

SECURING JUSTICE FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE: THE STIGMA BELONGS WITH THE PERPETRATOR

Imagine that you live in a country that had experienced a brutal and devastating war, and during that war you, or someone you loved, were the victims of sexual violence in conflict. Imagine the pain and betrayal you would feel knowing that those who orchestrated wide scale and systematic rapes, sexual slavery, forced marriages and other forms of sexual violence were allowed to walk free as if nothing had happened and remain a part of the community where you live, and each day you were forced to face them in public. This is the reality for most victims of sexual violence in conflict. Years after the guns have fallen silent they still struggle to rebuild their lives whilst their tormentors enjoy impunity. In Bosnia, only a handful of perpetrators have been prosecuted 20 years after the war, despite the fact that an estimated 50,000 women, and an unknown number of men, were raped during the conflict there.



Rape has been called the world's oldest and least condemned crime, but the issue of conflict-related sexual violence (1) gained visibility and traction in international policy circles relatively recently. In the 1990s, efforts to engage policy actors to both deliver justice and services to survivors of sexual violence gained particular momentum. In the wake of the wars in the former Yugoslavia and Rwanda, irrefutable evidence of the systemic use of rape and other forms of sexual violence marked a moment in which campaigners for women's rights said, 'enough is enough'. No longer, they declared, should war be waged using the bodies of women as a battlefield.

Since the adoption of Security Council Resolution 1325 in 2000, the ground broken for the Women Peace and Security agenda has been sown with further policy breakthroughs. (2) In 2009, a Team of Experts on the Rule of Law and Sexual Violence in Conflict was established by Security Council resolution 1888 which assists governments to address impunity by building national capacity and expertise for rule of law and justice actors.

Further notable progress was achieved in April 2013 with the signing of the G8 Declaration on Preventing Sexual Violence in Conflict. More than 144 Member States have now signed the 'Declaration of commitment to end sexual violence in conflict' launched by the UK's First Secretary of State, William Hague (3) and I on the sidelines of the 68th General Assembly in September 2013. In addition, for the first time the Security Council Resolution 2106 - adopted in June 2013 - has outlined a framework for the prevention of conflict-related sexual violence through more consistent and rigorous prosecutions; targeted measures such as sanctions; excluding sexual violence crimes from amnesties; and referring cases to the International Criminal Court. The United Nations, through my Office, is also asked to engage both state and non-state parties to conflict to obtain specific commitments to prevent sexual violence and to support front-lines efforts, including through civil society networks, to prevent and respond to sexual violence in conflict. As a result of the high-level advocacy work I lead, the United Nations has signed Joint Communiqués with national authorities on the prevention of sexual violence in conflict in countries such as Somalia and the Democratic Republic of Congo. The armed forces of the DRC have now committed to an Action Plan to tackle sexual Violence in Conflict as well.

These breakthroughs have been made possible through tireless campaigning and awareness-raising and as a result sexual violence is no longer seen as an unfortunate, but inevitable, consequence of war. Rather the strategic and systematic use of sexual violence as a tool to torture, demoralise and defeat the 'enemy' (both combatants and the civilian populations) is now recognised as an established feature of many conflicts around the world. From Syria, to South Sudan, Colombia, the Democratic Republic of Congo and the Central African Republic, experts and survivors accounts indicate that sexual violence occurs in a wide range of conflict and post-conflict settings, including at checkpoints, in torture cells, prisons and other places of detention, in military camps and in training centres, as well as in homes in towns and villages. In Syria, for example, sexual violence was reported by displaced persons as a significant factor motivating their flight. In Somalia, internally displaced persons flee armed groups known to commit rape, forced marriage and sexual slavery. During flight and while displaced, civilian populations in Myanmar, Somalia, Jordan and Lebanon face continued vulnerability to sexual violence.

In countries such as Sri Lanka, torture including sexual violence does not necessarily end with the conflict and in countries such as Liberia and Sierra Leone we see the legacy of conflict-related sexual violence lasts into the post-conflict period.

The effects of conflict-related sexual violence are now also better understood for women, men, girls and boys. Survivors report a combination of physical, psychological, psycho-sexual, psycho-social and economic impacts. Even where primary healthcare is available to survivors, staff may lack the capacity and the resources to provide holistic care and this hampers both data gathering and any subsequent legal action. In the long term, this can have a devastating effect on survivors. The impact of the crime can last a lifetime, putting a strain on their relationships, their family and their community. Psychological effects tend to be serious and enduring. Depression, low self-esteem, anxiety disorders and suicidal ideation are common. Where rape and other forms of sexual violence is known about in the wider community, stigma is often experienced by the survivor's family as well, affecting their ability to support the survivor to recover and seek justice.

