

# FEMICIDE

## TARGETING OF WOMEN IN CONFLICT

### A GLOBAL ISSUE THAT DEMANDS ACTION

#### VOLUME III

**“Conflict-related sexual violence is an issue of pressing importance. This grave human rights abuse is as destructive as any bomb or bullet. It inflicts unimaginable suffering on women and men, girls and boys. It destroys families and communities and tears the social fabric of nations. [...] Prevention is our collective responsibility.”**

Ban Ki-moon,  
Secretary-General of the United Nations

The Thailand Institute of Justice’s (TIJ) mission is to promote the culture of justice, the rule of law and human rights in the administration of justice within the Association of Southeast Asian Nations (ASEAN) community and beyond. Under its mandate, TIJ undertakes research, capacity building and regional and international cooperation in the areas of crime and justice, and gears towards important cross-cutting issues on the UN agenda such as the rule of law, development, human rights, peace and security.

One of TIJ’s primary objectives is to support the implementation of United Nations standards and norms in the field of crime prevention and criminal justice. The promotion and protection of human rights of vulnerable groups, especially women and children, in the criminal justice system is one of TIJ’s priorities. The sub-themes under this issue include child justice, women’s corrections and the implementation of the Bangkok Rules, gender justice, particularly violence against women and femicide.

With regard to femicide, TIJ has attached great importance to this global issue and organized a number of activities related to this. One of them was a high-level panel discussion entitled ‘Taking Action against the Gender-related Killings of Women and Girls,’ which TIJ co-hosted together with the Permanent Missions of Thailand, Argentina and Austria and the Academic Council on the United Nations System (ACUNS) in New York on 18 October 2013. The panel discussion drew attention to the landmark resolution passed by the Third Committee on the same day and then subsequently adopted by the General Assembly in December 2013. The Thailand Institute of Justice also hosted, in Bangkok, the Expert Group on Gender-Related Killings of Women and Girls, which was called for in the resolution. The background paper, the NGO paper and the conclusions and recommendations are contained in this publication in Part 3. The Thailand Institute of Justice and the Academic Council will co-sponsor an ancillary meeting at the Thirteenth UN Congress on Crime Prevention and Criminal Justice in Doha, Qatar.

# FOREWORD

We take great pride in sharing with you the third volume of our Femicide Publication which we have been releasing annually since the first Femicide symposium in November 2012. Each year, on the occasion of the International Day on the Elimination of Violence against Women, the Vienna Liaison Office of the Academic Council on the United Nations System (ACUNS) has organized a symposium on a different theme related to the most extreme forms of violence.

On 25 November 2014, ACUNS, together with the Governments of Austria, Croatia, El Salvador, Guatemala, Mexico, Norway, Philippines and Thailand, sponsored a symposium on 'Targeting of Women in War', which brought together panels of experts to address the various challenges that need to be tackled with great urgency to curb the scourge of sexual violence in conflict. A series of recommendations were made, pointing out that existing legal instruments have proven to be ineffective in addressing this global problem. Perpetrators should be prosecuted and military units must be held to high standards of conduct vis-à-vis civilians. Strict compliance with military and criminal codes must be pursued by the responsible government institutions, while complementary efforts must be undertaken by civil society to ensure proper respect for women and girls in conflict zones.

Once again, we are standing as silent witnesses to the mass killings of women in several places around the world. It is imperative to take concrete steps to stop these unspeakable crimes and ensure that these monstrous rapists and killers are not given impunity. Speakers at the ACUNS conference identified what was done – or not done – after the mass killings in Bosnia, the Democratic Republic of Congo, El Salvador, Guatemala, Rwanda and Sri Lanka. In his annual Report on Conflict-Related Sexual Violence, the UN Secretary-General Ban Ki-moon, highlights the ongoing challenges faced by individual States in conflict and post-conflict situations to protect women and girls.

Reports published in 2014 and early 2015 by Amnesty International and Human Rights Watch contain detailed accounts of sexual slavery in Islamic State captivity, Boko Haram's acts of sexual violence in north-eastern Nigeria and mass rapes in Darfur. The sheer brutality of these acts and the feelings of desperation that are reflected in victims' testimonies fill us with disgust and shame. These barbarities which one would have thought belonged to past centuries have reared their heads again in the new millennium. The latest figures on mass rapes and incidents of sexual slavery across the world are discouraging. The international community should not stand idly by while these atrocious crimes are being committed. It is essential for the UN Commission on Crime Prevention and Criminal Justice to give a strong signal that crimes of sexual violence are not to be tolerated, and that the perpetrators will be brought to justice.

This publication explores the topic of 'Targeting women in Conflict' in depth, through a series of strong statements delivered by Secretary-General, the Director of UN Women, the Executive Director of the UN Office on Drugs and Crime, a prosecutor from the International Tribunal for former Yugoslavia and reports from other UN bodies, as well as academic articles addressing the cross-cutting topics of violence against women, femicide and sexual violence.

The ACUNS-Vienna Femicide Team has committed itself over the past three years to disseminating knowledge on the cross-cutting issue of femicide and engaging with UN practitioners, academics and NGO representatives in order to raise this matter of great importance higher on the international agenda. We continue to encourage UN bodies and national governments to improve efforts in tackling femicide and the most serious forms of sexual violence against women.

Andrada Filip, Michael Platzer and the ACUNS Vienna Femicide Team  
March 2015

# PREFACE

**SEXUAL VIOLENCE IN SITUATIONS OF CONFLICT** is one of the most persistent crimes in the world. Unfortunately, it is also one of the most ignored. It affects particularly women and girls and is regularly used by armed groups as a deliberate strategy to humiliate their opponents and intimidate the population. This crime exacerbates conflicts and affects the re-construction of the social fabric. According to the United Nations, between 2011 and 2013, more than 37, 000 victims were sexually abused for the purpose of terrorizing civilian populations in situations of conflict and almost all of them were women and children. Most of these cases are unpunished. This is unacceptable.

The acts of sexual violence in situations of armed conflict are serious violations of the most basic human rights and of international humanitarian law. One of the main challenges for the international community is both to bring to justice those responsible in order to end the culture of impunity and to provide justice, support and recognition to the victims, since they are often rejected and stigmatized.

We need to strengthen our efforts and measures orientated to promote gender equality and the elimination of gender violence, to eliminate discriminatory practices and foster a culture of equality with the inclusion and participation of men and boys to achieve positive results. We also need a greater coordination among United Nations organizations, entities and specialized agencies with the wide and strong participation of civil society, academia, parliamentarians, indigenous peoples, and the private sector, among others. A joint strategy would contribute to the actions against impunity and ensure the full inclusion of women as key players in maintaining international peace and security.

**THERE CANNOT BE LASTING PEACE WITHOUT JUSTICE. THIS IS A MATTER OF GLOBAL RESPONSIBILITY.**

I am thankful for the efforts made by the Academic Council on the United Nations System, the Vienna Liaison, for organizing the Femicide symposium since, November 2012, on the occasion of the International Day on the Elimination of Violence against Women. Those efforts are now reflected in the present publication as an outcome of the last symposium 'Targeting of Women in War' (Vienna, 25 November 2014) aimed at analyzing the important challenges that we face as a community to urgently address this urgent problem.

H.E. Luis Alfonso de Alba  
Ambassador and Permanent Representative of Mexico  
Chair of the 24th session of the Commission on Crime Prevention and Criminal Justice

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# PART I

## RECENT DEVELOPMENTS, STATEMENTS AND INSTRUMENTS

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“It is a myth that rape is an inevitable part of conflict. There is nothing inevitable about it. It is a weapon of war aimed at civilians. [...] We need to shatter that culture of impunity and make justice the norm, not the exception, for these crimes.”

Angelina Jolie, UNHCR Special Envoy

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## 1.1 UNHCR SPECIAL ENVOY ANGELINA JOLIE'S SPEECH ON SEXUAL VIOLENCE DELIVERED AT THE GLOBAL SUMMIT IN LONDON 2014

It is a myth that rape is an inevitable part of conflict. There is nothing inevitable about it. It is a weapon of war aimed at civilians. It has nothing to do with sex, everything to do with power. It is done to torture and humiliate innocent people, and often very young children.

I have met survivors from Afghanistan to Somalia and they are just like us, with one crucial difference. **We live in safe countries, with doctors we can go to when we're hurt, police we can turn to when we're wronged, and institutions that protect us. They live in refugee camps, or bombed out streets in areas where there is no law, no protection, and not even the hope of justice.** They struggle to keep their children safe and if they admit to being raped, they are likely to face more violence and social rejection. Other survivors live in countries where war is over, but the peace has brought no justice. And as an international community, we are responsible for that.

We need to shatter that culture of impunity and make justice the norm, not the exception, for these crimes. We need political will replicated across the world and we need to treat this subject as a priority. We need to see real commitment to go after the worst perpetrators, to fund proper protection for vulnerable people and to step in and help the worst affected countries. We need all armies, peacekeeping troops and police forces to have the prevention of sexual violence in conflict as part of their training.

More than 100 countries will be represented at the summit, and we are asking them to take these measures. But we really do need your help. This whole subject has been taboo for far too long. **War zone rape is a crime that thrives on silence and denial.** This stigma harms survivors and it causes feeling of shame and worthlessness. It feeds ignorance, such as the notion that rape has anything to do with normal sexual impulses. But most of all, it allows the rapist to get away with it. They feel above the law because the law rarely touches them and society tolerates them.

As Eleanor Roosevelt once said, "The destiny of human rights is in the hands of all our citizens and all our communities." And this evil will continue to ruin the lives of millions of people unless we make this summit a turning point - and we can. **We must send a message across the world that there is no disgrace in being a survivor of sexual violence; that the shame is on the aggressor.** We must work together in new and unprecedented ways across borders and religions, bringing governments and people together and tackling the problem from every possible angle. And by doing this we can end the use of rape and sexual violence as a weapon of war once and for all. We really can do it.

So, thank you so much for joining us today, for joining us in this fight, and I wish us all a very productive summit.

## 1.2 UN SECRETARY-GENERAL'S REMARKS AT SECURITY COUNCIL OPEN DEBATE ON SEXUAL VIOLENCE IN CONFLICT

New York, 25 April 2014

Conflict-related sexual violence is an issue of pressing importance. This grave human rights abuse is as destructive as any bomb or bullet. It inflicts unimaginable suffering on women and men, girls and boys. **It destroys families and communities and tears the social fabric of nations.**

By targeting society's most vulnerable members, it contributes to enduring poverty and insecurity. It impedes reconciliation, peace and reconstruction.

**That is why this Council has clearly and consistently stated that conflict-related sexual violence is a matter of international peace and security.** Successive resolutions have created a strong global framework for prevention.

Grievous violations still occur too often, but we are beginning to make tangible progress, as the report before you shows. My Special Representative has examined the progress made by several countries, including the Democratic Republic of the Congo and Somalia.

Just a few years ago, rape in these conflicts seemed intractable and inevitable. The DRC and Somalia are now demonstrating that progress is possible. The DRC is developing new legal structures to end impunity for perpetrators. Somalia has shown commitment at the highest level to end sexual violence, including signing a joint communiqué with the United Nations. Efforts are now under way to develop an action plan.

The UN Team of Experts on the Rule of Law and Sexual Violence in Conflict is working with Colombia, Côte d'Ivoire, DRC, Guinea, Somalia and South Sudan to strengthen their justice systems. Every day more countries are building the technical capacity to prevent and redress sexual violence.

The multidisciplinary and multi-sectoral approach of the Office of the Special Representative on Sexual Violence in Conflict is driving this progress. The Special Representative engages in high-level advocacy to generate national ownership, leadership and responsibility.

Once political commitment has been secured, the Team of Experts on Rule of Law and Sexual Violence in Conflict works with countries to build their capacity to fight impunity for crimes of sexual violence. The Team is drawn from the UN Development Programme, the Department of Peacekeeping Operations and the Office of the High Commissioner for Human Rights, and led by the Office of my Special Representative.

It helps governments address reforms to the military and criminal justice systems and other crucial areas. With sound legislation, comprehensive prevention and response mechanisms, and enhanced capacity, military and civilian justice systems will be better able to address conflict-related sexual violence promptly and effectively.

Another key element in political and peacekeeping missions has been the deployment of Women Protection Advisers. Their expertise on human rights, gender analysis, and peace and security is helping to mainstream the prevention of conflict-related sexual violence into peacekeeping and special political missions.

In line with the principle of "Delivering as One", UN Action against Sexual Violence is an inter-agency network of 13 UN entities, chaired by my Special Representative. This coordination mechanism ensures that our response avoids duplication, leading to a measured, sustainable and coherent strategy that makes the best use of limited resources and the strengths of each agency. The goal is to provide services and support for victims and ensure that human rights are at the forefront of all interventions. This coordinated response, under the leadership of my Special Representative, embodies the spirit of Rights up Front.

It affirms my vision of a United Nations that works as one to prevent grave human rights violations. It is imperative that UN actors and political leaders work together to stop rights abuses before they happen. The renewed commitment of the United Nations to better meet the human rights responsibilities set by Member States through the Rights up Front initiative is central in this regard. This report illustrates what we can achieve through greater cooperation.

Prevention is our collective responsibility. Only through coordination and partnership can we succeed in protecting the most vulnerable. I count on your continued leadership and support as we work together to eliminate sexual violence in conflict.

Thank you for your commitment.

### **1.3 MESSAGE OF THE UN WOMEN EXECUTIVE DIRECTOR PHUMZILE MLAMBO-NGCUKA ON THE OCCASION OF THE INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN**

19 November 2014

Every year, on the International Day for the Elimination of Violence against Women, we are reminded how every day, women and girls experience violence in their lives. **Women are beaten in their homes, harassed on the streets, bullied on the Internet. Globally, one in three women will experience physical or sexual violence at some point in her life.**

More often than not, violence against women is committed by an intimate partner. Of all women killed in 2012, almost half died at the hands of a partner or family member. It is no exaggeration that the overall greatest threat to women's lives is men, and often the men they love.

Yet we know how violence against women can be eliminated. In 1995, close to 20 years ago, 189 governments came together in Beijing. They adopted a Platform for Action that spelled out key strategies to end violence against women, empower women, and achieve gender equality.

This includes **effective prevention strategies** that address the root causes of gender inequality. This includes **better services for women surviving violence**, such as hotlines, shelters, legal advice, access to justice, counselling, police protection, and health services. This includes **more accurate reporting rates, better data collection, and strengthened analyses of risk and prevalence factors**. This includes **greater support for women's organizations**, which are often on the frontline of the response. This includes having **more men and boys standing up against violence**, denouncing it, and stopping it. Male leaders, including traditional and religious leaders, must show the way.

UN Women has launched HeForShe, a global campaign to engage men and boys as advocates and agents of change for the achievement of gender equality and women's rights. We need men who believe in gender equality to take action now.

A global review of progress and gaps in implementing the Beijing Platform for Action is underway. Preliminary data show that many countries have introduced laws to prohibit, criminalize, and prevent violence against women. Yet implementation and enforcement of these laws are inadequate. **Reporting of violence remains low and impunity for perpetrators remains high.** Not enough resources are targeted at provision of quality services and effective prevention strategies.

Next year, after the endpoint of the Millennium Development Goals, a new roadmap for development will be adopted by the international community. Ending violence against women and girls must have a central place in this new framework. The promises from 20 years ago are still valid today. **Together we must make 2015 the year that marks the beginning of the end of gender inequality. Now is the time for action.**

Last February (27-28 February 2015) UN Women organized a high-level meeting in Santiago de Chile. This was done with the support of the Chilean government and UN Women's first Executive Director and current President of Chile, Ms. Michelle Bachelet.

Called "Women in power and decision-making: Building a different world" and designed as a Beijing+20 event, the two-day high-level conference aimed to galvanize political commitment towards achieving gender equality, with the help of an in-depth discussion on issues related leadership and participation. A "Call to Action" saying "It's time to step it up for gender equality. We have waited long enough!" was issued along with a series of recommendations.

#### **1.4 STATEMENT OF THE EXECUTIVE DIRECTOR YURI FEDOTOV ON THE UN OFFICE ON DRUGS AND CRIME (UNODC) ON THE INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN**

25 November 2014

For some women, today, the home is not a sanctuary, but a brutal and dangerous trap.

Based on **UNODC's Global Homicide Report 2013**, women continue to be killed in large numbers by intimate partners and family members. The perpetrator, in these cases, is overwhelmingly male.

**Out of the 93,000 female homicides in 2012, 43,600 women, nearly 50 per cent were killed in this way.** This compares with only six per cent of all male homicides.

But it is not just about female homicide. The same UNODC report found that roughly one quarter to one third of women in the Czech Republic, Denmark, Germany, New Zealand, Norway and the United Kingdom experienced physical or sexual violence, or both, at the hands of an intimate partner.

There has been progress. All United Nations Member States have agreed on standards to eliminate violence against women, but much more needs to be done to effectively prevent, investigate prosecute, and punish perpetrators.

UNODC is helping by identifying best practices that can prevent and punish the killing of women and girls. Another key area is the need for better statistics, which often form the basis for greater understanding and subsequent action.

Nearly twenty years ago, the UN Fourth world Conference on Women, held in Beijing, adopted the Beijing Declaration and Platform for Action for the elimination of violence against women.

Today, this Declaration continues to be the high-water mark for the world's resolve to end violence against women, and in doing so, ensure that women and girls enjoy equality and the full protection of their human rights and fundamental freedoms.

Next year sees the 20<sup>th</sup> anniversary of the Beijing Declaration. On the International Day for the Elimination of Violence against women, UNODC pledges to work closely with its partners, including UN Women, to end violence against women and to uphold the principles of this landmark declaration.

## 1.5 OPENING STATEMENT BY ZEID RA'AD AL HUSSEIN, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (UNHCHR) AT THE HUMAN RIGHTS COUNCIL 27TH SESSION

Geneva, 8 September 2014

Mr. President, I thank you for your warm welcome for which I am truly grateful. Twenty years ago, I was exposed to a cruel, pointless war. I was serving with the UN Protection Force in the former Yugoslavia, and learnt then a number of simple lessons. Violence at the extreme is so callous, so sickening and beyond the absurd, the human mind can barely edit into comprehensible thoughts what it sees. No war is worse than another in this regard; all wars, big and small, reveal factories spewing the same wickedness. And yet, astonishingly, the authors of the crimes themselves, and their supporting communities, will always believe their actions were somehow necessary, even if they knew they were also wrong. Indeed, every individual, political party, association, ethnic, sectarian, or national group, or government discriminating and inflicting violence on others, believes that when doing so they are excused, or absolved, by circumstance or history. Our tragedy, our curse, as human beings, is therefore hauntingly simple: every evil can be rationalised to the point where some logic – resting on a narrow argument usually devoid of context and filled with fear – is expanded deliberately in the mind of the killer, the torturer, the bigot and chauvinist, and becomes for them the entire truth. It is a perverted truth, of course; so twisted, that up has become down, and the liars believe fanatically in the lie they have created. Another lesson for me, twenty years ago, was equally clear: **there is no justification ever, for the degrading, the debasing or the exploitation of other human beings** – on whatever basis: nationality, race, ethnicity, religion, gender, sexual orientation, disability, age or caste.

Yet today, the international news however it is streamed to us is still filled with the sobbing of victims, of the oppressed, of the poor alongside the remains and the ashes of the killed. This remains a most pathetic stain on humanity's record of achievement. We must therefore persevere together until we bend the course of humanity's future into a destination more hopeful and enlightened, in which human decency is the only currency of human interaction, and is valued above and beyond material wealth or cleverness alone. After all, the world is not in need of an even greater number of highly intelligent people, nor politically powerful or extremely rich people; many of them are consequential, yes, but they alone will not save us. To rescue this blue, marble-looking sphere, our planet, we need – and here we must agree with His Holiness Pope Francis—we need more compassionate, profoundly considerate and wise people piloting our collective fate, and they must be courageous too.

Here I would like to make a simple point: courage is the first human virtue, revered the world over, the very virtue we value the most as human beings. The courageous individual is not he or she who wields great political power or points a gun at those who do not – that is not courage. The courageous individual is he or she who has nothing to wield but common sense, reason and the law, and is prepared to forfeit future, family, friends and even life in defence of others, or to end injustice. In its most magnificent form, the courageous individual undertakes this exertion, without ever threatening or taking the life of someone else, and certainly not someone defenceless.

As the Viennese thinker Stefan Zweig wrote, after having lived through one world war and fled another, "Our greatest debt of gratitude is to those who in these inhuman times confirm the human in us." Human rights defenders are such courageous people, and we must do everything we can to protect them, and celebrate them. The UN is often slow to recognise this. Captain Mbaye Diagne of Senegal was probably the most courageous man who ever served with the UN, but until recently was never recognized by the UN headquarters for his sacrifice. He saved possibly a thousand people in Rwanda in the spring of 1994, and lost his life doing so, and never hurt anybody.

By contrast, the Takfiris who recently murdered James Foley and hundreds of other defenceless victims in Iraq and Syria – do they believe they are acting courageously? Barbarically slaughtering captives? What virtue are they demonstrating exactly? They reveal only what a Takfiri state would look like, should this movement actually try to govern in the future. It would be a harsh, mean-spirited, house of blood, where no shade would be offered, nor shelter given, to any non-Takfiri in their midst. In the Takfiri world, unless your view is identical to theirs – and theirs is extremely narrow and unyielding—you forfeit your right to life. In the Takfiri mind, as we have seen in Nigeria, Afghanistan, Pakistan, Yemen, Kenya, Somalia, Mali, Libya, Syria and Iraq, and throughout the world where they have attacked innocent people, including on 9/11, there is no love of neighbor - only annihilation to those Muslims, Christians, Jews and others (altogether the rest of humanity) who believe differently to them. The mandate of my Office encompasses all human rights, for all people. Its priorities span discrimination; the rule of law and ending impunity; poverty; violence; continuing efforts to improve international human rights mechanisms; and widening the democratic space. In recent months, OHCHR's concerns have been numerous. They have included severe acts of discrimination in many regions; widespread violations of economic and social rights due to failures of governance and other concerns; apparent violations of human rights in the context of counter-terrorism; **sexual violence; attacks motivated by** stereotypes and hatred of many kinds; over-incarceration; the death penalty, and many other issues.

My first address to this Council takes place at a time when conflicts in the Middle East and North Africa regions, in particular, are escalating dramatically. In **Syria**, more than 190,000 identified persons were killed between March 2011 and April this year, according to an analysis released by OHCHR last month. According to UNHCR, more than 3 million Syrians have fled their country and 6.5 million more are internally displaced: in other words, almost half the people in Syria have fled their homes. Those wounded, orphaned, missing, detained, "disappeared", displaced, malnourished, deprived of healthcare and denied other critical services add to the incalculable human cost of this conflict.

The latest report by the Independent International Commission of Inquiry on the Syrian Arab Republic brings fresh evidence that this ancient civilisation has devolved into a slaughterhouse, where children are tortured in front of their parents or executed in public, amid wanton killing and destruction. That report will be fully explored in the course of an interactive dialogue during this session.

Spreading outwards from its initial anchorage in the chaos of the Syrian conflict, the Takfiri or so-called ISIL group that currently in effect controls large swathes of northern Iraq has demonstrated absolute and deliberate disregard for human rights. The scale of its use of brute violence against ethnic and religious groups is unprecedented in recent times.

