

The American University in Cairo

**The Gendering of Vulnerability and Protection Needs:
Iraqi male refugees**

A Thesis Submitted to

Centre for Migration and Refugee Studies

in partial fulfillment of the requirements for

the degree of Master of Arts/Science

by Karin Fernandez
800060588

(under the supervision of Dr. Philippe Fargues)

December/ 2008

American University in Cairo

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Has been approved by

Dr.

Thesis Committee Chair/ Adviser _____

Affiliation _____

Dr.

Thesis Committee Reader / examiner _____

Affiliation _____

Dr.

Thesis Committee Reader / examiner _____

Affiliation _____

Department Chair/
Program Director

Date

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Date

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Acknowledgements

I would like to thank all those who took the time out of their busy schedules to allow for my research and interviews to take place. I am extremely grateful - Chaplin Duku, Immigration Settlement Services, staff at Immigration and Refugee Board of Canada Toronto and Vancouver; in particular John Adams, Eidy Sadri at Vancouver Centre for Survivors of Torture, Matt Eisenbrant at the Canadian Centre for International Justice, Ahmad Fahim, IOM Ottawa, Gloria Nafziger; Grace Wu and Nancy Cameron at Amnesty International Toronto, Mulugeta Abai, Canadian Centre for Victims of Torture, Lesley Stalker, UNHCR Vancouver, Erlinda Lintag, The Red Cross Vancouver, Dr. Ray Jureidini without whom none of this would have been possible, the lovely Mia Gauthier who has put her heart and soul into the resettlement of Iraqi refugees, Jules Tindungan for your testimony and strength to leave and resist war, Shahdin Farsai for sharing your home and patience with me while I was in Ottawa conducting interviews and Hussein Wehbe, who never allowed me get away with self pity.

For Hassanien, Abdullah, and Fasial who gave me the privilege of sharing their friendship and experiences. And for Qasim, who did not make it.

Abstract

Refugees pass through various stages from preflight, flight to post flight. It is argued that refugees as a whole - regardless of gender, race or ethnicity - should be considered vulnerable due to their actual or fear of persecution, but this is not always the case. This thesis looks at the ways in which the interpretation of “vulnerability” in the principles and practice of humanitarian aid in the refugee regime is affecting male Iraqi refugees seeking protection, resettlement and rehabilitation.

As part of the evidence for this argument, the thesis examines gender differentials in the death rates and levels of violence affecting both Iraqi males and females in Iraq, the willingness of countries to take male Iraqi refugees and the level of protection these countries are willing to grant. Also under examination are the social services for rehabilitation, restitution and legal justice of male survivors of violence and sexual torture. It is argued that, because these experiences are minimized in male cases, further harm is brought to those survivors.

The purpose of the thesis is to show the ways in which the restricted interpretation of vulnerability is applied transitionally through each of the stages of pre-flight, flight and post flight. In particular, attention is drawn to the low levels of protection given to Iraqi male refugees and the ramifications for both them and their families. It is argued that gendered concepts of vulnerability have become so ingrained into the social consciousness

that humanitarian work, medical services, international law and academic scholars have continued to reproduce a gendered discourse that has become detrimental to a particular category of refugee, namely males.

INTRODUCTION

Over the course of eight months from October 2007 to May 2008 I interned with the International Organization for Migration in its regional office in Cairo as an in-processing assistant with the Overseas Processing Entity. During my time at IOM, I received and vetted The United Nations High Commissioner for Refugees (UNHCR) case files for third country resettlement.¹ UNHCR case files came from Jordan, Syria and Egypt.² I vetted approximately 4000 cases of refugee claimants from Palestine, Somalia, Ethiopia and Sudan, but the large majority came from Iraq. The cases contained the individual's and their families' testimony of persecution and their reasons for a well-founded fear.³ The testimonies of persecution contained the inherent ramifications of warfare. Iraqis suffered daily bombings, torture, rape, murders and kidnappings of family members, detention, and abuse both at the hands of other Iraqis and foreigners.

In the process of vetting the Iraqi cases, I noticed significant gender issues. I began to conclude that males were being directly targeted in various ways and constituted a large

¹ Due to the legal and moral respect for the privacy all the refugee claimants I have read and processed, I cannot divulge any of their names, the names of their persecutors, or direct quotes from any cases. When I address cases of torture it can only be general and references to testimonies will only be from those that are publicly available. Direct statistics from my work at the IOM cannot be provided for this research paper as it is confidential and the property of the International Organization for Migration, Geneva.

² All refugees should register themselves with UNHCR soon after they arrive to a country of asylum; UNHCR, under the Statute of the Office of the United Nations High Commissioner for Refugees, is mandated to provide protection, under the auspices of the United Nations, to all refugees who fall within the scope of the present statute (see Goodwin-Gill 1998, p. 385).

³ A refugee is someone "who, owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (in Goodwin-Gill 1998, p. 394).

majority of the casualties.⁴ Testimonies in the UNHCR case files from Iraqi males also included severe forms of physical, psychological and sexual torture. In many UNHCR cases from female Iraqi claimants, the testimonies of persecution were based on one or more males in their family being persecuted such as their husband, father, brother, son, uncle, brother-in-law or nephew being tortured, kidnapped, threaten, disappeared, or killed.⁵ Moreover, several young Iraqi males claiming protection and asylum were also traveling unaccompanied and left Iraq because their lives were directly threatened.

So what made these males so vulnerable to attacks and why is their vulnerability during the stages of preflight, flight and post flight not being recognized? The biggest obstacle in considering males as vulnerable is bringing cases of violations against males to the forefront in public acknowledgment, not just in passing. The evidence shows that males are clearly equally as vulnerable during times of conflict as are women and young children. Despite this evidence, however, it is not being taken seriously, so that health care providers, immigration officials, police, governments, law makers, communities and families understand the ramifications of not considering males as vulnerable persons in need of protection.

Chapter One looks at the need for analyses of war through the use of a gender sensitive perspective and research methodology. This allows the researcher to be cognitive of the

⁴ It is important to note that many cases I vetted were female claimants who had been raped, some gang raped, tortured, beaten or threatened. Many of these women were attacked when the males in their family or household were missing, killed or kidnapped.

⁵ “Kidnapped” is when the claimant has either witnessed the person being taken, or someone they know has witnessed the person being taken, or has received a phone call from the kidnappers demanding a ransom. “Disappeared” is when the claimant’s family member went to work and never came back; or crossed into a

gender gaps in the way war is reported and the ways in which human rights violations are conceptualized through a gendered lens. I describe the research agenda for this thesis and explain in detail the role I played during my employment with IOM. Chapter Two analyses how the concept of “vulnerability” has emerged under international humanitarian law and how it is rarely applied to non-combatant males. Chapter Three provides examples of how males during war have been directly targeted for round-ups, torture, and mass execution, showing that males are in fact the largest civilian causality rates in warfare. This chapter also looks at how non-combatant male casualties remain underreported and under recognized. Chapter Four examines the case study of Iraq, showing how, under the current US-led invasion of Iraq, Iraqi males have been directly targeted for torture, mass executions, round ups, sexualized and psychological torture, making them the largest civilian causality rates in Iraq. Chapter Five examines the types of torture that has been used on Iraqi males and the motivations behind it. It also explores the importance for understanding the severity of physical and psychological trauma that the survivors of torture and sexualized torture undergo. Chapter Six is a critique of the international and Canadian legal instruments that currently exist that suggest a need to put into place further legislation to end the culture of impunity of wartime rape of males by removing the barriers to justice facing the victims and recognizing the grievous nature of the crimes. Chapter Seven draws on the experiences of Iraqi refugees seeking protection, asylum and resettlement by looking at Canada’s reaction to taking Iraqi refugees.

neighbouring country for protection or for work and has not been seen or heard from; is a POW from the Iran-Iraq war; or the claimant has been told the family member has been killed, but has yet to find the body.

Chapter 1

METHODOLOGY

I. Methodology for a Gender-Sensitive Perspective

This research, through a gender-sensitive perspective, aims to provide a more inclusive and in-depth look at how war is analyzed. Callamard points out that “gender influences every aspect of social, political, and personal life, power structures and relations: men and women are not equal partners and they are affected differently by social convention, human rights policies and violations”.⁶ However, when Callamard refers to gender, she does not look at the differential treatment between males and women in an international human rights perspective, but rather equates gender with “women” and thus only considers the treatment of women. When identifying the research, action, objectives and work-plan, or when organizing a mission, Callamard suggests that the researcher should ask, “Where are the women?”⁷ In this case study, however, I am asking, “Where are the men?” The question serves as the empirical focus in the layout of the research. A gender-sensitive perspective on human rights entails being cognizant of the gender bias in international human rights law, such as, how the law is defined, how the legal instruments are being mapped out and who it serves to protect. Callamard points out that a gender-sensitive perspective would acknowledge efforts and moves towards a gender-sensitive conception of international human rights law by pointing out legal instruments that are inclusive of

⁶ Callamard, Agnes (1999, p.19) *A Methodology for Gender-Sensitive Research*.

⁷ *ibid*

gender.⁸

Further, gender sensitive “research should entail an examination of the significance of gender on several elements pertaining to the broader analysis of human rights violations.”⁹

Consistent with Callamard’s suggestions, this thesis includes an examination of the significance of gender on the following: the circumstances under which the violations occur - the nature of the harm inflicted on the victim; the consequences (medical, social, economic, personal) of the violations; the nature of and accessibility to remedies; and the causes of the violations. The gender focus here, however will be more specifically on refugee males in relation to their exclusion from categories of vulnerability in humanitarian aid.

II. Refugee Service Providers

A qualitative method was used for this research through participant observation as well as the conducting of interviews with staff at UNHCR in Vancouver and Toronto, the Canadian Centre for survivors of torture, the Canadian Centre for International Justice, Amnesty International Canada, a psychologist with refugee serving clinics in Vancouver, resettlement workers with Immigration Services Society of Canada, immigration and refugee lawyers. I was also admitted as an observer in three Iraqi refugee hearings at the Immigration and Refugee Board of Canada refugee hearings in Toronto.

⁸ Callamard looks at several different legal instruments such as the 1952 Convention on the Political Rights of Women; 1981 Convention on the Elimination of All Forms of Discrimination against Women; and the 1949 Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (Callamard, 1999, p. 12-15).

In addition, I spoke with Canadian social services providers such as the Canadian Centre for Survivors of Torture, the Vancouver Association for Survivors of Violence and Torture (VAST), as well as independent medical doctors that provide services to survivors, refugee resettlement service providers in Canada (the Resettlement coordinator for Iraqi refugees at the Immigration Service Society), UNHCR Canada and the Canadian Red Cross (Humanitarian Issues Program) coordinator of the detention monitoring program and first contact program. Importantly, Canadian law does not permit physicians and nurses to make their studies on refugee cases public. Studies that are conducted are for internal use only. Health services for refugees that are completely government funded and conducted in a federal or provincial health centre, such as the BC Children's hospital are under Canadian privacy laws. Nonetheless, accessing the physicians and nurses was done independently, by reaching the physicians out of their private offices or clinics where they had the option to participate in this study, independent from the Fraser Coastal Health Services of British Columbia. This allowed them to voice their own individual opinions, without them being affiliated with or representative of the federal or provincial government of Canada.

I compared the information on refugee cases from interviews with refugee welfare providers with my personal experiences at the IOM. In this sense, the research method does not solely reflect a mainstream human rights organizational approach, nor any governmental position. Callamard reminds researchers to be cognizant of the gaps:

It should be kept in mind that when selecting certain research methods you are consciously or unconsciously assimilating related assumptions about the nature of the social world and the principles of social enquiry. The research methods used have implications for the way in which human rights violations are conceptualized and reported. To be comprehensive, research on human rights violations must be

⁹ Ibid, p 21.

pro-active and seek information from the most marginalized sectors of a given society.¹⁰

Thus, in order for this particular research to be complete, the research methods need to be inclusive of those who are most “vulnerable” as well as those who are being left out of the discourse. If not, the research will only be reflexive of one party to a conflict and not all sides. As is argued in this thesis, there has been a narrow, one-sided conception of gender in the discourse of human rights violations that have resulted in greater sympathy for females and less for males. For example, if violations of women and children are perceived by governments, international agencies and humanitarian organizations as the only civilian casualties in war (such as in the way they are being reported) then the discourse of human rights violations will only see women and children as the “real” victims of war. Thus, only women and children can be classified as “vulnerable”, not only in the discourse on refugees and human rights, but also in the practices of assisting the survivors of human rights violations..

III. Iraqi Refugees

A qualitative method was planned for this research, including participant observation as well as in-depth, semi-structured interviews with selected Iraqi refugees in Canada. The purpose of conducting interviews was to record the narratives of Iraqi male refugees in terms of their experiences during preflight, flight and post flight. I was concerned to identify their fears and apprehensions, what they had endured, the difficulties in seeking asylum, finding protection, resettlement and services and how these experiences had affected their lives, their identities and their relationships. However, this proved

¹⁰ ibid p. 20.

unsuccessful. Due to the large geographical size of Canada, I had to rely on areas where there was a large Iraqi population concentration that were accessible. Reaching this population was not straightforward, relying on posting notices in the mosques, accessing refugee claimants at the Immigration Refugee Board in Vancouver, Toronto, and Montreal and attending community centers where Iraqi immigrants might frequent.

There are only a small number of recent Iraqi refugees in Vancouver. Since 2003, Canada has resettled approximately 900 Iraqis, plus 293 Iraqis who arrived independently at borders of Canada or an airport and claimed asylum.¹¹ The Iraqi population in Canada, as a whole, stands at 29, 950. Sixty five per cent of these have settled in Quebec and British Columbia.¹²

I tried using a snowball method for finding willing participants (namely male Iraqi refugees between the ages of 18-35) to discuss their experiences and gather their testimonies. Unfortunately, I was unable to attract Iraqi participants in this way. I approached a number of mosques in Vancouver, Toronto and Ottawa to place notices for willing participants, but the Imams were uncomfortable and would not approve my soliciting Iraqi refugees for research, particularly males. Despite the fact that neither I nor

¹¹ Canadian Council for Refugees (October, 2008) "Iraqi Refugee Crisis: Call for Increased Canadian Response"; House of Commons 39th Parliamentary 2nd session Standing Committee on Citizenship and Immigration (Wednesday, April 30, 2008) CIMM (39-2) Edited Evidence Number 038 (Official Version); Immigration Services Society of British Columbia (April 10, 2008) "Government-Assisted Refugee (GAR) Bulletin-April 2008 states between January 1, 2008 –March 31, 2008 British Columbia received 6 individuals Iraqi refugees from the Government assisted sponsorship."

¹² Statistics Canada (2007) Total population of Iraqi Canadians is estimated at 29, 950. Regions of significant population are B.C., Quebec, Ontario, Alberta; Religion: Predominantly Muslim (both Sunni and Shi'a) and Christian; Immigration came during the political and economic upheavals in Iraq worsened, such as the Iran-Iraq war and Gulf war; between 1975 and 1992 6,472 Iraqis arrived in Canada. 65 percent of these settled in Quebec and British Columbia. There was an equal ration of males to females.

the notices directly indicated the nature of the study, the Imams still viewed my solicitation of Iraqi refugees with great suspicion. In addition, members of the Arab community who I was referred to by friends and colleagues also expressed reluctance to support my search for Iraqi refugees to interview. Ahmad Fahim at the IOM office in Ottawa warned me that it would be nearly impossible to find willing Iraqi male participants for the research because the nature of my inquiry was considered taboo. Mulugeta Abei, executive director at the Canadian Centre for Victims of Torture, echoed Fahim's sentiments, saying that none of the Iraqi clients at the CCVT would be willing to talk to me, for the same reasons.

It was not surprising that I receive this negative response as it is a very taboo subject in any culture. It was made clear that it was not just refugees that I would have difficulties in getting to participate, but also refugee service providers, because to acknowledge that events such as male rape were occurring required that something had to be done about it. This made refugee service providers very uncomfortable. It seemed that they preferred to look the other way. Despite that, however, I did manage to interview representatives of a number of refugee service providers.

Under Canadian national law, I was required to ask permission from the ethics department at the University of British Columbia to access the medical doctors and nurses, at a facility that provides services to refugees under the British Columbia Fraser Health Services.

Although it would also have proven effective to find Iraqi refugees in this manner, I felt that it was not in the best interest of this study because some refugees might have felt obliged to participate because they have been given a service by the Fraser Health Services.

Upon my solicitation of physicians to participate in this research only one responded to my request. Dr. Soma Ganesan was instrumental in lobbying for the centers to provide health services to refugees that have faced trauma and torture. However, I was unsuccessful in getting Dr. Ganesan to sit down for an interview due to his busy schedule. He was only able to respond through e-mail correspondence, that “yes, sexual torture of males is quite common but is overwhelmingly viewed as a taboo topic which fails to be properly researched, or research at all.”

I was, however, fortunate to be able to interview Jules Tindungan, a former paratrooper with the US Army who was station in Afghanistan for 15 months from late 2006 to 2007. At the time of the interview he was in Vancouver seeking asylum as a deserter from the US army. He was seeking asylum in Canada to prevent the US army from sending him back to Afghanistan. I felt it was appropriate to interview a soldier who had recently returned from a current or ongoing war to help explain the role males and females play in the conflict. I found this interview to be influential for the thesis context, including my questions on boys’ vulnerability in Afghanistan, male rape, and the role of women in combat.

Since I could not get Iraqi refugee male participants, I have relied on the testimonies in the UNHCR case files I had access to during October 2007 to May 2008, while working for the International Organization for Migration (IOM) in Cairo, Egypt. The UNHCR case files are very informative in providing information such as the demographics of the individuals, their family history and background, the nature of their persecution and the need for asylum. What follows is an explanation of the institutional administration involved, the

processing of the files and my role in “vetting” the cases.

IOM-Cairo is divided into two sectors. One sector is the Overseas Processing Entity (OPE) which mainly focuses on resettlement and repatriation of refugees and migrants. OPE Cairo serves to assist refugees from the Middle East and North Africa (MENA). The regional OPE is based in Egypt and covers Egypt, Jordan, Lebanon, the Palestinian Territories, Syria, Bahrain, Saudi Arabia, Oman, Qatar as well as Libya, Morocco, Algeria and Tunisia. The Cairo OPE staff complete pre-screening of new applications, create cases, interview applicants and prepare US resettlement cases for Department of Homeland Security (DHS). They assist with DHS support-scheduling and logistics and out-processing of medical examinations, assurances, security clearances, travel packets, and cultural orientation in support of resettlement activities. IOM Cairo also deploys OPE staff on travel duty throughout the region in support of pre-screening refugee cases and Department of Homeland Security activities. In this, the IOM in Cairo is contracted by the US State Department Bureau of Population, Refugee and Migration (PRM). The primary goal of the IOM Cairo office is dealing with refugees for the purpose of resettlement.

Upon access, refugees’ cases are vetted, confirmed as received and entered into the US refugee data base, WRAPPS. Refugees are called in for the pre-screening process - an interview to obtain more details with a case worker. During this time, refugees provide their testimony of persecution and their reasons for a well founded fear. Following this, a DHS officer interviews the applicant. If the applicant is found to have a well founded fear of persecution, they are approved for resettlement, after which a medical and security

check (including finger printing and military background check) are completed. This process is known as Out-Processing.

The main role of the United Nations High Commissioner for Refugees (UNHCR) in Cairo is to: 1) provide protection to recognized refugees and asylum seekers; and 2) to find, with the help of the host government, permanent solutions for refugees, known as durable solutions. Originally the UNHCR was set up as a protection agency but recently the agency has moved towards aid assistance through capacity building with local non-governmental agencies to help meet the basic needs of refugees. First and foremost, UNHCR must decide who qualifies as a refugee and why. Recognized refugees in Egypt, those considered to hold well founded fear by UNHCR, are given a blue card to indicate their status as refugees. It is then up to UNHCR Egypt to find one of the three durable solutions for the refugee: 1. Repatriation; 2. Local Integration; or 3. Resettlement.

Refugees considered for *resettlement* are given a case referral (generally 12-15 pages) stating the claim is based on a well founded fear of persecution. The case referrals are then sent in electronic format or hard copy to the HUB in Beirut for background checks and then sent to the IOM Overseas Processing Entity (OPE) for processing.

On the other hand, *local integration* is the more difficult durable solution to carry out in Egypt. It is solely up to the government of the host country to set the rules for local integration rights of refugees based on their signing and ratification of the 1951 convention. In the UNHCR mandate it states that it must: “request states to “co-operate” with UNHCR

with matters related to the implementation of the convention, laws and regulations...”¹³

Generally, refugees are barred from attending public schools in Egypt and have great difficulties obtaining work permits, residential visas and medical care. For refugees to maximize the benefits of local integration into the host society, they must first be able to work to afford the cost of their basic needs.

Finally, *repatriation* is the only durable solution refugees hold the right to. UNHCR will “assist” with the repatriation process for refugees who are willing to return to their home country. In these cases, refugees must approach the UNHCR offices and declare the withdrawal of their case. UNHCR staff members will withdraw the case for the refugee and their family and notify the resettlement agencies such as the IOM regional staff, US embassy and US State Department (RPM), if they are being considered for resettlement. Refugees who want to be considered for repatriation through the IOM are asked to sign a waiver from further consideration and they are then accompanied to the airport.

UNHCR’s office collaborates with the Egyptian government to ensure a dialogue is carried out in order to prevent deportation and unlawful detention of refugees and stop deportation (*non-refoulment*), particularly if the refugee will most likely face an imminent threat to his or her life on return.¹⁴ UNHCR offices in Cairo also provide identity cards to refugees

¹³ www.unhcr.org UNHCR website

¹⁴ Although Egypt has signed and ratified the 1951 convention and the Organization for African Union to recognize prima facie refugees, *refoulment* has been known to occur. Refugees facing deportation, particularly to Iraq from Jordan and Syria are classified by UNHCR as “urgent case/ priority case” to be processed faster. Stopping deportation has not always been successful, even with UNHCR working with the governments to prevent *refoulment*. This is problematic, particularly with Iraqi cases as young children are included on the passports of the parents. In one case, the principal applicant’s wife was declared for deportation back to Iraq. Her two young children that were included on her passport were also deported simply because they were on the passport of their mother, even though the children were not considered for deportation. A week after they were deported by the Jordanian authorities, gunmen entered their home in Iraq

(blue card holders) and asylum seekers (yellow card holders) to allow the Egyptian government and police officials to verify that the refugee is in need of protection and shall not be harmed.

