, "I have been raped by the KIA and I would like this dealt with in a legal way." They will not do it. They will not do it because they know that they – as far as the women's groups are concerned, the Tatmadaw are the key perpetrators. (interview with INGO official in Sittwe, Yangon, August 17, 2015)

None of the above denies the fact that in addition to these instances of unreported violence, equally legitimate grievances concerning sexual violence committed by the Tatmadaw have rarely been investigated due to the Myanmar government's insistence on impunity for crimes committed by military forces (Thomson 2015). A political culture of restricted civil liberties and limited physical integrity for women and girls has produced few independent institutions that can address and investigate SGBV by any actor (see Faxon, Furlong and Phyu 2015; Patrick 2015). As our informants in the field told us, women don't feel safe or supported accessing general state run health services. Moreover, "only preapproved medical providers can provide... investigative health services, essentially" (interview with INGO official, Yangon, August 17, 2015). Despite a new law on emergency treatment of patients, which the Deputy Minister of Health announced applied to GBV survivors, local administrative orders are in place in Myanmar townships that require "first incident reporting." This means the survivor has to file a police report and name the perpetrator before they can receive medical assistance from the township medical officer. "Ninety-nine per cent of survivors don't want to do that" (interview with INGO official, Yangon, August 17, 2015). Another interviewee noted that even if they:

[r]ecord violations by the Border Guard Police and others operating exclusively in Northern Rakhine State, for example, the ability of anyone to follow up on those issues, whether it's local or national actors is very nil... So there's not an interlocutor even to follow up with if that happens and that would be – in terms of state actors, there are a range of state security actors who would be responsible in those areas,

and not necessarily the Tatmadaw, but no possibility for recourse to justice.

(interview with INGO Official in Sittwe, Yangon, August 17, 2015)

Our fifth and final finding is that despite the reports' focus on ethnic groups as being linked to sexual violence, there were very few reports of SGBV being committed within or near displaced population camps. Common sites of violence reported were in the village (119 reports), military compounds (39), home (25) and prison (21). There were ten reports that specifically mentioned refugee camps as sites where SGBV occurred, followed by six reports documenting SGBV being perpetrated on the roadside (referring to populations being displaced), four occurring during (state) border crossings and no reports of SGBV occurring in NSAG territory. Given the concern that displaced populations are particularly vulnerable targets for widespread and systemic SGBV, which is especially the case in Myanmar (Ban 2015, 14), this suggests that the full extent of SGBV may be underreported in locations where access is restricted.

Relying on existing reports of SGBV to identify the further risk of this violence unintentionally perpetuates reporting silences, masks reporting bias and ignores the culture of impunity for sexual violence. We saw all these problems with the counting and reporting of SGBV in evidence in Myanmar.

Reporting silences

If SGBV is used to politically repress already oppressed populations, the value of such violence is in producing silences about where it occurs and who is targeted. The "effectiveness" of SGBV is that a population is not "apparently" harmed – there are no mass graves or mass imprisonment. The torture is silent and effective because it is deployed in situations where deep-seated gender norms produce particular narratives of acceptable violence and of how women and girls, men and boys, should appropriately behave in the private and public spheres. These are the conditions that will produce SGBV. In an environment such as Myanmar where official reporting of GBV and VAW is already restricted or minimal due to poor domestic practices and constraints on international organizations, the risk of such violence remains high for potential victims, communities and those doing the reporting.

Reporting bias

The exception to silence is when the violated "purity" of women and girls is publically reported with the intent of effecting political agitation between rival groups (Clark

2014, 468). Here the effect of gender norms is not only to ignite violence but also to produce bias in the documentation of SGBV. This leads to the second concern – that reporting SGBV has political power in the political-ethnic struggle in Myanmar because of women’s paradoxically subordinate but central position within these ethnic groups (see Korac 1998). For example, the state regulation of marriage, birth and birth-spacing targets women’s roles as biological reproducers for the state’s project, which privileges the dominant Burmese ethnicity. Amongst ethnic groups, women as mothers, carers and providers are used to symbolically and materially support the armed struggle (see Hedström 2016). Such gendered representations of women within minority ethnic groups are matched by state-level restrictive and discriminatory policies (Macgregor 2015). The political and ethnic divisions fuel the notion that women’s bodies are legitimate sites of political violence, which explains why some reports of sexual violence are more prevalent than others.

Impunity

Finally, it is important to address the relationship between the risk of SGBV and genuine grievance against the state. We found few reports of NSAGs committing SGBV crimes, but occasional reports existed and we confirmed this in our fieldwork in Myanmar where reporting constraints and silences were raised in interviews. For example, we quoted only two informants above who knew of cases of NSAGs committing rape but could not report them. Other research corroborates this qualitative field evidence (see Hedström 2015; 2016; Ma and Kusakabe 2015). The concern amongst civil society organizations within the ethnic minority communities is that the state’s failure to address sexual violence committed by Tatmadaw also permits NSAGs to get away with this violence. Such reports are risky for individuals located in these communities and will have minimum reward under the current immunity conditions for both military and NSAGs (Macgregor 2015).