I solemnly remind this Council that widespread or systematic attacks on segments of the civilian population because of their ethnic background or religious beliefs constitute a crime against humanity, for which those responsible must be held accountable. I would also like to stress that international law requires that both the State and armed groups take all measures to minimise the impact of violence on civilians, respect the principles of distinction and proportionality when carrying out military operations, and ensure that civilians can leave areas affected by violence in safety and dignity.

From a human rights perspective, it is clear that the immediate and urgent priority of the international community should be to halt the increasingly conjoined conflicts in Iraq and Syria. In particular, dedicated efforts are urgently needed **to protect religious and ethnic groups, children – who are at risk of forcible recruitment and sexual violence – and women, who have been the targets of severe restrictions.**

The second step, as my predecessor consistently stressed, must be **to ensure accountability for gross violations of human rights and other international crimes.** Impunity can only lead to further conflict and abuses, as revenge festers and the wrong lessons are learned. **Accountability**, and public acknowledgment of the wrongs that victims have suffered, is important to ensuring that crimes will not be repeated, and the only way to begin to repair a sense of common community in these devastated societies.

The third task – and despite the international community’s failure to ensure the first two, I do not believe it is too early to envisage this – must be to take a step back and look at how and why these crises erupted. Underlying patterns of violations and discrimination, including **corrupt and discriminatory political systems that disenfranchised large parts of the population**, have created an inflammable backdrop. Leaders who oppressed or violently attacked independent actors of civil society; institutions that failed to include broadly inclusive participatory processes; a comprehensive failure to promote and protect economic and social rights, as well as civil and political rights – such factors, alongside years of conflict, discouraged the development of tolerant and moderate civil society movements, while the only dissident groups that did flourish underground were extremist ones.

Current and future generations of Palestinians in Gaza and the West Bank, including East Jerusalem, have a right to live normal lives in dignity: without conflict, without a blockade, indeed without the wide range of daily human rights infringements that are generated by military occupation, illegal settlements, excessive use of force, home demolitions, and the Wall that continues to be constructed across the Occupied Palestinian Territory. The seven-year blockade must end, and there must be effective accountability for transgressions committed by all parties. On this point, I note that Israelis have a right to live free and secure from indiscriminate rocket fire. Since this Council last convened, the situation in **Libya** has deteriorated very rapidly, and represents a growing threat to regional security. Multiple armed groups are indiscriminately shelling heavily populated areas through the use of heavy artillery and even aircraft, leading to the death and injury of civilians, including children. Living conditions for civilians in Tripoli and Benghazi have steadily deteriorated, with food, fuel and electricity in diminishing supply. Health facilities have been severely affected by the violence, and common criminality is on the rise. I urge the parties involved in these hostilities to cease all violations of international law and end the fighting.

We remain concerned about the situation in **Ukraine.** OHCHR’s latest monthly report gives a full picture of current human rights challenges, especially in the east, where at least 3,000 people have been killed since mid-April this year. The Council will specifically deal with this situation later in the session, and an official OHCHR report will be presented at that time. I must, however, reiterate that every effort must be made by both the Ukrainian government and the armed groups – as well as by neighbouring States, including the Russian Federation – to protect civilians in this deplorable conflict, and to ensure compliance with international law.

In the **Central African Republic (CAR)**, a near-total absence of State control over most parts of the country continues to facilitate impunity for violations. Ex-Séléka and anti-Balaka forces continue their attacks, with the civilian population the main victims. The international Commission of Inquiry on CAR has already concluded that there are reasonable grounds to believe that all sides of the conflict have perpetrated serious violations of international humanitarian and human rights law since January 2013.

In **South Sudan**, despite a recent lull in fighting, we have continued to observe serious human rights violations by both parties to the conflict. There will be detailed discussion of this situation during a panel discussion on 24 September. Regarding the **Democratic Republic of Congo (DRC)**, I was appalled to learn recently that more than one in three men surveyed in the North Kivu province admitted that he had committed sexual assault. I have been tremendously inspired by the work of Dr. Denis Mukwege, who has noted how “the bodies of women became the battlefield of conflict” in the DRC. This underscores the need for the Government to implement recommendations regarding women’s human rights and preventing sexual violence.

Moreover, I attach great importance to the investigation on **Sri Lanka** mandated by this Council, on which OHCHR will report later in the session. I encourage the Sri Lankan authorities to cooperate with this process in the interests of justice and reconciliation. I am alarmed at threats currently being levelled against the human rights community in Sri Lanka, as well as prospective victims and witnesses. I also deplore recent incitement and violence against the country’s Muslim and Christian minorities.

But the work done by OHCHR, by the Special Procedures, by Treaty Bodies, this Council itself, and indeed, by Member States, could never be achieved without the greater efforts of **civil society actors**. We need their continuing support and contributions to realise progress. I encourage the Council to strengthen its constructive engagement with civil society actors, and to ensure that their voices can be raised safely and without reprisals.

**Freedoms of expression, association and peaceful assembly are rights that enable people to share ideas, form new thinking, and join together with others to claim their rights.** It is through the exercise of these public freedoms that we make informed, considered and intelligent decisions about our development. **To restrict them undermines progress.** We must acknowledge the value of civic contribution, build the capacity of marginalised voices, ensure a place at the table for civil society actors, and safeguard their activities – including the activities of those who cooperate with this Council, its Special Procedures and Commissions of Inquiry. I take this opportunity to echo the Secretary-General's condemnation of acts of reprisal against individuals by reason of their engagement with the United Nations.

Discrimination and inequalities of all kinds prevent people from achieving their full potential, and the SDGs must aim to overcome them. We also need a renewed global partnership to create an enabling environment for the right to development – not only through international aid and technology transfer, but also by reducing existing inequities in global governance, and by aligning trade, finance and investment policy explicitly and systematically with human rights standards and principles.

Finally, the goals will only make a difference to people if progress can be effectively monitored – and if decision-makers can be held to account for shortcomings. An important effort needs to be made to construct an accountability framework for the SDGs, with indicators that can measure the actions and omissions of private business and public authorities, and flag where implementation is faltering. Clearly, this accountability framework should aim at maximum involvement by civil society and the general public.

OHCHR has been particularly concerned by the human rights situation of **migrants** around the world. From the Mediterranean to the Indian Ocean and the deserts of the United States of America, we continue to see countless avoidable deaths of migrants in the course of their journeys; brutal forms of human trafficking; ill-treatment at borders; and prolonged detention in deplorable conditions. Many migrants, including documented migrants, also suffer forced labour or dangerous, exploitative or degrading working conditions, and these violations against migrants are frequently characterised by the victim's inability to gain redress from State officials.

Along the borders of Europe, including most recently in the Spanish autonomous city of **Melilla**, reports allege forced returns, pushbacks and ill treatment of migrants by security forces. **Italian coastguards** have assisted more than 100,000 migrants arriving by sea this year, but despite that good work, almost 1900 people have died crossing the Mediterranean, and more must be done by **the European Union and its member states** to deal with this tragic situation.

In **Gulf Cooperation Council countries**, attempts to develop better governance regarding labour migration from Asia have stalled, and exploitative control over migrant workers by their employers remains the dominant model. Conditions for migrant workers in the fishing industry in **Thailand** were recently made notorious by media reports, but that industry is not unique. I am also concerned by the shooting of Bangladeshi strawberry pickers in **Greece** after they had asked for months of back pay.

I must emphasize that the detention of asylum seekers and migrants should only be applied as a last resort, in exceptional circumstances, for the shortest possible duration and according to procedural safeguards. **Australia's** policy of off-shore processing for asylum seekers arriving by sea, and its interception and turning back of vessels, is leading to a chain of human rights violations, including arbitrary detention and possible torture following return to home countries. It could also lead to the resettlement of migrants in countries that are not adequately equipped. In **Cyprus**, migrants, including children, are routinely detained for periods that exceed 18 months, in prison-like conditions.

I am also concerned by reports of detention in the **United States of America** of some of the more than 50,000 unaccompanied children who have arrived there since October 2013. They have been fleeing violence and deprivation in countries such as El Salvador, Guatemala and Honduras; some are as young as five years old. While the underlying causes of their flight involve poverty and inequality, the proximate trigger is their urgent fear of gang violence targeted specifically against children, as potential members of such gangs.

These root causes in the countries of origin and destination must be tackled in a concerted manner, at the regional level. Furthermore, the abuses suffered by these children in transit – including killings, kidnappings, disappearance, extortion, sexual violence and detention – are shocking and must be addressed. The impunity enjoyed, at every step of the journey, by those who profit from smuggling these children is unacceptable.

The treatment of non-nationals must observe the minimum standards set by international law. Human rights are not reserved for citizens only, or for people with visas. They are the inalienable rights of every individual, regardless of his or her location and migration status. A tendency to promote law enforcement and security paradigms at the expense of human rights frameworks dehumanises irregular migrants, enabling a climate of violence against them and further depriving them of the full protection of the law.

## 1.6 SECURITY COUNCIL OPEN MEETING ON “WOMEN, PEACE AND SECURITY: CONFLICT-RELATED SEXUAL VIOLENCE” – STATEMENT BY UN SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL, MARGOT WALLSTRÖM

New York, 23 February 2012

On the morning of the 30<sup>th</sup> of September 2009, two dramatically different events took place. One, that you are all familiar with, was the adoption of **Resolution 1888**: creating the mandate of UN Special Representative on Sexual Violence in Conflict. The other was a demonstration, **just outside the UN complex**, condemning mass rape by security forces in the small West African nation of **Guinea**. As this Council reached consensus on new measures to combat sexual violence, **beyond its Chamber** protestors decried yet more premeditated mass rape. As world public opinion applauded the commitments of this body, international headlines told of soldiers raping in broad daylight. Some Council members noted the connection between Resolution 1888 and the use of rape to suppress a peaceful rally in Guinea-Conakry. They noted that when rape is part of the **repertoire of conflict or political coercion**, it is a form of **collective violence** that can threaten **collective peace and security**.

I would like to congratulate the Council for its **groundbreaking consideration** of that issue over the past three years, and to thank the Presidency of Togo for convening today's debate. This is a chance to take stock of a fundamental question: namely, **whether the gap between what is said in this Chamber, and what happens in the world beyond, has narrowed**.

Last November, I went to Guinea to meet with the survivors. A young woman, who had been gang-raped and left for dead, after joining the demonstration, recalled the chilling words of one soldier: **“You wanted power – this is what you will get”**. What was striking to me was not how many women had been scarred by this atrocity, but how **many have stood back up, organized and dared to tell their stories**. Their demands for recognition, justice and the removal of perpetrators from positions of power are now reflected in a **Joint Communiqué** the Government has signed with the United Nations.

Earlier this month, a Guinean panel of judges charged **Lieutenant Colonel Moussa Tiegboro Camara** for his alleged role in the atrocities. **This is progress**. It signals to the survivors that while justice may have been **delayed**, it cannot be **denied**. In that respect, the report before you today is already partly out of date. It calls upon the Guinean authorities to take action against Camara; in the time between issuing the report and today's debate, **they have done so**.

But, of course, conflict-related sexual violence is not specific to one country or continent: it is **a global risk**. The terror of unarmed women facing armed men is age-old and universal. The Security Council has led the way in recognizing that rape can acquire a strategic twist as a **tactic of war**. There is, today, broad recognition that the more brutal and shocking the crime, the more effectively it terrorizes communities into submission, and lends notoriety to groups vying for power.

The terms of the debate have shifted from **reacting** to sexual violence like any other tragedy, to **preventing** it like any other threat. Instead of talking about women's wartime suffering – year after year after year – **protection mechanisms** have been established. Instead of seeing the same few women – in meeting after meeting – we are building a **broad coalition**.

The **circle of stakeholders** now extends to peacekeepers, peacemakers, war crimes prosecutors, and the full range of protection actors. After all, it is at the moment of negotiating a peace deal, signing a ceasefire, training troops and sending peacekeepers on patrol, that these **resolutions have real-world impact**.

In short: the Council has ushered in an **ideological shift**. And when it takes notice, so do others.

A decade ago, my mandate to be present in this Chamber, addressing this subject, would have seemed improbable. Yet this Council has kept pace with the **changing dynamics of conflict**. In contemporary wars, it has become more dangerous to be a woman fetching water or collecting firewood, than to be a fighter on the frontline. Wars have entered the marketplaces where women trade; they follow children en route to school; and haunt the prison cells where political activists are detained. Accordingly, the Council has embraced a view of security that includes the physical integrity and perspectives of women. During my visits to countries of concern, I have promised to **bridge** the voices of these women to the work of this body. At the political level, these visits can initiate a dialogue for civilian protection commitments.

My aim is to remain relevant to the Security Council and to ensure that this mandate **adds value** to your work. Resolution 1888 also created a **Team of Experts on the rule of law**, which is currently supporting initiatives of the **Governments of Guinea, Liberia, South Sudan and the DRC** to combat impunity. It is clear that **now more than ever** we have the tools to succeed.

One such tool is the **report** being debated today. It provides striking examples of sexual violence as a threat to security and impediment to peacebuilding. No one can read this report and remain unmoved. But, as many of you have asked me: **What does it mean to appear in the Secretary-General's report?** I would like to address that head-on, by highlighting **three key implications**:

- **Firstly**, this report (based on UN-verified information) is an **instrument in the hands of political leaders** to help them track and address sexual violence that is linked with insecurity. It cites illustrative incidents that point to larger patterns. As the new **Monitoring, Analysis and Reporting Arrangements** mature, they will yield a deeper **evidence base for action**.
- **Secondly**, it does not just highlight **horror stories**; these reports are a place to feature the stories of **actions that have made a difference**. Actions like enforcing command responsibility and vetting perpetrators from the security forces. It

is in the interests of every government to ensure that the national uniform symbolizes professionalism, discipline and service, not rape, pillage and terror.

- The **third point** is that it provides a **baseline for systematic engagement with parties** to armed conflict, with the consent and partnership of governments. These reports are vehicles for putting names to some of history's complex horrors. The acts of sexual torture and terror recorded here are not inevitable byproducts of war, but crimes committed by combatants and their commanders. The "fog of war" does not absolve them of that responsibility.

The report is also a **historical record**. This is critical, as **the history of rape has been a history of denial. What explains the suppression of these stories?** Perhaps the fact that the **victim** – not the **attacker** – is often shamed and stigmatized; that society is more likely to **pass judgment**, than to **deliver justice**. Perhaps it is because rape has been treated as a "lesser evil" in a context of lethal violence; or traded away by negotiating parties as the price of peace. Whatever the explanation: every speaker who adds their voice to this debate is helping to **end centuries of silence** that have made rape an effective "secret weapon".

From the **Congo** to **Cambodia**, from **Bosnia** to **Liberia**, these crimes have been neglected at the peace table and stricken from the public record. In **Bosnia**, I met with women who had survived the hell of rape camps in the early nineties. Sixteen years on, I expected to talk about memorials and remembrance. I expected to talk about women's political power and economic recovery. But what we talked about was the rapes that these women are **living** and **reliving** every day, as if it were yesterday. The lack of redress and justice is staggering. An estimated 50,000 rapes have led to just 30 prosecutions. When **Bosnia** was on the Security Council, it recognized this painful reality, and actively championed Resolution 1960. In **Cambodia** last year, women organized an informal hearing to spotlight sexual violence during the Khmer Rouge era that has been left unaddressed by formal mechanisms. Collectively, they broke over 30 years of silence. I have urged the Governments of both Bosnia and Cambodia to deliver justice for these victims. In **Rwanda**, **children born of rape** are coming of age and trying to find their place in society. So rape is not over when it's over. The point is to better understand conflict-related sexual violence and its consequences; **to give rape a history, in order to deny it a future.**

At its heart, Resolution 1960 is about **prevention**. It creates – for the first time – a workable system of deterrence and accountability in response to conflict-related sexual violence. This **compliance regime** includes a **listing option** as leverage. In relation to other protection issues, such as ending the recruitment of child soldiers, the practice of listing has yielded tangible results. Expanding the "**naming and shaming**" list on children to those credibly suspected of patterns of sexual violence against **adult** women and men has made the approach **comprehensive** and the message to armed groups **clear**. The point is to cease **all** acts of rape, whether the victim is 8, 18 or 80. I will never forget the story of an elderly woman I met in eastern **DRC**, who told me that she had felt secure in the belief that she was "too old" to be raped, that she could be "the soldier's grandmother". But this did not protect her.

While not a panacea, the list is an important tool. It reminds those who commit, command or condone sexual violence that they **can no longer sleep easily at night under the cover of impunity and anonymity**. The practice of listing shows that this is not just a war of words. **Yes**, preventive diplomacy is important. **And yes**, zero tolerance policies matter. But ultimately, **rape must carry consequences**. Some have said this exercise is too optimistic, too ambitious. But surely we must bring **all** measures to bear in addressing this scourge.

The vision is to create conditions in which armed groups see sexual violence as a **liability** that will invite **national and international scrutiny and censure** unless concrete measures are taken. These measures are outlined in Resolution 1960, as a basis for delisting. They include: the issuance of orders through chains of command, the prohibition of sexual violence in Codes of Conduct, as well as timely investigation of alleged abuses to hold perpetrators accountable. A command structure with the capacity to sustain military operations and to punish deserters, **has the capacity to rein in acts of rape.**

Those who tolerate sexual terror should be on notice that they do so in defiance of the Security Council, with its power to enact enforcement measures. In the case of **Côte d'Ivoire**, for example, this means the militiamen who threatened to burn women alive if they resisted rape. **They know why they appear in this list.** The Council has signaled its intention to consider sexual violence when establishing or renewing **sanctions regimes**. Exemplary action has already been taken by your Sanctions Committee for the DRC in relation to Mayi-Mayi leader **Ntaberi Ntabo Cheka**. This sends a powerful message to others.

As a frame of reference, the term "**conflict-related sexual violence**" has been critical in channeling relevant information from country-level to the Security Council. This framing mirrors the Resolutions by focusing on violence that has a nexus with peace and security, rather than on isolated incidents. Isolated acts of rape occur in all societies – in times of war or peace. These crimes need to be addressed by the national law and order machinery. But when sexual violence is driven by the dynamics of conflict, is widespread or systematic, constitutes a grave breach of International Humanitarian Law, or is used for military and political gain, it also warrants consideration by **this body**, in line with its competence under the **UN Charter**.

As a process of intimidation, targeted rape is often a **precursor** to conflict, as well as the **last weapon to be relinquished** in its wake. It is important not to exclude from consideration sexual violence that **continues after the guns fall silent**. Sexual violence that is normalized owing to impunity, or committed by recently demobilized combatants, is also a security issue that requires a security response. Such violence subverts efforts to cement the peace.

We know that a **ceasefire** does not mean peace for women if the shooting ceases, but the rapes continue unchecked. This should be reflected in the definition of a ceasefire and in the monitoring provisions. Monitoring teams must be **gender balanced, not gender blind**. But, to date, just three ceasefire agreements have included sexual violence. The new **Guidance for Mediators on**

**Addressing Conflict-Related Sexual Violence**, developed by DPA, will fill an analytical and practical gap.

Modern history attests that “post-war” rarely means “post-rape”. In **Liberia**, I have seen how sexual violence during the civil war left a **profound imprint on society**. Addressing this legacy is not just a **moral**, but an **operational**, imperative. It is a credibility test for the nascent military and police forces. To echo what has been said so often within these walls: impunity fuels the vicious cycle of violence. Peace is not only the absence of conflict, but the presence of justice.

Nor can we overlook the use or threat of sexual violence as a **tool of political repression** and civil strife. That would negate the promise of prevention. Politically-motivated rape is a disturbing trend witnessed in the wake of contested elections in places such as **Kenya, Guinea** and **Côte d’Ivoire**. It has also been part of political violence in **Libya, Syria** and **Egypt**.

In relation to **Syria**, the Secretary-General has expressed concern about the sexual abuse of men in **detention**, as a method of extracting intelligence. In **Libya**, UN information indicates a pattern of women being abducted from their homes, cars and streets, and subjected to repeated rape, during the conflict. Yet survivors are only coming forward in cases of **urgent medical need**. In the words of one Libyan victim: “**If the bleeding had stopped, I would never have reported it**”. This underscores that we cannot wait for “hard data” to surface before taking action. The relationship between **incidents** and **reports** of wartime rape is like the relationship between the tip and the mass of an iceberg. Only the extremity is visible. I trust that your forthcoming Resolution on Libya will explicitly mention the need to address sexual violence. A critical test of the National Transitional Council will be its willingness to investigate violations by **both sides** of the conflict and to ensure comprehensive services for survivors.

Due to the blame, shame and stigma, most survivors still have more to **lose** than to **gain** from reporting rape. **Improved data-collection** is therefore inextricably linked with **improved assistance**. Our primary focus must always be **needs, rather than numbers**. Data is not an end in itself, but an evidence-base for action.

And we must deliver as **one**. I am proud to Chair the inter-agency network, **UN Action against Sexual Violence in Conflict**. UN Action has provided strategic support at country-level, and catalyzed joint initiatives such as **scenario-based training** for peacekeepers, in partnership with UN Women and DPKO.

But in terms of response, for **too long**, we have been **too late**. The UN system is working to become better attuned to the “red flags” and **early-warning** signs. Rape is not a “fact of human history”, like disease or drought; it is often **planned** and therefore **predictable**. UN Action has scanned past conflicts to compile a **Matrix of Early-Warning Indicators** to equip monitors to identify and prevent spikes.

This analysis also sheds light on the **roots** of wartime rape. For instance, the proliferation of **small arms and light weapons enable** these atrocities. As many women have told me: “**That man had the gun, and he had the power**”. Sexual violence is often perpetuated by incomplete disarmament and the absence of vetting, training and **security sector reform**. For example, in **Somalia**, a practice has recently been detected of national security forces renting out their uniforms to civilians by night, which facilitates rape. Such patterns must be met with disciplinary measures. We also know that **militarized mining** can fuel human rights violations by enriching armed groups, for instance in the DRC.

This Council has understood that **there can be no security without women’s security**. The aim is not only to protect women **from** violence; it is to protect them **to** participate in public and economic life. Rape has a chilling effect on women’s political participation, casting a long shadow of trauma and terror. It can inhibit their access to polling booths and public squares. We must send a message that **women’s lives and votes and voices count**, and will be counted. Certainly, the women I have met cannot be caricatured as passive victims. They have fought daily wars – not for medals and monuments – but battles for bread, battles to feed their children, and to make their presence felt. I am particularly concerned, at this historical juncture, that unless women can shape their own political and personal destiny, the Arab Spring will turn into a winter for Arab women.

## 1.7 STATEMENT BY THE PRESIDENT OF THE UNITED NATIONS SECURITY COUNCIL

At the 7289<sup>th</sup> meeting of the Security Council, held on 28 October 2014, in connection with the Council’s consideration of the item “**Women and peace and security**”, the President of the Security Council made the following statement on behalf of the Council:

“The Security Council reaffirms its commitments to the full and effective implementation of resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013) and recalls all statements of its President on Women and Peace and Security as reiterating the Council’s commitments.

“The Security Council takes note with appreciation the report of the Secretary-General on Women and Peace and Security (S/2014/693) for the purpose of implementation of resolution 1325 (2000), and particularly welcomes its focus on implementation, sustaining progress and the need to translate commitments into improved outcomes.