I received UNHCR referrals for resettlement from UNHCR Syria, UNHCR Jordan and UNHCR Egypt. They all came from the UNHCR Hub in Beirut and were allocated to me for vetting. I confirmed the receipt of the cases back to UNHCR offices, IOM and the US State Department in batches, due the large size of the referrals. I confirmed the family size by counting the number of profiles and photographs. The files included details of the medical examinations and those marked “urgent priority”.

The confirmation was an important procedure as it helped to eliminate the duplication of copies (which often led to cases being held up, pending review), ensure urgent cases were dealt with appropriately and all family members accounted for. If the UNHCR referral stated the family size as 5 members but there were only 4 photos and profiles, I was required to contact UNHCR to determine whether there was a mistake in the family size or whether a family member had been killed, kidnapped or died from natural causes. With cases marked urgent due to medical reasons, UNHCR submits a medical assessment form which I would review to ensure all names match up and the information is clear. I would then confirm the document with UNHCR.

The American refugee family determination criterion specifies the applicant’s nuclear family is the applicant + spouse + any of their children under 21. Children over 21 or under

and killed all three. Based on cases such as this, IOM normally corresponds with the US authorities to have

21 and married and no longer dependent are split from the case into separate cases of their own under a “hard cross reference”, meaning the family will be interviewed together and travel together, but will be living in different homes upon arrival into the US. Exceptions are made for children over 21 with severe disabilities¹⁵ who cannot care for themselves, or a dependent elderly parent who has high medical needs.¹⁶ The laws and regulations must be followed as best as possible, or the case may be denied by the Department of Homeland Security based on “poor family composition”. Finally, after having vetted and confirmed the referrals for the week, I passed them to my colleagues for data entry and filing.

Each UNHCR referral contained the following information that I was required to check (vet):

1. A brief description of the family unit, in relation to the principle applicant, date of birth, place of birth, religion, ethnicity, sex, age, citizenship, address and telephone number. This included family still in Iraq and else where.
2. The military position held during conscription of the former regime.
3. Whether the applicant or family members were Baathist supporters and their roles.
4. The reason for the applicant’s well founded fear – that is, reasons that led to flight.
5. Reason for fear of return.
6. A description by UNHCR for the reasons behind their chosen category based on the resettlement criteria; for example, persecution as a member of a particular social group, religion or gender.
7. Reasons why the other two durable solutions could not be met – i.e. local integration and repatriation (all UNHCR cases received were requests for resettlement as the only durable solution).
8. Special needs the applicant and family members may have.
9. Reason why the case is consider to be either “urgent” or “normal”.

them move the case faster, before the applicant is deported.

¹⁵ UNHCR sends the refugee to undergo a medical assessment. Their doctors will determine the disability and the severity and thus the urgency of the medical attention needed.

¹⁶ I made other exceptions on a case by case basis. In one case, the woman (wife) was a survivor of sexual and gender based violence - gang rape. The case information revealed that the woman had not been eating, had severe depression, would cry uncontrollably and could not care for herself. She was also the mother of two young children who required her constant attention. Her husband was feeling the effects of her trauma on the marriage and on the care of the young children. The case also had a mother-in-law attached in the family composition. I felt it was best to keep the mother-in-law attached in order to help with the children as the

Between October 2007 and May 2008, I vetted in the vicinity of 4,000 of these UNHCR cases submitted to the IOM in Cairo. Due to the confidential nature of these case files, I am unable to provide direct quotes from any of the cases, nor divulge any names or anything that may breach that confidentiality. However, I am able to draw on a many general and specific insights from dealing so closely with so many cases and submit these as part of the evidence for the thesis.

IV. Why study male Iraqi refugees?

The biggest obstacle in considering males as vulnerable is bringing cases of violations against males to the forefront, not just in passing. This thesis does not aim to provide an argument for some kind of competition between male and female refugees in need. It only hopes to add to the discourse of vulnerable persons during war. Males are equally as vulnerable during times of conflict as women and young children. This needs to be taken seriously so that health care providers, immigration officials, police, governments, law makers, communities and families understand the ramifications of not considering males as vulnerable persons in need of protection. When I interviewed a counselor at a center for survivors of violence and torture, she mentioned that she herself was a refugee, single with two young children - a young daughter and a son. While she was seeking asylum in Europe, she had little funds and relied on the generosity of others to take care of her and her children. During this time, she was very vigilant in protecting her daughter from possible sexual abuse, but she overlooked the protection of her son in the same way. It was her son who was raped.

woman (wife) attempted to heal and overcome her trauma with family support. I could only recommend this

Males not only struggle with a lack of protection allotted to them but must subsequently deal with their particular shame and stigma associated with sexual torture and rape. A human rights lawyer, advocating on behalf of survivors of rape and sexual torture in the Former Yugoslavia, noted that often the way the community and society deals with survivors can be as bad and traumatic as the crime itself.¹⁷ Male survivors of rape are often thought to be gay, or to have become gay, because of the nature of the act against them. This in turn stigmatizes them further. Getting rid of this stigma of shame for male survivors can only be realized as we change unbalanced notions of vulnerability. This research aims to challenge the currently discriminatory gendered notions of vulnerability by highlighting the abuse of males during conflict and by specifically addressing the case of Iraqi males in the contemporary context of violations against them.

in the form of case comments for it was ultimately up to the DHS officer to make the final decision.

¹⁷ Documentary Film: *Rape: Crime of War*, National Film Board of Canada (1996).

Chapter 2

THE CONCEPT OF “VULNERABILITY”

As the concept of “vulnerability” is critical to the argument in this thesis, it is important to pose the question: “who is considered to be “vulnerable” in relation to refugees or asylum seekers in the field of humanitarian aid?” In addition, who is (and should be) considered vulnerable during war or conflict? Following from this, what would the impact on the refugee paradigm be if Iraqi males were classified as vulnerable?

I. The Meaning of Vulnerability

How is “vulnerability” defined? The New Merriam-Webster Dictionary (1989) defines “Vulnerable” as someone: 1) capable of being wounded: susceptible to wounds; 2) open to attack. In both the 1951 Convention Relating to the Status of Refugee and the 1967 Protocol relating to the Status of Refugee there is no direct reference – neither definition nor specific article - relating to “vulnerability”; indeed, nor gender. In the 1951 Convention, under Article 3, “Non-Discrimination”, a limited non-discriminatory provision that excludes gender states: “The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin”.¹⁸

Again, The Universal Declaration of Human Rights (1948) makes no reference to, nor provides a definition of “vulnerability”, although in Article 2 it is made clear that discrimination should not include gender (sex): “Everyone is entitled to all the rights and

freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.¹⁹

In the International Covenant on Civil and Political Rights (1976) the concept of vulnerability is not mentioned, but gender equality is noted in Article 3: “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set fourth in the present Covenant”.²⁰ Equally, in the 1987 Constitution of the International Organization for Migration, there is no direct reference in the legal instrument to define “urgent” or “vulnerable” refugees to prioritize.²¹

Having scrutinized these major legal instruments, we can conclude that, under international law, there is no direct reference for “vulnerability” for dealing with refugees, although there are provisions for non-discrimination based on gender. Therefore, the definition must come from another source.

II. Who is “vulnerable”?

UNHCR has its own system for determining “vulnerability” for case referrals for refugee

¹⁸ Goodwin-Gill, Guy. S, (1998, p. 395).

¹⁹ at <http://un.org/Overview/rights.html#a1>.

²⁰ at http://www.unhcr.ch/html/menu3/b/a_ccpr.htm

²¹ The 1987 Constitution states: “Purposes and Functions Article 1 (b) To concern itself with the organized transfer of refugees, displaced persons and other individuals in need of international migration services for whom arrangements may be made between the Organization and the States concerned, including those States undertaking to receive them; Article 1 (c) To Provide, at the request of and in agreement with the States concerned, migration services such as recruitment, selection, processing language training, orientation activities, medical examination, placement, activates facilitating reception and integration, advisory services on migration questions, and other assistance as is in accord with the aims of the organization” at <http://www.iom-iraq.net/iomConstitution.html>; see also Goodwin-Gill (1998, p. 420).

resettlement. Due to the high volume of Iraqi cases seeking protection and asylum through the UNHCR offices in Jordan, Egypt and Syria, the UNHCR uses a system to categorize urgency for cases that they feel should be dealt with immediately. If UNHCR officials, while conducting refugee status determinations, notice cases that should be considered urgent, they will flag them by placing “URGENT” or “Priority Case” on the top of the referral document and allocate one of the resettlement criteria for the file. The UNHCR resettlement criteria are as follows:

1. Woman at risk
2. Survivor of Violence and Torture
3. Legal and Physical protection needs
4. Lack of Integration Prospects
5. Elderly Refugee
6. Family Reunification
7. Medical Needs
8. Adolescents at Risk (unaccompanied minors)

“Urgent” tended to be placed on Iraqi cases where the individual was raped, detained at the time of processing, required urgent medical care, or was an unaccompanied minor.²²

The testimony of the refugee is considered to be the main determining factor for the urgency of the case beyond the resettlement criteria. In other words, regardless of gender, ethnicity or religion, a case should be treated without discrimination. For example, a case where rape is the reason for persecution and the individual is clearly showing signs of trauma they should be considered urgent regardless of the gender. However, in practice, it is assumed that rape and sexualized torture relates only to females, ignoring males. The

following examples are testimony to this form of discrimination.

Case example 1: Iraqi male ages 23, Single, Sunni Muslim, was kidnapped for six months. He was blindfolded and chained to the ceiling. He was subject to electric shocks to his genitals, stripped naked, beaten, and gang raped every day. In addition, his torturers injected him with hormone shots daily to change his gender. This is a particularly interesting case because the victim not only was being sexually violated on a daily basis, but his gender was being manipulated by the hormone injections. Despite this persecution, the UNHCR caseworker conducting the Refugee Status Determination did not think his case should have been designated as “urgent”.²³

Case example 2: Iraqi Male 22, Single, Sunni Muslim, was kidnapped and held for ransom. He was blindfolded and beaten. His kidnappers would threaten to kill him by pointing their guns at his head. He heard other victims screaming while being beaten. He witnessed another victim being shot and killed. He was forced to carrying out a sexualized act to his kidnappers in order not to be killed. The victim was too ashamed to give in-depth details about the sexualized torture he endured. Eventually, his family was able to secure his release. Once he was home, the kidnappers would call his home to taunt his family about the sexual acts he was forced to perform. Embarrassed and ashamed, he left his home and family to seek asylum in Jordan. At the time of his Refugee Status Determination he was suicidal and depressed. Again, the UNHCR case worker conducting his refugee status determination did not think his case should have been considered “urgent”.²⁴

Within the discourse of refugee studies, the term “vulnerable” is highly contentious.

Researchers in refugee studies have conflicting views on how the term should be applied

and to whom. In particular, there appears to be great debate in allocating the term

“vulnerable” to refugees as a whole. Some scholars argue against applying the term to refugees as it assumes that they are weak, defenseless - perhaps even pathetic.²⁵ Other

scholars follow a more feminist trajectory and advocate for the use of “vulnerable” to refer exclusively to female refugees, due to the argument that females are more susceptible to

²² This is based on UNHCR Iraqi cases referred to IOM, October 2007- May 2008.

²³ UNHCR Iraqi cases referred to IOM, October 2007- May 2008; care has been taken to preserve the anonymity of the individuals concerned.

²⁴ Ibid.

rape, trafficking, prostitution, abuse, hunger and disease.²⁶ Data shows that refugee children below the age of five have a higher mortality rate due to hunger and disease. Take the following quote, for example:

In a number of instances, attacks on civilians have become a strategy of war, with non-state actors involved in systematic humiliation and harassment, sexual violence, mutilation, extrajudicial executions, forced disappearances or torture. The level of violence specifically directed at women increases in such situations and they are victims of violence by non-state actors from within the family and immediate community, as well as from State and non-State actors engaged in armed operations. Women also constitute the majority of people displaced by conflict. Various militarized factions involved in conflict also specifically target women.²⁷

Also, medical perspectives in this literature advocate for the inclusion of children below the age of five to be considered as vulnerable, because they are completely dependent upon adults for food, housing, health care and protection and children are also recruited to become child soldiers or “wives” of soldiers.²⁸ Lastly, a new discourse in refugee research looks specifically at how males are indeed vulnerable in times of war and how their masculinity has affected their refugee experience.²⁹ All of these authors look at the refugee discourse by analyzing how males are falling into gaps of protection and how the

²⁵ See Harrell-Bond (1986).

²⁶ Bauer and Helie 2006, p. 63.

²⁷ Davies, A. (1996, p. 868) “Targeting the vulnerable in emergency situations: who is vulnerable?” *The Lancet*, Davies argues that in times of emergencies such as wars and natural disasters, increase the vulnerability of affected populations such as children below the ages of 5 and exposes these children to risk such as disease, violence and hunger.

²⁸ Wessells, Michael, (2006, p. 2), *Child Soldiers: From Violence to Protection*. Wessells points out that “worldwide, government armies, warlords, rebel groups, paramilitaries, and other militarized groups include an estimate three hundred thousand children. Many people and groups stand to benefit from exploiting children as soldiers. Most do not use children as a last resort or out of desperation ... More often the adults who start and guide war, or the local commanders who implement it, use children as soldiers because doing so is convenient and cheap. Children are nearly always available in abundance, and those who exploit children are often very clever and successful in hiding their actions from international view. This willingness to exploit children creates a profound need for child protection”.

²⁹ Jones, Adam, (2000) “Gendercide and Genocide”, *Journal of Genocide Research*; Jack El, Amani, (2003) *Bridge Development-Gender*, “Gender and Armed Conflict: Overview Report.” (accessed on September 22, 2008); Alison, Miranda, “Wartime sexual violence: Questions of Masculinity?” Paper Presented At the annual meeting of the International Studies Association, Hilton Hawaii Village, Honolulu Hawaii, (March 05, 2005);

specificities of masculinities within the male refugee population are only now being recognized.³⁰

On the other hand, there is no solid consensus by academics in how the term “vulnerable” should be applied and to whom. Yet, if one were to consolidate all the different perspectives, we would see that all refugees are vulnerable persons for reasons of persecution and/or a well-founded fear of persecution. Rather than casting off one group against another for the sake of protection, the discourse should be looking at the different views as adding to and strengthening the rights and protection of refugees generally. Equally, labeling refugees as vulnerable should not be viewed as a disservice to the individual. Refugees are very active agents. When given the opportunity they will let the inquirers know where and why their needs are not being met, regardless of gender.

III. Vulnerability during war

Since there is no solidified definition of “vulnerable” person in warfare, we should look to who is being protected by law. The Geneva Convention was the first to designate the term “protected persons” to people who would be vulnerable during war. “These are individuals that are accorded a range of ‘protections’ from the effects of hostilities. Individuals accorded such ‘protections’ are called ‘protected persons’ within the specified limits of protection given to them by international law”.³¹ The Geneva Convention consists of four treaties, which set the standard for the international rules of war known as International

³⁰ Rowe (2007)

³¹ Spieker (1999, p. 295)

Law for Humanitarian Concerns or International Humanitarian Law.³² These Conventions lay out the rules on how non-combatants and prisoners of war should be treated.

International humanitarian law seeks to limit the human suffering that is the inevitable consequence of war.³³ Countries must sign and ratify the convention for it to be legally binding.³⁴

The first Geneva Convention “*For the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*” was drafted in 1864 in Geneva, Switzerland; the second Geneva Convention in 1906 was concerned “*for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*”; the third 1929 Geneva Convention was drafted specifically “*relative to the Treatment of Prisoners of War*”; and finally the 1949 Fourth Geneva Convention was “*relative to the Protection of Civilians Persons in Time of War*”. At the drafting of the final Geneva Convention, all prior conventions were revised and expanded.³⁵ Once more, the objective and purpose of humanitarian law is to mitigate the human suffering caused by war. It aims to restrain the parties to conflict from ruthlessness and brutality and to provide protection for those most directly affected by war.³⁶

“Article 3.5 *Military objectives and protection of the civilian population*: (b) It is prohibited to launch attacks against the civilian populations as such; (c) That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as

³² http://en.wikipedia.org/wiki/Geneva_Conventions (accessed on December, 15 2008)

³³ See Byers (2005, p.15).

³⁴ Ratification/Accession Iraq 1956, United States of America 1955, Australia 1958, United Kingdom 1957. <http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=3758&ps=p>.

³⁵ Ibid.

³⁶ Kalshoven and Zegveld (2001, p. 11).

much as possible (2001, p.46).

Article 4.1 *Protected Persons*: The law of Geneva serves to provide protection for all those who, as a consequence of armed conflict, have fallen into the hands of the adversary. The protection envisaged is, hence, not protection against the violence of war itself, but against the arbitrary power which one party acquires in the course of an armed conflict over persons belonging to the other party (2001, p. 51).

Article 4.2 *Principle of protection*: The System of protection of the Geneva Conventions rest on the fundamental principle that protected persons must be respected and protected in all circumstances and must be treated humanely, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria” (2001, p. 53).”

The articles quoted above indicate clearly that the Geneva conventions require that protected person be humanely treated without any distinction based upon race, color, religion or faith, sex, birth or wealth, or any similar criteria. They may not be willfully killed, injured, or used for medical experiments. Captured and detained persons must be given food, clothing, shelter, and medical and spiritual care they require. No one may be deprived of the right to fair trial. Nor can they be tortured, coerced, used as human shields or face collective punishment.³⁷ Thus, any person, regardless of gender, who is subject to violations should be treated as victims in accordance with protection provisions under international law.

In addition to the Geneva Conventions are the three Protocols, including: Protocol I (1977) “*relating to the Protection of Victims of International Armed Conflict*”, Protocol II (1977) “*relating to the Protection of Victims of Non-International Armed Conflict*”, and Protocol III (2005) “*relating to the Adoption of an Additional Distinctive Emblem*”.³⁸ In the Protocols of 1977, article 4.3 *Humane Treatment* makes a distinction that persons of

³⁷ Spieker (1999, p. 295)

protection shall be safeguarded at any time and in any place whatsoever, from acts such as corporal punishment, acts of terrorism, outrages upon personal dignity, including rape, enforced prostitution and any form or indecent assault, slavery and the slave trade in all their forms, and pillage.³⁹ There is, however, a particular distinction made for children under article 4(3) and article 77 and 78 of Protocol I: “Children shall be provided with the care and aid they require. Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.”⁴⁰

Thus, the Geneva Conventions designates “Protected Persons” to individuals that are not directly involved in the conflict “non-combatants” or to those that are directly involved but are wounded, captured or have surrendered. Non-combatants are considered to be unarmed and thus with no means by which to protect themselves. This makes them vulnerable persons. One can only interpret the “Protected Person” category as designed to protect persons who *are* vulnerable during war. The label should therefore be given to individuals without discrimination to prevent violations upon personal dignity, including rape, enforced prostitution and any form of indecent assault, ensuring they will be treated humanely at all times.⁴¹

In essence, the UNHCR’s formula for processing refugees for resettlement is distinct in that it looks at individual claimants on a case-by-case basis and does not consider groups or broader categories when conceptualizing “vulnerability”. In this sense it is solely up to the

³⁸ http://en.wikipedia.org/wiki/Geneva_Conventions (accessed on December, 15 2008)

³⁹ Kalshoven and Zegveld (2001, p. 134-135).

⁴⁰ *ibid* p. 135.

⁴¹ *Ibid.* (2001, p. 135)

person conducting the Refugee Status Determination to be cognitive of their own possible bias when deciding who should be considered “urgent”. They cannot simplify the category of urgency based on who they *believed or assumed* to be vulnerable during war, but who is in reality vulnerable during war. They are required then to select “urgency” to a UNHCR case file and refer them for resettlement based on their reasons for persecution and/or a well-founded fear of persecution. The individual is not be marred by his or her gender. Therefore, if a UNHCR case referral, in which the individual clearly has suffered a gross amount of torture, including sexual torture, and is in great need of resettlement or treatment, the file would normally be considered “urgent”, regardless of the gender of the individual. However, as the earlier two examples indicate, it is quite likely that the refugee claimants, despite their traumas, failed to be given the status of “urgent” because they were males.

IV. The impact of treating Iraqi males as vulnerable

Asylum seekers depend upon international law in association with humanitarian aid organizations and compassionate governments to provide them with protection and to prevent *refoulement*.⁴² Given the nature of the US-led occupation of Iraq, the ongoing civil warfare and the release of images of Iraqi males being sexually tortured in Abu Ghraib prison, it would be difficult to deny that males were being directly targeted. Should they therefore be considered vulnerable persons in need of protection? The possibilities of changing the assumption that males are not vulnerable and thereby granting them the same protection, support and rehabilitation as women, needs specific analysis.

By not considering Iraqi males as vulnerable and thus in need of protection has meant further victimization because it fails to consider their specific experiences and requirements. Many Iraqi men have suffered some form of violence and torture. They have endured kidnappings, military conscription, deportation, imprisonment, humiliation and severe forms of torture, which includes pulling out of teeth with pliers, electrical shocks and mock executions.⁴³ Many have suffered severe forms of sexualized torture, including rape, forced mock sex acts, and enforced nudity.⁴⁴ Despite the instability and vulnerability males face in Iraq, there still is a gap in granting protection for them. Indeed, the opposite too often occurs. For example, fleeing Iraqi male refugees between the ages of 18-35 years have been singled out and placed under police surveillance at Queen Alia Airport in Amman, Jordan, and deported back to Iraq.⁴⁵ This is a direct violation of international law which stipulates that everyone has the right to seek and enjoy asylum⁴⁶ and, as has been argued, there are no conventions that directly defines a vulnerable group to prioritize for protection.

Males from war torn countries are often considered to be potentially bringing conflict with them and are therefore under suspicion if and when they apply for asylum. Thus, they are often denied their right to seek asylum. For example, males between the ages of 18-40

⁴² Only Egypt is a signatory to the 1951 Convention. Syria, Lebanon and Jordan are not signatories and therefore they are not legally obligated to provide the rights and protection to refugees under the convention. However, all states are not allowed to refoul persons seeking asylum.

⁴³ Human Rights Watch (2006, p 26-59); U.K. Home Office (2007, p. 68-145); Amnesty International (13 May 2005, p. 25-26); U.S. Department of State (2008, p. 1-27); Amnesty International Report (2007 p. 39-40)

⁴⁴ Ibid; see also *Ghost of Abu Ghraib* Film Documentary (2007)

⁴⁵ *The Christian Science Monitor* (2007); Amnesty International Publication (March 2008, p.10).