In Myanmar, the military perpetrating SGBV is, ironically, the “acceptable story” (though it still carries immense risk for those who experience and report these crimes). The story of who is raping or violating whom, however, is more complicated than the reporting narrative suggests. Given the political sensitivities, there remain few pathways to facilitate these reports without harming the safety of civilians. In this environment, immunity for past and present crimes of conflict-related sexual violence by Tatmadaw and NSAGs deepens structural inequalities in the transitional post-conflict state, perpetuating silence, grievance and inequality.

Conclusion

Recent efforts to document and analyze SGBV in situations of conflict and political violence are only now beginning to make visible its scale, extent and egregious forms due to historical impunity. Critical feminist attention to the potential uses, abuses and neglect of SGBV within existing reports, however, is essential where gender discrimination and impunity are pervasive. Understanding the local context of tense, conflict-affected situations, for instance, reveals that SGBV reporting will most likely continue to be scarce. Reports will be silenced or remain difficult to produce where populations have little power. At the same time, where reports are made, they may become part of the power play of conflict. Thus, our knowledge of *where* widespread and systematic SGBV is occurring and *who* is most affected requires careful consideration. It requires us to reflect on the patterns of non-reporting, as well as official and unofficial reporting, when we analyze and interpret SGBV reports, which may be as much about political struggle as incidents.

The Myanmar case highlights the challenges in overcoming context-specific silence, bias and impunity. Multiple armed struggles and pervasive gender discrimination in that country over several decades have compounded those challenges. SGBV has both fueled and been exacerbated by political violence between the state and NSAGs. This violence has disproportionately affected minority women, whose subordinate gender status within and across groups deliberately targets their bodies as markers of ethnic, religious and/or political affiliation, and effectively constrains the few possibilities for reporting SGBV. While macro-longitudinal analysis of conflict-related SGBV increasingly points to state military forces as the primary perpetrators, this may reflect the *conditions around reporting* rather than *actual prevalence*. In Myanmar, for instance, state and military impunity for SGBV has produced few official reports of this violence compared to unofficial reports. These unofficial reports are practically the sole sources of knowledge. International access therefore becomes vital to both validate and communicate the importance of local verified reports.

Our methodological approach addresses the shortcomings of relying upon SGBV reports alone by combining context-specific knowledge with analysis of longitudinal trends in SGBV reporting set against key events and attributes of the violence. Making visible the significant barriers affecting the recognition and reporting of SGBV, we explain how and why conflict-related SGBV continues in fragile environments. Our findings about the

local politics of SGBV knowledge have implications for how we document and count SGBV at the international level. They also reveal the power of reporting in creating particular impressions about whether conflict-related SGBV is present or not. Reports can facilitate the documentation and prosecution of SGBV but all reports on human rights violations remain normative documents. In the case of SGBV there will remain serious political and gender-sensitive constraints on reporting. Accordingly, the analysis of SGBV reports must be supplemented with other forms of contextual gender analysis. It is essential to identify country-specific restrictive and discriminatory civil and physical practices against women and girls, especially amongst internally displaced populations, to capture the likelihood of reporting silences. In political transitions, women and girls' marginalized, unequal status can place them at high risk of sexual violence from all groups and there may be no safe space for reporting. Myanmar, like many other conflict-affected countries, patently illustrates how the systemic failure to address SGBV creates a culture of impunity for both state and non-state actors that harms the prospect of an equitable and inclusive peace process.

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Acknowledgments

We would like to acknowledge the research assistance of Elliot Dolan-Evans and Jenny Hedström. We thank the European International Studies Association for hearing an earlier version of this paper and providing generous feedback. Research for this paper was funded under Australian Research Council Discovery Award (DP140101129).

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¹ The database draws from three sources: Amnesty International, Human Rights Watch and the US State Department.

² This agreement was signed between Myanmar government and eight militias; there remain at least another eight parties who have not signed the agreement.

³ The arms embargo remains in place.

⁴ See the full chronology of UN Security Council discussions on Myanmar at <http://www.securitycouncilreport.org/chronology/myanmar.php>

⁵ The National Ceasefire Agreement (October 2015) does state all parties should "avoid any form of sexual attack on women, including sexual molestation, sexual assault or violence, rape and sex slavery" (*Myanmar Times* 2015).

⁶ The first bill to outlaw VAW in the public and private sphere was presented to parliament in 2015 but not enacted (UNFPA 2015).

⁷ The 1998 Rome Statute defines *sexual and gender-based crimes* to include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and other forms of sexual violence. Gender-based crimes may also fall under the Court's jurisdiction if they constitute acts of genocide or other acts of crimes against humanity or war crimes (Office of the ICC Prosecutor 2014, 5).

⁸ The Security Council is primarily concerned with cases that meet the 1998 Rome Statute definition, but the UN Secretary-General may raise cases, whether in conflict or not, that meet the emphasis on "widespread and systematic."

⁹ All fieldwork interviews referenced in this article were conducted by the authors, on condition of anonymity for all participants, and took place in Myanmar in August 2015.

¹⁰ See <https://global.factiva.com/factiva/login/login.asp?productname=global>; <http://uhri.ohchr.org/en>; <http://www.refworld.org/>