“The Security Council reaffirms that women’s and girls’ empowerment and gender equality are critical to efforts to maintain international peace and security, and emphasizes that persistent barriers to full implementation of resolution 1325 (2000) will only be dismantled through dedicated **commitment to women’s empowerment, participation and human rights**, and through concerted leadership, consistent information flows and action, and support, to **ensure women’s full and equal participation at all levels of decision-making**.

“The Security Council welcomes the efforts of Member States to implement resolution 1325 (2000) at the national, regional and local levels, including the development of national action plans and other national, sub-regional and regional-level strategies and implementation frameworks, and encourages Member States to continue to pursue such implementation. The Council further stresses that United Nations entities should continue to support and supplement, as appropriate, efforts of Member States in the implementation of resolution 1325 (2000). The Council recognizes **the critical contributions of civil society, including women’s organizations to conflict prevention, resolution and peacebuilding and in this regard the importance of sustained consultation and dialogue between women and national and international decision makers**. The Council encourages the involvement of men in promoting gender equality and ending sexual and gender-based violence.

“The Security Council welcomes the additional steps taken to implement Security Council resolutions 2106 (2013) and 2122 (2013), and notes **the importance of sustained efforts by the United Nations to improve the quality of information and analysis on the impact of armed conflict on women and girls, the role of women in all areas of conflict prevention and resolution, peacemaking and peacebuilding and the gender dimensions of these areas**, and to systematically include information and related recommendations on issues of relevance to women, peace and security in their reports and briefings to the Council. The Council reiterates its intention to increase its attention to women, peace and security as a cross-cutting subject in all relevant thematic areas of work on its agenda, including on threats to international peace and security caused by terrorist acts.

“The Security Council recognizes that **refugee and internally displaced women and girls are at heightened risk of being subject to various forms of human rights violations and abuses, including sexual and gender-based violence, and discrimination**, which can occur during the various stages of the displacement cycle. The Security Council reaffirms the primary responsibility of Member States in the protection of their populations, including refugee and internally displaced women and girls. The Council stresses the importance of the Secretary-General and relevant United Nations agencies, inter alia, through consultation with women and women-led organizations as appropriate, supporting the development and strengthening of effective mechanisms for preventing and providing protection from violence, including in particular sexual and gender based violence, to refugee and internally displaced women and girls.

“The Council urges Member States to take measures to prevent **refugee and internally displaced women and girls from being subject to violence, and** to strengthen access to justice for women in such circumstances, including through the prompt investigation, prosecution and punishment of **perpetrators of sexual and gender based violence**, as well as reparations for victims as appropriate. The Council stresses that the **fight against impunity for the most serious crimes of international concern committed against women and girls has been strengthened** through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals.

“The Security Council reiterates with grave concern that the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons fuel armed conflicts and have a disproportionate impact on violence perpetrated against women and girls, and exacerbate sexual and gender-based violence.

“The Security Council urges all parties involved in an armed conflict to allow full and unhindered access by refugee and internally displaced women to humanitarian assistance and protection, as well as basic services, such as education, health, housing and productive livelihoods, including assets such as land and property, in particular for those refugee and internally displaced women and girls at increased risk of marginalization. The Council recognizes the importance of Member States and United Nations entities seeking to ensure humanitarian aid and funding includes provision for the **full range of medical, legal, psychosocial and livelihood services, and noting the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination**. The Security Council further recognizes that refugee and internally displaced women and girls are at increased risk of becoming stateless as a result of discriminatory nationality laws, obstacles to registering and the lack of access to identity documents, and urges States to ensure prompt and equitable provision of all necessary identity documents to such women and girls.

“The Security Council urges Member States, the Secretary-General and relevant United Nations agencies, to ensure meaningful participation of refugee and internally displaced women, as well as adolescent girls as appropriate, in the development, implementation, monitoring and evaluation of policies and programmes for refugee and internally displaced women and girls at all stages of the displacement cycle. The Council further calls for the systematic collection, analysis and utilization of sex and age-disaggregated data that is required to assess the specific needs and capacities of women, and to meaningfully measure to what extent recovery programmes are benefiting women, men, girls and boys, by all relevant actors.

“The Security Council expresses with deep concern that violent extremism, which can be conducive to terrorism, often results in increased displacement, and is frequently targeted at women and girls, leading to serious human rights violations and abuses **committed against them including murder, abduction, hostage-taking, kidnapping, enslavement, their sale and forced marriage, human trafficking, rape, sexual slavery and other forms of sexual violence**. The Council urges all Member States to protect their population in particular women and girls, affected by violent extremism which can be conducive to terrorism, whilst respecting

all their obligations under international law, in particular international human rights, refugee and international humanitarian law. The Council encourages Member States to engage the participation and leadership of women and women's organizations, including refugee and internally displaced women, in developing strategies to counter violent extremism, and further to address, including by the empowerment of women, the conditions conducive to the spread of violent extremism.

"The Security Council reiterates its intention to convene a High-level Review in 2015 to assess progress at the global, regional and national levels in implementing resolution 1325 (2000), renew commitments and address obstacles and constraints that have emerged in the implementation of resolution 1325 (2000). The Security Council encourages those Member States, regional organizations as appropriate and United Nations entities who have developed frameworks and plans to support the implementation of resolution 1325 (2000) to start reviewing existing implementation plans and targets, and to accelerate progress and prepare to formulate new targets, in time for the 2015 High-level Review.

"The Council welcomes the commissioning by the Secretary-General, in preparation for the High-level Review, of a global study on the implementation of resolution 1325 (2000), highlighting good practice examples, implementation gaps and challenges, as well as emerging trends and priorities for action. The Security Council encourages Member States, regional and subregional organizations as appropriate, and United Nations entities to contribute to the study. The Security Council invites the Secretary-General within his next annual report on the implementation of resolution 1325 (2000) to submit on the results of the global study and to make this available to all Member States of the United Nations."

## **1.8 STATEMENT BY THE UN SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN MS. RASHIDA MANJOO ON HER MISSION TO AFGHANISTAN**

KABUL (12 November 2014) – At the end of a nine-day mission to the Islamic Republic of Afghanistan, which took her to Kabul, Jalalabad and Herat, Ms. Rashida Manjoo, United Nations Special Rapporteur on violence against women, its causes and consequences, delivered the following statement:

"I have been mandated by the Human Rights Council to seek and receive information on violence against women, its causes and consequences, and to recommend measures to eliminate all forms of violence against women. Violence against women and girls is a widespread and systemic problem that has an impact throughout the lifecycle of women and girls, whether it occurs in the public or private spheres. It precludes the realisation of civil, political, economic, social, cultural, and development rights, and is a barrier to the effective exercise of citizenship by women and girls. I would like to express my appreciation to the Government of Afghanistan for extending an invitation to me to conduct this official country visit. I am grateful to all interlocutors, including State officials, representatives of civil society organisations, United Nations agencies, and in particular, individual survivors of violence.

### **CONTEXT AND REALITIES OF WOMEN AND GIRLS IN AFGHANISTAN**

The four decades of prolonged armed conflict across the country has contributed to significant levels of instability, insecurity, violence, rule of law challenges, and poverty and underdevelopment, which have obstructed the effective realization and enjoyment of human rights for people of Afghanistan. It must be stressed that the insecurity, pervasive levels of gender-based violence and an ever-present climate of fear has had a disproportionate impact on the promotion, protection and fulfillment of human rights of women and girls.

I would like to point out that this is not the first visit to Afghanistan by my mandate, in the quest to assess the situation of violence against women, its causes and consequences. The two previous mandate holders visited the country in 1999 and 2005, respectively. The first visit took place during the Taliban era, at a time when discrimination against women was officially sanctioned, thus impacting every aspect of the lives of women. In addition to the various manifestations of violence, as commonly understood, the issuance of strict edicts banning women from education, work, restrictions on their freedom of movement, and the imposition of particular dress codes, among others, has had a lasting and devastating impact on the lives of women and girls in Afghanistan.

I would like to cite a few recommendations from the report of the first mandate holder, which was presented in 2000 to the then UN Commission on Human Rights. The mandate holder stated the following: "Peace and security must be returned to Afghanistan. If the situation does not improve, the Afghan people will not be able to break away from the patterns of human rights violations which have plagued the territory for decades." The mandate holder called for the end of the armed conflict, and also the establishment, through peaceful political negotiations, of a broad-based multi-ethnic fully representative government which would respect internationally recognized human rights and abandon all policies that are inconsistent with the international human rights instruments to which Afghanistan is a party. Another crucial recommendation in the report is the need for women's involvement

in the political and peace process. The mandate holder also recommended that all parties to the conflict must end the violations of the human rights of women and girls; must ensure respect for women's right to security of the person; must ensure justice **and accountability for crimes against women**; and take urgent measures to ensure the elimination of all discriminatory legislation, policies and practices. To differing degrees, many of these recommendations continue to resonate in the context of Afghanistan today.

The second visit to Afghanistan by this mandate took place four years after the fall of the Taliban regime. The mandate holder's report to the then UN Commission on Human Rights in 2006 acknowledged that efforts to improve the status of women are closely linked to the challenge of multiple political and economic transitions confronting Afghan society, and importantly attempts to move from the rule of power to the rule of law. The report highlights the fact that the **extraordinary level of violence against women and girls is embedded in a traditional system of male domination in which girls and women have no status as independent persons**. The persistence of patriarchal cultural norms and customs and misinterpretation of religion have been used to subjugate women and further perpetuate the cycles of violence against them. The mandate holder also stated that: "The multiplicity of normative systems in Afghanistan favours the power structures intent on oppressing women in the private sphere and in public life, facilitates impunity, and presents a significant obstacle for women and defenders of women's rights." The report reiterates the need to acknowledge and **address the 'unbearable and hardly paralleled' level of violence against women as a priority** - ranking equally with security and economic development. She called for urgent measures to protect women and girls from violence; and reiterated the need to build a strong democratic inclusive State which is able to ensure an environment of economic and social development from which women and girls fully benefit. Again, many of the findings and recommendations resonate in the context of Afghanistan today.

My visit to Afghanistan provides an opportunity to reflect on the developments and challenges over the last nine years as regards the elimination of violence against women, its causes and consequences, within the broader context of women's human rights. Currently, the broader security concerns and the general climate of fear, further impact the levels of violence experienced by women and girls. Numerous reports and interviews confirm the continuing prevalence of different manifestations of violence against women and girls in both the public and private spheres, including violence perpetrated by husbands and other relatives; violence linked to early and forced marriages - including **baad** (the exchange of girls for dispute resolution) and **baadal** (exchange marriages); incest; so-called honour crimes; and self-immolation and self-harm due to domestic violence and forced marriage practices. As regards the last manifestation, during my visit to the Burn Clinic of the Regional Hospital in Herat, I was informed that women and girls who take this action do not necessarily intend to kill themselves, but are often seeking attention and a resolution to the problem. Nevertheless, they do inflict severe injuries upon themselves, which in some cases causes their death. This was also confirmed in the 2011 follow-up report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Other manifestations of violence include targeted killings of women; sexual harassment in the workplace and in public spaces; and the rape of women and girls.

## DEVELOPMENTS AND CHALLENGES

The adoption and acceptance of the Bonn agreement in 2001 served as a framework for the establishment of democratic governance in Afghanistan. Among others, the implementation of the Bonn Agreement led to the adoption of a national Constitution, which enshrines the principle of equal rights for men and women; it led to an increase of women's participation in civil and political life; and it led to a commitment to respect international human rights, including through the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. Over the past 15 years, several legislative and institutional advances have been made towards the promotion of human rights broadly and women's rights in particular, including through the creation of a national human rights institution, a ministry for women's affairs at the national level and departments of women's affairs at provincial level, human rights units in various ministries, gender units in some ministries, the enactment of landmark legislation on the elimination of violence against women, and very recently the adoption of a national action plan on the implementation of Security Council Resolution 1325 on Women, Peace and Security.

The Elimination of Violence against Women Law (EVAW) was created through a Presidential Decree in 2009 and it includes a reference to "fighting against customs, traditions and practices that cause violence against women contrary to the religion of Islam". **The law lists 22 acts of violence including among others, rape; forced prostitution; burning or poisoning women; engaging in violent behaviour which causes women to commit suicide or self-harm; causing injury or disability; battery; selling women for the purpose of marriage; baad; forced marriage; and underage marriage.** The EVAW law represents a key step towards the elimination of violence against women and girls and includes both criminal and civil remedies. For the implementation of the EVAW law, the Government has established an EVAW Commission, specialized EVAW prosecution units in some provinces, and Family Response Units within some police stations. Furthermore, in order to provide a responsive reporting environment, the recruitment of more women police officers has been undertaken. Training and awareness-raising activities for relevant state authorities continue to take place, especially with the support of the international community.

I was also informed of several law reform initiatives to be carried out over the next year or so, including a comprehensive review of the Penal Code, which would include gender-based violence crimes including sexual harassment. The drafting of a law to regulate the jurisdiction and functioning of **jirgas** and **shuras** (informal communal councils) is underpinned by the objective of providing guidance to such forums on compliance with the Constitution, relevant laws, and also the Sharia in the resolution of disputes. Consultations have also been held with relevant stakeholders, including the Ulema authorities, on the drafting of a comprehensive family code.

As regards information shared on continuing and new challenges, the issue of access to justice and to justice itself for women and girls, whether in the formal justice system or in the informal dispute resolution forums, was a source of deep concern in numerous interviews. It was stated by many interlocutors that the formal justice system was deficient in many respects, including being inaccessible, unresponsive, corrupt, and, untrustworthy, especially as regards matters related to women's rights. These factors and also societal pressure to deal with problems within the family, often leads to women opting to use mediation and the resolution of disputes outside of the formal justice system. The informal dispute resolution forums such as **jirgas** and **shuras** were also criticised by many interlocutors, especially for violating fair trial and equality and non-discrimination rights, particularly in matters concerning women and children.

Another challenge identified is the issue of the lack of effective interpretation and implementation of relevant laws by State authorities, particularly the EAW law. Many interviewees stated that the unresponsiveness and pervasive gender-bias in the policing sector is a barrier to reporting. **Moreover, the failure to investigate or prosecute crimes committed against women and girls**, continues to reinforce a climate of impunity, and normalises violence and renders it as acceptable. Allegations of discriminatory judgements and arbitrary sentencing patterns, as experienced by women defendants, can also reinforce the lack of trust in the formal justice system. The challenges as regards effective implementation of the EAW law have been documented by among others, UN entities, including UNAMA and UNDP; the Afghanistan Independent Human Rights Commission; and numerous civil society organisations.

Furthermore, many women and girls who are subjected to violence do not come forward to register complaints due to their lack of knowledge of the law and its protective remedial provisions; fear of reprisal from the perpetrators and family members; financial and other constraints, including the lack of freedom of movement; and fear of being treated as criminals instead of victims, when reporting crimes committed against them. Many interviewees alleged that they had been charged for 'moral crimes' including when fleeing domestic violence and early or forced marriages. Women and girls who try to escape from situations of violence or abuse are often condemned and shunned by their families, communities and the authorities, and are threatened with death, should they return home.

A large number of women and girls live in a context of deep inequality, underdevelopment, high levels of illiteracy, and the lack of educational and employment opportunities, more especially those living outside of the cities. In these circumstances, the challenge of addressing issues of violence, difficulties of obtaining a divorce, inheritance deprivation, fears about removal of children from their custody, and the inability to return to their homes and communities, all contribute to women choosing not to leave abusive situations. The existence of shelters in some provinces could be seen as a protective remedy for women seeking to flee their violent and discriminatory situations. Unfortunately, the views and perceptions that exist as regards shelters and shelter staff are of deep concern to me. Shelters are viewed by many individuals as institutions which encourage women to leave home; to behave immorally and outside of what is traditionally considered 'acceptable' in a conservative and religious society; as prostitution houses; and as establishments that are causing the break-up of families. Interviewees in shelters that I visited expressed their gratitude that these mechanisms exist, as it is the only alternative of escape from a life of violence. It is clear that many women and girls spend long periods of time in shelters, sometimes up to five years. This is unusual but necessary in Afghanistan, considering the reality of women's situation as described above. For the medium and longer term, there is a need to think about solutions for the long term housing needs of women and girls, so as to enable them to transition from shelters to more independent and safe living arrangements.

Globally, shelters are accepted mechanisms which provide protection, therapy, legal services, and sometimes economic empowerment activities – with the objective of empowering women and girls to become independent and self-confident individuals who are then active agents in their own development. As with many mechanisms, shelters also face challenges in their stated objectives and implementation thereof, and gradually evolve and change over time, to reach goals that are in the best interests of women and children. This is a process that shelters in Afghanistan will also undergo, as they develop further.

Another challenge raised is the issue of **over-incarceration of women and girls for 'moral crimes'**. I visited the Badam Bagh prison in Kabul and the Juvenile Rehabilitation Center in Herat where I interviewed several convicted and pre-trial detainees. Some interlocutors revealed that they had been subject to physical and/or sexual violence prior to incarceration, which had led to them 'running away/leaving home'. Many interviewees stated that crimes linked to them **leaving home**, including convictions for the crime of zina, assault and murder has led to convictions and custodial sentences. Running away from home is not a crime under Afghan law, and this has been reinforced by the Supreme Court in a decree. The two facilities I visited had numerous women and girls charged with 'attempted adultery' - irrespective of their marital status. The presumption on which charges were based was that the woman would have probably engaged in 'immoral' behaviour during her absence from home. It was stated that these convictions are usually based on minimal evidence of wrongful behaviour; that investigations are not carried out with due diligence; and that **virginity testing** is done and the results of such tests is often used as the basis of evidence to convict. A minority of interviewees stated that they are incarcerated for 'ordinary' offenses such as theft, drug trafficking, assault or murder.

Last week, during a visit to a prison in Kabul, President Ghani stated that he would not tolerate seeing his people imprisoned as a result of mistakes by the police, prosecutors or judges. He further stated it was the responsibility of the State to protect the dignity of society and demanded that **rape accusations** be strongly founded and proved. In light of this statement, it is my hope that the government of Afghanistan will protect the dignity and human rights of women and girls who are incarcerated, through a review of all their cases, to ensure that no miscarriages of justice exist in these cases.

## CONCLUSION

Despite the situation of insecurity throughout the country, it is clear that there have been legislative and institutional developments. This is a reflection of political will in addressing the promotion and protection of women's rights which is further reflected in the appointments of women in high level positions. However, such developments should not detract from the fact that **violence against women continues to be a source of deep concern in Afghanistan**. Currently, there is no comprehensive and coherent data collection mechanism to enable either government or the public at large to fully grasp the magnitude of the phenomenon in the country. Despite government agencies and civil society organisations collecting statistics, these estimates are disputed, depending on whom one speaks to or receives information from. The lack of effective interpretation and implementation of laws and policies requires attention by the government of Afghanistan, as does the issue of the allocation of appropriate resources to enable sustainable solutions.

It is important to recall that Afghanistan has international legal obligations to meet, as set out in, among other treaties, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The State has a responsibility to act with due diligence to eliminate all forms of violence against women and girls. This responsibility includes the protection, prevention, investigation, punishment, and provision of effective remedies, including compensation measures. Furthermore, the State has a responsibility to hold accountable not only the perpetrators of violence, but also state authorities who fail to protect and prevent the violations of women and girls human rights, due to a lack of response or because of ineffective responses.

It is crucial to recognize that violence against women and girls is a human rights violation that is rooted in multiple and intersecting forms of discrimination and inequalities, and that it is strongly linked to the social, cultural and economic situation of women. The importance of accountability as the norm for acts of violence against women cannot be over-emphasised, more especially within a context of generalised impunity for violence in public and private spheres. **Accountability for all crimes** committed against women and girls; the empowerment of women; and, the transformation of society, need to remain a focus for the government of Afghanistan, independent State institutions, civil society organisations and also the international community. It is imperative that the best interests of all women and girls in Afghanistan should guide the response of relevant stakeholders to ensure coherent and sustainable solutions, in the quest to address the individual, institutional and **structural causes and consequences of violence against women and girls**.

### 1.9 FORMER UN SECRETARY-GENERAL, KOFI ANNAN, IN 'MISSION OF HEALING' TO RWANDA, STATEMENT

The following is the text of Secretary-General Kofi Annan's address to the Parliament of Rwanda, in Kigali, on the 7<sup>th</sup> of May 1998:

I have come to Rwanda today on a **mission of healing** – to help heal the wounds and divisions that still torment your nation and to pledge the support of the United Nations so that once again we can become a partner and an ally in Rwanda's search for peace and progress.

Four years ago, Rwanda was swept by a paroxysm of horror from which there is only the longest and the most difficult of escapes. It was a horror that came from within, that consumed and devastated entire communities and families. It was a horror that left you as survivors of a trauma which to the world beyond your borders was unimaginable, even though we all now know it happened.

We will not pretend to know how you must overcome the unimaginable. We can only offer, in humility, the hope and the prayer that you will overcome – and the pledge that we stand prepared to help you recover. We must and we do acknowledge that the world failed Rwanda at that time of evil. The international community and the United Nations could not muster the political will to confront it.

The world must deeply repent this failure.

**Rwanda's tragedy was the world's tragedy.** All of us who cared about Rwanda, all of us who witnessed its suffering, fervently wish that we could have prevented the genocide.

Looking back now, we see the signs which then were not recognized. Now we know that what we did was not nearly enough – not enough to save Rwanda from itself, not enough to honour the ideals for which the United Nations exists. We will not deny that, in their greatest hour of need, the world failed the people of Rwanda.

In your people's agony, **an ideology of hate and inhumanity tore the very fabric of existence and made victims of an entire people, turning every Tutsi man, woman and child into human prey** in a concerted, planned, systematic and methodical campaign of mass extermination.

**In the face of genocide, there can be no standing aside, no looking away, no neutrality -- there are perpetrators and there are victims;** there is evil and there is evil's harvest. Evil in Rwanda was aimed not only at Tutsis. It was aimed at anyone who would stand up or speak out against the murder. Let us remember, therefore, that when the killers began, they also sought out Hutus now described as "moderate"—that is, Hutus who would not kill, Hutus who would not hate.

That fact is what gives us hope today and inspires confidence that you will succeed in rebuilding your One Rwanda on which future generations will build a tolerant society, defined by the quality of forgiveness which is inherent to our African heritage.

**The return to peace, coexistence and reconciliation in Rwanda must begin with justice after the genocide. It must be guided by an unshakeable determination to end the culture of impunity and to prosecute and punish the genocidaires under the full force of the law.**

Only thus can you begin to honour the memory of the multitudes cut down with such cruelty and cowardice.

**As long as our world is one where you are more likely to be met with retribution if you kill one person than if you kill a thousand, justice cannot reign.** But to be complete, justice must be carried out with due process and above reproach, so that it can promote the process of healing that is so vital to Rwanda's future.

### **1.10 BILL CLINTON, FORMER US PRESIDENT, REMARKS TO THE PEOPLE OF RWANDA**

March 25, 1998

I have come today to pay the respects of my Nation to all who suffered and all who perished in the Rwandan genocide. It is my hope that through this trip, in every corner of the world today and tomorrow, their story will be told; that 4 years ago in this beautiful, green, lovely land, a clear and conscious decision was made by those then in power that the peoples of this country would not live side by side in peace.