⁴⁶ Goodwin-Gill (1998)

years are considered to be of military age and thus could engage in warfare or acts of terrorism in the country of asylum or resettlement. The assumption that women and children make up the largest of civilian casualties in war and conflict presumes that the majority of male casualties are the result of their having been involved in military activities.⁴⁷ At the very least, males are perceived to be the cause of crime and insecurity. Similarly, Western Islamophobia has deterred countries from accepting Muslim refugees from the Middle East.⁴⁸ Fears of opening the immigration door to potential radical Muslims keeps Western doors shut or riddled in lengthy bureaucratic red tape for security measures. That Iraq is an enemy of the United States and many of its allies, also means that Iraqi males seeking asylum face a series of obstacles based on their gender as well as their nationality and religion.

The lucky few Iraqi males that have been resettled into another country, or are in a country of asylum awaiting resettlement, are faced with having to deal with their trauma in isolation and with very little of the necessary assistance.⁴⁹ For example, on June 24, 2003, there was a forty-eight hour violent stand off between riot police and two hundred residents at the Cala Park estate in Wrexham, North Wales.⁵⁰ Fearing for their safety, the Iraqi men

⁴⁷ Resolution 1325 of the UN Security Council states that women and children are the primary victims of war. However, the act does not provide a single citation to any form of objective evidence that can verify that claim (Bauer and Helie 2006, p. 63).

⁴⁸ Akram, (2000)

⁴⁹ Upon registration with UNHCR refugees must rely on social services from NGOs that service refugees such as Caritas International. Government services are not a right for refugees in Jordan, Syria and Lebanon. Iraqis are treated as guest in these countries and are given some access to services such as schools, but as a goodwill gesture, not as a right.

⁵⁰ BBC News 2 June 2003, http://news.bbc.co.uk/go/p/fr/-/2/hi/uk_news/wales/north_east/3015892.stm. Some of the refugees in the report made comments such as “When you go out, they see your black hair, they all hate you. All people nasty to you without any reason”, “I left my country because people they make trouble for me. I came to this country to save my life”, “I’d like to get friends but people don’t like me”, “People hate me. I don’t know why. We don’t like trouble, just go to work and come back home.” A secretary of the Wrexham and District Refugee and Asylum Seekers support group pointed out the importance for

fled their homes and asked the police to find them new accommodations. The residents were upset with having to host Iraqi refugees in their community. They were also uncomfortable with the gender of the Iraqi refugees living there. For example, the residents in Wrexham demanded to know why the majority of Iraqi refugees on the estate were young males. The refugees (Iraqi Kurds) complained that the treatment towards them by the local residents was discriminatory and cruel, deeply affecting their daily lives. Refugees complained that they were hurled racist remarks and harassed daily, making it difficult to integrate. The refugees felt that the Cala Park residents could not empathize with them, rather they related their presence with nuisance and danger. It was later revealed that many of the Iraqi Kurds had signs of torture on their bodies and that this observation had created the fear among local residents.⁵¹

By emphasizing the vulnerability of males during war one can hope to add to their protection. It is not to put them ahead of anyone else such as women or girls but rather not to leave them behind. As the Geneva Convention pointed out “Protected Persons” are the vulnerable people during war and therefore should be protected and afford rights and benefits without discrimination based on gender, ethnicity, nationality and religion.

safety and freedom of mobility for refugees, citing that they only know about Iraqi asylum seekers once they become convention refugees and have the freedom to go where they like. Equally, she pointed out that refugees do want to integrate into the community, but are frightened when they see a big mob.

⁵¹ Ibid.

Chapter 3

MALE VICTIMS OF WAR AND CONFLICT

I. Gendercide?

Traditionally, warfare was conducted on battle grounds between soldiers wearing marked uniforms. The shifting to intra-state warfare has meant a shift in the way wars are fought. Differentiating between combatants and non-combatants is not as simple as identifying opposing military uniforms.⁵² Nor is it a question of identifying the enemy based on their gender. Women in and out of uniform have played a significant role in the ways wars are fought and the way crimes are committed during war. The torture of male Iraqi detainees in Abu Ghraib by female American soldiers is only one of such incidents.⁵³ Victims of wars can no longer be presumed to be exclusively women and children civilians.⁵⁴

The proliferation of arms has made an important impact by facilitating the proliferation of armed violence: “In situations marred by armed conflict, crime and state repression, the availability of arms itself is one important factor in determining the level of violence. The presence of arms can be a powerful catalyst in volatile scenarios” (OXFAM, 2003, p. 9).⁵⁵

In other words, preexisting disputes and antagonisms are too often resolved through violent

⁵² “During an armed conflict, only ‘combatants’ are permitted to ‘take a direct part in hostilities’. Noncombatants who do so commit a war crime and lose any protected status they might have - that is, they are not entitled to be treated as prisoners of war, and any attacks on people or property may be prosecuted as common crime” Rogers, (1999, p. 97).

⁵³ Enloe (2004).

⁵⁴ (Bauer and Helie 2006, p. 63).

⁵⁵ “In an ever-downward spiral, the availability of arms can create a climate of fear: insecure groups and individuals arm themselves for protection, and their actions are perceived as a threat by others, who respond by arming themselves, and thus a demand for yet more weapons is created. Not only in times of war, but in ‘peace time’, the presence and availability of arms often intensifies violence engendered by political protest, disputes between neighbours, crime and violence in the home. A few well-armed individuals cause death, injury, fear on a massive scale. Killing becomes easier; it can be done from longer range, with greater

means in preference to negotiation or dialogue. Death tolls are heightened when civilians become caught in the middle of civil strife in countries where arms are easily accessible.⁵⁶ “More injuries, deaths, displacements, rapes, kidnappings, and acts of torture are inflicted or perpetrated with small arms than with any other type of weapon”(OXFAM, 2003, p. 19).

For the most part, the magnitude of death tolls for male victims during war has gone underreported. The subject of ‘male victims’ somehow seems to be a taboo subject and fails to generate enough attention. The truth of the matter is that males do make up the largest portion of casualties of war and they are directly targeted.⁵⁷ “Non-combatant men have been and continue to be the most frequent targets of mass killing and genocidal slaughter, as well as a host of lesser atrocities and abuses”(Jones, 2000, p.187).⁵⁸ Perhaps because males are conceptualized as the aggressors and perpetrators of wars and civil conflict, they fail to make a topic for public outcry when they are killed by the hundreds and thousands, while the killing of women and children is viewed as sickening and barbaric. Jones (2000) put it more bluntly, by adding “while unarmed men seem fair game, the killing of women and children arouses general revulsion” (p.193).⁵⁹ Jones classifies the disproportionate killing of males in war as “gendercide”- inclusively defined as gender-selective mass killing. Males are targeted because they are deemed to be *the* threat.

detachment and less effort.” *Oxfam International and Amnesty International Publication* (2003, p.9). This statement amplifies the ramifications of the proliferation of arms in Iraq.

⁵⁶ The US administration has provided vast shipments of arms and military assistance to government and armed opposition groups in Afghanistan, Angola, The Democratic Republic of the Congo, Iraq, and Somalia. In all, armed forces were known to be committing gross human rights violations (ibid. p. 43).

⁵⁷ Jones points out that “gendercide, at least when it targets males, has attracted virtually no attention at the level of scholarship or public policy. As such, it can be classed as one of the great ‘taboo’ subjects of the contemporary age” (Jones, 2000, p.186).

⁵⁸ *ibid.*

⁵⁹ *Ibid.*

Killing of the men is to rid be of the threat.⁶⁰

There seems to be ambiguity surrounding who is a classified as a ‘civilian’ during warfare, which then blurs the lines in reporting the gender of civilian casualties. A civilian is anyone who is a ‘non-combatant’. Combatants, under international law are:

all members of the armed forces of a party to the conflict except medical and religious personnel. The armed forces consist of all organized armed forces, groups, and units that are under a command responsible for the conduct of its subordinates to a party to the conflict; are subject to an internal disciplinary system that enforces compliance with the law of armed conflict; and whose members, at least when deployed on military operations, wear uniform or combat gear that distinguishes them from the civilian population.⁶¹

Anyone that does not fall within this definition is thus considered unarmed and unable to defend themselves during the conflict.

In many recent wars and conflicts, males have been rounded up and killed, tortured, disappeared, raped, threatened and beaten. In Northern Uganda, research showed an increase of sexually transmitted infections among men due to the alleged indiscriminate rape of men by the National Resistance Army.⁶² In Afghanistan, civilian males were being rounded up by the Mujahideen and killed, beaten, raped and abducted. Afghani males were rounded up on the streets at first, but then the Mujahideen went from house to house and arrested the men of the families destined for execution. No house was spared.⁶³ Afghani

⁶⁰ Ibid. p. 192)

⁶¹ Rogers (1999, p.97)

⁶² Dolan (2002, p. 74).

⁶³ “They arrested men of the families except the very old men. Nothing could stop them, and they did not spare any of the houses. In one house, the mother of a young man whom they were taking away held on to him, saying she would not allow him to go away without her. They began to hit the woman brutally with their rifle butts. She died. They took away the son and shot him dead. They executed a lot of people.” Excerpt taken from the testimony of a 15 year old girl from Kabul, Afghanistan. (Oxfam International and Amnesty International Publication, 2003, p.10)

men and boys also make up the highest casualties of landmine explosions.⁶⁴ They are vulnerable.

In Brazil and Colombia it is young men who make up a disproportionate number of victims of gun violence. In Brazil, young men are 24 times more likely than women to be killed by firearms. In Colombia they are 14 times more likely to die of gunshot wounds.⁶⁵ So males are more likely to be victims as well as perpetrators of violent atrocities. In Southern Sudan, government and allied militia abducted civilian men and boys for military purposes.⁶⁶ In July 1995, the town of Srebrenica fell to Bosnian-Serb forces, leaving more than 7000 Muslim men missing and presumed dead.⁶⁷ Forensic anthropologists, conducting the identification process, noted that the victims appeared identical. All the adult males were of the same ethnic group, classified as “ethnic cleansing”.⁶⁸

In Kosovo, between February 1998 to June 1999, “the mortality rate from armed violence for men aged 50 or over was nearly 10 times that of women from the same age group, and more than three times that of men of military age (15-49 years), which suggest that Serb forces may have been specifically targeting the traditional heads of households in order to weaken the social and cultural integrity of local society”.⁶⁹ At a briefing inside Omarska, the Serb-run camp for Muslim males, also known as the ‘*de facto* death camp’, the local police chief, Simo Drljaca, “insisted that a security threat existed - the Serbs even staged a

⁶⁴ Landmine Monitor (2005)

⁶⁵ *Oxfam International and Amnesty International Publication* (2003, p. 26).

⁶⁶ *Ibid.* p. 30.

⁶⁷ Komar (2003, p. 713).

⁶⁸ Decomposition as well as the absence of antemortem (AM) medical and dental records confounded identification (*ibid.* p. 713)

⁶⁹ Komar (2003, p.26).

pathetic mock gun battle to try to convince us. The authorities, he said, were screening inmates in order to find Muslim insurrectionists. This proved to be a grotesque lie; the overwhelming majority of Drljaca's captives were unarmed civilians" (Vulliamy, 1999, p.368).

Neither the young nor old are spared. According to Addameer Prisoner Support Clinic, a Palestinian organization for support of Palestinian prisoners, since 1967 around 650,000 Palestinian males have spent time in Israeli prisons, which amounts to about 40 percent of all Palestinian males, including children and the elderly.⁷⁰ It is difficult to find older Palestinian males who have not been detained in an Israeli prison. From March to October of 2002, Israelis arrested 15,000 Palestinians, many of whom are still incarcerated without having been tried.⁷¹ According to the Israeli human rights organization B'Tselem, statistics show that more than 85% of Palestinian detainees are subjected to torture.⁷²

Furthermore, when reports coming from war zones and areas of conflict "de-gender" general statements or statistics of child casualties, they fail to bring to light the specific vulnerability of young adolescent males. Since September 2000, over 2500 Palestinian male children have been arrested and detained in Israeli prisons. Currently, there are roughly 340 Palestinian boys being held in Israeli prisons.⁷³ In Megiddo, the military prison camp, 80 male child prisoners between the ages 16-18 are detained with adults. Palestinian boys are held in inhumane conditions. They are forced to live in overcrowded

⁷⁰ Levy (2004)

⁷¹ *ibid.*

⁷² Addameer Prisoner Support and Human Rights Association (2005).

⁷³ *ibid.*

and filthy cells, or in solitary confinement cells, measuring 1.5 square meters that are extremely humid and have no windows for natural light.⁷⁴

Western military atrocities are also commonplace. On 8 March 2003, while in Somalia, Canadian soldiers from the Airborne Regiment found two young male Somalis in the grounds of their camp. They were shot in the back. One of them seemed to have been carried out in an “execution style”.⁷⁵ Later that month, on 16 March 2003, another young male Somali was brutally killed by the Canadian Soldiers. Shidane Arone 16, was blindfolded, punched, kicked and burned with cigarettes. The Canadian soldiers posed for “trophy” style pictures with Arone, placing a pistol to his bruised head as he begged and pleaded for mercy. Arone’s cries were heard throughout the camp, but it failed to generate concern or his release. He was finally kicked, punched and beaten with an iron bar until he was dead.⁷⁶ There were other reports that Arone was also allegedly raped.⁷⁷

These were not isolated incidents. Canadian soldiers had already been circulating “trophy” pictures and videos of captured and detained Somalis. The soldiers were taped engaging in a number of degrading, violent and racist acts during various initiation rites on bounded

⁷⁴ According to Addameer, Palestinian children prisoners are also subjected to cells with bright artificial light at are continuously kept on. This forces prisoners to remain awake at all times, depriving the prisoner of sleep for days, in some cases, prison do not receive sufficient food to meet the daily nutrition requirement for children, are prevented from going to the toilet at their will, and are not allowed a change of clothes. Male child prisoners at Megiddo do not receive any special education, as they are considered adults. Therefore, they are unable to continue their studies. They are also subjected to medical negligence. Furthermore, children are subjected to physical and psychological torture during their interrogation in order to force them to confess to activities they may or may not have done. The majority of confessions and sentences are related to throwing stones. Neve Tertza/ Ramleh prison holds female prisoners. In 2002, 11 girl child prisoners were being held in Israeli prisons, the youngest two both turned 15 while in detention. (ibid).

⁷⁵ Canadian Broadcast Corporation (1993).

⁷⁶ Ibid.

⁷⁷ Razack (2000, p. 127).

Somali men, many of whom were children.⁷⁸ At one point, a senior Canadian officer was reported to urge his fellow soldiers to go after Somalis by offering a case or bottle of champagne to the first [soldier] who gets, or kills, a Somali.⁷⁹

More recently, Canadian soldiers in Afghanistan were told by superiors to look the other way when Afghan soldiers and local interpreters sodomized young boys on a Canadian base.⁸⁰ The allegations by the soldiers date back to 2006. One former Canadian soldier witnessed Afghan interpreters bringing young boys inside buildings on the remote Canadian base outside of Kandahar. He and other Canadian soldiers came forward with complaints to chaplains and military medical personnel that officers told them not to get involved because the sodomy was tantamount to “cultural difference”.⁸¹ Wessells (2006) writes of the great risk of sexual exploitation of boys more explicitly:

In Afghanistan, where the overwhelming majority of child soldiers have been 14-18 year old males, boys are at great risk of sexual exploitation. The practice of older Afghan men taking younger boys as sexual partners antedated the arrival of Islam and now exists alongside it. It is not uncommon for stronger, older soldiers or powerful commanders in the Northern Alliance forces to exploit smaller, younger recruits. Although, the boys often regard themselves as being in a relationship with the older soldier, the enormous power difference cast doubt on the idea that the relationship could be consensual. The sexual exploitation of boy soldiers is even more invisible and taboo than that of girl soldiers and warrants the international community’s concerted attention.⁸²

⁷⁸ Ibid.

⁷⁹ *Maclean’s Magazine* (October 16, 1995)

⁸⁰ “World court inquiry sought in Afghan rapes ... It’s common knowledge that young boys are used in this way in Afghanistan, according Human Rights Watch Asia, It’s the great dichotomy of Afghanistan. Homosexuality is treated as a cardinal sin, but its still common for men to have sex with boys.” The executive director of the Asia division of Human Rights Watch was not surprised that some Canadian soldiers were told to ignore the cases of abuse. At the time the Canadian base was being regularly attacked by Taliban, leaving Canadian soldiers to worry more for their own safety. Considering the tight security and rigorous protocol for allowing civilians on the base it would be impossible that Canadian soldiers could not have known of the abuse (*The Star*, 2008).

⁸¹ The Canadian international human rights lawyer, Michael Byers, has been pushing for the International Criminal Court to begin its own inquiry into the charges, citing his concerns about self-investigation and the demonstrated delays in the Canadian military’s investigation of alleged detainee abuse (Byers, 2005).

⁸² Wessells (2006, p.97).

Jules Tindungan, a former paratrooper with the US army in Afghanistan during 2007, explained the role of boys and sexuality in Afghanistan:

In every society, there is a set way males have to perform, but more so in the Middle East Central Asia. In Afghanistan, boys as young as 7-years-old are expected to step up to the plate, so to speak. They have to go out gather the goats, tend to the farm and be farmers *and* they are so expected to fight. So if their father is killed, they have to pick up that gun and fight regardless of their age. That is the way it is. They must set up to the plate. [Also], it was common within the Afghani soldiers to have sex with each other or with other males. We [US soldiers] all knew it was happening. If you asked them if they have had sex with another male they would say yes, but they would not like to be considered gay. If you asked them if they were gay they would say no. [Amongst Afghani men] there seemed to be affection towards young males. Our troops were allowed to grow beards, but I could not grow one. So I kept getting hit on by other males. Finally I started to wear a cover on my chin just to stop the sexual advances. I couldn't bare it anymore. There were nights I was scared to sleep for fear of this.⁸³

Omar Khadr, a Canadian captured in Afghanistan was only 15 years old at the time of his capture by U.S. soldiers. Accused of throwing a grenade killing one U.S. medic and injuring another soldier, he was abandoned in Guantanamo Bay for six years. His lawyers were able to argue that there was no clear evidence that proved he even threw the grenade or that he was even armed. Khadr is the only remaining Western citizen left in Guantanamo Bay. He was shot twice by American soldiers, leaving him with severe injuries to his chest and arm. In Guantanamo Bay, Khadr was forced to give a confession under duress while US interrogators threaten him with repeated rape.⁸⁴ "His hands were shackled behind his back to his feet and the floor. He was made to crouch there for hours; when he fell over they set him back on his feet. Eventually he urinated on himself. The army personnel entered, squirted cleanser on the floor, and used Omar like a human mop to

⁸³ Personal interview with Jules Tindungan, on December 30, 2008 in Vancouver, B.C.

sop up the Pine-Sol and urine, leaving him for days in soiled duds.”⁸⁵ Despite the fact that Omar was only fifteen at the time, the Canadian government - a signatory to the Convention on the Rights of the Child - failed to protect him from torture by the U.S. authorities and repatriate him back to Canada.

Jones (2000) emphasizes the importance in the distinction between combatants and non-combatants in the discourse of gendercide:

Regardless, crucially, the most vulnerable and consistently targeted group, through time and around the world today, is non-combatant men of battle age, roughly 15 to 55 years old. They are nearly universally perceived as the group posing the greatest danger to the conquering force, and are the group most likely to have the repressive apparatus of the state directed against them... Unlike their armed brethren, these men have no means of defending themselves, and can be detained and exterminated by the thousands or millions. The gender of mass killings, moreover, likely extends beyond the age range specified.⁸⁶

In Jones’ revelatory article, “Gendercide and Genocide”, he gives several examples of wars and civil conflict from the Roman Empire, colonial occupation of Africa, Armenian Genocide, East Timor, Peru, Bosnia-Herzegovina, Colombia, Kashmir and Kosovo to more recent Afghanistan in which males are directly targeted and have made up by far the highest casualties. But none is as striking as the example given of the disproportionate killing of males during the Stalinist purge of the 1930s and 1940s, in which up to seventy men a day were being executed. Further, he argued that the initial intention of Hitler’s Auschwitz concentration camps was for the pre-selection for mass execution of 100,000 male Soviet POWs. The very infrastructure and techniques of the death camps were

⁸⁴ *The Province* (2008, p. A20).

⁸⁵ *ibid.*

⁸⁶ Jones (2000, p. 192)

originally developed to enslave and exterminate male Soviet POWs, rather than Jews.⁸⁷

Before the end of December 1941, 33,000 such prisoners were executed. Test gassing with pesticides was first carried out on male Soviet POWs, killing from 600 prisoners in one camp, 250 in another to 900 in another camp. The first of the Nazi concentration camps “Dachau”, and the “Final Solution Birkenau” camps were both originally intended for 100,000 Soviet male POWs.⁸⁸

Matt Eisenbrant, the legal coordinator for the Canadian Centre for International Justice,⁸⁹ in his experience as an immigration official in the U.S. and as the human rights lawyer with the CCIJ, points out that it is very common for males between the ages of 18-45 to be randomly rounded up and killed or taken away to be tortured. This allowed government agents to justify brutal actions in the name of state security, including systemic torture and killings. As a result of torture, these young men were forced to confess to crimes they did not commit.⁹⁰

The rationale behind the gender selection of males for execution is not solely because they are the deemed threat, but because after killing males, the executioners, militias, armies, or soldiers, have been so desensitized that killing women and children becomes effortless and less horrifying.⁹¹ Again, this emphasizes the vulnerability of males during war and civil

⁸⁷ Ibid. p. 205)

⁸⁸ Ibid. p. 205)

⁸⁹ When asked if he or the Canadian Centre for International Justice dealt with Iraqi cases, he replied “no not yet, because the centre is relatively quite new in its operation and they have a very limited staff size.” However, he was anticipating Iraqi cases in the near future.

⁹⁰ Personal interview with Matt Eisenbrandt, Legal Coordinator, The Canadian Centre for International Justice, (November 17, 2008), Ottawa, Canada

⁹¹ Under the Nazi Einsatzgruppen officers would first shoot primarily teenage and adult Jewish males. Then they would be able to acclimatize themselves to mass execution without the shock of killing women, young

conflict. There is a proven record of directly targeting males which should not be minimized as it has been. Yet, it remains a taboo subject in the contemporary feminist-influenced discussion of gender.