These problems are compounded by the fact that sexual violence tends to affect the most vulnerable in society and those least able to demand their rights.

The necessary referral pathway, judicial institutions and the legislation required to prosecute sexual violence crimes are often absent in conflict and post-conflict countries. Allegations of rape are therefore often settled through more accessible and affordable informal or 'traditional' justice arrangements. These, however, can result in settlements that are detrimental to the survivor, such as forced marriage to the perpetrator. These crimes are also under-reported because of the risks faced by survivors and witnesses who come forward and by the humanitarian workers, human rights defenders, journalists and others to whom they speak. These risks include severe stigmatisation, familial and social shunning and reprisals from the members of armed groups and the security forces alleged to have committed the crimes. But it is not the victims who should feel shame - the stigma and humiliation should be that of the perpetrator.

Other challenges at the national level include a lack of capacity. Access to justice for survivors can be hindered by physical access restrictions, inadequate legislation, or by financial and social costs associated with reporting and pursuing justice for crimes of sexual violence. A number of countries also lack the necessary national legislation or have failed to fully implement legislation that would offer improvements in accountability and reparations for survivors. Many countries also lack legal aid services or protocols for the protection of victims and witnesses.

The fight against impunity is crucial for today's survivors to be treated better than the survivors of the 1990s and before. The United Nations Team of Experts provides support to engender national capacity within the areas of criminal investigation and prosecution, collection and preservation of evidence, military justice system investigation and prosecution, criminal and procedural law reform, and protection of victims, witnesses and justice officials. The Team for example supports accountability efforts in Guinea for the violations that took place in a stadium in Conakry in September 2009.

These violations included sexual violence against at least 109 women and girls. In accordance with a Joint Communiqué signed between the Government of Guinea and the United Nations in November 2011, the Team of Experts provides assistance to the Panel of Judges established to investigate and prosecute those responsible. This support has resulted in an increase in the number of hearings of sexual violence cases, the indictment of several high level officials allegedly responsible for the events of September 2009, the indictment and detention of a gendarme on charges of rape in relation to those events, and the Government commitment to establish mechanisms for the protection of survivors. Indictments and summons have been issued against other key actors in Guinea and efforts are underway regarding suspects living outside the country. (4)

My office, the Team of Experts and the United Nations Action Against Sexual Violence in Conflict will continue to engage to support national authorities in their justice response and prevention efforts, but we cannot do this alone.

The work of peacekeepers, national authorities and civil society on the ground is invaluable. At the Global Summit to End Sexual Violence in Conflict, held in London in June, Foreign, Defense and Gender Ministers from around the world, senior military experts, religious leaders, youth representatives, civil society activists, and survivors, came together to discuss the way forward, particularly with regards to ending impunity for conflict-related sexual violence.

Obtaining justice for survivors is challenging, but these combined efforts give life to the promise the international community has made to survivors: the stigma belongs with the perpetrators and together we will hold them accountable.

For more information please visit:

<http://www.un.org/sexualviolenceinconflict/>

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1 The term "sexual violence" here refers to rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity perpetrated against women, men or children with a direct or indirect (temporal, geographical or causal) link to a conflict. This link to conflict may be evident in the profile and motivations of the perpetrator, the profile of the victim, the climate of impunity or State collapse, any cross-border dimensions or violations of the terms of a ceasefire agreement. (S/2014/181).

2 UNSCR 1820 (2008) made an explicit connection between sexual violence and military strategy. UNSCR 1888 (2009) called for the establishment of the position of Special Representative of the Secretary General on Sexual Violence in Conflict. Resolution 1960 (2010) provided the tools for an accountability system for addressing conflict-related sexual violence, including through the establishment of a

monitoring and reporting mechanism and by providing for the sanctioning of perpetrators.

3 William Hague was UK's Foreign Secretary when the Declaration was launched.

4 The international community has also established the Independent International Commissions of Inquiry mandated by the Human Rights Council and the African Union. It includes Gender Advisors whose investigations are relevant to referrals to the International Criminal Court and other judicial processes.