During the 90 days that began on April 6, in 1994, Rwanda experienced the most extensive slaughter in this blood-filled century we are about to leave—families murdered in their homes, people hunted down as they fled by soldiers and militia, through farmland and woods as if they were animals.

From Kibuye in the west to Kibungo in the east, people gathered seeking refuge in churches by the thousands, in hospitals, in schools. And when they were found, the old and the sick, the women and children alike, they were killed—killed because their identity card said they were Tutsi or because they had a Tutsi parent or because someone thought they looked like a Tutsi or slain, like thousands of Hutus, because they protected Tutsis or would not countenance a policy that sought to wipe out people who just the day before, and for years before, had been their friends and neighbors.

The Government-led effort to exterminate Rwanda's Tutsi and moderate Hutus, as you know better than me, took at least a million lives. Scholars of these sorts of events say that the killers, armed mostly with machetes and clubs, nonetheless did their work 5 times as fast as the mechanized gas chambers used by the Nazis.

It is important that the world know that these killings were not spontaneous or accidental. It is important that the world hear what your President just said: They were most certainly not the result of ancient tribal struggles. Indeed, these people had lived together for centuries before the events the President described began to unfold. These events grew from a policy aimed at the systematic destruction of a people. The ground for violence was carefully prepared, the airwaves poisoned with hate, casting the Tutsis as scapegoats for the problems of Rwanda, denying their humanity. All of this was done, clearly, to make it easy for otherwise reluctant people to participate in wholesale slaughter.

Lists of victims, name by name, were actually drawn up in advance. Today, the images of all that, haunt us all: the dead choking the Kigara River, floating to Lake Victoria. In their fate, we are reminded of the capacity for people everywhere, not just in Rwanda, and certainly not just in Africa but the capacity for people everywhere, to slip into pure evil. We cannot abolish that capacity, but we must never accept it. And we know it can be overcome.

**The international community, together with nations in Africa, must bear its share of responsibility for this tragedy, as well.** We did not act quickly enough after the killing began. We should not have allowed the refugee camps to become safe havens for the killers. We did not immediately call these crimes by their rightful name: genocide. We cannot change the past, but we can and must do everything in our power to help you build a future without fear and full of hope.

We owe to those who died and to those who survived who loved them, our every effort to increase our vigilance and strengthen our stand against those who would commit such atrocities in the future, here or elsewhere. Indeed, we owe to all the peoples of the world who are at risk because each bloodletting hastens the next as the value of human life is degraded and violence

becomes tolerated, the unimaginable becomes more conceivable—we owe to all the people in the world our best efforts to organize ourselves so that we can maximize the chances of preventing these events. And where they cannot be prevented, we can move more quickly to minimize the horror.

So let us challenge ourselves to build a world in which no branch of humanity, because of national, racial, ethnic, or religious origin, is again threatened with destruction because of those characteristics of which people should rightly be proud. Let us work together as a community of civilized nations to strengthen our ability to prevent and, if necessary, to stop genocide.

We have seen, too — and I want to say again — **that genocide can occur anywhere. It is not an African phenomenon and must never be viewed as such. We have seen it in industrialized Europe; we have seen it in Asia. We must have global vigilance. And never again must we be shy in the face of the evidence.**

Events here show how urgent the work is. In the northwest part of your country, attacks by those responsible for the slaughter in 1994 continue today. We must work as partners with Rwanda to end this violence and allow your people to go on rebuilding your lives and your nation.

We must make it clear to all those who would commit such acts in the future that they too must answer for their acts, and they will. In Rwanda, we must hold accountable all those who may abuse human rights, whether insurgents or soldiers. You see countless stories of courage around you every day as you go about your business here, men and women who survived and go on, children who recover the light in their eyes remind us that at the dawn of a new millennium there is only one crucial division among the peoples of the Earth. And believe me, after over 5 years of dealing with these problems, I know it is not the divisions between Hutu and Tutsi or Serb or Croatian; and Muslim and Bosnian or Arab and Jew; or Catholic and Protestant in Ireland, or black and white. It is really the line between those who embrace the common humanity we all share and those who reject it.

It is the line between those who find meaning in life through respect and cooperation and who, therefore, embrace someone to look down on, someone to trample, someone to punish and, therefore, embrace war. It is the line between those who look to the future and those who cling to the past. It is the line between those who give up their resentment and those who believe they will absolutely die if they have to release one bit grievance. It is the line between those who confront every day with a clenched fist and those who confront every day with an open hand. That is the only line that really counts when all is said and done.

## **1.11 REPORT OF THE UN SECRETARY-GENERAL ON CONFLICT RELATED SEXUAL VIOLENCE (S/2014/181)**

March 2104

### **I. INTRODUCTION**

The present report, which covers the period from January to December 2013, is submitted pursuant to paragraph 22 of Security Council resolution 2106 (2013), in which the Council requested me to submit annual reports on the implementation of resolutions 1820 (2008), 1888 (2009), 1960 (2010) and 2106 (2013) with regard to conflict-related sexual violence. The report presents information on parties to conflict credibly suspected of committing or being responsible for acts of rape and other forms of sexual violence. The term “conflict-related sexual violence” refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced 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 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. While conflict related sexual violence may be present in several contexts not mentioned in the current report, the following outlines those countries in which credible information is currently available, including situations of emerging concern.

The report highlights actions taken and challenges faced by States in conflict and post-conflict situations to protect women, men and children from such sexual violence; the implementation of the monitoring, analysis and reporting arrangements; the deployment of women’s protection advisers; the work of the Team of Experts on the Rule of Law and Sexual Violence in Conflict; the efforts of the United Nations system; and recommendations to strengthen efforts to combat this egregious crime. In the report, appropriate actions are recommended and a list of parties credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the agenda of the Security Council is contained in the annex. The report should be read in conjunction with my previous reports on the same topic (A/66/657-S/2012/33 and A/67/792-S/2013/149). Preparation of the report involved consultations with the 13 United Nations entities that are members of United Nations Action against Sexual Violence in Conflict, United Nations field missions and country teams, concerned Member States and non-governmental organizations. United Nations peacekeeping and political missions, as well as country teams, were the primary sources of information. In the present report, reference is made to the nature and scope of sexual violence in 20 countries.

## II. CURRENT AND EMERGING CONCERNS REGARDING SEXUAL VIOLENCE AS IT RELATES TO INTERNATIONAL PEACE AND SECURITY

Sexual violence is almost universally underreported 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 stigmatization, familial and social shunning and reprisals. In many contexts, the limited availability of services also hampers data gathering. Even where primary health care is available to survivors, staff may lack the capacity and the resources to provide holistic care, most notably psychosocial support and mental health services. In several contexts, service provision is limited also by access restrictions. In the absence of adequate and appropriate services, it is all the more difficult to have a comprehensive understanding of the scale, scope and character of conflict-related sexual violence.

Clearly, sexual violence is closely related to broader issues of insecurity and security-sector reform and to incomplete and/or flawed disarmament, demobilization and reintegration processes. It is essential, therefore, to address conflict-related sexual violence explicitly in such processes and in the context of peace agreements and ceasefires, which often establish the parameters for security sector reform and disarmament, demobilization and reintegration efforts. The prevalence of sexual violence during periods of conflict often leaves lasting legacies, with acute consequences for the security of women and children in peacetime. This is demonstrated by the high levels of rape and other forms of sexual violence perpetrated against women and minors in some post-conflict settings. Ultimately, this has a direct bearing on the durability of peace and prospects for sustainable development. It is also evident that sexual violence perpetrated by demobilized actors and non-State armed groups is sometimes related to criminal activities such as the illicit extraction of resources and human trafficking and, in some cases, forms part of a strategy to control territory and access to resources. In such contexts, sexual violence is an effective tool of intimidation and social control.

In several of my reports I have highlighted the issue of sexual violence perpetrated in the context of conflict specifically as it relates to contested political processes. In some cases, female protesters specifically have been targeted, sometimes by organized groups or multiple perpetrators. In this regard, the Security Council has expressed grave concern regarding sexual violence crimes committed in the context of contested elections in Kenya in 2007 and Guinea in 2009. This issue requires continued vigilance by the Security Council, and further monitoring, analysis and preventive action, as appropriate.

During 2013, sexual violence was reported by displaced persons to have been a significant factor motivating their flight. During flight and while displaced, civilian populations continued to be vulnerable to sexual violence. In the context of prolonged and repeated displacement, effective mechanisms to prevent rape and other forms of sexual violence are often absent or limited. In some cases, the use of extreme violence, including honour killings, is related to sexual violence crimes. These risks not only lead to underreporting of sexual violence but to other harmful practices, such as early and/or forced marriage. The settlement of allegations of rape of women and girls through informal or “traditional” justice arrangements often results in agreements between the perpetrator and the survivor’s family or community that are detrimental to the survivor.

I have also previously highlighted the specific concern of sexual violence perpetrated against men and boys. Such incidents were again reported in 2013 but it remains difficult to determine their scale and scope and to respond accordingly. Challenges in this area include deep stigma, the failure of national legislation in many instances to recognize sexual violence against men and boys as a crime, the inadequacy of services specifically for male victims and the lack of access to legal services. In 2013, the Office of my Special Representative on Sexual Violence in Conflict, Zainab Hawa Bangura, convened, together with the Government of the United States of America, a workshop of experts on sexual violence against men and boys, the key recommendations of which will inform the response of the United Nations system going forward.

Similarly, the issues of pregnancy as a result of sexual violence and of the plight of children born of rape require further research and information as a basis for response. In situations where conflict-related sexual violence takes the form of campaigns of forced pregnancy, and where abortion services are illegal, unsafe abortion practices may put the lives of survivors at greater risk. There are also the related risks of HIV transmission and limited access to HIV prophylaxis.

Access to justice for survivors can be hindered by physical restrictions, by inadequate legislation or by the 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 adopt and implement legislation that would offer improvements in terms of accountability and reparations for survivors. Many countries lack legal aid services or protocols for the protection of victims and witnesses. United Nations actors, including the Team of Experts on the Rule of Law and Sexual Violence in Conflict, continue to support national authorities in this regard.

At the global level, there is now unprecedented commitment and momentum. In its resolution 2106 (2013), the Security Council outlined for the first time a comprehensive approach and framework to prevent conflict-related sexual violence. In April 2013, the countries of the Group of Eight adopted the historic Declaration on Preventing Sexual Violence. On the sidelines of the sixty-eighth session of the General Assembly, more than 140 Member States endorsed the Declaration of Commitment to End Sexual Violence in Conflict at an event co-chaired by my Special Representative on Sexual Violence in Conflict and the Foreign Secretary of the United Kingdom of Great Britain and Northern Ireland, William Hague, who continues to vigorously champion this cause (see A/68/633, annex). These are notable and important advances, but it is crucial that we now focus our collective efforts on converting these political commitments into concrete actions aimed at prevention and the provision of services on the ground.

## A. ADDRESSING SEXUAL VIOLENCE IN CONFLICT AND INFORMATION ON PARTIES CREDIBLY SUSPECTED OF COMMITTING OR BEING RESPONSIBLE FOR ACTS OF RAPE OR OTHER FORMS OF SEXUAL VIOLENCE

11. The following information is based on cases recorded and documented by the United Nations system. As such, it is only indicative of the scope, scale and character of sexual violence committed against women, men and children.

### AFGHANISTAN

12. Between March and September 2013, the Afghanistan Independent Human Rights Commission indicated an increase of 25 per cent in violations against women, including an increase in reported incidents of sexual violence and forced marriage of women and girls. Furthermore, the Commission reported an increase in sexual violence against men and boys during 2013 and a pattern of sexual exploitation of children by commanders. Perpetrator profiles include police and military commanders, former warlords, tribal leaders and non-State armed groups. Armed groups operating in Takhar, Kunduz and Badakhshan are among those responsible for sexual violence against minors. The practice of **bacha bazi** (an illegal form of child prostitution and sexual slavery) is common among militia leaders and is understood to be prevalent in the northern and southern provinces. Members of both the national and local police have also been reported to be involved in this practice. Reporting of sexual violence against men and boys is severely limited but the United Nations has received reports of threats of sexual violence against men in detention. In addition, the Organization has noted that sexual violence is perpetrated and women are killed in Taliban-controlled areas as a method of curtailing the participation of women and girls in public life. Service provision remains extremely limited: there are only 19 women's centres in 34 provinces. There is a limited number of staff trained to treat survivors, a lack of female medical staff in rural areas and a lack of legal service provision in hospitals, while psychological services are unavailable even in urban hospitals.

Most cases remain untreated owing to a combination of limited resources and insufficient coordination between the Government and civil society. In some instances, survivors reported being raped a second time by security forces while seeking protection.

### RECOMMENDATION

13. I call on the Government to reinforce efforts to implement relevant legislation and, with the support of the United Nations and civil society, to establish the infrastructure necessary to systematically collect data and report on sexual violence, thereby creating a basis for a justice and service response.

### CENTRAL AFRICAN REPUBLIC

An already fragile security, human rights and humanitarian situation worsened during 2013, most notably with the attack on Bangui of 5 December by anti-balaka groups and elements of the former armed forces of the Central African Republic against ex-Séléka elements and the Transitional Government led by Michel Djotodia. At the end of the reporting period, human rights violations against civilians, rooted in sectarian conflict, had reached acute levels. At the request of my Special Representative and Head of the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA), Babacar Gaye, my Special Representative for Children and Armed Conflict, Leila Zerrougui, my Special Adviser on the Prevention of Genocide, Adama Dieng, and a representative from the office of my Special Representative on Sexual Violence in Conflict travelled to Bangui and Bossangoa from 17 to 21 December 2013 after having carried out a joint technical-level assessment mission.

The delegation reported that numerous human rights violations had been committed and that there were clear indications that conflict-related sexual violence had been a main feature of attacks between March and December 2013. These crimes, which targeted civilian communities, were initially committed by ex-Séléka elements in acts described as "score settling". More recent events indicate that sexual violence was being committed as part of the sectarian violence, as reports of rape during house-to-house search operations conducted by anti-balaka elements and by ex-Séléka and other armed groups emerged. During the reporting period, allegations emerged of abductions and forced marriages by ex-Séléka officers in Bangui, Bouar and other areas affected by the conflict, with credible reports of girls being kept in military camps and becoming pregnant as a result of sexual slavery. The United Nations also received information that female politicians and female relatives of public officials have been raped, kidnapped and sometimes tortured. In mining areas such as Obo, Zemio, Rafai and Nzako, and in the city of Bria, women and children have also reportedly been kidnapped, raped and killed by the Lord's Resistance Army.

At least 146 pregnancies resulting from conflict-related sexual violence were recorded by United Nations partners during 2013. United Nations entities also noted an elevated risk of HIV infection and that, in the context of severe insecurity, civilians were less likely to risk travelling to seek assistance, contributing to high levels of miscarriage among women and girls and to untreated infections and disorders. The gender-based violence subcluster has developed a referral pathway, distributed post-exposure prophylaxis kits and trained service providers, mainly in camps for internally displaced persons. Few awareness-raising efforts have been carried out among vulnerable groups in the wake of the escalation of the violence, however, owing to funding and capacity constraints and the absence of an emergency preparedness plan. At present, medical and police authorities lack adequate training on caring for and protecting survivors of sexual violence, leaving women and girls vulnerable to stigmatization and reprisal.

Survivors are also deterred from reporting because of the continuing presence of alleged perpetrators and the lack of a functional justice system. It is imperative that peacekeepers continue to be trained with a view to enhancing their capacity to prevent and respond to conflict-related sexual violence. In addition to building the capacity of BINUCA to monitor and report on human rights violations, including sexual violence, closer coordination between international actors is paramount. This should include the establishment of an integrated incident alert and coordinated response mechanism between the African-led International Support Mission in the Central African Republic, Operation Sangaris and BINUCA.

## RECOMMENDATION

**17.** I urge the transitional authorities in the Central African Republic to ensure that efforts to restore security and the rule of law specifically take into account the prevention of crimes of sexual violence and that any eventual ceasefire or peace agreement explicitly reflect sexual violence considerations, in line with the joint communiqué of the Government of the Central African Republic and the United Nations on the prevention of and response to conflict-related sexual violence of 12 December 2012.

## COLOMBIA

For the period 2012-2013, the General Attorney's Office reported on the investigation of 86 cases of sexual violence, involving 154 victims, perpetrated in the context of armed conflict. United Nations partners have reported that a range of violations and abuses were committed, including rape, gang rape, the recruitment of women, girls and boys by illegal armed groups for use as sexual slaves, forced pregnancy, forced abortion and forced prostitution. Other crimes reported in connection with sexual violence included kidnapping, threats of violence and assassinations. United Nations data on sexual and gender-based violence for 2013 indicate that women and girls of Afro-Colombian descent were disproportionately affected. In both 2012 and 2013, as many as 10 per cent of incidents have been reported by government sources related to sexual violence against men and boys.

The sexual exploitation of women and girls in areas under the influence of illegal armed groups or groups emerging after the demobilization of paramilitary organizations (under Law 975 of 2005, the "Justice and Peace Law") remains a grave concern. In this context, incidents indicate that sexual violence is perpetrated as a strategy to assert territorial control, to intimidate women leaders and human rights defenders and to intimidate the civilian population as a method of social control. Some survivors report having been displaced and raped repeatedly. Survivors reporting incidents of sexual violence to the authorities and service providers also reported receiving subsequent threats against them and their families, some of which resulted in forced displacement. The continuing presence of survivors and perpetrators in the same community represents an ongoing security risk, creates acute psychological trauma owing to prolonged intimidation and hinders reporting and access to justice and services. These trends are consistent with the acknowledgement by the Colombian Constitutional Court (in its judgement 092 of 2008) that sexual violence is a habitual, extensive, systematic and invisible practice in the context of the Colombian armed conflict, perpetrated by all of the illegal armed groups and, in isolated cases, by individual agents of the national armed forces.

With regard to the need for adequate and timely legal, medical and psychological attention for survivors, a draft bill outlining measures to guarantee the right of access to justice for survivors of sexual violence, particularly as it relates to the armed conflict, is under consideration by Congress. The approval, in November 2013, of guidelines for a public policy aimed at risk prevention and at protecting and guaranteeing the rights of women who are victims of armed conflict and that make specific reference to the needs of survivors of conflict-related sexual violence is also a welcome development. Other positive developments include the elaboration by the Ministry of Defence of a protocol aimed at building the capacity of the public forces to prevent and respond to sexual violence, in particular with regard to the armed conflict. With regard to reparations, as at November 2013 the special administrative unit charged with providing support and reparation to victims had registered 3,525 survivors of sexual violence (2,902 of whom were female). To date, some 409 survivors have comprehensive reparation plans, including benefits for their families. A collective reparations process is also under way in consultation with five women's organizations and a national programme for the protection of those in situations of extreme risk is being implemented. (See also para. 66 below, on the work of the Team of Experts in Colombia.)

## RECOMMENDATION

**21.** I urge the Colombian authorities to ensure that legislative and policy developments, including the Colombian legal framework for peace, contribute to the fulfilment of survivors' rights to truth, justice and reparation for the full range of violations associated with conflict-related sexual violence. Furthermore, I call upon the Government of Colombia to continue and extend its collaboration with the United Nations, including the Team of Experts.

## CÔTE D'IVOIRE

Data on sexual and gender-based violence for 2013 indicate that high levels of sexual violence, particularly rape, continue to be committed. The United Nations has verified 381 cases between January and December, including 62 gang rapes. The slow progress

being made in disarmament, demobilization and reintegration processes, persistent insecurity caused by the presence of armed elements throughout the country and the climate of impunity contribute to a high-risk environment, particularly for women and children. Over 60 per cent of recorded rape survivors were children between the ages of 10 and 18 years; 25 per cent were children aged between 14 months and 10 years. At least 10 women and girls were killed after being raped or died from severe injuries sustained during the assault. The United Nations Operation in Côte d'Ivoire (UNOCI) notes that while instances of sexual violence were being recorded in the western part of the country, they are now being recorded in the north. In urban areas, the prevalence of small arms and light weapons is linked to insecurity: 63 cases of rape were reported during armed robberies.

A total of 24 incidents of sexual violence investigated by the United Nations in 2013 involved elements of the Forces républicaines de Côte d'Ivoire (FRCI), the police, the gendarmerie or ex-combatants. An incident of particular concern involved the alleged rape of nine women by FRCI members during an eviction operation in the protected forest of Niégré. Although the commanders suspected of involvement are known, to date no one has been held accountable for those incidents. UNOCI notes a high level of impunity for security actors accused of committing crimes of sexual violence, often with the complicity of commanders. Since January 2013, of 15 rape allegations against security and defence forces brought to the attention of the military prosecutor of Abidjan and regional civilian courts, two cases have been tried under civilian jurisdiction, criminal charges were dropped in four cases, while nine investigations are still pending. To date, transitional justice arrangements have addressed none of the 54 incidents of sexual violence reported in connection with the post-election crisis in 2010 and 2011.

In terms of prevention, the limited implementation of disciplinary procedures, the absence of sanctions and a lack of awareness-raising activities on codes of conduct and ethics within national security institutions have presented major challenges. In September 2013, the Ministry of Defence supported an initiative of the Office of my Special Representative in partnership with the Kofi Annan International Peacekeeping Training Centre and the United Nations Population Fund (UNFPA) to conduct two training workshops for the Ivorian security forces. As a result, a pool of national trainers on conflict-related sexual violence was created to enhance the sustainability of capacity-building efforts. Through a national training programme on investigative techniques and gender-based violence for members of the police and the gendarmerie operating as judicial police officers, delivered by the Ministry of the Interior and supported by United Nations and international partners, a further 300 officers will be trained by June 2014. There have been some improvements in the capacity of actors to detect, prevent and plan responses to sexual violence, and several United Nations training sessions have been held for health personnel throughout the country. While referral mechanisms are in place, access to services continues to be a challenge nationwide.

The lack of a regularly functioning high court since 2001 poses a significant barrier to justice. Despite the efforts of national authorities, the prosecution rate remains low. Alleged perpetrators are often released owing to insufficient evidence and rape often continues to be reclassified as indecent assault, a lesser offence. The United Nations has verified 26 cases in which survivors opted to settle out of court as a result of social pressure, lengthy judicial procedures, lenient sentences and the cost of medical certificates. In June 2013, the Government adopted a national justice policy that envisages improvements with respect to service delivery, access to justice, legal documentation for vulnerable persons and a review of the legal framework on women's rights and protection. In August 2013, a national legal review aimed at reforming criminal and civil codes was initiated by the Ministry of Justice. Other initiatives are under way to review issues related to legal aid, victim and witness protection, and representation.

## RECOMMENDATION

**26.** I urge the Government to ensure the implementation of a comprehensive national strategy to prevent sexual violence and to improve access to justice and other services for survivors.

## DEMOCRATIC REPUBLIC OF THE CONGO

During 2013 the Government of the Democratic Republic of the Congo recorded 15,352 incidents of sexual and gender-based violence in eastern Democratic Republic of the Congo (North Kivu, South Kivu, Katanga and Ituri district). Also with reference to 2013, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) investigated and verified 860 cases of sexual violence committed by parties to the conflict, representing an increase of 13 per cent since my previous report on sexual violence in conflict. Non-State armed groups were involved in 71 per cent of cases verified by MONUSCO, while national security forces (mostly the national armed forces (Forces armées de la République démocratique du Congo — FARDC) and the national police) were responsible for 29 per cent of cases. This marks a change from my previous report, in which more than 50 per cent of cases were attributed to State actors. Because of the deteriorating security situation and the activities of the Mouvement du 23 mars (M23), North Kivu Province was most affected by conflict-related sexual violence during the reporting period.