II. The Under-reporting of male victims

Much of the literature on gender and warfare is dedicated to looking at how gender inequalities are exacerbated during warfare. Gendered conceptualizations of warfare tend to assume that males are the aggressors or perpetrators of violence while females tend to be the victims.⁹² While much of the mass media distribute visual images of males as the violent gender acting out in accordance with masculine notions of war, studies have proven that these age-old gendered notions of war are unrepresentative of the true experience of warfare.⁹³ For example, women are also combatants and have been involved in acts of war crimes including sexual torture as evidenced in Sri Lanka, Liberia and Rwanda where men have been the victims.⁹⁴ Jules Tindungan, points out the roles of women in the war in Afghanistan:

In regard to [the belief that] males are only combatants, that statement assumes that women do not play an active role in war. In Afghanistan, there is a strong women's movement. There is this view that the Taliban has taken over all of Afghanistan, but there is a strong presence of a women's movement in different parts of Afghanistan. They have a strong history of being very active. I remember when going into a village and our unit came under attack. I took cover and as I looked over the mound, I could see the shadow of a woman in her burka feeding rounds of ammunition into a machine gun. I will never forget that image. Women do play a very active role in the fighting. That image [the women in the burka] signified that.⁹⁵

children and the infirm. Also, the development of the mass killing of Jews and others on the Eastern Front by poison gas, in specially-designed vans, was also apparently a response to the reluctance some executioners felt to killing women (Jones, 2000, p. 204).

⁹² Ketting, Oosterhoff and Zwanikken, (2004).

⁹³ See Jones (2000); Alison (2005); Sivakumaran (2007); Stener (2005); Wessells (2006); Zawati (2007).

⁹⁴ El Amani (2003)

⁹⁵ Personal interview with Jules Tindungan, a former paratrooper with the US Army during 2007 on December 30, 2008.

There is also the view by female scholars that females and children make up the majority of civilian casualties across the board during warfare.⁹⁶ This perception suggests that males are not civilian “non-combatants”, but instead are engaged in military warfare or in armed battle, if not directly, then perhaps potentially.

Burham, Lafta, and Doocy (2006),⁹⁷ looking at mortality rates after the 2003 invasion of Iraq, showed that men made up the highest death tolls. Despite the controversy surrounding Iraqi casualty rates, all statistics point out that males do make up the highest causality rate.⁹⁸ The UN Assistance Mission for Iraq (UNAMI) report listed gunshot wounds as the main cause of death to male civilians, followed by explosions, air strikes, and car bombs.⁹⁹ Second to men in death tolls were children, with the highest cause of violent death for children determined also as gunshot wounds. Interestingly, the Iraq Body Count, an organization which records the violent civilian “non-combatant” deaths that have resulted from the 2003 military intervention in Iraq, argues that there is an “utter

⁹⁶ “War and Justice for Women...like oil and water; War exacerbates women’s suffering. In their roles as mothers, nurturers and caregivers, women invariably account for a large proportion of civilian casualties. Women in Afghanistan, for example, have constituted the majority of civilian injured or killed as a result of the mis-targeted bombing of houses, hospitals and other civilian structures.” Again these statements tend to be more of a generalization of the victims of war, it assumes no men are in civilian structures and it fails to mention boys but rather amalgamates “children” creating a distorted figure. The reader does not know if men and boys are in these civilian structures. Also by saying “civilian structures” and males are not specifically mentioned it assumes males are out fighting as combatants while females are the civilians. There is no mention of “non-combatant males” (ibid, p.8-9).

⁹⁷ No one knows exactly how many Iraqis have been killed since the US-led invasion. All statistics concerning Iraqis have been debated at one point or another because of the differences in the methodologies used, or the definition of “casualties”. The Iraq Body Count (IBC) only reports “civilian casualties” meaning non-combatants. Other research refers to all deaths and injuries, but the insecurity and corruption in Iraq compromises the tally of any body counts. My intention using different statistics is to draw attention specifically to the death of males (see Burnham, Lafta and Doody, 2006).

⁹⁸ Human Rights Watch (2006, p. 13); UN Assistance Mission for Iraq (2008); Iraq Body Count (2007); Burnham, Lafta and Doody, (2006).

failure of local or external agencies to notice and respond to a decimation of the adult male population in key urban areas”.¹⁰⁰ In all cases, males made up the highest causality rate, again emphasizing the argument that non-combatant males make up the dominant vulnerable group during warfare.¹⁰¹

Gender perspectives on war and conflict have become synonymous with analytical feminist perspectives. The feminist perspective has been very influential in helping to draw international and academic attention to the plight of women during times of war, particularly rape which had been, and often still continues to be seen as “normal”. During the Nuremberg trials there was not one case of rape that was prosecuted. Further, the raping of women during war and conflict was even eroticized in art and in literature, normalizing the act as a natural gain for males who fought in battles.¹⁰²

It was not until the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) that legal recognition for the crime of rape in war had been tried as a crime against humanity. Thus, by looking at war and conflict through a gender perspective, feminist researchers have helped to make significant impacts on women’s lives by drawing attention to this grotesque violation of their human rights. However, there is a risk involved when the study of gender is discussed only from the perspectives and experiences of women. There is also some debate within the feminist

⁹⁹ *The UN Assistance Mission for Iraq report*, dated (1 November-31 December 2006) states that “6,376 civilians were violently killed in November and December 2006, with no less than 4,731 in Baghdad, most of them as a result of gunshot wounds”. Amnesty International Report 2007, Iraq- Republic of Iraq.

¹⁰⁰ Iraqi Body Count (2007)

¹⁰¹ Jones (2000)

¹⁰² Rape: Crime of War, National Film Board of Canada. 59 minutes running time (1996)

gender perspective one over focusing women as sexual victims of war. One scholar, Heaven Crawley, argues that in male-versus-female models, “the problem with many of the current approaches to women as asylum seekers therefore is that they often counter-pose the ‘male experience’ of persecution with a ‘female’ model. This model generalizes about women’s experience of ‘gender-related persecution’ and overemphasizes sexual violence at the expense of other terms of resistance and repression that are experienced by women in their countries of origin” such as domestic abuse, political and social-economic repression.¹⁰³ The impact of violence and torture, particularly sexual torture on males has been largely ignored as a result. Because of this gendered view of war, males are not always presented as victims or as vulnerable persons in need of protection.

Literature of male victims of sexual torture shows the similarities between male and female victims. For example, in a study by Amani (2003), reviewing the literature on the relationship between gender and armed conflict, the stated aim of the research was to draw attention to the impact of armed conflict on gender. The author, however, only mentioned men as victims of war in a rather subdued and marginal fashion. The study proved that more attention needs to be given to men as well as women who are victims of violence during warfare.¹⁰⁴ Despite identifying countless testimonies of sexual torture of males in the Former Yugoslavia, Amani continued to refer to males in a qualified, or questionable way - such as, they “may have” been subjected to sexualized torture. She was far more aggressive and morally outraged when addressing female survivors of violence. The

¹⁰³.Crawley (2000, p. 17).

¹⁰⁴ El Amani, (2003).

research also had a tendency to refer to males as grown men and ignored young boys or adolescent males and their vulnerability as male minors. There is no acknowledgement, for example, that when the father of the household is killed, imprisoned or missing, it falls onto the eldest son to work, in order to support the family. In Iraq, this has led to young boys being exposed to labour and physical exploitation.¹⁰⁵ Indeed, Amnesty International and the U.S State Department country report for Iraq have identified male juveniles being detained and sexually abused by Iraqi police as well as officers of the Ministry of Defense and Ministry of Interior.¹⁰⁶

The few studies that have addressed males as survivors of violence and sexual torture emphasize a great need to bring more attention to the psychological, social and legal needs facing males. The main obstacle to having males come forward with their testimonies is a combination of social, cultural (masculinist) and legal barriers. One study conducted by Hilmi M. Zawati looked at wartime male rape and sexual torture, showing that although it is sometimes documented, it is rarely emphasized and the perpetrators are thus usually immune from prosecution.¹⁰⁷

An expanded definition of rape is necessary to be more inclusive of the realities of the victims of sexual torture. In their reports, both the ICTY and the ICTR had to draw upon an

¹⁰⁵ *Iraq in Fragments* Film documentary.

¹⁰⁶ “The law [in Iraq] mandates that women and juveniles be held separately from men. Although in some cases women were housed in the same detention facility as men, generally they were not. Juveniles were occasionally held with adults. A number of juvenile detainees, mostly young teenagers, alleged sexual abuse at the hands of Ministries of Interior (MOI) and Ministries of Defense (MOD) personnel and adult prisoners. Additionally, pretrial detainees and convicted prisoners were often held in the same facility due to space limitations.... Other reports stated that children were abused and tortured during interrogation while detained by MOI and MOD security forces before their transfer to MOLSA facilities” (U.S. Department of State, 2008).

expanded definition of rape in order to appropriately address the needs of the victims.¹⁰⁸

Prior to the expanded definition, the ICTY and the ICTR relied upon the classical definition of rape as articulated in national rape laws. However, relying on national laws to define rape is inadequate because they usually remain vague and tend to conceive of rape as physical (usually penile) sexual penetration. In British law, for example, rape is defined as non-consensual vaginal penetration by a penis, making the gender of both the perpetrator and the victim predetermined.¹⁰⁹ Other forms of violations such as anal or oral penetration of either sex are considered as “indecent assault” which carries a lesser penalty.¹¹⁰

Zawati (2007) also notes that “male rape in times of war is predominantly an assertion of power and aggression rather than an attempt on the part of the perpetrator to satisfy sexual desire.”¹¹¹ Therefore, she argues, the definition also needs to reflect the non-sexual but violent, humiliating and grievous nature of the crime. Another study lay emphasis on Zawati’s claim, suggesting that the reasons for our inability to recognize the vulnerability

¹⁰⁷ Zawati (2007).

¹⁰⁸ “Impunity or immunity: wartime male rape and sexual torture as a crime against humanity.” *Torture*; “Before developing [ICTY and ICTR] own definition of rape, both tribunals turned to classical definitions in national law, which were inadequate to prosecute this grievous crime and, consequently, inappropriate to address the needs of the victims” (Zawati, 2007, p.29).

¹⁰⁹ “Male sexual assault in the community” in *Male Victims of Sexual Assault*; “Until recently, however, there has been little consideration of sexual assault of men in the community. Statistics on male sexual assault are rare, encouraging disbelief in the phenomenon. This is due, in part, to the narrow legal definition of rape in the United Kingdom and in some states of the United States. In English law the term ‘rape’ is restricted to forced penile penetration of the vagina and thus cannot apply to sexual assaults against men. Forced anal penetration of a man is considered within the Sexual Offences [Amendment] Act 1976 as non-consensual buggery and carries a lesser penalty”. (King and Mezey, 1993, p.1)

¹¹⁰ Ibid.

¹¹¹ “Impunity or immunity: wartime male rape and sexual torture as a crime against humanity.” *Torture*; “In ancient wars and societies, male rape in times of war was considered as an absolute right of the victorious soldiers to declare the totality of the enemy’s defeat and to express their own power and control. [Rape] has been used as a weapon of war and a means of punishment in many cultures. In the military context, there was a widespread belief that when a victorious soldier emasculated a vanquished enemy and sexually penetrated him, the victim would lose his manhood, and could not be a warrior or a ruler anymore.”(Zawati, 2007, p.33).

of men is first, due to the male sexual stereotype which emphasizes their strength, physical size and role as initiator of sexual activity.¹¹² Second, there is a failure to recognize the nature of the sexual assault as an aggressive act, and not one motivated by sexual need.¹¹³

Feminist approaches to gender issues often fail to be cognitive of 'male issues' to the same degree as female issues. In this sense, gender studies, which was meant to look at gender issues outside of the traditional conservative biological-sex approach, practices a form of self-censorship. In the study of war and conflict, disassociating males from the research minimizes the atrocities and vulnerabilities males face.

One possible objection to the analysis should be anticipated. Is it legitimate to isolate males as target of genocide and "gendercide", when the perpetrators are themselves overwhelming male? It can be countered that the Hutus who slaughtered Tutsis in Rwanda were also "other Blacks"; that the deranged young man who culled and murdered 14 women at the Ecole Polytechnique in Montreal in 1989 was a "fellow Quebecker." Which ascriptive trait we choose to grant explanatory power may say a great deal about reality. It may also say a good deal about our biases. To dismiss the Rwandan genocide as a matter of "primitive", "tribal" Blacks killing "other Blacks" would seem the nadir of redneck thinking. But to ignore or dismiss mass atrocities against men because the perpetrators are generally "other men" is an argument - actually, a bigoted and dangerous assumption - that slides down much more easily.¹¹⁴

To prevent the underreporting of males victims, the discourse must seek to acknowledge that males do make up the vast majority of civilian casualties. In addition, the vast majority of males in war are non-combatants. And because young males are also vulnerable, there is a need to expand the definition of rape to be more inclusive to the realities of sexualized torture and different types and methods of male rape, which would then acknowledge a wider group of victims that would otherwise be silent or

¹¹² King and Mezey, (1993, p. i).

¹¹³ Ibid.

under-studied.

By looking at the level of violence in Iraq and using examples of Iraqi male casualties, I hope to strengthen the argument of the vulnerability of males in an environment of high insecurity, occupation, corruption and warfare.

III. Violence in Iraq

The violence and occupation in Iraq has become entrenched on all levels of civil society and government. Amnesty International's report on Iraq states that close to 60,000 people are being detained by Iraqi security forces and the Multi National Forces.¹¹⁵ According to Amnesty International, there is a lack of *habeas corpus* and most are being held without charges or trial. Torture and other ill-treatment are routine in prisons, including allegations of rape by members of the Iraqi forces. Death penalties are being given to persons held in detention without access to fair and free trials.¹¹⁶ Detention centers and police stations are being controlled by Iraqi security forces, despite allegations by detainees of rape and torture.¹¹⁷ Killing by armed groups is still rampant and civilians are abducted from their homes or on the streets by armed groups. Persons who are considered to be wealthy are particularly targeted. This includes lawyers, judges, doctors, pharmacists, teachers, journalists and civil engineers. Religious groups are also targeted. Christians, Chaldeans, Yezidis, Assyrians, Mandaean-Sabeans, are targeted because they are goldsmiths, or

¹¹⁴ Jones (2000, p. 206)

¹¹⁵ *Amnesty International Publication* (March, 2008, p.2).

¹¹⁶ According to the report "the death penalty is being used extensively since its reintroduction in 2004 and hundreds of people have been sentenced to death after grossly unfair trials." (ibid.)

¹¹⁷ Steele (2008)

accused of selling alcohol.¹¹⁸ Palestinians are also targeted because under the former regime they were given benefits such as cheap rental rates. The fall of the regime meant that Palestinians were no longer protected by State authorities.

U.S. Department of State Country Report on Human Rights Practices for Iraq 2007, stated during the year the Iraqi Security Forces (ISF) operated with the support of the Multi-National Force-Iraq (MNF-1) against insurgents, terrorist, and extralegal militias. Civilian authorities generally maintained control of the ISF.¹¹⁹ But tribal, sectarian, party-militia affiliations and corruption penetrated any ability to provide an even-handed enforcement of law. ISF were well known to act independently.¹²⁰ During the course of 2007, human rights violations continued to surface.

Reports provide evidence of arbitrary deprivation of life, disappearances, torture and other cruel, inhuman, or degrading treatment or punishment. Violations are conducted with impunity; there are poor conditions in pretrial detentions and prison facilities; the denial of fair public trials; delays in resolving property restitution claims; arbitrary arrest and detention; limitations on freedom of speech, press, assembly and association due to sectarianism and extremist treats and violence; restrictions on religious freedom; restrictions on freedom of movement; large numbers of internally displaced persons (IDPs) and refugees; lack of protection of refugees and stateless persons; lack of administrative transparency and widespread, severe corruption at all levels of government; discrimination against and societal abuses of women, ethnic, and religious minorities; human trafficking;

¹¹⁸ United Nations Assistance Mission for Iraq (UNAMI) (2008).

¹¹⁹ U.S. Department of State (2008, p. 1)

societal discrimination and violence against individuals based on sexual orientation.¹²¹

The following are a few selected reports from Iraq, where males were directly targeted.

Adult Males

UN Assistance Mission for Iraq *Human Rights Report 1 January 30 June 2008*

“On February, gunman kidnapped 21 men and three women from two minibuses in Al Athaim Baquba, of whom they only released the women.”¹²²

“In other parts of Iraq, 37 bodies were found in Baquba, five in Mosul, three in Ramadi and five in Falujah. Some of the incidents include sixteen decapitated male bodies with signs of torture, which were found in plastic bags in Diwaniya on 20 April. On 28 June, seven bodies showing signs of torture and bullet wounds were found in a secret prison in Samara, believed to be run by Al-Qaeda operatives.”¹²³

Iraq Body Count: *Morgue data: murders, assassinations and executions*

“One of the most horrific aspects of the targeting of Iraqi males is the growing number of post-capture executions, which often includes torture and mutilations. As these bodies are discovered, often piled together, or washed up at river barriers, they are sent to the morgues (Medico-Legal Institutes) for investigation and potential identification. The Baghdad MLI receives bodies found on the streets and outlying areas of Baghdad, as well as a number of unidentified bodies from bombings, which it photographs and tags to assist identification. Those that remain unidentified or unclaimed by relatives are sent for burial in mass graves in Najaf, Karbala and the outskirts of Baghdad.”¹²⁴

“By far the majority of casualties throughout the nation are among men, who are both the most frequently targeted and, since the invasion, the most exposed. The overall national breakdown of death shows that around a third of the civilian population (adult men) has borne about 90% of deaths.”¹²⁵

Amnesty International Publication: *Carnage and Despair: Iraq Five Years On Killing by Armed Groups*

“On February 2007, a 50-year-old Mandaean-Sabean, goldsmith and father of six children, was shot dead in a photo studio by unknown men in Baghdad.”¹²⁶

“On 12 May 2007, Dr. Abdib Ibrahim al-Jalabi, a Sunni medical doctor and leading figure in the Islamic Organization for Human Rights (Mosul), was assassinated by

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² United Nations Assistance Mission for Iraq (UNAMI) (2008, p. 10).

¹²³ Ibid. p. 11.

¹²⁴ Iraq Body Count (2007).

¹²⁵ Ibid.

¹²⁶ Amnesty International Publications (March 2008, p. 6).

armed men, believe to be from al-Qa'ida, after leaving his clinic in Mosul.”¹²⁷

“On 3 June 2007, a Chaldean priest, Fr Ragheed Ganni, and three deacons were gunned down by unknown assailants in Mosul. They were just about to leave the parish when armed men riddled them with bullets before driving off in the priest’s car.”¹²⁸

“On 13 August 2007, Mostafa Ahmad, a 27 year-old Palestinian taxi driver, was attacked and killed by armed men believed to be from the Mahdi Army. His body showed marks of torture, including drill holes on different parts of the body, and that the teeth had apparently been taken out by pliers. He had also been shot six times in the head and upper body.”¹²⁹

Killing by Iraqi Security Forces

“On 27 March 2007, gunmen wearing police uniforms killed 70 Sunni Arabs in the mixed Sunni/Shi’a town of Tal-‘Afar near Mosul. Survivors reportedly said that the gunmen dragged men out of their homes, handcuffing and blindfolding them before shooting them dead. Two days after the incident the Iraqi government admitted that policemen were behind the killing.”¹³⁰

U.S. Department of State: *Country Reports on Human Rights Practices 2007*
Arbitrary or Unlawful Deprivation of Life

“On April 28, individuals wearing Iraqi army uniforms reportedly arrested 31 men in the Adhamiya neighborhood: five were found dead the next day in the Kesra District.”¹³¹

Disappearance

“On April 1, gunmen at a fake checkpoint north of Baghdad kidnapped 19 men from a Shi’a village. The bodies were found one day later near Baquba, north of Baghdad.”¹³²

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

“On June 28, police found 20 beheaded men, all with their hands and legs bound, dumped on the banks of the Tigris in the town of Salman Park, just south of Baghdad.”¹³³

The Guardian, (Monday 14 July 2008) “10 other victims claim they were abused while under British detention. Photographs emerged of Iraqis being abused, including being suspended in nets from a forklift truck and forced to adopt simulated sexual positions. No one was ever charged in connection with forcing Iraqis to simulate sex acts and give a thumbs up for the camera, despite months of investigation by the Royal Military

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid. p. 8.

¹³¹ U.S. Department of State (2008).

¹³² Ibid.

¹³³ Ibid.

police. The lawyer for the detainees stated “ the use of sexual acts by UK forces in Iraq is part of a much bigger picture of systemic abuse which ties in closely with what is known about the U.S. use of sexual acts in Iraq.”¹³⁴

Adolescent and Minor Boys:

U.S. Department of State: *Country Reports on Human Rights Practices 2007*
“Insurgents were discovered in the Anbar Province holding 17 persons in two hideouts, including a 13-year-old boy who was shocked with electrical current and beaten. The freed individuals stated that one or two others had died in torture sessions.”¹³⁵

The Guardian (Sunday, July 13, 2008) “British soldiers accused of sex assault on boy”
British soldiers at Camp Bread Basket near Basra are being investigated over allegations of sexual assault on a 14 year-old Iraqi boy. The boy, now 19, claimed he was attacked in May 2003. He was whipped, beaten, forced to strip naked and forced to perform oral sex on another male detainee (his close friend) at the Camp. He said that he fled Basra in shame and cannot ever see his friend again.¹³⁶

The Guardian, (Monday 8 September 2008) “Hundreds of children, some as young as nine, are being held in Baghdad’s prisons in overcrowded cells with no daily access to showers leading to skin infections. In the Tobchi prison, boys sleep in four dormitories, averaging 75 inmates in a cell about 5 meters by 10 meters. The boy detainees are subjected to frequent sexual abuse by guards. Guards often take the boys to separate rooms in the prison and rape them. One testimony of a boy 16 years old who has been held for three years, stated he was 13 years old when interior ministry special forces raided his house arresting him, his 14 year old brother and later his father. All three are still in custody. Torture and severe beatings are normal in the prison. Detainees report they were beaten with cables and forced to “confess” until they write false testimonies. Currently the Tobchi prison is holding 315 children.”¹³⁷

These cases illustrate the type of torture, killings, round ups and attacks directed at males in Iraq. In some cases of round ups, women have been set free while the males were taken away to be killed or tortured. The evidence of the torture and raping of young adolescent boys is equal testimony of their vulnerability, particularly when it has been made clear that they were incarcerated and maltreated for years without assistance or protection.

¹³⁴ Norton and Gillan (2008)

¹³⁵ U.S. Department of State (2008)

¹³⁶ Glendinning (2008).

¹³⁷ Steele (2008).

Chapter 4

THE TARGETING AND VULNERABILITY OF IRAQI MALES

The Multi-National Forces in Iraq have caused an enormous number of civilian casualties. The “Iraq Body Count Project” has documented approximately 90-98,000 violent civilian deaths, but do not provide gender differences.¹³⁸ An earlier epidemiological study, however, included combatant deaths and estimated that by late 2006, 655,000 people had died in Iraq as a direct result of the coalition forces having entered the country in March 2003 and that the male-female ratio was 10 to 1.¹³⁹ Under Saddam Hussein’s rule, military service was compulsory, but after the American-led invasion, compulsory military service was abolished. Thus, the high male death ratio since 2003 cannot be explained solely as the casualties of male soldiers during warfare. The proliferation of small arms in Iraq, the sectarian divisions and party affiliated partition along with the current instability have all lead to militants acting in a quasi state of lawlessness.¹⁴⁰

In Middle Eastern culture males are generally expected to be the primary breadwinners of their families. Men in Iraq make up the majority of the formal work force and are the economic carriers of the household. Iraqi women are well educated and are visible in the

¹³⁸ The documented civilian deaths from violence was “89,892-98151” as of December 23, 2008 (Iraq Body Count, 2008).

¹³⁹ Brown (2006).

¹⁴⁰ Embargo-busting arms flows to Iraq: “During the 1980’s Canada, China, France, Germany, Greece, the UK, and the USA all provided military weapons to companies and the armed forces in Iraq. After the 1990 arm embargo was imposed, Iraq continued to receive illegal arms supplies, much of it from Eastern and Central Europe, despite the evidence of indiscriminate military attacks on Iraqi civilians” (Oxfam and Amnesty International Publications (2003, p. 66)

workforce; however the main breadwinner is still predominantly the male.¹⁴¹ The three female claimants at the Immigration and Refugee Board hearings that I attended in Toronto said that they were never employed in Iraq and relied on their father or husbands as an economic source. Of the 3,500 UNHCR case files for Iraqi refugees processed at the IOM, males were the main breadwinners while the vast majority of the women, although quite well educated, were housewives and had no work experience in Iraq.

Since the American-led invasion into Iraq, the level of ground insecurity has increased with daily bombings, shootings and kidnappings. Out of safety concerns, many women have been forced to stay at home.¹⁴² As the main breadwinners, most males must still commute to work in order to provide for their families and accept jobs that could bring threats of death by Islamic extremists. Many have taken jobs with the Multinational Forces as interpreters or in various service contract work. The high increase of anti-Western sentiment in Iraq has put the lives of interpreters and contract workers at great risk. Any Iraqi that is considered to be working with what is perceived as a Western organization is a target for Islamic extremists. Many interpreters have reported receiving death threats on their cell phones, at work and at their homes.¹⁴³ Some have reported being chased by unknown gunmen in cars firing gunshots at their vehicles. Others have been kidnapped and held for ransom, severely tortured or killed.¹⁴⁴

¹⁴¹ *Statistical survey Iraq: Central Statistical Organization, Ministry of Planning, Baghdad-ILO, Yearbook of Labour Statistics*. Economically Active Population persons aged 7 years and over. Males 3,346,177; Females 425,904. Females were most found in the community, social and personal services.

¹⁴² Human Rights Watch (2007, p. 13)

¹⁴³ This was a common theme. Individuals working for the foreign companies would receive threats on their mobile phones (UNHCR Iraqi cases referred to IOM, October 2007- May 2008).

¹⁴⁴ This was also a common theme with 'The Direct Access' project with the IOM for translators and contractors (ibid). Despite the great threats to life, translators and contractors took the employment

From 2005-2007, the increase of insecurity has led to a spillover effect of Iraqi refugees in the neighbouring countries of Jordan, Syria, Egypt and Lebanon. According to the UN High Commissioner for Refugees (UNHCR), “about two million people are living in Syria and Jordan, while at least 2.2 million others are displaced inside Iraq and living in appalling conditions”(2008, p.1-2).¹⁴⁵ Iraqi refugees in the neighbouring countries are treated as “guests” and are not awarded the same rights and privileges as convention refugees.¹⁴⁶ According to the 1951 Convention Relating to the Status of Refugees, the right to work and have protection is a necessary right for all refugees.¹⁴⁷ With no right to work and no legal protection, Iraqi refugees are pushed into the informal market for employment opportunities: which also comes at a great risk as immigration authorities are quick to fine

opportunities for as little as 7 US dollars a day (United Nations Assistance Mission for Iraq (UNAMI) 2008, p. 12).

¹⁴⁵ “At least four million people have become displaced - nearly 15 per cent of Iraq’s estimated total population of 27 million” (Amnesty International Publication, March, 2008, p.1-2)

¹⁴⁶ Only Egypt is a signatory to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. Neither Syria nor Jordan are signatories and are therefore not legally obliged to take refugees from Iraq and provide them the rights and freedoms that are accorded to convention refugees.

¹⁴⁷ “The authorities in both Syria and Jordan introduced strict visa requirements on Iraqi nationals. A decree in Syria that took effect on 10 September 2007 barred Iraqi passport holders from entering the country except for business people and academics. The same month the Jordanian government said it would impose visa restrictions on Iraqis entering the country, but did not say when”. But the Jordanian authorities had already started using strict requirements for Iraqis after the suicide bombing at the hotel in Amman at the end of 2005 (Amnesty International Publication, March 2008, p.10).

The 1951 Convention relating to the Status of Refugees (D) states: “Considering that many persons still leave their country of origin for reasons of persecution and are entitled to special protection on account of their position”; [Chapter III-Gainful Employment Article 17: Wage-earning employment (1.)] The Contracting State shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment. [Article 18, Self-employment]: “The Contracting States shall accord to a refugee lawfully in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.”; [Article 19 Liberal professions (1.)] “Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.” (See Goodwin-Gill, 1998, p.392-399).

or deport illegal workers back to Iraq.¹⁴⁸ Those who cannot find gainful employment must cross back into Iraq to return to their previous employment or find new forms of employment to support their families.¹⁴⁹ Many Iraqi men must commute between state borders, returning to Iraq to work in order to send money back to their families. There are Iraqis that were able to flee with some savings, but those savings have either run out or are very close to being so.¹⁵⁰ Once the savings have run out, refugees must find any means to survive with no legal right to work in the neighbouring countries of asylum. Iraqi males find themselves commuting long distance in unstable territory to find employment to support their families with whatever jobs are available, whether legal or not. With the UNHCR cases at IOM, many families mentioned in their testimonies the lack of finances due to the cost to living in the country of asylum (Jordan, Egypt and Syria). This was compounded by that fact that they had no local integration prospects such as finding secure employment to support their families. In addition, many Iraqi refugees had used all their savings to pay for the release of loved ones who were captives by armed militias. Families often had to sell their homes, jewelry, cars or borrow from friends and family just to make up the ransom demands, leaving the family with no savings for survival while in the

¹⁴⁸ Work visas are both costly and difficult to obtain. In Egypt, work visas are given to foreigners only if no Egyptian can do the job. This form of employment protection is a way to deal with the unemployment rates in Lebanon, Syria, Jordan and Egypt. But for refugees a work visa is not only necessary for economic survival but also for extension of a visitors visa which allows refugees to stay longer in the country without facing deportation back to Iraq. "Most Iraqis living in Syria and Jordan and other countries in the region, are experiencing acute economic difficulties mainly because they are not allowed to work and are at risk of detention and deportation for overstaying their visa." (Amnesty International Publication, March 2008, p.10).

¹⁴⁹ The instability from five years of warfare and invasion has left the Iraqi economy in shambles. "Economic conditions remain extraordinarily poor for most Iraqis. Many Iraqis are suffering as a result of lack of food, shelter, water and sanitation, education, health care and jobs. Unemployment was believed to be around 50 percent at the end of 2007. 43 per cent live on less than a dollar a day." (Amnesty International Publication, March, 2008, p. 5). "According to some reports, an estimated 500 families have returned home, driven back by the need to keep their jobs." (UNAMI/ OCHA Report, 2008, p.6).

¹⁵⁰ "In the last few months of 2007, an increasing number of Iraqis in Syria went back to Iraq because they had exhausted all their savings and their situation became desperate" (Amnesty International Publication, March 2008, p.10).

countries of asylum awaiting resettlement to a third country.

Crossing the Iraqi border was considered to be unsafe as party-affiliated militias controlled the borders. Many Iraqi males had disappeared while commuting between the borders.¹⁵¹ Surviving family members would send a male relative to the border or inside Iraq to try to locate the missing family member. If they are not successful in gathering information leading to the whereabouts of the missing family member, they had to begin the dangerous process of searching inside hospitals and morgues for the body.¹⁵² There are released reports from both Amnesty International and Human Rights Watch indicating that those seeking missing family members have been threatened.¹⁵³

The right to freedom of movement is a necessary right.¹⁵⁴ One can look at men as being more privileged because culturally they have the ability to be more mobile. However, it is also their mobility that makes them more susceptible targets for violence, death, disappearances, torture and threats, precisely because they are out on the streets having to commute to support and deal with family matters.

¹⁵¹ I came across this several times in the case files. Husbands try to cross back into Iraq to find work and go missing at the border. There were many cases where the wife had no knowledge of the whereabouts of her husband. Other cases mentioned being harassed, interrogated, threaten and some even beaten at the border trying to cross. (UNHCR Iraqi cases referred to IOM, October 2007-May 2008)

¹⁵² Under Islamic traditions, Muslims must be washed, wrapped in white cloth and buried within 24 -48 hours of their deaths.

¹⁵³ Amnesty International Publication, (March, 2008, p. 5)

¹⁵⁴ 1948 Universal Declaration of Human Rights-Extracts; Adopted by the United Nations General Assembly on 10 December 1948; Article 13 (1.) "Everyone has the right to freedom of movement and residence within the borders of each state. (2.) "Everyone has the right to leave any country, including his own, and to return to his country."; 1951 Convention relating to the Status of Refugees; entry into force 22 April 1954 Article 26 "Freedom of Movement: Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstance." (Goodwin-Gill, 1998, p.384).

There is the perception that women and children make up the largest proportion of civilian casualties, which is not necessarily reflective of the realities of the war in Iraq.¹⁵⁵ In 2006, Human Rights Watch released their report “*Hearts and Mind: Post-War Civilian Death in Baghdad caused by U.S. Forces*” with a special subject title “gender and age of victims”.¹⁵⁶ In the report, they indicated that of the ninety-four reported civilian deaths that they recorded, only eight were women, explaining that women in Iraq have led very private lives since the war, mostly due to the public insecurity.¹⁵⁷ Twenty-two of the casualties for whom ages were known (88%) were adults between the ages of seventeen and fifty years old.¹⁵⁸ This report adds to the evidence that males between the ages of 18-60 are directly targeted and are most vulnerable based, at least in part, on their constant exposure to the hostile outside environment.

When men go missing or are killed, women are left without a male protector. Women are thus vulnerable to militants forcing entry into their homes demanding money and property ownership. In the UNHCR Iraqi case referrals from October 2007-May 2008, I came across several cases of females who reported having been raped. The female survivor claimed to be able to identify the accent of her attackers. Some women were able to identify Egyptian, Iranian, and Lebanese accents of their attackers. I did not come across cases of victims of rape from American soldiers, although there are documented reports,

¹⁵⁵ As noted and argued earlier, males make up the largest proportion of casualties in warfare and civil conflict. Yet, as can be seen in the following quote from a United Nations report on Iraq, gender is only mentioned in relation to women: “Most pressing, however, is great concern about the levels and extent of violence against women. There is a felt need for joint and collaborative approaches in addressing violence, through among others, developing and supporting a campaign against violence.” (United Nations, October 2008, p.2).

¹⁵⁶ Human Rights Watch (2007, p. 13).

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

including the horrific cases of rape of Iraqi female detainees.¹⁵⁹ Many women reported being raped by a single militant or gang raped by a group. Daughters in the household were also raped during such attacks or witnessed the rape of their mothers. Some daughters that were been raped during an attack were kidnapped and married off to Muslim men who were members of, or affiliated with, the political group of the attackers.¹⁶⁰ In the times when males were in the household, they were either beaten unconscious or held to the ground while the wife was taken away to another room to be gang raped.¹⁶¹ The lasting effect is one of severe trauma.

Ironically perhaps, females are made more so vulnerable when the males have been killed, kidnapped or disappeared. In Arab societies (and indeed, most cultures) males of the family are considered to be the protectors of the females. Women that are seeking asylum without a male counterpart are deemed to be vulnerable and are therefore allocated the category of “unaccompanied woman” by UNHCR personnel conducting the Refugee Status Determination. It comes under “vulnerable groups” and is meant to be indicative of the vulnerability the female faces when she is without a male protector.¹⁶² That is, without protection, unaccompanied women become more susceptible to sexual violence, trafficking and other violent attacks. A recent UN press release stated:

Iraq, as a State Party to the Convention on the Elimination of all Forms of Discrimination against Women, must protect women from violations by state agents and private actors, whether they are family members or armed groups. The Security Council, in its Resolution 1820 further demands that all parties to an

¹⁵⁹ See Harding (2004), who states: “According to Professor Huda Shaker of Baghdad University, several women held in Abu Ghraib jail were sexually abused, including one who was raped by an American military policeman and became pregnant. She is now disappeared.”

¹⁶⁰ United Nations Press Release (25 November, 2008).

¹⁶¹ UNHCR Iraqi cases referred to IOM, October 2007-May 2008.

¹⁶² United Nations Press Release (25 November, 2008)

armed conflict cease all acts of sexual violence against civilians, especially women and children.¹⁶³

Why civilians are singled out here is unclear. However, although sexual violence against civilian males is not mentioned in the above quote, there does seem to be an implicit recognition from the phrase “especially women and children”.

Children also, have suffered greatly under the invasion and instability of Iraq. Children rely heavily on their family for support, welfare and protection. The loss of the adult males in the family have meant a lack of protection for children. In round ups of males by militias, police, American soldiers and Iraqi security forces have taken the boys of family along with the adult males. In April 2008, the UN Special Representative of the Secretary-General for Children in Armed conflict visited Iraq.¹⁶⁴ In her report, she highlighted widespread violations of children rights, including more than 1,000 children facing legal processes and those held by MNF-1, male child recruitment into armed militia groups, and in general diminished access to essential services including safe water, education and health care.¹⁶⁵ The Committee on the Rights of the Child in its concluding observations adopted on 22 May, 2008 noted the presence of considerable numbers of children, mostly boys, in US administered detention facilities in Iraq. She also expressed a

¹⁶³ And in the same vein: “Violence against women continues unabated. The ongoing conflict, high levels of insecurity, widespread impunity, collapsing economic conditions and rising social conservatism are impacting directly on the daily lives of Iraqi women and placing them under increased vulnerability to all forms of violence within and outside their home. Violence against Iraqi women is committed by numerous actors, such as militia, insurgents, Islamic extremists, law enforcement personnel, members of the family as well as the community. Women are victims of rape, sex trafficking, forced and early marriages, murder, and abduction for sectarian or criminal reasons; many are driven or forced into prostitution. [They also suffer under] raids on private homes. To escape the cycle of violence many women turn to suicide, sending a clear message of despair to their society.” (Ibid).

¹⁶⁴ UNICEF Iraq (2007)

¹⁶⁵ UNAMI Human Rights Report (2008, p. 18)

concerned over the number of children detained for extended periods of time, in some instances for one year or more, without adequate access to legal services, or physical and psychological rehabilitation. Concern was also expressed over the reports of the use of cruel, inhuman and degrading treatment of detained children. According to UNICEF Iraq:

- An average of 25,000 children per month were displaced by violence or intimidation, their families seeking shelter in other parts of Iraq.
- By the end of the year, approximately 75,000 children had resorted to living in camps or temporary shelters (25 per cent of those newly-displaced since the Samarra shrine bombing in February 2006).
- Hundreds of children lost their lives or were injured by violence and many more had their main family wage-earner kidnapped or killed.
- Approximately 1, 350 children were detained by military and police authorities, many for alleged security violations.¹⁶⁶

To conclude, there is substantial evidence to support the claim that Iraqi males between the ages of 18-60 are being directly targeted and therefore should be considered to be vulnerable. Although there is a great proliferation of weapons in Iraq, the majority of males are unarmed noncombatant civilians. Under the Geneva Convention they should be awarded protection as vulnerable persons as defined under the “protected persons” category. Equally, adolescent boys need be included into this category. Young Iraqi boys are rounded up along with the other males in their home and face the same level of threat to life. The ramification stretches into the family, when males are killed leaving females unprotected.

¹⁶⁶ UNICEF Iraq (2007)

Chapter 5

IRAQI VICTIMS OF TORTURE

Understanding the reasons for torture and its implications is important to understand the severity of physical and psychological trauma that torture survivors experience. Torture is not used as a last alternative in warfare, but it is used systematically with the intention to do severe harm to the victim. The intention of torture is to break down the individual and make them feel worthless. It shakes the individual's confidence and self-understanding down to their foundations by using techniques such as isolation, mock execution, subjection to screams from other cells, and threats against one's family.¹⁶⁷ Torture methods are preplanned and well thought out.¹⁶⁸ Under authoritarian rule governments invest in torture, from the infrastructure for holding cells where the torture is conducted to the type of equipment used to carry out the torture.¹⁶⁹ Non-government funded torture is no less vicious or severe for the victims. The only difference is where the victim is tortured; that is, in non-institutional settings.

Refugees are different from economic migrants in that they have no choice but to flee their homes for safety for fear of their lives being threatened. Often families will hold out in areas of conflict for as long as they can until they have run out of places where they feel that they,

¹⁶⁷ Rejali (2007, p. 442)

¹⁶⁸ Rejali points out: "In case after case, we find availability, habit, and memory shape how torturers choose. Torturers often choose instruments that are available in the station house or in nearby enterprises (cattle prods from stockyards). In many cases, torturers favor devices integrally linked to their routine duties, making it difficult to deprive them of it, such as gas masks or riot control sticks. In other cases they favor a device that is multifunctional, a tub or a hose or a cheap plastic bag for asphyxiation." (Ibid, p. 19)

¹⁶⁹ "Institutions seeking prospective information about the future favor techniques that generate pain quickly, whereas those seeking coerced confession about past events tend to select techniques that may take considerable time", like sleep deprivation and forced standing, until a confession comes. (Ibid).

and their loved ones, are safe from harm. Once they have exhausted all these options they are left with the last option which is to flee to another country to seek asylum. As previously documented, since the US-led invasion in 2003, many Iraqi males have been threatened with death, assassination or they have been victims of torture including sexualized torture. How torture is conducted on Iraqi males is fundamental to understanding the vulnerability they face if captured in Iraq, deported back to Iraq from a country of asylum, or prevented from seeking asylum.

I. Torture

Torture in the Arab Middle East takes on a variety of forms. The most common use of torture is the *falaka*. *Falaka*, which is Arabic for beating, is also referred to as “The Mediterranean Modern”, meaning “the beating the soles of the feet”.¹⁷⁰ *Falaka* is used due to the lack of marking left on the victims, but not always. The feet are beaten with a rod until the feet swell and turn bluish-purple. The soles of the feet are not thickly muscled, causing tremendous pain to the victim. Depending on the weight of the blunt object and the intensity and frequency of the blows, this practice can yield mildly swollen feet to broken bones that damage a person permanently.¹⁷¹ The prisoner lies on his back his feet bound by the ankles tightly to a pole, the pole may be suspended or held by two men, with the soles of the feet exposed outward.¹⁷² There is no recent evidence of the *falaka* being perpetrated on women in Iraq as a form of systematic torture.¹⁷³ However, torture in Iraq is

¹⁷⁰ Ibid. There may be other variations in the term used. For example, in Lebanon, the practice is referred to as “*farush*”.

¹⁷¹ Rejali (2007, p. 273-274).

¹⁷² Ibid.

¹⁷³ Although there is no evidence that this type of torture is perpetrated on women recently, Ottoman women received the *falaka* by passing their extremities through a curtain. However, it was reversed as a punishment more than perpetuated torture. There was also “delicate consideration” towards women by pouring water on

not reserved to solely to the *falaka*. Other forms of torture and cruel and inhumane treatment are rampant in Iraq. The perpetrators vary from government official such as the members of the ministry of the interior and defence, to local police officers, sectarian affiliated militants, to the Multi National Forces. Under Saddam Hussein's regime torturers in Iraq favored the *falaka* along with hose whipping, the use of flogging, full suspension, presses that crush bones, striking with sharp instruments and heated grills and spits to roast victims. Often it was combined with electro-torture. Over half of the prisoner population was subjected to torture with electricity (63 percent) and the *falaka* (75 percent).¹⁷⁴

Beatings and electrotorture were a common theme in the UNHCR Iraqi referrals.¹⁷⁵ Many male survivors gave testimony of being kidnapped by armed militias and police officers. They described being chained to ceilings, beaten with cables and kicked viciously. Numerous male Iraqis had their genitals electrocuted, their nails and teeth pulled out. Several witnessed the torture and killings of other detainees. Others had parts of their body burned. Those who worked for foreign companies as contractors or interpreters were tortured quite severely for their "betrayal". There was one case of an attempted public lynching of a young male Sunni Muslim. After all his family members were executed, he was the sole surviving member and had no way of protecting himself when the Shi'a militias and others from their community came knocking on his door. They dragged him out of his house by force and started preparations to hang him from a tree, when a Shi'a

the feet to soften them with the intension to leave few marks, as part of the tradition of a 'clean' *falaka*. (Ibid, p. 274)

¹⁷⁴ Ibid. p. 276.

¹⁷⁵ UNHCR Iraqi cases referred to IOM, October 2007-May 2008.

community elder came to his defense on the condition that he leaves the family home immediately.