Armed groups operating in conflict-affected areas effectively condone sexual violence through the encouragement of predatory behaviour. Furthermore, most armed groups in eastern Democratic Republic of the Congo, such as the Mai-Mai Cheka, the Raia Mutomboki, the Forces démocratiques de libération du Rwanda and the Alliance des patriotes pour un Congo libre et souverain, as well as some FARDC elements, are involved to some degree in illicit activities, such as trafficking in conflict minerals and poaching, during which opponents and civilians are targeted, including through the use of sexual violence. The United Nations has also documented ethnically targeted attacks, including sexual violence perpetrated by Mai-Mai Cheka in the area of Pinga,

mainly against Nande and Hutu groups. Mai-Mai Simba/Lumumba combatants were responsible for a large number of incidents of sexual violence, mostly involving the abduction of women and girls, looting and forced labour. It has been reported that 46 girls recruited and used by armed groups such as Mai-Mai Simba were used as sexual slaves. Of particular concern is the arrest of former sex slaves by government forces on suspicion of being collaborators of the armed groups that held them captive. For example, in Ituri district, 27 women released from captivity were arrested by FARDC because they were suspected of being Mai-Mai Morgan supporters. Problems of insecurity and access have impeded efforts to document and determine the magnitude of the phenomenon.

Almost half of the documented cases of sexual violence during 2013 were rapes of girls. In addition, the Office of the United Nations High Commissioner for Refugees (UNHCR) recorded 525 incidents of forced marriage in areas affected by armed conflict. Sexual violence against men and boys was most often reported in Rutshuru territory (North Kivu), which was under M23 control for much of 2013. Also in North Kivu, sexual violence was particularly documented during displacement and around camps for internally displaced persons. With United Nations support, the Government has trained police officers working in areas where there are internally displaced persons to escort women and has created an alternative energy working group in North Kivu. In terms of service provision, geographic coverage is uneven and there are significant challenges to equipping remote health facilities, ensuring the adequate quality of the assistance and preventing attacks on facilities by parties to the conflict. In this environment, multisectoral assistance was provided to the 12,247 survivors identified by the United Nations and partners. Psychosocial assistance was provided to 78 per cent of the total (9,533 survivors, including 3,205 minors) within the framework of a programme for providing assistance to survivors of sexual violence. Capacity-building efforts have contributed to improvements in care during 2013, including with respect to HIV/AIDS.

Concerning access to justice for survivors, significant gaps exist in the implementation of the legal framework, owing in part to the State's absence in areas affected by armed conflict. In cases where justice is pursued and perpetrators are required to pay civil damages to survivors, insolvency and a lack of funding for legal assistance and reparations were often a problem. Nonetheless, during 2013, 61 members of the national defence and security forces were sentenced for sexual violence crimes, including 4 members of the national police force, 33 FARDC members of and 24 other State agents. On 16 May, the Prosecutor General of the armed forces issued international arrest warrants and extradition requests for war crimes and crimes against humanity, including sexual violence, to former M23 president Jean-Marie Runinga and M23 colonels Eric Bagege, Innocent Zimurinda and Baudouin Ngaruye, all of whom surrendered to Rwandan authorities in 2013. Regarding the Minova case, the operational military court of North Kivu Province held the first hearing in Goma on 20 November 2013. In total, 40 FARDC members, including five high-ranking officers, were accused of crimes against humanity and war crimes, including rape, murder and looting, committed in and around Minova between 20 November and 4 December 2012. (See also para. 89 below, on the support provided by the Team of Experts.)

My Special Representative and the Team of Experts visited the Democratic Republic of the Congo in March 2013. During that time, they met the President, the Prime Minister and other officials. The visit resulted in the adoption, on 30 March 2013, of a joint communiqué of the Government and the United Nations on combating conflict-related sexual violence. The Team of Experts has been assisting the Government to develop an implementation plan in line with the communiqué (see para. 89). In October 2013, my Special Representative and the Executive Director of UNFPA conducted a joint follow-up visit to the Democratic Republic of the Congo and met senior government officials, including the Prime Minister. My Special Representative held discussions with the Minister of Defence and addressed a special session of the Senate on sexual violence. On 23 October, the President of the Democratic Republic of the Congo, Joseph Kabila, announced his intention to appoint a presidential representative on sexual violence and child recruitment to lead the Government's response and liaise with the international community. The President also emphasized zero tolerance for sexual violence, reiterated his continued commitment to fighting impunity for sexual violence and announced the Government's intention to create special chambers to prosecute alleged perpetrators of grave international crimes, including sexual violence. On 28 November, the Senate voted to create a special commission on conflict-related sexual violence.

## RECOMMENDATION

**32.** I commend the Government for the recent commitments made and urge national authorities to implement, as a matter of priority, the measures outlined in the joint communiqué of 30 March 2013 and the subsequent implementation plan, and I encourage donors to support the Government in that regard. I also encourage the President to appoint a presidential representative to lead the Government's response, in accordance with his announcement.

## MALI

During the reporting period, data collection on conflict-related sexual violence was affected by fear of reprisal, limited access to services and the fact that judicial institutions were still in the process of redeploying to the north of the country. During 2013, incidents of sexual violence were perpetrated by armed State and non-State actors, including during house searches, at checkpoints and in places of detention. Women and children, particularly internally displaced persons, reported sexual violence in Mopti, Timbuktu, Gao and Kidal regions. In June 2013, 28 displaced girls under 17 years of age were reported to have become victims of sexual exploitation and sexual slavery in Mopti, while women and girls displaced by the conflict also reported resorting to prostitution. Of the total number of reported cases of rape during 2013, 25 per cent included the rape of minors and more than one third were reportedly carried out by more than one perpetrator. The majority of survivors were women and girls from economically and socially disadvantaged backgrounds.

With respect to non-State armed actors, several incidents of gang rape by unidentified armed elements were reported in Timbuktu. At least four incidents involving the abduction and gang rape of girls by rebel groups, including Ansar Dine, have been verified by United Nations partners. Some of those cases resulted in pregnancies and associated risks of stigma and abandonment. Other reported incidents include the rape for the purpose of reprisal of a girl by elements of the Movement for Unity and Jihad in West Africa (MUJAO) and the rape of a woman in Kidal by members of the Mouvement national pour la libération de l'Azawad, reportedly for "not supporting the independence of Azawad". A number of allegations of sexual violence involving the Malian defence and security forces were reported during 2013, including allegations of abductions and rape. A military judicial process is under way for members of the defence and security forces alleged to have committed rape during the recapture of Gao, many of whose inhabitants were suspected of collaborating with MUJAO. There is concern, however, regarding accountability for sexual violence crimes, as only seven survivors of such violence pursued legal action during the reporting period and as alternative conflict resolution mechanisms continued to be used.

Efforts have been made by the Government, the United Nations and partners to build the capacity of the Malian defence and security forces and other Malian civilian and security entities. As part of the European Union Training Mission in Mali, 2,100 troops belonging to the Malian defence and security forces received training on the protection of women in situations of armed conflict. In January 2013, the Ministry of Justice of Mali, supported by the United Nations, trained 45 judges and judicial officers on conflict-related sexual violence and on the procedures required to bring perpetrators to justice, on HIV/AIDS and on international humanitarian law. The United Nations, together with partners, has also implemented projects for the prevention of sexual violence and the collection and management of data. Messages on prevention and referral to counselling services were broadcast.

The Ministry for the Promotion of Women, Children and the Family equipped centres for women and children in the regions of Gao, Kidal, Timbuktu, Mopti, Segou, Kayes and Koulikouro to accommodate female survivors and provide psychosocial services; a similar space was established in Bamako. Only a limited number of humanitarian actors, however, have the resources and technical expertise to provide comprehensive services to survivors.

## RECOMMENDATION

**36.** I urge the Government, with the support of the United Nations and its partners, to develop and implement a comprehensive national strategy to address sexual violence that includes the provision of services for survivors, strengthening monitoring and reporting and addressing impunity.

## MYANMAR

Incidents of sexual violence continued to be reported in Myanmar during 2013. Reporting is limited because of access restrictions for humanitarian and human rights actors in conflict-affected areas and because formal reporting protocols discourage many survivors from seeking assistance for fear of police involvement, negative repercussions, compromised confidentiality and stigma. Sexual violence has nonetheless been associated with targeted violence in Rakhine State and in non-State ethnic armed conflicts in Kachin State and northern Shan State. In these states, overcrowding in camps and shelters for internally displaced persons raises the risk of sexual violence and abuse, particularly for single females and female-headed households. Conflict-affected women and girls in camps for internally displaced persons are also at risk of being trafficked, often by so-called "brokers", to neighbouring countries for the purposes of forced marriage and sexual exploitation. Regional and local government offices have limited capacity to lead, manage and coordinate emergency programming. Local non-governmental organizations are able to access communities of internally displaced persons but generally lack the capacity to deliver health-care and psychosocial support services consistent with international standards. A lack of access to formal justice mechanisms for rape survivors often results in the mediation of sexual violence cases by camp leaders.

In Kachin State, assessments carried out in February and March 2013 found that women and girls were at risk in both government-controlled and non-government controlled areas. Also in Kachin State, since September 2013 there have been increased reports of sexual violence, including the rape of girls as young as 7 years of age, incidents involving multiple perpetrators and the involvement of armed actors and uniformed services. In northern Rakhine State, ongoing tensions between host communities and internally displaced persons and related threats against humanitarian actors have compromised service provision outside camps for internally displaced persons. Psychosocial counselling and medical services in northern Rakhine State are extremely limited and local state-run structures are often unwilling to provide services to internally displaced Muslims. To gain access to urgent health services, the Rohingya population is limited to a hospital in Sittwe, which has minimal capacity for sexual violence case management and to which humanitarian actors do not have access. Access to justice is also limited for those unable to prove their citizenship.

In his report of 23 September 2013 (A/68/397), the Special Rapporteur on the situation of human rights in Myanmar stated that, with respect to abuses perpetrated in Rakhine State, including rape and other forms of sexual violence, the obligations of the State to fully investigate and hold perpetrators to account had not been met. The Special Rapporteur recommended the amendment of constitutional provisions to provide better accountability and civilian oversight over military tribunals. In respect of the findings in the report of the Special Rapporteur, the Government of Myanmar cites the prosecution of suspects in six cases of sexual violence committed by military personnel or deserters in Rakhine, Kachin and northern Shan States through military and civilian courts.

The Government notes that it has undertaken capacity-building efforts for the armed forces, including on human rights and the prevention of sexual violence. It also highlights the signature of ceasefire agreements with most ethnic groups and the expected signature of a nationwide ceasefire agreement.

## RECOMMENDATION

**40.** I call on the Government of Myanmar to fully investigate and respond to current and historical human rights violations and abuses, including crimes of sexual violence. I urge the Government, with the support of the United Nations and its partners, to work to develop a comprehensive protection and service response for survivors.

## SOMALIA

During the reporting period, sexual violence, including rape, remained one of the most serious and recurrent human rights violations in Somalia. Data for 2013 concerning Banadir, Shabelle Dhexe and Juba Dhexe indicate that survivors reported armed men in uniform as the primary perpetrators, including members of the Somali National Army, Al-Shabaab, militias, private actors and organized crime units. The most commonly reported form of sexual violence was rape. Internally displaced persons were particularly vulnerable, often owing to the fact that they have no clan mechanisms to protect and support them. Women from minority clans too were vulnerable. In camps for internally displaced persons, conditions are often unsafe for women and girls because of the proliferation of arms, scarce lighting and limited policing. Continued displacement, including as a result of the forced eviction that took place during 2013 in the Mogadishu area, has increased their vulnerability. In areas of Somalia that are outside the control of the federal Government there have been reports of forced marriage and sexual slavery. Therefore, dialogue with de facto authorities to gain specific commitments and prevention measures is also required.

The handling by the federal authorities of several emblematic rape cases reported during 2013 raised serious concerns with respect to due process, freedom of expression, adherence to safe and ethical standards for interviewing survivors of sexual violence crimes and the protection of survivors and journalists who report such crimes. It is therefore welcome that, on 4 December 2013, at an open-day event on women, peace and security, the President of the Federal Republic of Somalia, Hassan Sheikh Mohamud, made a commitment to address the issues of investigations and access to services, promising that no more alleged rape victims would be imprisoned and that a specialized crime unit and dedicated clinic would be created to deal with cases of sexual violence. The United Nations and its partners have trained approximately 12,000 police officers on human rights. In addition, concerted efforts have been made to recruit more female police officers; those officers now require support to take substantive and active roles within the police force.

Following a visit by my Special Representative in April 2013, a joint communiqué of the Government of the Federal Republic of Somalia and the United Nations on preventing sexual violence in conflict was signed by the President of Somalia and the Deputy Secretary-General at the international conference on Somalia held in London on 7 May 2013. In December 2013, the Team of Experts undertook a technical mission to develop an implementation plan focused on accountability and service provision (see para. 91 below).

## RECOMMENDATION

**44.** I encourage the continued collaboration between the Federal Government of Somalia and the United Nations to implement the commitments made, including in the joint communiqué of 7 May 2013 and the subsequent implementation plan, as well as the commitment made, as part of the Somali Compact, to zero tolerance on gender-based violence. I urge donors to provide the required technical and financial support to the Federal Government in this regard.

## SOUTH SUDAN

Since 15 December 2013, heavy fighting has affected the civilian population in South Sudan, most notably in Central Equatoria, Jonglei, Unity and Upper Nile States. In its interim report on the human rights crisis in South Sudan of 21 February 2014, the United Nations Mission in South Sudan (UNMISS) indicated that information available at the time of writing the report suggested that sexual violence was a consistent characteristic of the crisis in all affected states and that there were sectarian dimensions to the conflict, including the deliberate and ethnically based targeting of and reprisal against Dinka and Nuer populations. In addition to having targeted foreign women, perpetrators of opportunistic acts of sexual violence could also have victimized other ethnic groups. In the report, UNMISS noted that alleged perpetrators of sexual violence such as rape, gang rape, forced abortion and sexual harassment include members of the Sudan People's Liberation Army (SPLA), the South Sudan national police service and opposition forces. Although reported incidents are still being investigated, I am concerned that the information to date suggests that violations are being committed by all the parties to the conflict.

Prior to 15 December, UNMISS had registered 73 credible allegations of conflict-related sexual violence. Of the 73 cases, 42 were abductions, of which at least 3 resulted in forced marriage. Rape was reported in 22 of the incidents and other violations reported included 3 gang rapes, forced abortion and sexual humiliation. Five verified incidents of the rape of minors by members of SPLA were reported by child protection actors. SPLA members were allegedly responsible for 21 of the 73 incidents; 1 incident was reportedly perpetrated by a state official together with police and military police officers. A total of 47 incidents were reportedly perpetrated by unnamed armed individuals or groups. The Lord's Resistance Army was alleged to be responsible for 4 of the recorded incidents.

The majority of the incidents reported prior to 15 December occurred in the context of cross-border incursions and military operations in Jonglei State between SPLA and the armed group led by David Yau Yau. Several incidents of rape by SPLA members in Jonglei were reported, including the alleged rape of a Murle minor by an SPLA officer during food distribution. One incident of concern involved the abduction of 32 women who were reportedly forced to walk naked from their village to a military barracks and were "assigned" to soldiers and militia members. Their return was facilitated by governmental, civil society and United Nations actors, but to date no medical, legal or psychosocial service has been provided to the victims. Of the limited services available to survivors of sexual violence, the majority are concentrated in Juba. Efforts are being made to establish special police units, safe spaces and medical services for survivors in state capitals such as Bor (Jonglei State) and humanitarian actors have provided services to survivors in some conflict-affected areas of Jonglei. The conflict that erupted on 15 December, however, has severely hampered the already limited access to medical care.

There are significant barriers to justice and redress that deter survivors of sexual violence from seeking assistance, while gaps in legislation hamper the overall response. Survivors risk arrest and detention when reporting sexual violence crimes. During 2013, legislation was passed to ratify the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, reaffirming the State's obligations to protect human rights, including by preventing conflict-related sexual violence. Before the December 2013 crisis, SPLA had made efforts with respect to accountability, exemplified by eight verdicts against SPLA soldiers and officers for rape. Also prior to 15 December, UNMISS conducted 42 training sessions to raise awareness about conflict-related sexual violence, including for SPLA and the national police. UNMISS women protection advisers led a legislative review task force that recommended, among other things, that the definition of rape in the Penal Code Act (2008) be revised, and that revisions be made to the Local Government Act, to remove provisions that grant the customary justice system jurisdiction over women and children's rights.

## RECOMMENDATION

**49.** In relation to the post-15 December outbreak of conflict, I urge the parties to live up to the commitments they made in the cessation of hostilities agreement of 23 January to refrain from attacking civilians, including by committing acts of rape or sexual abuse, and to ensure accountability for sexual violence crimes. I welcome the steps taken to establish the commission of inquiry mandated by the African Union and underscore the important role of such a commission in investigating human rights violations and other abuses, including conflict-related sexual violence, during the recent conflict. I also urge the Government, with the support of the United Nations and the international community, to pursue the legislative reforms and the capacity-building efforts of the security and justice sectors necessary to comprehensively address sexual violence.

## SUDAN (DARFUR)

During 2013, in the context of persistent and widespread insecurity, reports of conflict-related sexual violence in Darfur increased. Access by UNAMID to areas of ongoing military operations remained severely limited in part because of security constraints and restrictions imposed by government officials. Therefore, it is believed that the 149 cases verified during the reporting period reflect significant underreporting of conflict-related sexual violence. Internally displaced women and girls were particularly vulnerable and the majority of reported survivors were residents of camps for internally displaced persons who were attacked either outside camp perimeters while engaging in routine livelihood activities or inside camps. The proliferation of small arms in such camps and settlements, as well as in towns and villages, and an apparent increase in banditry, were exacerbating factors. Women and girls are particularly vulnerable during cultivation and harvest seasons (between June and November) and in the context of clashes between nomads and farming communities over land.

Sexual violence was also reported in the context of armed clashes, particularly following armed operations, while victims were isolated from their communities and in the process of resettling. Examples include abuses committed in the context of tribal clashes connected with gold mining in Jebel Amir, northern Darfur; abuses perpetrated by the Sudanese armed forces and its allied militias in southern and eastern Darfur; and abuses committed following clashes between the Sudanese armed forces and the Sudan Liberation Army/Minni Minawi faction in eastern Darfur. The profiles of alleged perpetrators of sexual violence include unidentified armed Arab nomads, armed men in military uniforms and members of the government security apparatus, as well as internally displaced persons. In 20 per cent of cases, victims identified members of the forces of the Government of the Sudan as their attackers; specifically, they said the attackers were members of the Sudanese armed forces, the National Intelligence and Security Services, the government police forces and their affiliates (the Central Reserve Police, the Border Intelligence Guards and the Popular Defence Force). One member of the Liberation and Justice Movement was identified as a perpetrator. Government-affiliated militia members were also alleged to be perpetrators, but it should be noted that these forces frequently operate in the absence of direct government control.

It is difficult for survivors to identify perpetrators given the wide range of armed and uniformed actors in Darfur. Where identification is possible, prosecutions through the formal justice system proceed slowly. That said, the Government is pursuing, through the judicial process, allegations against several members of its armed forces. Access restrictions faced by all United Nations actors have also resulted in the placement of severe limitations on the provision of assistance to survivors. Owing to stigma and for fear of repercussions, survivors of rape do not always list sexual violence as an aspect of a crime committed against them when accessing medical treatment, which is an evidentiary requirement for judicial proceedings. Therefore, there is concern that the reporting protocols, particularly the use of a document known as “form 8”, present obstacles to the treatment of sexual violence survivors rather than facilitating investigations. Furthermore, rape victims often run the risk of being charged with the offense of adultery (**zinna**), and a reference to adultery is made in the definition of rape provided by article 149 of the Criminal Act 1991. The Act does not contain provisions on command responsibility. During 2013, UNAMID received a number of reports of pregnancy as a result of rape. Survivors have reported re-victimization, some by being accused of unlawful pregnancy and one by being accused of having murdered the child. The protection of women with children born as a result of rape, as well as the well being of such children, is a significant concern.

The United Nations continued to engage in advocacy, training and capacity building measures directed at armed actors, law enforcement officials, members of the judiciary and government officials. In addition to efforts to support formal protection measures, community-level protection mechanisms continued to be implemented, such as women moving in large groups for farming, firewood, water or grass collection, daily security patrols and security meetings in camps for internally displaced persons with the support of the United Nations police. During 2013, the UNAMID police force also continued to train community policing volunteers on handling sexual violence survivors, particularly rape victims, interviewing skills and referral pathways. The women’s police networks established for Sudanese women also continued to provide a platform for internally displaced women to highlight their security concerns and request action from authorities. Similarly, the women’s protection networks established in the camps for internally displaced persons in northern Darfur continued to identify protection issues specific to women in order to inform prevention and response strategies by different actors, including the government of Northern Darfur State, the United Nations and non-governmental organizations working on protection issues.

## RECOMMENDATION

**54.** I urge the Government of the Sudan to facilitate access by the United Nations and partners to conflict-affected areas so that they may provide services and carry out monitoring activities. I also encourage the Government to reform national legislation in relation to sexual violence crimes and revise reporting protocols. I encourage the Government to engage with my Special Representative on Sexual Violence in Conflict to develop a framework of cooperation to address conflict-related sexual violence.

## SYRIAN ARAB REPUBLIC

Fear of reprisal, social stigmatization and a lack of safe and confidential response services for survivors have severely limited reporting on sexual violence in the context of the Syrian conflict. Information gathered from displaced civilians outside the Syrian Arab Republic and reported by the independent international commission of inquiry on the Syrian Arab Republic indicates that sexual violence has been a persistent feature of the conflict and that the fear of rape has served as a driving motivation for families fleeing the violence (see A/HRC/23/58, para. 91). It has been difficult, however, for the United Nations to verify allegations within the Syrian Arab Republic, largely owing to a lack of access and considerations related to the safety of survivors. Similarly, assessments of the scale and the scope of sexual violence are limited. The United Nations in the Syrian Arab Republic reports that it has provided information and held awareness-raising sessions on protection issues, including sexual and gender-based violence, psychosocial support and first aid to over 38,000 women in connection with the crisis during 2013.

The commission of inquiry has reported that government forces and pro-government militias have used sexual violence, including rape, in detention centres and prisons throughout the country, often as part of interrogations by intelligence services (see A/HRC/23/58, para. 92). Former detainees have provided United Nations partners with accounts of sexual harassment and the abuse of women, men and children in overnight detention facilities. The accounts included descriptions of detainees being stripped of their clothes and receiving threats that they or their relatives would be raped, as a tool to intimidate those perceived of being associated with the opposition. The United Nations has also received allegations of rape, including gang rape and other forms of sexual violence, against women and girls, including in the presence of relatives, by government forces at checkpoints, during incursions and during searches of houses of families perceived to be pro-opposition. (See also my report on children and armed conflict in the Syrian Arab Republic (S/2014/31).)