Surviving family members of deceased males gave testimonies of finding their loved ones at the morgue with signs of severe torture including, missing teeth and nails, and drill marks and gunshot wounds to the back of the head and legs. Testimonies from survivors of torture from the Multi National Forces, tell of being dragged out of their homes during round-ups and being taken away blindfolded, beaten, interrogated, tortured and starved. Some of the male testimonies were from also survivors of torture under the Saddam regime, where a common experience was the cutting off of the ears for deserting military service. And then there are the disappeared - males that have gone missing with no trace of a body. Amnesty International has recorded findings of mass graves where the bodies were unrecognizable.¹⁷⁶

Since the 2003 invasion of Iraq, Amnesty International, Human Rights Watch and the US Department of State Country Report for Iraq have also provided extensive reports of torture in Iraq by the MNF, militants and government officials. Listed as forms of torture are: rape, beatings, electric shocks, sexual assault, suspension by the limbs for long periods, suspension in stress positions, threats of ill-treatment of relatives, mock execution, pulling out of the finger nails, forced nudity, enforced sexual simulations, enforced masturbation, enforced oral sex, pulling out of teeth with pliers, sleep deprivation, starvation, exposure to extreme temperatures and genital violence.¹⁷⁷ Again, torture in Iraq was recorded to be

¹⁷⁶ Amnesty International Publications (March 2008)

¹⁷⁷ U.S. Department of State (March 11, 2008).

perpetrated by the Multi-National Forces, police officers, members of the Ministry of Defence, Ministry of Interior, and different sectarian affiliated militants.

The techniques of torture used in Iraq are excruciating; long-term restraint in virtually any position will produce screaming muscles, forced standing causes the ankles and feet to swell to twice their size within twenty-four hours. “Moving becomes agonizing and large blisters develop. The heart rate increases, and some people faint, and the kidneys eventually shut down”.¹⁷⁸ Unmistakably, the forms of torture as mentioned above were intended to create the most harm to the victim.

II. Sexualized Torture

For the most part, sexualized torture of males has gone underreported. The topic is considered to be taboo in most cultures, making it difficult to acknowledge the level at which sexualized torture occurs. Sexualized torture is perhaps one of the most vicious and violating form of torture that exists, causing tremendous psychological and physical trauma to the victims. It undermines the intimacy and trust of the survivor.

Male rape in warfare has its historical marking. Like the raping and sexualized torture of females in warfare, sexualized torture and rape of males is motivated by the dominance of power.

In ancient wars and societies, male rape in times of war was considered as an absolute right of the victorious soldiers to declare the totality of the enemy’s defeat and to express their own power and control. It has been use as a weapon of war and a means of punishment. In the military context, there was a widespread belief that when a victorious soldier emasculated a vanquished enemy and sexually penetrated

¹⁷⁸ Rejali (2007, p. 295).

him, the victim would lose his manhood, and could not be a warrior or a ruler anymore.¹⁷⁹

The Ottoman Turks were infamous for inflicting it throughout the Great War on captured enemy troops, beating and gang raping enemy officers often as a matter of due course. This was capture in the film “*Lawrence of Arabia*”. The Arab armies involved in the revolt did not leave wounded combatants behind to be raped by the Turkish army, instead opting to kill them on the spot. It was well known that rape was a punishment the Ottoman Turks practiced widely, a crime that T.E. Lawrence was victim to. Upon capture by the Ottoman Turk’s in Deraa in 1916, Lawrence was subjected to humiliating beatings and sexual assault at the instigation of the Governor. He also carried the symptoms of post traumatic stress; he suffered difficulties with intimacy, and withdrew from relationships or carried them out only via mail; he had problems trusting people and suffered a defunct sex drive.¹⁸⁰

Sexualized violence is committed against men more often than is believed and thus little attention has been given to sexual violence against men in armed conflict.¹⁸¹ However, there are a number of problems when it comes to understanding male sexual violence. How sexualized violence is defined has great importance. Conceptualizing rape as motivated by violence and not by sexual desire, is important in defining rape and needs to be reflexive of this. The rape of males is a violent act, often done with objects or in various ways to cause severe harm both psychologically and physically to the victim. Just as torture is intended to make the individual feel worthless and to break down their identity, rape is an assertion of

¹⁷⁹ Ibid. p. 33.

¹⁸⁰ Godl (2002).

dominance. Stuart Turner points out “it is hardly surprising that sexual assault with its background of aggression, humiliation, domination, should constitute an important part of this process. The torture may range from forced nakedness with sexual threats or humiliations through electrical shocks and physical violence to genitals, finally to anal rape with batons, actual sexual rape by tortures, or even partial or complete castration.”¹⁸²

The atrocities at Abu Ghraib prison in Iraq sparked international outrage over the sexualized nature of the torture and humiliation that Iraqi detainees had endured. The American forces were deliberately using sexualized methods of torture to “break down” the individuals for information and confessions. American forces were given copies of Raphael Patai’s book “*The Arab Mind*” as an anthropological reference for how to understand and thus treat Arabs.¹⁸³ Patai’s book is highly controversial, as it is considered to be racist in that he generalized the Middle Eastern population and makes gross assumptions of gender and sexual behaviour of Arabs.¹⁸⁴ In his book, Patai talks about the conservative nature of sexual interactions between the genders, observing Arab females to be inferior to males. Iraqi male detainees were forced by the MNF to strip naked in front of female soldiers in order to humiliate and belittle them as well as to mock their cultural norms. They instituted various activities such as this as a process of disempowering their masculinity.

¹⁸¹ Sivakumaran (2007, p 18).

¹⁸² Turner (1993, p. 98).

¹⁸³ Patai (1983).

¹⁸⁴ “Veteran American journalist, Seymour Hersh, revealed that the view that Arabs are particularly vulnerable to sexual humiliation became a talking point among pro-war Washington conservatives in the months before the March, 2003 invasion of Iraq. According to Hersh, America’s neocons learned of such a ‘vulnerability’ from Patai’s *The Arab Mind*. Hersh argued that the book was ‘the bible of the Neocons on Arab behaviour’. It was assumed that Arabs only understand force and that the biggest weakness of Arabs is shame and humiliation. (Massad , 2007, p. 44-45)

The sexualized torture was a deliberate strategy within this context. The Islamic culture is traditionally sexually conservative. Bernard Haykel, professor of Middle Eastern Studies at New York University explained the sexual torture in Abu Ghraib: “Such dehumanization is unacceptable in any culture, but it is especially so in the Arab world. Homosexual acts are against Islamic law and it is humiliating for men to be naked in front of other men. Being put on top of each other and forced to masturbate, being naked in front of each other - it’s all a form of torture.”¹⁸⁵ Thus the connection was made between cultural sexual conservatism and religious beliefs.¹⁸⁶ In this sense, the human rights violations at Abu Ghraib were well thought out, as the torture was designed to do the most psychological and physical harm by sexually humiliating the detainee - a direct violation to the body and the detainee’s religious identity. The rape and the sexualized torture of Iraqi men were conducted in a systematic way to crush the spirit of those detainees who opposed the invasion.¹⁸⁷

Sexualized torture can be defined as anal rape, forced oral sex, genital violence, enforced sterilization, electrocution of the genital area, fingering of the anus, enforced nudity including partial nudity, enforced simulated of sexual acts: such as acts that were captured on film at Abu Ghraib. Anal rape does not have to be male penis penetration to the anus. Male rape can be sodomy of the anus with blunt objects such as broom sticks, bottles or

¹⁸⁵ in Hersh (2004).

¹⁸⁶ “In the Koran, homosexual behaviour is specifically condemned ... In the Hadith [the Sayings of the Mohamed and his followers] any anal penetration is prohibited but it seems that force used in this context is not specifically mentioned. Thus, the position in Islam, in so far as one can generalize, is that homosexual behaviour is condemned while, at the same time, women are considered inferior.” (Jones, 1993, p.110).

¹⁸⁷ Zawati (2007, p. 35).

batons. Equally, beating, kicking, pulling or cutting of the testicles in the form of blunt trauma is considered sexualized torture. At times, blunt trauma to the genitals is done for the purpose of permanently damaging the reproductive organs. In the Former Yugoslavia, Bosnian Muslims male endured severe forms of sexualized torture to their testicles so they would not be able to have Muslim children - part of the ethnic cleansing plans of the Serbs.¹⁸⁸

The power imbalance between the victim and the perpetrator is exacerbated by the sexualized context of the crime. The atrocities at Abu Ghraib are a perfect case in point. The stripping naked of the detainees and forcing them into sexually simulated positions was to show the Iraqi detainees that they have lost their power and placed into the position of a female as part of the emasculation process. The female American soldiers involved in the abuse took photographs of the detainees in women's underwear and wrote "rapist" on one detainee's leg. They were also active in forcing the detainees into mock sexual simulations including having detainees pretend to perform oral sex on other male detainees. These acts constitute sexualized torture. Another nine Iraqi men suffered physical and sexual assault while being detained by the British troops in May 2003.¹⁸⁹ Their lawyer argued that the maltreatment of the men was hideous, humiliating and degrading and the legacy lingers with them to this day.¹⁹⁰ Again, this was a way that the MNF asserted its aggressive dominance over unarmed Iraqi male detainees. Sexualized torture of males was carried out not only by the Multi-National Forces (MNF), but also by government officials, Iraqi police and militants. In an Amnesty International report, Iraqi males detained by Iraqi

¹⁸⁸ Stener (2005, p16-25)

¹⁸⁹ BBC News (September, 15, 2008)

security forces also came forward with allegations of rape.¹⁹¹

In the Egyptian UNHCR Iraqi case referrals, testimonies of the rape of males and females differed in the arena in which the violations and tortures took place.¹⁹² Females were more likely to be raped in their homes by militias. A number of testimonies read of a gang of militias raiding the family home and beating the husband unconscious while the wife was taken to another room and gang raped. Males, on the other hand, were raped while in captivity or in detention. I did not come across any case where the husband was raped in front of the wife in the household. Perhaps because if male on male rape is conducted in front of a female, the rape could be perceived as a homosexual act perpetuated by sexual desire and not as a violent (or military) act of power, control and humiliation.

Men were kidnapped and taken to holding cells, abandoned buildings or in the homes of the militias. This allowed the perpetrators to continuously torture the victim over a span of a few days or a few weeks. They were stripped naked, chained and threatened with death. Some testimonies gave accounts of attempted rape while others were unable to fight off the attempts. Survivors often were beaten, burned and chained for days before they were ganged raped with penile penetration, or raped with the use of blunt objects such as sticks, metal rods or bottles. Others had their genitals electrocuted and beaten with rods and cables. Sexualized torture was coupled by degrading taunts to the victim's religion and family, further humiliating their identity and undermining their psyche. Torturers from the same cultural background well understood the implications of male rape on their "enemy"

¹⁹⁰ Ibid.

¹⁹¹ Amnesty International Publication (March, 2008, p. 2).

victims. It signified the power and the defeat over his “enemy”. The more homophobic and conservative the culture is, the more shameful it is for the survivors of male rape. Many survivors expressed shame, humiliation and loss of sexual identity and desire.

Boys have been equally brutalized sexually while in captivity. There were testimonies in the UNHCR Iraqi case files of boys as young as 9 years of age being kidnapped from school or outside of the family home and taken to a house to be held for ransom.¹⁹³ During captivity the young boys were sexually abused, threatened and beaten with cables and guns. According to the testimonies, the sexual abuse was only discovered when the mother, upon release of the child, examined their sons’ bodies for signs of torture. The effects of the trauma the young boys endured included bed wetting, nightmares, loss of appetite, fear of going outside and fear of being left alone. Again, such cases were not considered ‘urgent’ by the UNHCR refugee status determination case officers! As previously mentioned, there are several hundreds of adolescent and young boys in US and Iraqi detention centers and some have been subjected to sexual abuse and sexualized torture.¹⁹⁴

Studies have shown that male survivors of sexualized torture have great difficulty coming forward and reporting the sexual violations against them.¹⁹⁵ The combination of stigma and disbelief that accompanies the assault, including questioning the survivor’s inability to fight off the attackers and the level of fear they felt led to a low report of male sexual assault. There is also a disturbing failure by health care officials to identify male victims

¹⁹² UNHCR Iraqi cases referred to IOM, October 2007-May 2008.

¹⁹³ Ibid.

¹⁹⁴ Steele (2008).

¹⁹⁵ See King and Mezey (1993, p. 5-6).

of sexual torture.¹⁹⁶ The health consequences for survivors of sexual torture are made more severe because of the taboos surrounding the subject. “Partners and friends suspecting problems may avoid the topic, contributing to their sense of isolation. In these ways, sexual torture may succeed in breaking a person’s will”.¹⁹⁷ The shame and stigma also prevents male survivors of rape from being checked for HIV and other sexually transmitted diseases.¹⁹⁸

Family and community support is crucial to the survivor. In the Egyptian UNHCR case referrals there were also noticeable differences in the family support for the survivors of rape. There was more family support for female rape survivors than for males, because it was more often known, especially in cases where the husband was present in the house when the wife was taken to another room to be raped. There was a profound sense of trauma, for both the husband and wife, but there was also more support, particularly, it seemed, with members of the Christian community, though the hardship as a family unit was still difficult. For example, female rape survivors who had young children became withdrawn from their children and had troubles coping with the household responsibilities. Often I would recommend that the mother or mother-in-law of the victim accompany the family for resettlement, in order to provide moral support and help with the caring of the children. Some women had friends who were able to accompany them to a clinic to be tested for HIV. I did not notice much of the same family support for males. Many expressed fear and shame in telling family members. Other fled into Jordan and Syria on their own without any family to accompany them to provide support. None mentioned

¹⁹⁶ Ketting, Oosterhoff and Zwanikken (2004, p 68-77).

¹⁹⁷ Ibid.

seeing a doctor for a physical check up including an HIV test.

The testimonies in the UNHCR referrals were consistent with human rights reports (Amnesty International, Human Rights watch, U.S State Department, United Nations Assistance Mission for Iraq) which proved that non-combatant males were targeted by several groups and where the Iraqi government was unable or unwilling to protect them. In many cases, the perpetrator was the government itself. The survivors of these crimes of torture and sexualized torture were all non-combatants. Yet, under the Geneva conventions they are supposed to be “protected persons” meaning vulnerable persons during warfare. Even combatants that are injured or have laid down their weapons and surrendered are POWs and should still be afforded protection from cruel and inhumane acts. When there is a clear disregard to upholding the Geneva Conventions, there can be no guarantees that non-combatants will be protected and respected in accordance with international humanitarian law.

With the state that Iraq is in it seems unlikely that there can be any guarantees to protect non-combatant male civilians from torture, and cruel and inhumane acts such as sexualized torture. So long as there is no formal system of fair and free legal recourse and redress, high levels of insecurity, corruption and torture will continue in Iraq, so long as the torturers can “get away with it”, as they continue to do. Darius Rejali, a leading expert in torture studies, points out, “what torturers do is turn to what is available, what is habitual, what they can get away with, what they have heard from others, what they remember, and what they can learn by imitating others. Torturers like devices that cause intense pain or save labour.

¹⁹⁸ UNHCR Iraqi cases referred to IOM, October 2007-May 2008.

They appreciate advances that allow them to revive victims for further torture. They have come to appreciate techniques that leave less visible damage” (2007, p. 28). Even after the pictures of the torture by American soldiers at Abu Ghraib became public, torture by American soldiers continued. American soldiers in turn became more careful not to leave marks as evidence.

U.S torture continued after the world was informed of Abu Ghraib, long after American officials assured the public that torture had stopped. As one sergeant with the Eighty-second Airborne testified, “we still did it, but we were careful.” The American Defence Department explained the elite Special Operations unit, Task Force 6-26 reason to be more careful “If you don’t make them bleed, they can’t prosecute for it.”¹⁹⁹

By preventing Iraqi males from seeking asylum and by deporting them, Iraqi males will remain in a serious state of vulnerability for potential torture and possibly death.

¹⁹⁹ Rejali (2007, p. 295).

Chapter 6

LEGAL INSTRUMENTS: Providing protection and redress through law

The inability to prosecute perpetrators of torture, cruel and inhumane treatment is the result of a combination of social, cultural and legal barriers. Although sometimes documented, wartime male rape and sexual torture is rarely emphasized in international humanitarian law, leaving the perpetrators immune from prosecution. This trajectory paves the way for a culture of impunity. Under the Bush administration, there were legal attempts to justify and legalize torture of detainees in Iraq. The Geneva Conventions and related treaties were considered unenforceable in court in civil cases involving the US government or its agents. The Military Commission Act of 2006, passed by United States Congress, bars aliens held as “unlawful enemy combatants” from filing cases to challenge the legality of their detention or raise claims of torture or other abuses.²⁰⁰

The UN Security Council Resolution 1487 (2003), adopted in 12 June 2003, has exempted American troops and personnel serving in any UN force in Iraq from prosecution for international war crimes under the Rome Statute of the International Criminal Court.²⁰¹

The Bush administration tried to justify the use of torture (and sexualized torture) as a necessary evil under a ‘state of emergency’. But one may argue that the idea behind the Geneva Convention and its rules of war is to prevent the illicit use of torture under any circumstances. International humanitarian law seeks to limit human suffering that is the

²⁰⁰ Zawati (2007, p. 35).

²⁰¹ Ibid. p. 37.

inevitable consequence of war, not promote it by giving permission to any armed forces regardless of the nature of the warfare or civil strife.²⁰²

If international law allows for “black holes” in rules of war, then it cannot stand to defend human rights on the premise that all human beings are equal before the law without discrimination to ethnicity, gender, nationality, and religion. Justifying a little bit of torture leads the way to a slippery slope that questions who the laws apply to and who is above the law in a system that differentiates between citizens, in effect creating categories of human and subhuman before the law.²⁰³ Unfortunately, the passing of the Security Council Resolution 1487 mentioned above does just that. Zawati (2007) points out the importance of calling upon the international community to combat the culture of impunity by bringing the crime of wartime rape of males into the international arena. It is necessary to remove all barriers to justice for the victims and to recognize the grievous nature of wartime rape as a crime against humanity.²⁰⁴

I. Torture under International Law

Much of sexualized torture goes unrecognized because there are ambiguities in its

²⁰² Article 2 of the Convention against Torture, Cruel and Inhumane Treatment, which provides for “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, such as a state of emergency”.

²⁰³ Slavoj Žižek, commenting on Sam Harris’s defense (in his book *The End of Faith*) for the use of torture in exceptional cases, points out that “everyone who defends torture defends it as an exceptional measure - nobody seriously advocates torturing a small hungry child who has stolen a chocolate bar” (Žižek, 2008, p. 42-43). But torture, including sexualized torture, is continually carried out on Palestinian children in Israeli prisons even though they have only been accused of *throwing rocks*. Those who use such gross disproportionate use of punishment will be able to formulate some reasoning behind torturing a small hungry child who has stolen a chocolate bar.

²⁰⁴ Zawati (2007, p. 35).

definition. Male sexual assault is often only thought of as anal rape.²⁰⁵ Forced fellatio, masturbation, mutilation of the genitals, insertion of objects into the anus of prisoners and blunt trauma to the male genitals are not considered as sexual assault against males. Hitting or kicking a male's testicles has failed to be regarded as sexualized torture because the act is considered to be common in times of peace. Hitting and kicking of testicles has been regarded as normalized in contact sports, college initiations and an act of aggression by a female. Blunt trauma, or hitting, of the testicles has been viewed as comic relief for so long that it demands a passive "take it like a man" response, rendering it as an invisible offence.²⁰⁶ In the concentration camp in Omarska, the Serb-run camp for Muslim and Croatian prisoners, one prisoner was forced to bite off testicles of another who, as he died, had a live pigeon stuffed into his mouth to stifle his screams, while the guards chanted and screamed as if they were at a sports match.²⁰⁷ Omarska was called by a UN Commission of Experts a "de facto death camp." It was a place where killing, cruelty and ritual humiliation became a form of twisted recreation. "The guards were often drunk and singing as they tortured, beat, mutilated, and slaughtered prisoners, and there was a particular taste for forced fellatio, forced sex with animals and sexual mutilation."²⁰⁸

The trials for crimes against humanity in the Former Yugoslavia, brought some attention to the plight of the sexualized torture that males faced during the war. Defining sexualized torture is an integral part in helping males to come forward to give testimonies of the crimes suffered. The International Criminal Tribunal for the Former Yugoslavia (ICTY)

²⁰⁵ Stener (2006, p. 18)

²⁰⁶ Ibid, p. 17)

²⁰⁷ See Vulliamy (1999, p. 365).

²⁰⁸ Ibid.

Statute explicitly included the crime of rape. Article 5(g) treated it as a crime against humanity, reflecting the grievous nature of the offense. The ICTY adopted a gender-neutral definition which described the victim of sexual assault with both masculine and feminine pronouns, acknowledging that sexual assault affects the victims, regardless of the gender.²⁰⁹ At the Hague in 1996, the first war crimes trial since Nuremberg, the revelations of the activities at Omarska led to the prosecution and conviction of a part-time guard at the camp, Dusko Tadic, for war crimes and crimes against humanity.²¹⁰ The Tribunal found Tadic guilty of persecution on political, racial, or religious grounds - a crime against humanity. Tadic's sentence acknowledges that a crime was committed where the male victims suffered great pain and their reproductive possibilities were destroyed. In other words, his conviction included the crime of sexualized torture.

The Statute of the International Criminal Court²¹¹ directly prohibits rape and sexual violence. Article (7) states:

(1) For the purposes of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: ... (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity... (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. (ibid)

As previously mentioned, international humanitarian law was designed to limit the human suffering that is an inevitable consequence of war. Yet the law can only work in concert with an international justice system that is willing and able to try war crimes. The lack of

²⁰⁹ Stener (2006, p. 17).

²¹⁰ Ibid.

²¹¹ Clapham (2007, p. 40)

willingness and ability allows a path for war criminals to either obtain impunity or amnesty for their crimes, and it gives future criminals more incentive to act without consideration and respect for the law. In other words, why hesitate over shooting an unarmed civilian in the back if there is an understanding that no-one will prosecute the crime?

Therefore, for refugees and survivors of torture, international law works in two ways, one for protection while in warfare and one for protection from being sent back to warfare. There needs to be a law that more explicitly protects vulnerable males (both combatants and non-combatants) during warfare. The Geneva Convention's category of "Protected Persons", the Convention Against Torture, Cruel and Inhumane treatment (1984), the Universal Declaration of Human Rights and the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol do make general provisions for protection, but without explicit recognition of gender-based violations that include males has led to a perception that only women and children can be considered as vulnerable.

The Geneva Convention is so widely ratified that is considered as customary international law, binding all countries, including those that have not ratified the relevant conventions, treaties and protocols.²¹² On the other hand, the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol are not customary international law. Only those States that have sign and ratified the Convention are obligated to its laws. Having "the right to seek and enjoy asylum" does not in any way oblige States to take vulnerable refugees, including survivors of torture.