With respect to allegations against armed opposition groups, credible information has been provided to the United Nations in Homs, Damascus and Rif Damascus of sexual violence perpetrated against young women and girls in shelters and in some opposition areas. Furthermore, the commission of inquiry has reported accounts of women being segregated during house searches in the city of Aleppo during joint operations by armed groups, with an implication of possible sexual violence (A/HRC/23/58, para. 94). Also in relation to armed opposition groups, the Commission found that, during the assault in Yarmouk, the war crime of sexual violence was committed (A/HRC/23/58, para. 95). Reports of the curtailment of women’s participation in public life in some areas where armed opposition groups operate are of concern. I am also deeply concerned by the prevailing climate of impunity for sexual violence crimes by all parties.

The Government refutes the assertions of the commission of inquiry and has expressed particular concern regarding media reports during 2013 on “sexual jihad” or “marriage jihad”. The Government regrets that United Nations actors operating in the Syrian Arab Republic, Lebanon and Jordan have not yet been able to verify such reports. The Government has also reported that women have been abducted and raped, sometimes on a sectarian basis, and that, while some of those victims are released in exchange for ransom, others are reportedly passed on to other armed elements and re-victimized. The Government notes that intimidation, killings and incidents of sexual violence against women, including rape, gang rape and sexual slavery, have occurred in Homs, Damascus, Idlib, Dara’a and Raqqqa, among other places. The United Nations has been unable to verify this information.

To date, some 6.5 million individuals are displaced within the Syrian Arab Republic, while over 2 million have been displaced to Jordan, Turkey and Lebanon, as well as to Iraq, Egypt and other parts of North Africa. The vulnerability to sexual violence and sexual exploitation of those displaced is among the most acute concerns of those responding to the humanitarian crisis. In Jordan, as at 31 December 2013, 576,354 Syrian refugees were registered with UNHCR, with approximately one quarter of that total residing in camps and the remainder in urban and rural settings. Women and girls represent the majority of the registered refugee population. Refugee women inside and outside camps report restricted movement owing to perceived security risks, as well as for cultural reasons. Most Syrians in Jordan have limited or no income, placing them at risk of exploitation and abuse, and leading some to resort to prostitution. While early marriage was already a practice in rural parts of the Syrian Arab Republic, there are concerns that the number of early marriages may have increased as a result of displacement, out of economic necessity and because of the perceived need to protect young women. Forced marriage, particularly of single women and widows, has also been reported as a form of reparation for women, especially when they have been victims of rape. The risk of exposure to prostitution, including as a means to pay rent or gain access to services, is also severe. Similar patterns of risk and vulnerability are reported in Lebanon, where over 800,000 Syrian refugees are registered with UNHCR, and in other receiving countries. The situation for those displaced within the Syrian Arab Republic is also dire.

## RECOMMENDATION

**60.** I call upon all parties to the conflict to immediately issue command orders prohibiting sexual violence and to hold perpetrators in their ranks accountable, in accordance with the prevention measures specified in paragraph 10 of Security Council resolution 2106 (2013). I urge the parties to ensure that any ceasefire and eventual peace agreement contains explicit provisions with respect to conflict related sexual violence, and I reiterate the call on all parties to allow unfettered access by United Nations actors and humanitarian partners for monitoring and the delivery of aid and services to vulnerable populations.

## YEMEN

**61.** Consistent with my previous report on sexual violence in conflict, there continue to be concerns in Yemen regarding the link between the presence of armed groups and an increase in rates of early and forced marriage and consequent sexual slavery and abuse among the poorest and most vulnerable girls in society. In my previous report, I noted that armed groups linked to Al-Qaida in the Arabian Peninsula paid a bride price reportedly as high as \$5,000. Such reports were noted in Abyan governorate, as a result of the conflict in 2011 and 2012, improved access to Abyan during 2013 and allowed child protection partners to verify historical reports of the forcible recruitment and sexual abuse of boys by members of Ansar al-Sharia. Similar reports in connection with the Popular Committee in Abyan are of concern, particularly as the popular committees in many locations throughout the country have begun to fill a security vacuum caused by the absence of police and judicial authorities. United Nations partners report that the rape of returnee women and girls, in some cases resulting in pregnancy, was the most reported violation. A rise in child abduction and in the sexual abuse of young girls during 2013 was also reported, affecting girls’ access to education. Few medical professionals in Yemen are trained to provide support to survivors of sexual violence or to collect and store evidence, and there are no national guidelines on the clinical management of rape. Protection and response to conflict-related sexual violence is further complicated by the lack of a clear legal definition of sexual violence in line with international standards, as well as an absence of a legal age for marriage under national legislation, or legal provisions related to war crimes or crimes against humanity. Furthermore, the codification of rape as adultery in Yemeni legislation offers protection to perpetrators at the expense of survivors.

## RECOMMENDATION

**62.** I acknowledge the efforts that continue to be made to revise the legal age of marriage under national law and urge Yemeni authorities, with the support of the United Nations, to undertake comprehensive legislative reform as a basis for addressing impunity for sexual violence crimes and ensuring services for survivors.

## **B. ADDRESSING CONFLICT-RELATED SEXUAL VIOLENCE CRIMES IN POST-CONFLICT SITUATIONS**

### **ANGOLA**

**63.** Following the deployment of a United Nations protection adviser on expulsions, in 2013 positive developments occurred with regard to the implementation of the joint communiqué addressing sexual violence signed between the United Nations and the Government of Angola in March 2011. A series of agreements between the Angolan province of Lunda Norte and border provinces in the Democratic Republic of the Congo triggered the voluntary return of at least 70,000 migrants to the Democratic Republic of the Congo between May and June 2013 and made it possible to have a system of trans-border trade and the opening of some border posts. The Government also granted United Nations partners access so that they could observe population movements and visit detention facilities in the border areas. Various capacity-building activities, including training for relevant State actors, may have contributed to a reported reduction in incidents of sexual violence.

### **RECOMMENDATION**

**64.** I encourage the further strengthening of cooperation between the Government and United Nations actors in the implementation of the joint communiqué, and continued monitoring and reporting by the Government in that regard.

### **BOSNIA AND HERZEGOVINA**

My Special Representative conducted a visit to Bosnia and Herzegovina in June 2013, to review ongoing efforts by national authorities and civil society at all levels to address conflict-related sexual violence. It was found that serious challenges remain in terms of service provision and access to justice for an estimated 20,000 survivors of sexual violence crimes committed during the conflict that took place from 1992 to 1995. Despite recognition of the widespread and systematic use of sexual violence during the war, the stigma remains and many survivors are reluctant to come forward. This is partly due to the fact that many of the alleged perpetrators are in positions of influence within State institutions such as the police, as well as in the political sphere. Constitutional barriers also remain, resulting in the fragmentation of the Government's prevention and response efforts. This is compounded by an apparent lack of political will on the part of the authorities at different levels. In terms of national prosecutions of war crimes, of an estimated 200 cases processed by the State since the end of the conflict, to date only 29 cases involving charges of sexual violence have led to sentencing.

There is a lack of comprehensive services for survivors, with non-governmental organizations in this area offering mainly psychosocial support, with limited geographical coverage. At the end of 2013, initiatives to establish a system of referral for comprehensive services were at an early stage. Bosnia and Herzegovina is in the process of developing a second action plan for the implementation of Security Council resolution 1325 (2000), for 2014-2017, with important provisions for survivors of conflict-related sexual violence. Implementing the draft programme of assistance to women victims of wartime rape, sexual violence and torture (2013/2016) would also be beneficial. In some areas, there have been some training initiatives for key victim support institutions and organizations that have led to improved assistance to survivors and witnesses before, during and after criminal prosecutions. Similar training for judges and prosecutors is needed. Despite the fact that hundreds of Bosnian men are believed to have been victims of wartime rapes and sexual abuse, only three non-governmental organizations with limited resources provide dedicated psychological services to male survivors and the status of male survivors has not been properly regulated under the law. Moreover, the paucity of data on the number of children born as a result of rape requires urgent attention by service providers and researchers in order for the needs of these young people to be addressed.

### **RECOMMENDATION**

**67.** I urge the Government to prioritize the development and passage of harmonized legislation and policies in all relevant national institutions to facilitate cooperation, the effective exchange of information and the establishment of referral mechanisms to ensure comprehensive and multisectoral services for survivors of sexual violence. I encourage the Government to draw on the expertise of the United Nations and civil society in that regard.

### **CAMBODIA**

**68.** Since my previous report on sexual violence in conflict, no governmental system has been put in place to respond to my recommendation that the effective prosecution of perpetrators be pursued. The introduction of vetting processes to exclude those who have perpetrated or are otherwise responsible for acts of sexual violence from the security sector are also a priority area for action at the national level.

## RECOMMENDATION

**69.** I reiterate my call to the Government to respond to the needs of survivors of sexual violence and to address impunity for such crimes, and assure national authorities of the support of the United Nations in that regard.

## LIBERIA

**70.** The availability of reliable data on sexual violence remains a critical challenge, but reports indicate that 2013 has seen an overall increase in the number of reported sexual violence crimes. The increase could be attributed to positive efforts by national stakeholders and the United Nations system to raise awareness and enable reporting. Data from the Ministry of Gender and Development for 2013 indicate an increase in the number of cases of sexual violence against children aged 6-14 years (as at November 2013, 90 per cent of the 1,175 cases of sexual and gender-based violence seen by four “one-stop facilities” in Montserrado County involved children). At least 10 children died as a direct result of rape. Given the high number of underage victims, a child-centred approach to prevention is crucial. Also crucial is the adoption of a comprehensive national approach to prevention in order to ensure service coverage throughout Liberia, not only in Monrovia, where most of the services are concentrated. The first medical forensic laboratory for Liberia, which was launched on 16 August 2013 in Monrovia, will contribute to enhancing evidence-gathering capabilities so as to facilitate the prosecution of suspects in rape cases. With the support of civil society, the United Nations and other international partners, the Government has continued to conduct awareness raising campaigns and activities, particularly to address rape. An evaluation of the joint programme of the United Nations and the Government of Liberia on prevention and response to sexual and gender-based violence undertaken in April 2013 highlighted the need to further strengthen legal responses and improve coordination among service providers, to strengthen community ownership through the decentralized implementation of the joint programme and to increase the engagement of men in activities to combat conflict-related sexual violence, with a focus on prevention and an emphasis on attitudinal and behavioural change.

## RECOMMENDATION

**71.** I urge the Government, with the support of the United Nations, to put in place a comprehensive prevention strategy that includes more systematic monitoring, analysis and reporting as a basis for response at all levels, while maintaining the emphasis on multi-sectoral service provision for survivors. Addressing impunity continues to be critical for deterrence and, ultimately, for the prevention of sexual violence crimes.

## LIBYA

**72.** I welcome the recent adoption by the interim Government of Libya of a decree addressing the situation of individuals who became victims of sexual violence during the events of 2011. This is a positive step towards providing reparations and physical and psychological health care for survivors, establishing shelters, a legal instrument to grant children born of rape legal status, and legal aid for survivors to seek accountability. To date, civil society organizations have developed advocacy and programmatic responses for survivors of sexual violence perpetrated during 2011, for example by providing psychological support. The Ministry of Social Affairs and the Ministry of Justice, however, require support to provide comprehensive multi-sectoral services. Support is also necessary for the recruitment and training of police, including judicial police, and for legal advocacy groups and other civil society organizations. Continuing risks of sexual violence relate to the ongoing reform of the Libyan security sector, which is taking place in the context of weak security institutions and the proliferation of arms. In October 2013, the United Nations Support Mission in Libya reported that sexual violence was used in 2012 and 2013 as an element of torture in detention and was perpetrated largely against men in detention facilities operated by armed brigades. Noting that the General National Congress has adopted legislation criminalizing torture, enforced disappearance and discrimination, the prevention of sexual violence in the security sector is an area for continued attention.

## RECOMMENDATION

**73.** I urge the Government to ensure adequate financial, administrative and human resources for a comprehensive protection and service response, to strengthen national institutions, and for the implementation of comprehensive legislation on reparations for victims of conflict-related sexual violence.

## NEPAL

**74.** Since my previous report on sexual violence in conflict, there has been little progress in pursuing justice for survivors of sexual violence perpetrated during the internal conflict. Institutional reforms that would prevent the promotion of individuals accused of involvement in human rights violations, including sexual violence, to the senior ranks of the security forces have not been undertaken. Furthermore, no prosecutions of gross violations of human rights, including sexual violence, committed up until the end of the war in 2006 have progressed through the courts, despite many victims having filed cases with the police. Moreover, survivors cannot access comprehensive services or receive redress. Victims of sexual violence perpetrated during the conflict are not recognized as conflict-affected persons and therefore cannot benefit from the interim relief programme. The Ministry of Peace and Reconstruction has committed itself, however, to providing interim relief and has initiated consultations with relevant stakeholders. During 2013, concerns were raised regarding the passage of a presidential ordinance that would establish a truth and reconciliation commission not in compliance with international standards. On 2 January 2014 the Supreme Court ruled that the provisions of the ordinance concerning amnesty, prosecution and the filing of cases against perpetrators contravened fundamental rights guaranteed by the constitution of Nepal, the national justice system and international standards. The decision also provided guidance on the establishment of the truth and reconciliation commission, including the need for guarantees of autonomy and impartiality and of protection for victims and witnesses. The Government notes its response to reports of sexual violence citing existing legislation, policy and programmes, including the comprehensive peace agreement, the policy on internally displaced persons and the response to gender-based violence through district-level service centres.

## RECOMMENDATION

**75.** I urge the Government to fully implement the decision of the Supreme Court of Nepal of 2 January 2014 as a priority and to ensure that victims of sexual violence are recognized under the law as conflict-affected persons, in order that they may access services and benefits.

## SIERRA LEONE

**76.** In Sierra Leone, significant levels of rape and other sexual violence crimes are a legacy of the decade-long civil war. Sexual and gender-based violence were also a feature of the conflict. To address this reality, 43 family support units, to which sexual violence can be reported, have been established within the Sierra Leone police service. Although conviction rates in 2013 improved in comparison with 2012, access to the family support units is limited for a large proportion of the population, and local chiefs often adjudicate cases of sexual violence through out-of-court settlements and marriages between the perpetrator and the victim, including in cases where the survivor is under the legal age of consent. Data received from the Reparations Directorate of the National Commission for Social Action indicate that 3,602 of the 32,110 registered war victims are survivors of sexual violence, although unregistered numbers are believed to be higher. Through a programme of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the National Commission for Social Action, funding is provided to train female survivors of sexual violence and support them to establish businesses. As many as 2,952 beneficiaries, however, have not participated in the programme owing to a shortfall in funding.

## RECOMMENDATION

**77.** I urge the Government and international partners to ensure that there is adequate funding for ongoing programmes to benefit survivors of conflict-related sexual violence, including training and livelihood schemes. I also acknowledge the pilot programme that was recently facilitated by the Office of my Special Representative on Sexual Violence in Conflict to share experience gained in Sierra Leone with neighbouring Côte d'Ivoire and to encourage further such South-South cooperation initiatives.

## SRI LANKA

**78.** In my previous report on sexual violence in conflict, I noted that the action plan launched in August 2012 to respond to the recommendations made by the Commission of Inquiry on Lessons Learnt and Reconciliation included no action directly providing redress for those affected by sexual violence during the conflict. During 2013, the Government of Sri Lanka committed itself to incorporating more of the Commission's recommendations into the National Plan of Action for the Promotion and Protection of Human Rights. In total, 145 of some 285 recommendations, some of which focused on the security of women and children, were incorporated. In my previous report I also noted the continued vulnerability of women and children in areas formerly affected by conflict, partly due to the continued militarization of those areas. These issues remained pertinent during 2013, as women and girls, especially in female-headed households, continued to be vulnerable to sexual harassment and abuse, including at the hands of military personnel (A/HRC/25/23). The Government reports that the military has taken strict action in such cases. The United

Nations High Commissioner for Human Rights, however, continued to voice concerns in 2013 with regard to accountability in Sri Lanka, stating that the Government has taken limited and piecemeal steps towards investigating serious allegations of violations of international human rights and humanitarian law, and none of these have had the independence or credibility required (see A/HRC/25/23, para. 36). Efforts to investigate such allegations fully and to bring justice to victims of the civil conflict, including those reporting sexual violence crimes, thus remain a priority.

## RECOMMENDATION

**79.** In the context of dialogue on the establishment of a comprehensive truth and reconciliation commission, I urge the Government of Sri Lanka to ensure that such a transitional justice mechanism explicitly seek accountability for sexual violence crimes and that national authorities put in place the necessary services, remedies and reparations for survivors.

### III. WORK OF UNITED NATIONS ACTION AGAINST SEXUAL VIOLENCE, INCLUDING INFORMATION ON PROGRESS MADE IN THE IMPLEMENTATION OF THE MONITORING, ANALYSIS AND REPORTING ARRANGEMENTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 1960 (2010)

In 2013, United Nations Action against Sexual Violence in Conflict, an inter-agency network chaired by my Special Representative on Sexual Violence in Conflict, supported the delivery of scenario-based training for peacekeepers in several training centres, to improve their operational readiness to react swiftly to sexual violence. To help enhance prevention capabilities in mission settings, United Nations Action also rolled out a framework of early-warning indicators of conflict-related sexual violence through the United Nations missions in Côte d'Ivoire (UNOCI), the Democratic Republic of the Congo (MONUSCO) and South Sudan (UNMISS). In Côte d'Ivoire, progress was made in the development of a joint Government-United Nations comprehensive strategy to combat sexual violence. An inter-agency team visited the Democratic Republic of the Congo to discuss the transfer of coordination tasks under the comprehensive national strategy, following the adoption of Security Council resolution 2098 (2013). In addition, United Nations Action has produced a number of tools to improve practice in the field, including a guidance note on reparations for conflict-related sexual violence and policy briefs on psychosocial and mental health interventions.

Technical support at the country level was provided for the continued roll-out of the Guidance for Mediators on Addressing Conflict-Related Sexual Violence in Ceasefire and Peace Agreements, including through the training of envoys, mediators and mediation experts. After the roll-out, the number of ceasefire agreements that included provisions on conflict-related sexual violence more than doubled. Among the agreements with such provisions were: the declaration of principles signed on 11 January 2013 in the Central African Republic; the ceasefire agreement between the Government of the Sudan and the Justice and Equality Movement signed on 6 April 2013 on the basis of the Doha Document for Peace in Darfur; the Preliminary Agreement to the Presidential Election and the Inclusive Peace Talks in Mali, signed on 18 June 2013; and the declaration of commitments by M23 signed at the conclusion of the Kampala Dialogue, on 12 December 2013. The increase in ceasefire agreements with conflict-related sexual violence provisions underlines the importance of continued cooperation between actors in international peacemaking and of continued exchange of knowledge and expertise on how to address the inclusion of such provisions in ceasefire and peace agreements and ensure their effective implementation.

In 2013, an independent five-year review of United Nations Action was published. The review found the network to be an effective mechanism in providing a global platform for advocacy, accountability and coordination, while noting the need for continued dissemination of guidance and training tools and for enhanced country-level action. All of these activities are supported by voluntary contributions to the United Nations Action Multi-Partner Trust Fund, which fosters joint action across the spectrum of

United Nations entities and encourages transparency, cooperation and "Delivering as one". The key review recommendations will inform United Nations Action policy and practice moving forward.

As the basis for evidence-based action on sexual violence, the United Nations system continues to implement the monitoring and reporting arrangements on conflict-related sexual violence, as mandated by Security Council resolution 1960 (2010). That work takes account of ongoing operational and field-level coordination, including the protection cluster and gender-based violence sub-cluster arrangements, the working groups on the protection of civilians and the monitoring and reporting mechanisms on grave violations against children. The United Nations Action network is also developing a guidance note on the intersections between the monitoring, analysis and reporting arrangements and the Gender-based Violence Information Management System, with a view to improving the way in which data are gathered and reported to the Security Council, while preserving the rights and protection needs of survivors. It should be noted that my "Rights up front" initiative, which aims to ensure that the mandated human rights responsibilities of the Organization are always part and parcel of United Nations peace and security work, will also help to enhance monitoring, the sharing of information and joint analysis throughout the system.

Within peacekeeping and special political missions, dedicated capacity in the form of women protection advisers continues to be required to facilitate and coordinate the implementation of the Security Council resolutions on sexual violence in conflict. As at December 2013, senior women protection advisers had been deployed to the United Nations Assistance Mission in Somalia and the United Nations Multidimensional Integrated Stabilization Mission in Mali; it is envisaged that additional women protection advisers will be deployed to UNMISS, UNOCI, BINUCA and UNAMID. Women protection advisers have also been deployed within human rights and women's empowerment and gender units in those missions. To bolster capacity on the ground, United Nations Action has committed

catalytic funding for women protection advisers in the Democratic Republic of the Congo and Côte d'Ivoire and has contributed to building their capacity. Senior women protection advisers in particular are deployed to provide guidance to mission leadership on conflict-related sexual violence, to engage in dialogue with parties to the conflict, to strengthen prevention and response in collaboration with the United Nations country team and partners, and to lead efforts to implement the monitoring, analysis and reporting arrangements. Working groups on the arrangements are operational in the Democratic Republic of the Congo and the Sudan (Darfur) and will be established in the Central African Republic, Côte d'Ivoire, Mali, Somalia and South Sudan during 2014. The continued deployment of dedicated expertise in fact-finding missions and independent international commissions of inquiry mandated by the Human Rights Council is also a significant aspect of monitoring and reporting on conflict-related sexual violence.

#### **IV. WORK OF THE TEAM OF EXPERTS ON THE RULE OF LAW AND SEXUAL VIOLENCE IN CONFLICT**

The Team of Experts, which was established pursuant to Security Council resolution 1888 (2009), continued to assist Governments in building national capacity and expertise in addressing impunity for crimes of sexual violence in conflict. Lack of capacity remains one of the main impediments to ensuring accountability. This leads to widespread impunity, which in turn has a detrimental impact on access to justice, security and the safety of survivors. The Team has focused its efforts on strengthening the capacity of national rule of law and justice actors, including within the specialized 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 complements and adds value to the work of the United Nations on the ground and enables national authorities to take the lead. It operates under a joint programme developed in coordination with the Department of Peacekeeping Operations, the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme.

In the Central African Republic, following the commitments made by the Government in the joint communiqué on addressing sexual violence of 12 December 2012, the Team of Experts carried out a technical assessment in partnership with UN-Women and the entities responsible for the area of gender-based violence within the Global Protection Cluster. Concrete actions to be taken by the Government and other partners on the ground towards implementation of the commitments were proposed. While the current security situation in the Central African Republic does not allow for the provision of assistance, the Team has received a request from the Government regarding the provision of support to the gendarmerie for the establishment of a specialized unit on sexual violence.

In Colombia, notable efforts have been made since my former Special Representative on Sexual Violence in Conflict visited the country in May 2012. The Team of Experts conducted a mission to build on consultations held during that visit and to discuss concrete modalities of technical assistance, with a particular focus on possible support to the Attorney General's Office, including with regard to the investigation of cases. In addition, at the request of the national authorities, the Team provided inputs for the development of guidelines by the Ministry of Defence on addressing conflict-related sexual violence for the police and the military.

In Côte d'Ivoire, the Team of Experts supported an experience-sharing exercise to provide the Ivorian delegation — composed of representatives of relevant ministries, the police, the judiciary, the military and civil society — an opportunity to learn from the experience of Sierra Leone in addressing conflict-related sexual violence across several sectors. Lessons from the exercise have informed the national strategy currently under consideration by the Government of Côte d'Ivoire and a number of other governmental initiatives in the country.

In the Democratic Republic of the Congo, the Team of Experts, in coordination with the Department of Peacekeeping Operations, the United Nations Development Programme and the Office of the United Nations High Commissioner for Human Rights, has continued to support national authorities by strengthening their capacity to investigate and prosecute in cases of sexual violence crimes committed by FARDC and other security forces in the northern and southern parts of the country. In February 2013, the Team deployed an investigations expert to provide support to the FARDC military justice authorities through prosecutions support cells. The expert assisted with investigations in a number of major incidents, including allegations of sexual violence committed by FARDC soldiers in Minova (South Kivu) and Bweremana (North Kivu) during their withdrawal in the aftermath of Goma's fall to elements of M23 in November 2012. As a result of the investigations, 12 commanders of operational military units were suspended from their duties and 18 soldiers from various units were arrested and detained in Goma central prison. In the future, the Team will focus its efforts on fair trial standards and the safety of survivors in cases involving sexual violence. The investigations expert also supported the military prosecutor in the investigation of other incidents of sexual violence, including incidents in Katindo (Goma) and Kitchanga (Masisi territory). Moreover, the Team helped the Government to assess its needs and capacity to implement the commitments made in the joint communiqué on combating conflict-related sexual violence of 30 March 2013. In July 2013, through a technical workshop, the Team helped the Government to develop a plan for implementing the joint communiqué.

In accordance with the joint communiqué signed between the Government of Guinea and the United Nations in November 2011, the Team of Experts continues to assist national authorities in investigating sexual violence crimes and prosecuting alleged perpetrators of such crimes committed in Conakry in September 2009. Since December 2012, a member of the Team based in Conakry has provided advice to the panel of judges that was established by the Government; that has led to an increase in the number of hearings of sexual violence cases: over 200 victims have been heard by the panel since December 2012. The expert's assistance has also led to the indictment of several high-level officials, the indictment and detention of a gendarme specifically

on charges of rape in relation to those events, and the commitment from the Government to establish mechanisms for the protection of survivors. A notable result is the indictment and appearance in court of Colonel Claude Pivi, head of presidential security, and the hearing of General Ibrahima Baldé, Chief of Staff of the gendarmerie. Going forward, the Team will also look into the establishment of systems to protect victims and witnesses and the strengthening of security measures for the panel of judges.

In Somalia, the Team of Experts carried out a technical assessment in partnership with UN-Women and the Preventing Sexual Violence Initiative of the United Kingdom to help the Government of Somalia develop a plan for the implementation of the commitments it made in the joint communiqué of 7 May 2013 and in line with the Somali Compact.

In South Sudan, the Government is considering the findings of the Team's 2012 assessment and the recommendations related to legislative reform priorities and strategies to strengthen national and State-level capacity in the justice sector to address sexual violence. The Team will continue to support the Government in establishing an implementation plan to address the problem.

The Team continues to build a roster of experts in coordination with initiatives such as the Justice Rapid Response mechanism and the Preventing Sexual Violence Initiative.

## V. RECOMMENDATIONS

The following recommendations outline critical aspects of a framework for the prevention of sexual violence in conflict, in accordance with Security Council resolution 2106 (2013). The recommendations outline specific actions required at the political and operational levels. The breadth of the recommendations illustrates the comprehensive, multisectoral and multidimensional approach for the prevention of conflict-related sexual violence that has emerged over the past years. In the implementation of such a prevention framework, I continue to emphasize the need for national ownership, leadership and responsibility. The United Nations stands ready to support national authorities in their efforts.

I call upon all parties to conflict responsible for or credibly suspected of acts of sexual violence to cease such violations and, in accordance with Security Council resolutions 1960 (2010) and 2106 (2013), to make specific and time-bound protection commitments that include: (a) the issuance of clear orders through chains of command and in codes of conduct (or their equivalent) prohibiting sexual violence; (b) the timely investigation of alleged violations in order to hold perpetrators accountable; (c) the immediate identification and release from their ranks of those most vulnerable to sexual violence, especially women and children; (d) the designation of a high-level interlocutor responsible for ensuring the implementation of commitments; and (e) cooperation with and facilitation of access by the United Nations to monitor compliance. Parties to conflict should prepare timely implementation plans on the basis of the above-mentioned commitments.

I emphasize our responsibility to the survivors of sexual violence and the need to continue to support the delivery of timely assistance, including non-discriminatory and comprehensive health services (including the full range of sexual and reproductive health services and HIV awareness and response services), psychosocial, legal, livelihood assistance and other multi-sectoral services, and to ensure differentiated and appropriate services for children and male survivors.

I urge the Security Council to reinforce the key elements of the prevention framework outlined under its resolution 2106 (2013) by:

Supporting United Nations efforts to engage in dialogue with State and non-State parties to elicit commitments to prevent and respond to conflict-related sexual violence and to consistently review compliance with these commitments, including by regularly reviewing joint communiqués concluded with the United Nations and the implementation plans related to those communiqués;

Continuing to emphasize the centrality of civil society, including women's organizations, and community leaders in all prevention and response efforts and by continuing to support their efforts, including through engagement with parties to conflict, to influence them with respect to addressing sexual violence;

Supporting United Nations efforts to build the capacity of civil society groups, including women's organizations and networks, to enhance informal community-level protection mechanisms against conflict-related sexual violence in conflict and post-conflict situations, and of journalists and human rights defenders, to report and respond to sexual violence crimes;

Ensuring the deployment of women protection advisers, in line with the agreed operational concept and terms of reference and the provisions of Security Council resolution 2106 (2013), in order to facilitate the full and timely implementation of Council resolutions on sexual violence in conflict and by ensuring that those posts are included in the regular budgets of United Nations missions;

Ensuring that attention is paid to the issue of sexual violence in the work of relevant Security Council sanctions monitoring entities, including through the deployment of qualified experts and of dedicated sexual violence expertise as part of commissions of inquiry and other fact-finding modalities and consistently monitoring progress in that regard;

Ensuring that signed ceasefire and peace agreements contain provisions that, at a minimum, stipulate conflict-related sexual violence as a prohibited act in the definition of ceasefire, particularly in provisions relating to disengagement, and that they detail or annex arrangements for ceasefire monitoring mechanisms that should take into account, among other things: (i) verification of the cessation of conflict-related sexual violence; (ii) monitoring and reporting on incidents, trends and patterns of sexual violence, including the identification of parties credibly suspected of committing or of being responsible for sexual violence; and (iii) the inclusion of male and female observers, as well as of dedicated gender experts, in the monitoring structure. Adequate and timely funding is required for the effective implementation of ceasefire and peace agreements, including provisions related to conflict-related sexual violence;

Ensuring that action to prevent conflict-related sexual violence is explicitly reflected in security sector reform processes, in disarmament, demobilization and reintegration processes and in justice reform initiatives, including as they relate to corrections and police capacity, in line with paragraph 16 of Security Council resolution 2106 (2013);

Systematically reflecting the prevention of conflict-related sexual violence in all relevant country-specific resolutions and in authorizations and renewals of the mandates of peacekeeping and special political missions through the inclusion of the key operational provisions of resolutions 1960 (2010) and 2106 (2013), in particular the requirement to establish monitoring, analysis and reporting arrangements on conflict-related sexual violence, by engaging parties to conflict in a dialogue with a view to gaining commitments, as specified in the above resolutions, and by regularly monitoring progress in that regard. Where possible, monitoring efforts should be combined with service delivery and emphasis should be placed on coordination and information-sharing across peacekeeping, humanitarian, human rights, political and security sectors;

Continuing to encourage and support the training of all United Nations peacekeeping personnel using the innovative tools developed by United Nations Action partners, including **Addressing Conflict-related Sexual Violence: an Analytical Inventory of Peacekeeping Practice** and the matrix of early-warning indicators, by encouraging troop- and police-contributing countries to increase the number of women recruited and deployed to peacekeeping operations and by encouraging troop- and police-contributing countries to rigorously address allegations of sexual violence and sexual exploitation and abuse by peacekeepers;

Recognizing and addressing the connections between conflict-related sexual violence and the illicit trade in natural resources, as well as illegal activities such as the trafficking in illicit drugs and humans. In that regard, the Security Council may wish to consider the applicability of the United Nations Convention against Transnational Organized Crime and its protocols and its relevant legal tools;

Encouraging corporate sector actors to make specific commitments related to the prevention of conflict-related sexual violence, including with regard to sourcing materials for their production processes from areas not affected by conflict;

Recognizing that sexual violence is not only a risk faced by displaced persons but also a tactic that has been used to induce displacement and, therefore, by giving due consideration to accepting sexual violence in conflict as a form of persecution that should lead to the recognition of refugee status for the individuals affected;

Continuing to put pressure on perpetrators of conflict-related sexual violence, including the individuals, parties and States named in my reports, through the adoption of targeted measures by relevant sanctions committees and by considering, when adopting or renewing targeted sanctions in situations of armed conflict and where appropriate, the inclusion of acts of rape and other serious forms of sexual violence as criteria for designating individuals. Such actions by the Security Council should apply to those who commit, command or condone (by failing to prevent or punish) sexual violence, consistent with the stipulations under international criminal law regarding those bearing direct, command or superior responsibility.

I acknowledge the adoption of political commitments to prevent sexual violence in conflict and provide care for survivors by Member States outside the framework of the Security Council, namely the historic declarations adopted by the Group of Eight countries and by 140 nations on the sidelines of the General Assembly. I urge those Member States to implement the commitments as a matter of priority.

Furthermore, in line with my emphasis on fostering national ownership, leadership and responsibility, I urge Member States to draw upon the expertise of the Team of Experts on the Rule of Law and Sexual Violence in Conflict and to support it in strengthening the rule of law and the capacity of civilian and military justice systems, as part of broader efforts to strengthen institutional safeguards against impunity for conflict-related sexual violence. I urge donors to ensure sustainable funding for this valuable resource for the countries concerned.

Finally, I urge all Member States to support the efforts of United Nations Action against Sexual Violence in Conflict and its Multi-Partner Trust Fund, particularly for the development and implementation of comprehensive national strategies aimed at preventing and addressing conflict-related sexual violence.

## VI. ANNEXED LIST

101. The annex to the present report, based on currently available information, contains a list of parties credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the Security Council agenda. The annex does not purport to be a comprehensive list of violators, but includes those on whom credible information is currently available. It should be noted that the annex does not list countries as such. The purpose of the list is to identify particular parties to conflict that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence. In that regard, the names of countries are mentioned only in order to indicate the locations or situations where offending parties are committing the violations in question.

Annex List of parties credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the agenda of the Security Council:

## **PARTIES IN THE CENTRAL AFRICAN REPUBLIC**

Lord's Resistance Army.

Ex-Séléka forces.

Anti-balaka forces, including associated elements of the armed forces of the Central African Republic.

## **PARTIES IN CÔTE D'IVOIRE**

Forces républicaines de Côte d'Ivoire.

Ex-militia groups, including the Alliance patriotique de l'ethnie Wé, the Front pour la libération du Grand Ouest, the Mouvement ivoirien de libération de l'ouest de la Côte d'Ivoire and the Union patriotique de résistance du Grand Ouest.

## **PARTIES IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

The following armed groups:

Alliance des patriotes pour un Congo libre et souverain;

Allied Democratic Forces — National Army for the Liberation of Uganda;

Forces de défense congolaises;

Forces démocratiques de libération du Rwanda;

Front de résistance patriotique de l'Ituri;

Lord's Resistance Army;

Mouvement du 23 mars;

Mai-Mai Cheka/Nduma Defence for Congo;

Mai-Mai Kifuafua;

Mai-Mai Morgan;

Mai-Mai Simba/Lumumba;

Nyatura armed group; (m) Patriotes résistants congolais; (n) Raia Mutomboki.

Forces armées de la République démocratique du Congo.

National police of the Democratic Republic of the Congo.

## **PARTIES IN MALI**

Mouvement national pour la libération de l'Azawad.

Ansar Dine.

Movement for Unity and Jihad in West Africa.

Al-Qaida in the Islamic Maghreb.

## **PARTIES IN SOUTH SUDAN**

Sudan People's Liberation Army.

South Sudan national police service.

Sudan People's Liberation Movement/Army in Opposition.

Lord's Resistance Army.

## **PARTIES IN THE SYRIAN ARAB REPUBLIC**

Government forces, including the Syrian armed forces, the intelligence forces and the shabbiha, a government-affiliated militia.

Armed opposition elements operating in contested and opposition-held areas, including Damascus, Rif Damascus, Aleppo and Homs.



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# PART 2

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## INPUTS FROM THE ACUNS SYMPOSIUM ON TARGETING WOMEN IN WAR

*“Violence against women remains a problem in every country of the world.  
However, at no time are women more vulnerable to violence than in wartime.”*

Zainab Hawa Bangura, Special Representative of the  
UN Secretary-General on Sexual Violence in Conflict

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## 2.1 SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL (SRSG) ON SEXUAL VIOLENCE IN CONFLICT, MS. ZAINAB HAWA BANGURA

Vienna, 25 November 2014

I am delighted to contribute to this important discussion. **I commend the Academic Council on the United Nations System, Austria and The United Kingdom for hosting this symposium, and for focusing on ‘the Targeting of Women in War’.**

Before addressing the topic at hand, I would like to take this opportunity to thank the research institutions, individual scholars, and practitioners who are members of the Academic Council on the United Nations System for their dedication to the study of the United Nations and international cooperation. The insights of scholars are invaluable to our continued efforts to improve how the United Nations work.

Today is the International Day on the Elimination of **Violence against Women. Violence against women remains a problem in every country of the world.** However, at no time are women more vulnerable to violence than in wartime.

We know that **violent conflict breaks down the structures that hold society together and causes irreparable damage to the people who endure such brutality:** political structures like governments; social structures, local communities and families disintegrate; and cruel acts that were once considered unimaginable become the norm.

Despite the inhumanity I have witnessed in wartime, I will never stop being horrified by the evil that women are subjected to during war.

I recently returned from South Sudan where women’s groups and survivors told me that “rape has become something normal” there. UN staff on the ground relayed harrowing stories of **gang rapes and rapes with sharp objects.** The objective of these barbaric acts is to destroy the dignity of the victim and to cause unimaginable suffering and destruction. It is not only in South Sudan where this is happening; similar stories are coming in from violent conflicts all over the world.

**Each and every one of us has a responsibility to help put a stop to this injustice.** We must stand shoulder to shoulder with survivors and activists, just as you are doing here today. Together we must firmly declare that enough is enough: we will not tolerate women being targeted in war and used as pawns in conflict just because they are women. The time is now to end this human rights violation and I thank you for the work you are doing to help eradicate sexual violence in conflict.

## 2.2 STATEMENT OF MR. ALDO LALE-DEMOZ, UNODC DEPUTY DIRECTOR

On behalf of the UNODC Executive Director Mr. Fedotov, let me welcome the initiative of ACUNS Vienna as well as the opportunity to participate in the Symposium. Ending sexual violence in armed conflict is a key aspect of the work of the UN. We commend the efforts of the UK, including the recent Global Summit in London on ‘Ending Sexual Violence in Conflict’, in ensuring that this issue gets the international attention it deserves.

At UNODC we are fully aware of the importance of the issue of sexual violence in conflict; therefore we continue to be an active member of the UN Action Network. In fact, we recently participated in the Annual Donors Conference and Strategic Planning Meeting in Geneva, which was an open dialogue with the donors on the accomplishments of the network over the past two years, and also served as a forum for setting the goals and priorities of the Network for 2015.

**UNODC stands ready to assist States in addressing sexual violence and other forms of VAW. Together with other UN agencies, UNODC promotes a comprehensive approach to prevent and address VAW, our area of expertise being: crime prevention and criminal justice reform.**

We have examples of ongoing activities in countries like South Africa, where we helped establish multidisciplinary one-stop centres to provide integrated services for women victims of violence. In Vietnam, together with UN Women, we carried out an assessment of the situation of women in the national criminal justice system. Other examples include India, Mexico and Egypt, where we promoted the UN Standards and Norms on Crime Prevention and Criminal Justice and disseminated best practices.

Let me also report on the outcome of the recently held **open-ended intergovernmental expert group meeting on gender-related killings of women and girls (Bangkok, 11-13 November 2014).** The meeting acknowledged the particular challenges arising from situations of armed conflict, where women have been targeted. It concluded that **specific-tailored approaches were required to address different forms of gender-related killings, and recommended that Member States should address the needs of women in vulnerable conditions, such as women in armed conflict.**

Madame Chair, let me assure you of our continued commitment to lend our best technical efforts to this crucial cause, in the most efficient possible way: namely, in an inclusive environment of partnership with Member States, UN Agencies and Civil Society Organizations.

### 2.3 STATEMENT MICHELLE JARVIS, PRINCIPAL LEGAL COUNSEL, DEPUTY TO THE ICTY PROSECUTOR

I have been at the International Criminal Tribunal for the former Yugoslavia (ICTY) over the past 14 years, having had different roles, but always with a **particular focus on gender issues, sexual violence and the prosecution of these crimes**. Increasingly, we are looking for ways to convey the insights from our experience. **The ICTY has been in operation now for 21 years**, so this experience includes a overcoming a lot of practical challenges. For those of you following the ICTY's work, you know that we are approaching the end of our mandate, so we are now completing our final trials and appeals. Within the next 4 or 5 years the plan is that the ICTY will finally conclude and close. We are inevitably looking back on what we have learned; of course it has been a unique and novel endeavor, from a number of different perspectives, for international criminal justice in general. And, of course, our work at the ICTY formed the foundations of what eventually led to the establishment of the ICC and a number of other initiatives.

Regarding the issue of sexual violence in conflict, the ICTY together with our sister Tribunal, the Rwanda Tribunal, have been at the forefront of navigating many of the challenges that apply to a number of different crimes. We think that it is particularly important to be honest about what we have done, what worked well, where we have made mistakes, and what we would do differently in the future. As part of that, in the ICTY Office of the Prosecutor, **we are currently undertaking an extensive legacy project, recording and making available publicly our experience in prosecuting sexual violence crimes**.

I will turn to that in more detail in a moment; but I would like to start with situating the issue of sexual violence in the conflict of the former Yugoslavia. As we cast our minds back to the early 1990's we recall that the world was shocked at that time by reports of widespread, systematic sexual violence, coming out of the conflicts from the former Yugoslavia. **Many of the reports centered around the rape of women in Bosnia and Herzegovina, it is still very difficult to know the true scale of what happened in Bosnia**. Certainly, the reports were estimating anything from between 20,000 to 50,000 women who were raped.

And then a few years later in 1999, as the conflict in Kosovo unfolded, again we had reports of widespread sexual violence. A lot of the focus of the media reporting around sexual violence was on this notion that sexual violence was being used as a weapon of war. That seemed to be something that caught people's attention in a new way. **We know that sexual violence is not new, that it has been in present in conflict from time immemorial**. But at least the perception in the reporting was that rape was being ordered, and that it certainly was a strategy of ethnic cleansing, part of the conflict. **Then the idea emerged that rape could be seen as a genocidal tool**. These were ideas that got people thinking in a new way about wartime sexual violence.

We also saw the Security Council react to sexual violence in conflict for the first time. In debates leading up to the creation of the ICTY, sexual violence was repeatedly referred to in the resolutions and the debates on the tribunal and was part and parcel of the assessment that the atrocities in the former Yugoslavia were a threat to international peace and security.

When ICTY was set up under Chapter 7 of the UN Charter, as a measure to restore international peace and security, we see recognition for the very first time that sexual violence in war is a threat to peace. It was very clear that **ICTY was established to address conflict related sexual violence, along with all of the other crime categories**.

This has of course been a very significant challenge throughout the years of our work. We have managed to see sexual violence charges in about 50 % of our cases, but it has been a long journey, with many lessons learned. This brings me back to the legacy project I previously mentioned.

We are trying to seize this last opportunity to collect insights from within the office before we close, and the institutional knowledge disperses, and we do not have an opportunity to pull it together any longer. We are really taking a comprehensive look at what we have learned on this topic, and I would like to just flag a couple of things for you today.

First of all, **one of the key conceptual changes for us has been moving away from the idea that rape and similar crimes are crimes of honour and dignity, and seeing them more clearly as violent crimes, in the same way that we see other crimes committed during conflict as violent crimes**. At a very basic level there has been a change in our language, so we refer to sexual violence rather than sex crimes, because we want to make sure that every time we speak about it we make that connection with sexual violence as a violent crime.

If you look back historically at the legal provisions prohibiting rape, very often these provisions were bound up in concepts of honour and dignity – back to the Geneva conventions for example, when rape was described as something that was incompatible with the modesty and dignity of women. That has been an important shift for us, particularly as we began to build our cases against senior level accused persons later on in our work.

I think it is also important that, as prosecutors, we do not unwittingly reinforce concepts of stigma around sexual violence. In the way that we conceptualize our charges, approach our witnesses, put our cases together, we have an ability to really try and move the framework forward in a more positive way and to tackle the issue of stigma which stems from concepts that rape is a matter of honour and dignity.

Secondly, I mentioned the perception in the media about sexual violence as a strategy of war, and this has also been something we have had to grapple with as well. What has been important for us has been moving away from this notion of strategy towards a more basic proposition of seeing sexual violence in conflict in the context of the conflict of which it formed part. Understanding the connection between sexual violence and the broader war and the criminal campaigns unleashed represented a crucial conceptual shift. In order to do this we clearly have to conceptualize rape as a violent act. We have for example charged sexual violence under a broad range of legal categories, as torture, enslavement, as a crime against humanity, persecution, and even as genocide. This has been important for holding senior officials accountable. What we know is that very often the most **senior military and political**

**figures in a conflict are not direct perpetrators of sexual violence, but they bear enormous responsibility for it**, because of their role in either allowing it to go on or indeed in ordering or instigating or in some way contributing to it.

For example, we have been able to show that groups of senior leaders have come together in order to implement a criminal plan, of which sexual violence is part and parcel. Either from the beginning, or at least over time, and they come to endorse it and so bear criminal responsibility for it.

I will wrap up with a final comment concerning the project we are currently working on. What we aim to do is to put together a comprehensive manuscript which we will publish as a book in the second half of 2015. We would like to have a series of events around this publication including conferences, which will continue this process of reflecting back and figuring out what we need to do better in the future. This process has sparked a lot of internal reflection in our office and many important conversations. We would like to use the launch of this publication as a way to continue this dialogue. Thank you for the opportunity to partially start that process here, today.

Certain questions were raised by members of the audience related to the following issues:

## **EVIDENTIARY STANDARDS IN SEXUAL VIOLENCE CASES**

At the beginning of our work this was an issue which people thought about a lot, bearing in mind also **the tendency in national systems to implicitly require higher evidentiary standards in sexual violence cases than for other crime categories**.

We started off at ICTY with some good framework provisions centered around evidence in sexual violence cases. It was made clear that there was no corroboration required for a victim testifying about sexual violence; in that same way that corroboration was not a legal requirement for evidence concerning any other category of crimes.