Survivors of torture, who seek asylum, have the burden of proof to meet the definition for a well-founded fear of persecution. Similarly, proof of torture may play a significant part in making a claim for asylum. In Canada, the Immigration and Refugee Board in Toronto, Vancouver and Montreal adjudicate refugee claims. If the claimant cannot, according to the Immigration and Refugee Board hearing, meet the definition for well-founded fear, they will face deportation. However, under international law, in accordance with the Convention Against Torture and Other Inhuman or Degrading Treatment, which Canada is a party to, Article 3 (1.) states:

No State Party shall expel, return ('refoul') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. (2.) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant consideration including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Providing proof of torture would enable survivors to build a strong claim of a 'well founded fear' for refugee status and be granted protection under the Canadian government. Protection is granted when the State that the claimant is a citizen of is unable or unwilling to give the claimant protection. A history of documented torture will also prevent refugees from being potentially refouled or returned back to a State where they may face torture. Refugees who are granted asylum can then go through the process of obtaining redress and adequate compensation, including the means to full rehabilitation with the help of the state that has granted the refugee protection. For this to come into full effect, States must not only sign and ratify the relevant international legal conventions they must incorporate them into domestic law. Canada has signed, ratified and incorporated several legal instruments into federal and provincial law for the protection of refugees and asylum seekers that have

²¹² Byers (2005, p. 116).

been tortured. Understanding these laws (which Canada is obliged to uphold) are of great importance when deciphering Canada's role in accepting Iraqi refugees from outside of Canada under resettlement arrangements, and granting refugee status to Iraqi asylum seekers that have arrived into Canada independently.

II. Canadian International and Domestic Obligation

Canada signed, ratified and acceded to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 23 August 1985. Measures adopted by the Government of Canada into (domestic law) are included in the Canadian Charter of Rights and Freedoms. Several provisions of the Charter are relevant for the purpose of preventing acts of torture. Article 2, Section (12), guarantees that “[e]veryone has the right not to be subjected to any cruel and unusual treatment or punishment”. Section (7) guarantees the right to life, liberty and security of the person and the right not to be deprived of these except in accordance with the principles of fundamental justice. Section (9) guarantees the right not to be arbitrarily detained or imprisoned. Anyone whose rights under the Charter have been infringed may apply for judicial remedies through the appropriate courts (Section 24.1).

In order to ensure compliance with the Convention against Torture, the Canadian Parliament amended the Criminal Code to recognize torture as a specific offence (Section 245.4). This amendment prohibits act of torture committed by officials, such as peace officers, public officers and members of the military forces, or by persons acting at the instigation of, or with the consent or acquiescence of, such persons. It is no defense to a

torture charge that the accused was ordered to perform the act in question by a superior or public authority, nor can the act be justified by exceptional circumstances, including a state of war, threat of war, political instability or any other public emergency.

The Crown Liability Act and the common law also permit persons to sue police officers, including members of the Royal Canadian Mounted Police (RCMP). The government is responsible for any liability, compensation or damages assessed in the event of improper and unreasonable acts of its employees. Restitution may also be ordered under the Criminal Code in respect of property loss where the loss is readily ascertainable (Section 653-655, Appendix 4).

Canada is also a party to the International Covenant on Civil and Political Rights and the Optional Protocol to that Covenant. This allows individuals in Canada to address the UN Human Rights Committee with allegations of violations of the Covenant and, in particular, Article (7), the prohibition against torture and cruel, inhuman or degrading treatment or punishment. Canada has also been a member of the Organization of American States since 1990. Therefore, individuals may bring complaints before the Inter-American Commission on Human Rights, based on the Declaration on the Right and Duties of Man, including Article (1), the right to life, liberty and security of the person.

Measures adopted by the government of Canada are also included in immigration regulations. For example, a refugee claim is submitted to the Immigration and Refugee Board, an independent administrative tribunal with the mandate to determine refugee

claims. In applying the definition of a “Convention refugee” (under the 1951 Refugee Convention), the members of the Immigration and Refugee Board who are hearing the refugee claim have to determine whether the claimant has a well-founded fear arising from persecution based upon one of the grounds listed in the Refugee Convention. The burden of proof, which is considered to be lower than the civil standard, rests on the claimant. To succeed, a claimant must prove that his or her fear is based on a reasonable possibility of persecution if the claimant is returned to their country of origin. The Canadian Immigration Act and the 1951 Refugee Convention do not define the term “persecution.” However, the Federal Court of Appeal in *Chan v. M.E.I.* [1993] 3 F.C. 675 stated that torture, beating and rape are examples of persecution. In determining whether an act amounts to torture, and thus persecution, the Immigration and Refugee Board has frequently referred to the definition of torture in the Convention Against Torture. For example, the Board used the Convention definition of “torture” to determine that the sexual and domestic violence suffered by the claimant in the case amounted to “torture” and, therefore, constituted persecution. In evaluating the well-founded aspects of the claimant’s prospective fear of persecution if returned to their country of origin, the Immigration and Refugee Board members render a decision after a hearing during which claimants are given the chance to present the facts supporting their claims. In its hearings, the Immigration and Refugee Board often receives medical evidence from medical practitioners which, based on the physical evidence and the psychological profile of the claimant, may support the finding that torture occurred. Failure by the Board to consider such evidence appropriately will probably lead to its decision being overturned by the Federal Court of Canada.

For the next sections in this chapter, I draw on personal interviews with members of three service providers that deal with Iraqi refugees and asylum seekers in Canada - the Canadian Centre for International Justice, the Canadian Centre for Victims of Torture and the Vancouver Association for the Survivors of Torture. All three of these centers are non-governmental organizations (NGOs). They rely on private funding and a limited amount of financial support from the Canadian government. Many of the staff serve on a voluntary basis and the coordinators spend much of their time fundraising for the year's program.

III. The Right to Fair Trial and Redress

The current insecurity in Iraq and the reported corruption of the courts has led to a lack of formal redress for victims of torture.²¹³ It is also important to point out that under Iraqi Special Tribunals there is no clear prohibition of torture or cruel, inhuman or degrading treatment that is consistent with international law, including Article 7²¹⁴ of the ICCPR²¹⁵. The Code of Criminal Procedure prohibits the use of “any illegal method to influence the accused and extract a confession from him....Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants [are] considered illegal methods”²¹⁶. Thus, the Iraqi Tribunal Statute fails to comply with international standards of fair trial. The Tribunal Statute has guarantees for the right to a fair trial within its provisions, including Article 14²¹⁷ of the ICCPR and Articles 55²¹⁸ and 67²¹⁹ of the Rome

²¹³ Human Rights Watch (November, 2006); Amnesty International Publication, (13 May 2005).

²¹⁴ See Article 7 of the International Convention on Civil and Political Rights.

²¹⁵ Amnesty International Publication (13 May 2005).

²¹⁶ Ibid.

²¹⁷ See Article 14 of the International Convention on Civil and Political Rights.

²¹⁸ See Article 55 of the International Convention on Civil and Political Rights.

²¹⁹ See Article 67 of the International Convention on Civil and Political Rights.

Statute of the ICC, but some critical guarantees are omitted or inconsistent with international law and standards.²²⁰

Reports show that human right violations in Iraq are commonplace and include arbitrary deprivation of life, disappearances, torture and other cruel, inhuman, or degrading treatment or punishment, impunity, poor conditions in pretrial detentions and prison facilities, denial of fair public trials, delays in resolving property restitution claims, arbitrary arrest and detention. In addition, lawyers and judges have been specifically targeted by extremists and kidnapped, tortured or killed, adding to the absence of an adequate legal system. At the time of writing, there are 60, 000 males in detention in Iraq awaiting trial.²²¹ It is quite common in war that young males are rounded up and detained for no reasons and held without charge. Others do not get to prison but are gunned down shortly after being rounded up. Thousands have been found dead, with signs of torture on their bodies.

Redress, rehabilitation and restitution are all important factors for survivors of torture to begin to heal. When asked how survivors view redress, Matt Eisenbrant, the legal coordinator of the Canadian Centre for International Justice explained:

The purpose of torture is to break down the individual and make them feel worthless. The importance of redress allows the survivor to be able to have their day in court and to be able to identify the perpetrator as the person who has caused his suffering. It is a public declaration that that person is responsible for what has happen to them. In the U.S. civil law suits, no one is going to jail, but for the [survivor] to see the person in the court room, especially top military officials such as commanders, it is really empowering for the torture survivor. Having that day in court is so important, because when [the survivor] was being tortured they did not

²²⁰ Ibid.

²²¹ Amnesty International Publication (March, 2008, p. 2).

have the right to go to court and hear the charges against them or to defend themselves [legally].²²²

Although the judicial outcome may not be favorable to the survivor, if the perpetrator is not convicted or punished, there is at least an important psychological benefit for the survivor to have had the chance (the right) to confront his torturer in a court of law – to have “his day in court”. If the case is favorable and a punishment is meted out to the torturer, the case will set the precedent for subsequent cases of torture and can pave the way for other being tried for war crimes and crimes against humanity.

When asked how open survivors are in talking about their experiences of torture with the Canadian Center for International Justice (CCIJ), Eiesnbrandt responded:

We are at the last of the line. When they come to us it is because they want to come forward. They are ready to talk about their experience. Regarding the gender differentials, it does not break down that easily. Some males can talk about [sexualized torture] and some will not. Some can sit there with a deadpan face and tell everything. Some women will talk about the torture but not about the rape. Some of the factors of that are cultural. (ibid)

Eiesnbrandt went on to add:

Accessing the courts is not so easy, which is one of the reasons we exist. For example, if someone involved in their torture is here, they have two choices. Either 1) they go to the government or RCMP; or 2) they go find a lawyer, which is not a natural thing to do. Often people, particularly immigrants of certain communities do not want to go to the government. In the Middle Eastern community they will think they are informants. Also, torture survivors do not go to the government, because it is the government officials that abused them in the first place. (ibid)

²²²Personal interview with Matt Eisenbrandt, Legal Coordinator, The Canadian Centre for International Justice, (November 17, 2008), Ottawa, Canada.

IV. The Right to Rehabilitation

Torture has become normalized in the Middle East. Egypt, Iraq, Iran, Israel, and Syria all have vigorous track records of torture. Survivors are expected to carrying on with their lives after they have undergone some of the most severe forms of torture. The psycho-social needs of survivors become minimized when the level of torture they have endured has failed to gather the attention of service providers. For many survivors of torture to come forward, the environment must be able to provide an attitude that is conducive to their needs. Middle Eastern men for the most part carry the financial responsibility of their family. They must be able to reintegrate back into the work force shortly or immediately after they have been released, leaving them little or no time for the rehabilitation they require. Of course, there is a great danger to the survivors' well- being and indeed their families', if they do not receive the immediate care they need. According to psychosocial practitioners, sexual torture goes under-reported because medical clinicians fail to look for signs of sexual torture.²²³

Male survivors of sexualized torture face great difficulties getting the attention and assistance they need. Sexual violence in most cultures is considered to be taboo and is rarely discussed openly. Male survivors of sexualized violence face great difficulties addressing their needs based on the trauma they endured because of the shame and socio-cultural assumptions that male rape involves the homosexualizing of the victim. Mulugeta Abei of the Canadian Centre for Victims of Torture, acknowledges that there is

²²³ Personal interview with Mulugeta Abai, Executive Director, Canadian Centre Victims of Torture, (November 12, 2008) Toronto, Canada.

widespread use of torture, including sexualized torture, in the Middle East and Africa, but there is still a large reluctance of survivors of sexualized torture to come forward.²²⁴ He explained to me that there is not one client at the centre that would want to speak to me regarding the sexualized torture they have endured.²²⁵ It was evident that this was the common theme with all seven social service providers I spoke with.

The issues of sexual torture are so taboo that they cannot be raised publicly, or privately, within a culture that is so predominantly sexually conservative.²²⁶ Most people are aware that sexualized torture does happen in the region, but the socially conservative environment does not permit sexualized torture to be discussed openly.²²⁷ Sexualized torture shames the victim because of the homosexual fears attached to it. For example, as a result of the public showing of the famed movie *The Kite Runner*,²²⁸ the two main boy actors and their families had to be taken out of Afghanistan and given refugee status because of the scene in the film where one of young actors is raped. The actors' families were concerned with the community response to the homosexual connotations of the film.²²⁹

Eidy Sadri, one of the counselors at the Vancouver Association for Survivors of Torture

²²⁴ Personal interview with Mulugeta Abai, Executive Director, Canadian Centre for Victims of Torture, (November 12, 2008) Toronto, Canada.

²²⁵ Ibid.

²²⁶ Personal interview with Ahmad Fahim, Head of Office, International Organization for Migration, Ottawa, (November 03, 2008), Ottawa, Canada; Personal interview with Mulugeta Abai, Executive Director, Canadian Centre for Victims of Torture, (November 12, 2008), Toronto, Canada; Personal interview with Eidy Sadri, Settlement worker, Vancouver Association for the Survivors of Torture, (August 18, 2008), Vancouver, Canada.

²²⁷ Ibid.

²²⁸ Based upon the book of the same name by author Khaled Hosseini, the story is set in Afghanistan from the final days of the monarchy to the present war.

explained that the hardest issue to overcome for newly arrived Iraqi refugees is dealing with the trauma they endured from torture and issues of their sexuality. She explained that the majority of the Iraqi clients are males and between the ages of 25-45 years. They are well educated professionals, ranging from doctors, teachers to engineers. They were tortured by the Iraqi government having endured both psychological and physical trauma. Some sustained electrical shocks and others were raped. The particular issues facing the Iraqi males is cultural shock and dealing with severe trauma. She also explained that some of the male clients were gay but were previously married with children in Iraq. Some left Iraq without their families, other arrived with their families. Upon arrival in Canada some chose to “come out” because they were tired of hiding and feeling ashamed of their homosexuality and they felt Canada to be a safe country that is tolerant of gays. Even so, they were worried about what the Iraqi community thought. Importantly for them, everything they revealed in counseling would be held confidential and clients are careful not to let other Iraqi clients know about each other’s sexuality. Sadri also noted that they suffered a great deal of mental anguish, more than physical trauma, because they feared that members of their community will find out about their sexual preference. She explained that one young Iraqi male client was gang raped by other Iraqis in his community after they had found out he was gay.²³⁰

Rehabilitation with Child Survivors of Torture or Trauma

There is also a lack of attention regarding the vulnerability of boys. Amnesty International, Human Rights Watch and the U.S. State Department have released reports of youth being

²²⁹ Halbfinger (2007).

²³⁰ Personal interview with Eidy Sadri, Settlement worker, Vancouver Association for the Survivors of

detained and raped in Iraqi prisons. The random round ups of males and the arbitrary, lengthy detention of thousands of people means that there is a lack of space in holding centers. Boys are thrown in with adult males making them very vulnerable to all forms of violence and psychological trauma.

The Vancouver Association for the Survivors of Torture (VAST) works to provide therapy for the whole family and also work in partnership with the British Columbia Children's Hospital to help children with long term care. In my interview with Eidy Sadri, a VAST settlement worker, she stressed the importance of cultural consideration in the care of child survivors of torture and trauma. She explained that many of those of Arab origin have difficulties understanding the lengthy process of psycho-social care for children. They want a quick cure for their children suffering. Some parents will remove their children from care if they find that their child has not improved immediately. The duration of the treatment depends on the child, their experience and their parents.

Recently in Vancouver, British Columbia resettlement counselors have been placed in high schools to help immigrant and refugee children and their families cope with the overwhelming shock of a new cultural environment. Sadri added, "VAST deals very closely with schools to ensure children that are showing signs of torture or trauma are referred to VAST." One Iraqi boy was acting out very aggressively at school because of the trauma he sustained in Iraq, but his parents suddenly decided to pull him out of therapy, so there was nothing further that could be done for him.

Torture, (August 18, 2008) Vancouver, Canada.

For many survivors of torture, the process of resettlement can be just as traumatic as the initial trauma they experienced. Essential to the process of recovery is a positive resettlement experience.²³¹ Barriers which prevent asylum seekers, especially those who are survivors of torture, from finding a place of refuge, hinder their medical and psychological recovery.

²³¹ Canadian Centre for Victims of Torture (2004).

Chapter 7

IRAQIS SEEKING ASYLUM IN CANADA

To date, Canada has taken limited numbers of government-sponsored refugees fleeing Iraq. The federal government has yet to map out a policy for an Iraqi intake that is more compassionate in numbers. At the House of Commons' 39th Parliamentary 2nd session of the Standing Committee on Citizenship and Immigration, UNHCR Canada had an opportunity to present options for Canada's possible role for durable solutions for Iraqi refugees. UNHCR is mandated to pursue three possible durable solutions for refugees, namely, local integration, repatriation and resettlement. First, UNHCR representatives presented the amount of Iraqi refugees in the neighbouring countries: "Syria hosts 1.5 million Iraqi refugees, which represents 10% of the total population of Syria. In Jordan, we estimate the number of Iraqi refugees to be more than 500,000, of whom half are believed to be school-aged children" and asked that Canada try to help alleviate the burden on these countries and also to take more Iraqi refugees for resettlement.²³² Despite a significant numbers of Iraqis refugees in Egypt and Lebanon, the UNHCR representatives did not mention these countries, perhaps because they chose to use only Syria and Jordan as examples as the countries hosting the most Iraqi refugees.²³³

Further, the UNHCR representative quoted figures from a recent UNHCR survey to express the urgency in which they are asking for Canada's assistance for Iraqi refugees:

²³² Canadian House of Commons (2008). United Nations High Commissioner for Refugees representatives were: Mr. Abraham Abraham, the representative in Canada; Hy Shelow, senior protection officer; and Michael Casasola, resettlement officer.

²³³ Ibid. (1735) Debate between Mr. Blair Wilson and UNHCR representatives.

In 2008, a UNHCR-commissioned survey of nearly 1,000 Iraqis currently staying in Syria has shown that 95% had fled their homeland because of direct threats or general insecurity and that only 4% currently had plans to return to Iraq. A total of 95% stated they had fled Iraq in recent years due to either direct threats, 65%, or general insecurity, 30%. The survey revealed that out of all those interviewed, only 39 out of 994 people, or 4%, are planning to return to Iraq. Of the 39 people, 31% plan to return within the next 12 months and the remainder have not set a date. The following reasons were given by those not wishing to return: 61% stated that they are under direct threat in Iraq; 29% do not want to return because of the general insecurity in Iraq; 8% responded that their homes in Iraq had been destroyed or are currently occupied by others; 1% said they had no jobs in Iraq; and 1% said that they had no more relatives left at home.²³⁴

During question time, one Member of Parliament (MP) Mr. Thierry St-Cyr (Jeanne-Le Bar, Bloc Quebecois) wanted to know exactly what UNHCR wanted from Canada, pressing the possibility of Canadian monetary assistance for UNHCR activities in Iraq and its neighbouring countries. This MP wanted to help UNHCR with just financial aid in order to foster repatriation rather than resettlement to Canada or to help send them to other countries. Another MP, Ms. Raymonde Folco, with a high Christian Iraqi population in her constituency, wanted to know about the Christian Iraqi demographics of the population UNHCR was asking to resettle to Canada, suggesting that they were vulnerable, discriminated against and in need of special consideration.

The concept of vulnerability was referred to a few times in connection with the Christian population. However, the UNHCR representatives refused to divide the vulnerability category as pertaining to the Christian minority or in any other way. Rather, they insisted on vulnerability as pertaining to Iraqis as a whole. From the discussion it seemed clear that UNHCR was not as persistent as they could have been. The session was a prefect

opportunity for UNHCR to give real figures that were necessary for resettlement but they continually avoided clarity on the issue. UNHCR of course operates on the generosity of the states to donate funds and also for permission to operate, so UNHCR personnel did not want to be so insistent that it would wear out its welcome or overwhelm the receiving state to the point that they did not want to take any refugees from Iraq at all. It was for this reason that they had reduced the number they were asking Canada to take – i.e. 1,515 compared with the number they would have liked to request, which was 25,000. This was stated after acknowledging that more than 80,000 Iraqi people were in need of resettlement. When pressed by MPs, the representatives acknowledged that they had calculated their request based on the number they thought Canada would be more likely be sympathetic to – that is, they made a calculation based upon political, rather than humanitarian considerations.²³⁵

With millions displaced in Iraq and at least hundreds of thousands more Iraqi refugees struggling to survive in Jordan, Syria, Egypt and Lebanon, how does UNHCR decide out of this pool to select 1,515 cases to be referred to Canada? Is vulnerability taken into account? In their presentation to the Parliament, the UNHCR representatives explained who they considered vulnerable: “most vulnerable Iraqi refugees included urgent medical cases, single-female-headed households, children, torture victims.” It was added: “Others are addressed, in cooperation with the government authorities and other partners. Registration [with UNHCR] has been an important step in identifying the most vulnerable”. Based on my experience I would argue that the “others addressed” are persons facing deportation or

²³⁴ Abraham, Ibid.

²³⁵ *ibid.*

are currently in prison. Seeing that there is a small amount allocated for resettlement out of the overall total of displaced Iraqis, one can only see the importance of being considered “vulnerable” or “urgent” for resettlement.

UNHCR officers have expressed their concern for the males that fall within this vulnerability gap.²³⁶ However, it is difficult for the UNHCR to ask the government of Canada to take individuals who have undergone such torture because they will require social, psychological and possibly medical assistance. Depending upon the type and extent of torture, it could require assistance for an extended period of time. The reluctance by the Canadian government is primarily because they need to provide the same level of social services to Canadians who suffer trauma, which amounts to a costly expenditure. If UNHCR presses too much on the vulnerability of these males and their needs as survivors of torture, it might make the Canadian government reluctant to take them because their needs would be considered to be too costly.²³⁷

In an interview with a female officer of UNHCR in Vancouver it was explained that, although she sympathized with these males who have fallen in this gendered gap of what constitutes vulnerability, she is still more sympathetic to the hardships that women from the region go through, particularly unaccompanied women. There seems to be somewhat of a vicious cycle. Persons that are most vulnerable are not being considered for

²³⁶ Personal interview with Lesley Stalker, Assistant Legal Officer, UNHCR Vancouver, (September 14, 2008) Vancouver, Canada.

²³⁷ This is a valid. In 1973 the Canadian government refrained from taking Chilean refugees who were imprisoned during the dictatorship because they had been severely tortured. The Canadian government was not so worried about the cost of social assistance to these survivors of torture, but because of the psychological and physical trauma Chileans sustained, they would not be able to enter the work force immediately after arriving.

resettlement because they may either be considered to be too much of a burden on the state, or they will not be able to integrate fast enough to be employable. There seems to be a clear bias in the approach of UNHCR. They are stuck between not biting the hand that feeds them and trying to deal with the realities of war; that is, refugees that have suffered severe trauma. By not asking the Canadian government to take survivors of torture because of their possible medical needs only further victimizes them, especially if there are gender biases operating.

The Canadian Council for Refugees (CCR) released a call for an increased Canadian Response to the Iraqi refugee crisis by expediting the processing of Iraqi refugees being resettled to Canada, including the security checks.²³⁸ However, the CCR's call for expediting the processing of Iraqi refugees for resettlement explained that "the refugees referred to Canada for resettlement have been women at risk, victims of severe violence or trauma or persons with medical needs. The refugees should be resettled more quickly than has been the case to date, in order to respond to the protection needs of the refugees and alleviate the pressures on countries of first asylum"(CCR, 2008). Already there is a gender distinction and no mentions of males as direct targets or as "males at risk", although the statement may be interpreted as implicitly including males as "victims of severe violence or trauma or persons with medical needs." "Victims" and "persons" are gender-neutral terms and it may be assumed includes both males and females, but only females are singled out as being "at risk". Thus the call, although helpful and integral to the support of Iraqi refugees, was not as forthcoming as it could have been to the gender realities of the situation in Iraq. The domino effect is that the literature continues to amplify only the

vulnerability of women in war.

While the world was appalled by the severe sexualized torture of the male Iraqi detainees in Abu Ghraib, it did not resonate by taking in more Iraqi refugees for resettlement. In this sense, Iraqi refugees must take their chances in travelling to Canada to seek asylum, either through the Immigration and Refugee Board of Canada or independently. As previously mentioned, Iraqi males face great difficulty getting past the Iraqi border, in getting past the Queen Alia airport in Jordan and they face difficulties getting visas to fly to Canada, and asylum. Again, this is despite the fact that Iraqi males make up the highest death tolls and are being directly targeted in the conflict in Iraq.

I. Immigration and Refugee Board of Canada:

The Immigration and Refugee Board (IRB) hears refugee cases and decides whether the refugee claimant may enter or remain in Canada. The IRB is an independent administrative tribunal that makes legally binding decisions in accordance with the Canadian Immigration and Refugee Protection Act (IPRA).²³⁹ Canada has four processing centers for refugee hearings - Vancouver, Toronto, Montreal and Ottawa. Ottawa is a much smaller processing centre and therefore adjudicates very few cases. The Immigration and Refugee Board in Toronto takes the largest portion of the country's refugee and immigrant hearings. Often the IRB will send cases to Montreal to adjudicate when the case loads are too high to process. IRB in Toronto adjudicates the majority of Iraqi refugee hearings for the country as a whole. Normally, refugee case hearings are heard before an IRB board

²³⁸ Canadian Council for Refugees/Conseil Canadian pour les Refugies (October, 2008).

²³⁹ Canadian Immigration and Refugee Board (2008).

member who, upon hearing the evidence, must decide if the claimant has a well founded fear and is in need of Canadian protection.

The claimant bears the burden of proof and must be as consistent as possible in recalling the order of events in his/her testimony. All refugee claimants have the right to appeal the decision of the board member. If their appeal is denied, claimants can have one last appeal to prove that their lives would be in danger if they were to be deported back home.

Currently in Canada, the IRB has begun expediting the majority of Iraqi cases. The expedition process means that instead of a board member making a decision during a full refugee case hearing, a tribunal officer will ask the claimant any questions they may have found to be ambiguous in the claimant's Personal Information Form (PIF). This is a quicker process and it allows the claimant to clarify some inconsistencies in their written testimonies (PIF) and ensure that what is in the PIF is true and to the best of their knowledge. The tribunal officer then makes a decision whether to recommend that the case be accepted without going to a full refugee hearing.

Refugee hearings at the Immigration and Refugee Board of Canada are closed to the general public. To be an observer one must first ask IRB, the refugee claimant and their lawyer to observe the case hearing and to have the observer, refugee claimant, lawyer and interpreter sign a document of consent that makes the agreement legally binding. The consent form is then given to the tribunal officer or IRB adjudicator to read for the record during the hearing.

I went to the IRB offices in Toronto to explain the nature of this study and asked for permission to observe any Iraqi refugee hearings and was given the schedule of the Iraqi case hearings for the following day. I was required to ask each individual claimant and their lawyer for permission to sit in on their case hearing for the purposes of my research. All agreed. The purpose of observing the hearings was primarily to observe the way in which the hearing was adjudicated. I was concerned with type of questions the tribunal officer or IRB board members were asking and why. I also wanted to hear the reasons for the claimant's well-founded fear of persecution, the difference in treatment towards male and female case hearings and the differentials between categorizations of vulnerability. Were females being more favored in the granting of resettlement? Were they employed in Iraq? Were the females unaccompanied and, if so, why? Had the claimant suffered direct threats or torture? How did they arrive to Canada? Had anyone in their family been targeted or killed and, if so, who? Although I was not looking directly for religious differences, I found it to be quite interesting that all three cases I was allowed to observe were Christian claimants. Observing Iraqi refugee case hearings proved to be indicative of the findings of this thesis. It supported and strengthened my hypothesis.

II. Iraqi refugee case hearings at the IRB:

I observed three expedited Iraqi refugee hearings in Toronto, Ontario. In two of the three hearings, the principle refugee claimants were females. In the last hearing, the principle claimant was male. I did not directly set out to observe male case hearings, because then I would have no basis of comparison with female cases. Also, it was important to sit in on females cases to find out if they were unaccompanied and why. In all three cases, the

claimants were Christian-Chaldeans, the community which MP Ms. Raymonde Folco was concerned with (see above). The first two cases had a male tribunal officer and in the third case a female tribunal officer was adjudicating.

To refer to only three cases as representative of all tribunal hearings is clearly not possible. However, as an observer, there was a clear difference in the way the cases were handled. First, in the cases where the female was the principle claimant, the hearing was significantly shorter in duration (around 45 minutes). The tribunal officers seemed empathic and limited their direct questions to only clarifying any inconsistencies. This was not the case with the male claimant. His case seemed to be unreasonably drawn out and tense. The female tribunal officer was visibly unsympathetic towards him and was at times annoyed with the claimant's inability to remember dates and names of places. The tribunal officer continued what seemed to be a relentless interrogation and only stopped to reprimand the claimant's answers, even after the claimant expressed his apologies and explained that he was both nervous and did not sleep at all the previous night due to his anxiety.

It is hard to say if the male Iraqi claimant had the same tribunal officer as the two previous female claimants he would have received the same treatment. Or vice versa, that the female tribunal officer would have been as harsh on both the previous female claimants.

Nonetheless, I have observed several refugee hearings-Iraqi and non-Iraqi hearings- and I have become familiar with the process. Whether a tribunal officer or a board member, they should ask clear and direct questions to the claimant and not ask the same question in a

different manner that was designed to confuse the claimant. The adjudicating tribunal officer or board member should not indicate that they do not believe the claimant and indicate that to those present in the hearing, which occurred in the male Iraqi case. I do not highlight this just to support my hypothesis. It was clear to me that the male claimant had a biased tribunal officer who was aggressively harsh in her approach. She took issues with the claimant's religious identity and continued to press him for proof of his Christian background. He responded through a Christian-Chaldean interpreter and he, his wife and his children all had clear Christian names. Further, his and his wife's Iraqi ID had their religious identity listed as Christian-Chaldean. Later, when I interviewed the legal coordinator from the Canadian Centre for International Justice who represented the claimant, he agreed with my observations, based on his years of experience dealing with such refugee cases.

Hearing 1

In the first case, the female claimant had many inconsistencies in her testimony. The claimant had left Iraq in 1998 and tried to claim refugee status in the U.S under a false testimony. Her mother and brother had immigrated to the U.S. but could not sponsor her, as at the time of her refugee hearing in the U.S., her mother was not yet a citizen and her brother had recently sponsored his wife and children. She claimed that on bad advice by an immigration lawyer, together they wrote a false testimony citing that she was married to an abusive Muslim Iraqi and due to his ongoing abuse she had to flee and seek protection. In her hearing at the IRB, she had stated that her brother was killed while closing the family shop with his father inside. Her father did not recover from the death of her brother and

quickly fell ill. She stated in her testimony, that her father and brother were threaten by Islamic extremists for selling alcohol. When asked by the tribunal officer if her father considered changing his type of business to avoid further threats, she replied that it is the only type of business her father knew, as he had inherited the business, and because he had no choice but to continue with the business because he was the main breadwinner. The claimant was also asked if she had ever worked in Iraq. She replied “no”.

Hearing 2

In the second case, once again the principle claimant was female only she was accompanied by her youngest son. Her husband and her other sons were stuck in Jordan. Her claim was based on a well founded fear of persecution due to her belonging to a social group as a Christian-Chaldean Iraqi. In reality, her claim was primary based on her husband’s persecution. Due to her husband’s employment with OXFAM in Iraq, Islamic extremists threatened to behead him and kill his family. Once the job finished with OXFAM, her husband found work in the Green Zone. Again, his life was threatened by Islamic extremists. According to his wife (the refugee claimant) he could not leave his work despite the threats to his life because he was the main breadwinner of the family and she had never worked in Iraq. The claimant and her husband had registered with the UNHCR in Jordan and had waited there for a third country resettlement.

In March 2008, the family was invited to the U.S. by family members to attend a wedding. She and her husband applied for entry into the U.S. but only the wife and her youngest son were granted a visa. According to her testimony, the American embassy denied her

husband and two other sons a visa because they were concerned that they would not return to Iraq or Jordan but would instead claim asylum in the U.S. She considered claiming asylum in the U.S. but was told by fellow Iraqis that Canada would be more favorable. The tribunal officer adjourned the hearing with the recommendation that her case be accepted without going to a full refugee hearing. Upon full granting of refugee status and protection by Canada, the claimant could then begin the process of becoming a landed immigrant and initiate the process of family reunification to sponsor her husband and her other two sons. Provided that her husband and sons are not deported back to Iraq from Jordan, the process of family reunification could take from up to several months to several years.

Hearing 3

In the third case, the principle claimant was a male, accompanied by his wife and two young children. His claim for refugee status was based on a well founded fear persecution for reasons of religion, namely, from being a Christian-Chaldean a minority community that was allegedly being discriminated against in Iraq. The claimant was 35 years of age and was employed while in Iraq. His wife had never worked in Iraq and the claimant was the main breadwinner of the family. The family had traveled to Turkey twice. The first time the family traveled directly to Turkey from Iraq to seek an operation for his daughter. The second time the family traveled first from Iraq to Jordan then to Turkey, where they began their journey with a smuggler to the U.S. The smuggler had asked the claimant and his wife to hand him all the family's identification documents to hold on to, which they did, except for his and his wife's Iraqi ID cards, and in turn the smuggler was able to get the family to the U.S. using fake documents. The smuggler never returned the original

documents to the claimant.

The claimant had only his and his wife's Iraqi identification documents but had no identification documents for his children including religious, educational or medical documents. The Iraqi identification cards listed the claimants' religious identity as Christian-Chaldean. According to the claimant, while the family was in Turkey for his daughter's operation, the family home was taken over by Shiites. He went to the house on two occasions, but the Shiite family would not allow him to enter or collect any belongings and threatened him. He was fearful for his and his family's lives if they returned to Iraq.

All three claimants had the same lawyer, John Rokakis, who agreed to an interview after the hearings regarding the differences between the cases. He noted that all the Iraqi cases he had represented in the past had been approved for refugee status, except for two of the pending cases that I had observed. It was explained that the principle reason for acceptance was that the turmoil in Iraq was too insecure to expect them to return and Canada would not *refouler* Iraqis.²⁴⁰ In this sense, Canada had been fulfilling its humanitarian obligations towards Iraqi asylum seekers, although the main difficulty facing Iraqi asylum seekers was actually getting to Canada in order to make a refugee claim. In the second refugee hearing, the principle claimant was only able to travel to Canada with her youngest son. Her husband and other sons were denied visas to the U.S. and were waiting in Jordan. In the third case, the principle applicant and his family had to make their own way to Turkey and pay a smuggler to get them to the U.S. using false documents. In the process, the smuggler took the entire family's documents except the Iraqi identification cards

²⁴⁰ Personal interview with John Rokakis, Barrister and Solicitor, Specialist in citizenship and Immigration law/immigration and refugee protection, Windsor, (November 13, 2008), Toronto, Canada

of the claimant and his wife. Both claimants were not immediately awarded refugee status.

And of course there is the refugee hearing process itself. It used to be that refugee hearings were overheard by two IRB board members, so it gave refugees the opportunity to be heard by two members as a check on possible biases or mistakes. At the time I attended only one IRB adjudicator was being appointed to refugee hearings, making it more difficult for balanced decision making, particularly if an IRB adjudicator may have been biased towards or against an individual, group or gender. To give an example that was being complained about at the time, there was one particular board member of the Immigration and Refugee Board of Canada who consistently refused to believe claimants from the Middle East, rejecting their claims on grounds of credibility. Such judgments ruled out any appeal to the Federal Court of Canada.²⁴¹ This particular IRB member had upset claimants who had been tortured, by openly expressing disbelief in their testimonies. She intimidated and harassed counsel, interpreters and Refugee Hearing officers with equanimity, to the point where some counsel simply refused to appear before her. Many of the claims that she denied, according to most experts in BC, should have been readily accepted.²⁴² This added to the already entrenched barriers that refugees and asylum seekers from Iraq had to overcome.

The importance of observing Iraqi refugee hearings at the Immigration and Refugee Board of Canada - and its relevance to this thesis - was primarily to look at male testimonies in refugee cases presented in Canada. It was clear that in the three cases observed, the males were either dead, not allowed to travel with their family or faced discrimination in seeking asylum. In the

²⁴¹ VAST (2005)

first case, the brother of the claimant had been directly targeted and killed and then her father fell ill after the loss of his son and died shortly thereafter. In the second case, the husband and two older sons were denied visas to the U.S. and the claimants could not travel as a family to seek asylum as a family unit. Instead, the husband and two older sons remained behind, faced with uncertainty and a set of lengthy family unification procedures in Jordan. Finally, in the third case, the principle male claimant faced overt discrimination during his asylum hearing, which would be hard to justify as normal procedural questioning.

It was interesting that all three of the Iraqi claimants were Christian Iraqis. Although the relevance of the hearing to this thesis was to observe gender issues the treatment of asylum seekers rather than religion, it was difficult to explain as pure coincidence. As mentioned, the Immigration and Refugee Board of Canada only adjudicates asylum claims in Canada. In the larger pool of claims, Iraqi cases are very few. However, at the time of the research, private family sponsorship under the “Family Class” category had seen the highest increase in Iraqi cases through Citizenship and Immigration Canada. It was emphasized that, within the Iraqi Christian community, family members were known “to go to bat for their third cousin”.²⁴³

Whether this directly explained the high number of Christian Iraqis applying for immigration, is still unclear. What is certain is that Middle Easterners were still Middle Easterners, regardless of whether Christian or Muslim when it came to immigration and asylum - particularly in an era of orientalism and xenophobia against the Middle East. It must be made clear that none of the Iraqi case hearings at the IRB were without testimonies of pain. All claimants testified to great loss

²⁴² Ibid.

²⁴³ Personal interview with Michael Casasola, Resettlement Officer, UNHCR Ottawa, (January 20, 2009), Ottawa Canada

and suffering, beginning with invasion of their homeland, followed by the destruction and loss of family and way of life. It is unknown whether the asylum seekers were identified as Christians during flight and post flight and were therefore somehow more favored by Western immigration officials. Each case had serious problems in the process of seeking asylum. Far more visible, from the perspective of this thesis, was that the males involved in the families of each case seemed to have been subjected to more negative discriminatory actions in a variety of ways.

Conclusion

In this thesis, I have argued that males between the ages of 15-50 years old are directly targeted during warfare because they are deemed a threat to opposition forces. It is a strategic tactic of warfare that has been played out in probably all violent conflicts. Non-combatant males during war have been directly targeted for round-ups, torture and mass execution, showing they are in fact the largest civilian causality rates in warfare. I have drawn on the 2003 US-led invasion of Iraq to illustrate the argument. I have provided examples of how Iraqi males have been directly targeted for torture, mass executions, round ups as well as sexualized and psychological torture, making them the largest civilian causality rates in Iraq.

I have also provided examples of how male victims have not been considered “vulnerable” in times of war. Somehow they fail to generate concern for their well-being and much needed protection. Drawing on my work experience with the International Organization for Migration, I have provided specific examples of how Iraqi males have failed to be considered “vulnerable” and in need for urgent resettlement, despite suffering severe torture and trauma.

Due to the ambiguities in gendered analyses and reportage of war, non-combatant male casualties remain underreported and under recognized. Yet, under international humanitarian law, all non-combatants are assumed to require protection without distinction of gender.

Similarly by law, combatants who have laid down their weapons must also be granted protection from cruel and inhumane treatment including torture and execution and all detainees have the right to know the reasons for their detention and be given the right to a free and fair trial.

In this thesis I have also argued for the importance for a better understanding of the severity of physical and psychological trauma that male as well as female survivors of torture, and perhaps particularly sexualized torture undergo. This includes the role that redress, rehabilitation and protection have on the survivors and their families. Through examination of international and Canadian legal instruments that currently exist, it was suggested that there is a need to put into place further legislation to end the culture of impunity of wartime torture and rape of males by removing the barriers to justice that does not adequately recognize the grievous nature of such crimes.

Finally, I drew on the experiences of Iraqi refugees seeking protection, asylum and resettlement by looking at Canada's reaction to taking Iraqi refugees through my observations at the Immigration and Refugee Board of Canada refugee hearings. From the testimonies at the IRB hearings it was interesting that the males were either dead were prevented from traveling with their family, or faced discrimination in seeking asylum. The hearings observed simply amplified the vulnerability of males during warfare and the discrimination against them.

There is need for more research that is cognitive of the gender gaps in the way victims of war are reported and the ways in which human rights violations are conceptualized through a biased gendered lens. More research should be conducted on the vulnerabilities of males during warfare, particularly addressing male rape and sexualized torture. The objective of such research could be to bring the grievousness of such crimes into the spotlight, increasing the awareness that male rape does occur in times of war and more needs to be done to combat the shame and stigma that survivors endure as well as to combat the culture of impunity that the perpetrators enjoy. For this,

there also needs to be more funding for the rehabilitation and legal assistance of survivors.

The research for this thesis would have been enhanced by interviews with Iraqi refugees in an environment where males were uninhibited from speaking freely and openly about sexualized torture. Further research on male rape should be conducted that includes interviews with family members to improve the understanding of the effects and impacts of male rape and sexualized torture on families as a whole, for refugees are not sole entities, but part of a larger community, beginning with family. It might be easily argued (and has been) that females need to be seen as having special vulnerabilities during warfare, more so than males. Again, this thesis is not meant to establish some kind of competition of vulnerability between genders. Rather, it is an argument to highlight and oppose the current discrimination in the conceptualization of vulnerability that, in humanitarian practice, favors women (and children) with little regard for the ramifications towards male victims or survivors of human rights violations.

To offer a further anecdotal example, I recently attended a gathering in Ottawa for performers and members of the steering committee for the internationally acclaimed play “Vagina Monologues”. This was an award-winning episodic play by Eve Ensler. I was informed that all performances were to raise funds to support a center for survivors of sexual abuse. Excited, I asked a member of the steering committee if the funds raised go to benefit all survivors of sexual abuse, including males. I was bluntly told “no”. The performances were not concerned with men, or even young boys who are survivors of sexual abuse. I was not taken aback so much by the negative response as by the bluntness of the response and the almost aggressive disregard for male survivors of sexual abuse.

This again raised the question: is sexual abuse assumed to happen only to females? Are our gender biases in the notion of vulnerability so engrained that we fail to acknowledge all vulnerabilities? Is it this same attitude prevents the “international community” exemplified by international humanitarian aid agencies from dealing with male vulnerability, sexualized torture and male rape during warfare? If the “international community” fails to generate sympathy and understanding towards males during their most vulnerable moments - that is, during times of conflict - what does it say about the treatment of male survivors of violence and sexual abuse during times of peace?

“More than 300 Iraqi civilians died on 13 February 1991 when two US F-117 stealth bombers targeted the Al’ Amiriya bunker in Baghdad. Photographs of the charred and twisted bodies of women and children shocked a world which, thanks to General Norman Schwarzkopf and CNN, had seen little of the horrors of the Gulf War”.²⁴⁴ This statement was meant to invoke anger at the indiscriminate killing of civilians during war. Photographs of murdered women and children were taken as evidence of the war crimes committed against innocent civilians. To what extent would pictures of the charred and twisted bodies of Iraqi males invoke the same level of disgust?

Media headlines, whether print or television, often sensationalize the atrocities of war crimes by revealing that “women and children have been killed”. Such a statement, without disparaging women and child victims, begs the question - what about unarmed, civilian males? Have they not been killed? Do the deaths of innocent, unarmed males not summon the same level of compassion and sympathy? The answer is most probably yes, or should be. Of course the

violations against civilian males are abhorred and the laws prohibiting such crimes do not discriminate between males and females, nationality, religion, class and so forth. However, the problem, as has been shown in this thesis, is that a question mark always hangs over the heads of men and boys as “potential” combatants. It is not that it is difficult to believe there are male victims of war crimes, but rather it is all too easy to accept that they may not be. In the case of the most vulnerable, conceptualized as “women and children”, there is a universal assumption of their “innocence” – and for good reason. The same assumption cannot be made of men (and possibly boys as well) – and there is perhaps a good reason for that also. That does not mean, however, that all women and children are innocent. Nor does it mean that all men and boys must be assumed guilty before they can be accepted as innocent.

Most important to this thesis is that males are generally not seen as vulnerable during times of war, at least partly because they are seen as active agents of war. As has been shown, however, males - innocent, civilian males - make up the large majority of casualties in war. Perhaps this acknowledgement is the first step required in providing a more balanced gender analysis of the victims and vulnerabilities of conflict - to acknowledge that males are specifically targeted during war. Acknowledging that males are equally vulnerable to sexual assault, sexual exploitation and sexualized torture as females during times of war is also a necessary step to be made in order to redress the imbalance of understanding of what has been hitherto a taboo subject.

More particularly, acknowledging and accepting males as vulnerable will hopefully assist in reforming the current refugee paradigm that will enable males to receive more assistance,

²⁴⁴ Byers (2005, p. 115).

including psychosocial assistance. As the Universal Declaration on Human Rights states, there should be no discrimination based on ethnicity, sex, religion or political affiliation. Considering only one gender as vulnerable has resulted in a cost for the other. By so doing, we are gendering human suffering, comparing the incomparable. Universal human rights should be just that - in principle, and in practice.

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