In our cases we have convictions based on witness testimonies, which have not needed to be corroborated in a forensic way. This has been particularly important because, in a conflict situation, it is often very difficult to obtain medical evidence that an assault has taken place. This has been an important part of the lessons from ICTY, and certainly we are focusing a lot on recording these developments in our legacy work.

## **MISTAKES MADE BY THE UN**

Speaking from the ICTY's perspective, there were many mistakes, as this was an area in which there was no prior practice. We had very little to guide us, so inevitably mistakes were made. One of the things that come out is that when it comes to sexual violence crimes, one of the reasons for which these are so difficult to prosecute, is **because of our own misconceptions around the nature of the crimes**. As I have said, **we tend to think about them as crimes of honour and dignity, rather than violent crimes**. What does that mean in practice, when you set up a prosecution office? It means **people inherently discount the seriousness of sexual violence** because they see it as "only" a crime of honour and dignity, and not a violent crime, such a torture and beatings. When you are working in an international environment with limited resources, that matters, because when your investigators go out into the field, they will prioritize the things, which they think are most serious. A lot of our work has been trying to overcome these misconceptions and come up with strategies, which ensure that we do not lapse back into that mindset. We certainly saw cases in which sexual violence should have been included in our investigations and indictments, but it wasn't, and only came up later on. Sometimes we have been able to correct these mistakes, sometimes, we weren't, it was too late. These are things that a Prosecution office must be prepared to look at to ensure they do not come up again in the future. We also have a lot of lessons learned around the issue of prosecution strategies. Things like mechanisms for focusing attention on these issues - a legal advisor for gender issues has been absolutely critical.

It is important to have structures in place to make sure that sexual violence is a priority topic all the time, not only when the public scrutiny of our work was greatest.

A critical aspect is the **intersection between the gender paradigm and the weapon of war paradigm regarding sexual violence**. **The focus on sexual violence as a weapon of war and as a strategy can sometimes lead us into a problematic area. We are better off just trying to understand the context around sexual violence in a conflict more generally**. What we don't want to do is make the mistake and assumption that we can only address sexual violence if it is part of a policy. We know that it happens in many different ways in a conflict, thus we need to take it seriously in all its forms. We also know that the targeting of women is based on a whole range of factors – gender, ethnicity, and often a combination of the two and we have seen that in our cases.

## 2.4 STATEMENT OF HE MR. MOHAMED HUSSEIN HASSAN ZAUROG, AMBASSADOR AND PERMANENT REPRESENTATIVE OF THE REPUBLIC OF SUDAN TO THE UN IN VIENNA

Violence against women (VAW) is a hideous crime that should be condemned in all possible strong terms and the international community is encouraged to take effective measures to help eradicate this abhorrent behaviour.

My country supports both the regional and international efforts to address the challenge of ending VAW. To strengthen this effort, the Sudan has ratified important legal instruments that seek an end to VAW, such as the 1993 Convention on the Elimination of VAW and other regional agreements proposed by the African Union, the Arab League and the Islamic Cooperation Organization.

National Sudanese laws are aligned to international law in order to criminalize VAW. Sexual violence has also been criminalized and prosecuted by domestic law for more than one century. My government has formed and deployed special police forces to combat VAW. Furthermore, the Special Prosecutor of crimes in Darfur has established a subsidiary unit to investigate the allegation of sexual violence.

It is needless to say **that conflict and wars are the root causes of VAW**. Therefore, the international community must be wise enough to address these challenges. In our well scrutinized view, conflicts and civil wars aim to destroy the structure of the state. As there is no noble cause for justifying wars, the international community and the international family of voluntary agencies are asked not to encourage rebel groups to wage wars against their legitimate governments in order to achieve political gains, thus increasing the suffering of vulnerable women and children. Wars are to be found everywhere when gross violations of women's human rights occur. But some countries, as part of their well experienced policies of double standards, classify wars as 'just' and 'unjust' and rebels as 'good' and 'bad' rebels. **All wars are bad; all rebels destroying society are bad.**

As my country is healing from the wounds of the conflicts which are motivated by foreign interests using the old colonial style of proxy – wars, the government is declaring zero tolerance towards the perpetrators of sexual violence against women. In the last five years the Office of the General Prosecutor has investigated about 327 allegations and cases. **Evidence was sufficient for only 18 and the perpetrators were brought to court so that justice was served.** I believe it is most important to emphasize that it is not an easy picking for any prosecutor to gather evidence beyond reasonable doubt. The accepted evidence by judges in court is admission, when it comes to sexual crimes. Therefore, these cases should not be the subject for campaigning and hostile advocacy. Such an approach will not improve the endeavor to end VAW.

Without any intention to underestimate the high value of legal procedures and punitive measures, other measures should be deemed as of greater importance:

Women's education: Educating women on their rights and choices will develop the moral deterrence to violence.

Public awareness: This will remove the traditional barriers in some societies that filing complaints and law suits will not cause disgrace to the extended family.

Funding: Availing financial resources to help governments in developing nations establish legal organs and shelters for victims of sexual violence against women. Donors and celebrities are encouraged to redouble their contributions to the United Nations Fund.

In my concluding remarks I feel obliged to remind this respected audience that **VAW in conflict zones, when it occurs, destroys the social fabric of societies**. Men and youth decide madly to go to war. Women are then left unprotected, without their carers. Thus, they are left helpless, falling prey to all sorts of evils. Let us first silence guns and stop wars.

## 2.5 STATEMENT HE MS. CARMEN MARIA GALLARDO HERNÁNDEZ, AMBASSADOR AND PERMANENT REPRESENTATIVE OF EL SALVADOR TO THE UN IN VIENNA

In the past decade the relationship between gender-based violence (GBV) and armed conflict has received much international attention. Sexual violence during conflict is a fundamental threat to international peace and security. It therefore requires an operational and strategic response in the fields of security and justice.

In many conflicts **women continue to experience gender-based violence, such as rape, sexual slavery and other human rights abuses**. Furthermore, women remain vulnerable to violence following an armed conflict. Research indicates that there is a high prevalence of domestic violence, sex trafficking and forced prostitution in post-conflict areas.

The needs of women who fall victims to GBV are often **overlooked or inadequately addressed by transnational justice mechanisms, including truth commissions, war crimes hearings and victims' reparation schemes**.

The international community has clearly identified our common obligation to survivors of sexual violence, which means that critical health, psychosocial and other services necessary to rebuild their lives must be provided. Secondly, the perpetrators of such acts must be out in the spotlight and prosecuted. All those who commit, command or condone sexual violence during conflict must be held accountable.

The continuous commitment of the UN Secretary General, the adoption of **UNSC Resolution 1325 on women in peace and security, and UNSC Resolution 1820, which addresses sexual violence against women and girls during conflict**, represent unequivocal signs of the involvement of the international community. Notwithstanding these instruments, there are some post-conflict countries which have failed to meet these ideals set by the UN.

International standard-setting developments have succeeded in prioritizing attention for the recognition and cessation of sexual violence in armed conflict. Much remains to be accomplished in terms of protection, prosecution and prevention, as well as compliance. Implementation and accountability also remain ongoing challenges. The focus has now shifted towards the effective implementation of existing legal instruments which address VAW.

Measures to strengthen the judicial system and reform the security sector are essential for ensuring increased reporting and reducing impunity. It is also important to incorporate sex crimes criminal justice legislation and create space for women leaders on advisory boards and planning committees. Truth and Reconciliation Commissions should also hold special women hearings in order to create a friendly environment where women can feel comfortable enough to share their testimonies and participate in the reconciliation process.

The UN Observer Mission in El Salvador (ONUSAL) as an observer to the Peace Accord Implementation included a gender-based training perspective within the scope of its mandate, thus improving the need for a broader gender perspective. Various civilian dimensions and broader issues of gender and human rights related to sexual violence were expanded during ONUSAL's mandate.

In the past decade UN peacekeeping operations have undergone a series of restructuring processes which increased their effectiveness on the ground. The protection of civilians, and women and children in particular, has become a priority. El Salvador became a Troop Contributing Country in 2007 and its peacekeepers were sensitized on the issue of sexual violence. A gender perspective has also been introduced in all activities of the National Civil Police and of the Armed Forces. In El Salvador, the participation of women in decision making processes has become a common practice in many institutions.

As far as ex-combatants and women survivors are concerned, certain measures have been undertaken in order to ensure their security, physical and mental health. These women have gradually been incorporated in the organizations which are representing their interests. An exhausting review of the legal framework has been undertaken, enabling a better understanding of women's human rights.

The relief and recovering of such victims has been ensured through integrated health programmes. The Consultative Council oversees women's rights and supervises national policies which make space for women to express their needs and make petitions.

**El Salvador passed a new law which criminalizes rape and provides supplementation to the existing criminal matters related to sexual violence.** Rape has been defined and criminalized, as well as forced prostitution. El Salvador has also ratified international instruments such as the Geneva Covenants in 1953, as well as the Additional Protocol from 1978 on victims during international armed conflicts.

As part of its nation building commitment after the Peace Accords, the Inter-Institutional Committee on Humanitarian International Law was established in 1997. At present it carries out a criminal justice reform project which addresses crime such as rape, sexual slavery, forced prostitution, forced pregnancy and fertilization. Since 2009 a joint effort of the Ministry of National Defense and the Salvadorian Institute for Women (ISDEMU, created in 1996) is being implemented. Confidence building campaigns and training programmes with the armed forces are being implemented, in order to raise awareness on how to eradicate all kinds of VAW in peace and conflict situations.

**In 2010 El Salvador passed a new law called 'Life without violence, special and integral law for women to be implemented in times of peace and conflict'.** It has become a relevant legal instrument to advance the rights of women in both the public and private sphere. It recognized a woman's right to live free of any kind of physical or psychological assault, benefitting from dignity, liberty and personal security, as well as equal participation in public matters and institutions. This piece of legislation applies to all women in El Salvador, regardless of their nationality. It also applies to citizens of El Salvador living abroad.

In 2011 another important law was enacted: 'the equality, equity and eradication of discrimination against women's' law'. It enables women to exercise their rights as citizens in compliance with their human rights. It fosters education, political participation, economic autonomy, job relations, health, social and cultural rights, as well as rural development. A special organ is being created under the jurisdiction of the Attorney General of the Republic. It oversees as a whole the proper application of the international instruments ratified by El Salvador.

An official desk for sexual harassment has been established, in accordance with an ILO recommendation. It gives integral assistance to women being harassed at their work place. The law also considers femicide as a public crime, and any obstruction to justice is therefore to be punished.

The national inter-institutional Committee on International Humanitarian Law has engaged in broadcasting and training civil society representatives and other stakeholders in matters related to humanitarian law. Another important step has been recently undertaken in El Salvador through the adherence to the International Criminal Court in May 2014 on punitive action against all forms of unjustifiable violence in times of conflict.

The Government of El Salvador is determined to implement an integral citizen-security-policy, aimed at diminishing social gender based violence, by tackling the structural scope of the problem.

Lastly, I would like to emphasize that it has been **acknowledged by the Government of El Salvador that any violations of women's human rights during armed conflicts infringe upon fundamental human rights as well as international humanitarian law.** That is why the Special Law for a Life for Women Free of Violence enacted in 2010 together with the National Policy on Women, the Law for Women's Lives Free of Violence from 2013 take into consideration reparations for female victims of sexual violence during armed conflicts.

## **2.6 STATEMENT H.E. MS. BENTE ANGELL-HANSEN, AMBASSADOR AND PERMANENT REPRESENTATIVE OF NORWAY TO THE UN IN VIENNA**

I would like to extend a warm word of thanks to the host of this meeting. Our theme of targeting women in war has been at the center of attention of Norwegian governments for decades. Last year, on this same day, my foreign minister took part in an important meeting in London on targeting women in war; and we both took part in the event organized on this topic by the British Embassy in Oslo just prior to the London meeting.

**The Norwegian government will soon launch a comprehensive strategy on the follow up of, inter alia, Security Council Resolution 1325.** Norway has enjoyed working with the countries on this panel, as well as with other partner countries, international organizations and academia and last but not least with civil society. The latter are our eyes and ears on the ground. They help us do more and better.

Like all of you, I believe we have made substantial progress. The many resolutions in the Security Council and the focus on targeting women in war in UN fora bear testimony to this.

Yet, **still so much more needs to be done. I would like underline the words just uttered by our panelist Bangura, who I have had the pleasure of working with on these important matters over the years. She said: "Women have never been more vulnerable than today".** Looking at the world, I believe she is right.

It is very good news that the African Union, under the strong female leadership of her Excellency Madame Zuma, has appointed their first Special Envoy for Women, Peace and Security, Madame Bineta Diop. She is a woman who for many years has dedicated her life to helping women who have been targeted in conflict and war. Bineta Diop was recently in Vienna, and her information about facts on the ground in South Sudan was to say the least depressing. **We need to support those who are addressing the challenges on the ground and those who are using their lives to empower the powerless and give voice to the voiceless.**

Norway is actively involved in mediation and reconciliation in different parts of the world. We do our best in order to bring women on board in this work. But there are challenges. I remember a conference on mediation that we were hosting and women participation was one of the agenda items. I was sitting in the audience and saw many men leaving the room when we got to this agenda item. Also, the man beside me left with this remark: "Ah! Not this gender again". We have a long way to go when it comes to genuinely embedding this in the "hearts and minds". We need comprehensive empowerment of women for such attitudes to change. **We need to change the status of women and girls in society.** I want to pay tribute to the work that Mexico and Colombia spearheaded in the Human Rights Council in Geneva resulting in the establishment of a special mandate focusing on discrimination against women in law and practice.

I was very pleased with what Ambassador De Alba said, pertaining to upcoming meetings. **What is happening to women in conflict and war torn areas is a real crime, and there can be no impunity.** We must do our part here in Vienna based on the mandates of the international organizations in this UN capital. Today His Excellency, Mr Fedotov, is presenting a report on human trafficking. The issue of trafficking is closely linked to women, peace and security. We must deal with these inter-linkages in an efficient manner.

Norway has for years contributed to the vital and difficult work of Doctor Mukwege and his team at the Panzi hospital in the DRC. In our dialogue with him we understand that the mental healing can be just as painful and difficult as physical healing. That is also true for men and boys who have been targeted in war. Impunity and justice are central to the possibilities of mental healing.

Let me end by saying that I am so happy to be on this panel, and happy that so many men are on it. We need to **strengthen the global coalition among nations, international organizations and civil society.** We need to build the cross-regional and global consensus on this issue and make it a key priority for all countries. We cannot rest on our laurels; we have not succeeded in spite of all the diplomatic efforts. "La lutte continue".

## 2.7 STATEMENT MARIE THERESE KIRIAKY, FOUNDER AND CHAIRPERSON OF THE ASSOCIATION OF ARAB WOMEN IN VIENNA

My country, Syria, has been plagued by a bloody war for four years now. Women and girls have been subjected to human rights violations, in particular peace activists and those whose relatives have associated themselves with one of the warring parties.

As you may know, there are 6 million refugees outside Syria and 9 million internally displaced persons in Syria. Four out of five of these are women and girls. **Most of them have been detained and subjected to sexual harassment, systematic rape and various forms of torture.** In those parts of Syria which are under control of the Syrian government, there are some **5,000 imprisoned women.** The International Red Cross and Red Crescent Movement and similar international human rights organizations are being denied access to these prisons. All communication with the outside world is cut off and it is assumed that within these facilities there is a lack of basic commodities. If they manage to be released from jail, **these women and girls are at risk of becoming victims to honor crimes, since it is considered that they have brought shame upon their families.** Most of the women who manage to survive are scared, both physically and mentally, as they had been tortured in a beastly manner. In refugee camps, women have also been subjected to prostitution and forced marriage.

The entire world is looking and NOT doing anything, under the illusion that Syria is a far off place. In fact, Syria is not that far away. It is only three hours away by plane from Vienna. Some women's organizations are ignoring this situation and are not raising their voices to point out that horrendous atrocities are being carried out in Syria. What is going on in Syria will also have a devastating effect on its neighboring countries.

I have visited the Turkish-Syrian border and have witnessed the suffering of the Syrian refugee women. There were some psychiatrists accompanying us and they said **that these women will never be fully cured of their war trauma, even if they were given the chance to settle down in another country and receive the appropriate medical and psychological care.**

I am not only referring to women, but also children. Most of them are either sold or forced to work as cheap labor. Over the past four years, these children have not been able to attend school. Their parents are educated, but the children are ignorant. The work with my NGO gave me the opportunity to witness all of this. My team and I cannot say that this is not our business. I am looking for anyone to HELP us in any possible way.

And this is not the only problem. **Fundamentalist groups have imposed customs and practices in Syria, which had not been part of the culture of our society prior to the conflict. An example of this is female genital mutilation.** It is NOT a Syrian custom, but women and girls in Raqqa are falling victims to this gruesome practice. All women aged 12-46 were obliged to undergo this procedure. Another problem is slavery. Women are being sold for as little as \$500.

Where does the Syrian society stand right now? It seems as though we went back in time 1,000 years. We MUST stop this absurd war! People CAN do it, but we need POLITICAL WILL as well.

## 2.8 STATEMENT ANNELIESE ROHRER<sup>1</sup>, AUSTRIA AND VIOLENCE AGAINST WOMEN IN WAR

I would like to make 4 points with reference to my own country, which is Austria. How is Austria affected by violence against women in conflict zones? Firstly, in the peacekeeping missions in which Austria is involved.

A few years ago we did a documentary in Austria on human trafficking, and we tried to raise awareness for the armed forces in Austria. Our mission was to reach out to soldiers and raise awareness on human trafficking. There was zero interest in the documentary. We wanted to approach soldiers and inform them about the issue of human trafficking, as you may know, women and children are most affected by it. We thought that if we were to show soldiers that documentary, they would get a sense of who are such potential victims, and might easily identify a victim in the future. We wanted to have the armed forces as a target audience, because wherever they may be stationed in the Balkans or Eastern Europe—those are the hot-spots for human trafficking. Even though this topic is only rarely discussed, it is unfortunately a reality in the region of the former Yugoslavia. We thought it might be useful for them to have an idea of what to look for when they see a victim of human trafficking in a brothel.

We have come to realize that **soldiers are not interested in trying to find out if such women are working as prostitutes voluntarily or not.** They would not bother asking those women if they had been coerced into prostitution, or if they needed help. We had to live with that reality as far as the armed forces are concerned and I am also sorry to have realized that, by and large, there is no political will and no institutional will to investigate these hot spots in any way or form.

**The second way in which Austria is affected is because Europe, surprisingly, this is the continent of destination for victims of human trafficking.** Why all of Europe? Because the **common perception is, that human trafficking and slavery are something solely encountered in developing countries and poor countries. That is completely untrue;** human trafficking has been a growing

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<sup>1</sup> Permission has been sought from the author to include her statement into this publication.

business in Europe. Austria is certainly a country of destination. The role of the justice system is crucial when it comes to such issues, but in Austria this is rather a sore spot. The justice system just does not want to prosecute traffickers; they would rather have the victims taken back to their home countries, without thinking about the consequences of what that means for the women. Judges just do not want to put such people on trial, as it would not further their careers. As far as the public perception in Austria is concerned, these are just women who probably wanted to go into the sex industry anyway. If they are victims, this is just too bad, but let us send them back and not bother with them. A trial with traffickers as witnesses is just not high priority, and not popular.

The figures are something like this: the police bring in a thousand cases to the prosecutors and maybe we have one or two trials a year. This is a question of public awareness, which is a question of public attitudes towards the problem of violence against women (VAW) in the context of human trafficking.

There is a wonderful book called 'While you are sleeping'. This book contains the quote of a Palestinian soldier who grew up in Israel believing that he was a Jew. He gets into a situation where he beats up his real brother, whom he doesn't know or recognize, because he grew up as an Israeli. Later on when he realized what he had done and reflected on it, he thought: **"why did I do this?"** – **"Because I could, I just could", that was his answer. "I knew I was not going to be punished for this, I knew that this violence would have no consequences for me, I just wanted to do it".**

**That is the real problem. In some instances, in some conflicts, violence does not have any consequences. The problem is that VAW, even in areas outside of conflict, does not have any consequences at all. They do it because they can. That is also the situation in our Western society.** This was the third point I wanted to make.

The last point, which is an issue you might not want to hear, represents the issue of women's violence against women. We cannot push that aside. It happened that UNODC published just today a report on human trafficking, which showed that 30% of the traffickers are females. 30% of the perpetrators are now women. So can we get away from the gender thing? This is not just a male thing; **we also have to deal with women perpetrators.** Of course we ask ourselves, why do women get into human trafficking? Most of them are victims, some have survived, and now they are making money from other women who are being trafficked. We cannot push these female agents out of the equation, and put the entire responsibility on men.



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# PART 3

UNODC EXPERT GROUP ON GENDER-RELATED KILLINGS OF  
WOMEN AND GIRLS, BANGKOK 11-13/11/2014

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*“The failure to investigate or prosecute crimes committed against women and girls,  
continues to reinforce a climate of impunity, and normalises violence and renders it as acceptable.”*

Rashida Manjoo , UN Special Rapporteur on violence against women

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3 November 2014

English only

**Expert Group on gender-related killing of women and girls** Bangkok, 11-13 November 2014

Item 4 of the provisional agenda\*

**Discussion on ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls**

### **3.1 INFORMATION ON GENDER-RELATED KILLINGS OF WOMEN AND GIRLS PROVIDED BY CIVIL SOCIETY ORGANIZATIONS AND ACADEMIA**

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\* UNODC/CCPCJ/EG.8/2014/1.  
V.14-07303 (E)

## I. INTRODUCTION

1. In its resolution 68/191, entitled “Taking action against gender-related killing of women and girls”, the General Assembly encouraged civil society organizations and academia to share with the United Nations Office on Drugs and Crime (UNODC) relevant information concerning best practices and other relevant information related to the investigation and prosecution of gender-related killing of women and girls, in accordance with national legislation.
2. In November 2013, UNODC contacted relevant civil society organizations and academia requesting the above information. By October 2014, 30 submissions had been received from different civil society organizations, universities and independent researchers, including the following: ACUNS Vienna; African Women’s Organisation, Rita Banerji Founder, The 50 Million Missing Campaign; California State University-Fresno, USA; The City University of New York, USA; Claire McEvoy: Nairobi-based conflict and gender analyst; Italian Platform “30 years CEDAW — Work in progress”; IFRC/International Federation of Red Cross and Red Crescent Societies; International Association of Prosecutors; International Council of Women; ISA/International Association; International Association of Prosecutors Justice for Iran; Gender and Health Research Unit, Medical Research Council, South Africa; National Council for Women in Saudi Arabia; RAHAT/Collaboration between Departments of Women and Child Development and Majlis Legal Center, Mumbai; Sana’s Fatima Research on Honour Killings, Soroptimist International; WFPW, Women’s Federation for World Peace; World Society for Victimology; RAUN/Regional Academy of the United Nations.
3. UNODC welcomes the contributions of the members of the Alliance of NGOs on Crime Prevention and Criminal Justice, in particular that of the Academic Council on the United Nations System (ACUNS), to the preparation of the present conference room paper, which provides a synthetic overview of the replies received and is structured on the basis of the main aspects on which information was provided. Not all replies contained information on all of these aspects and the substantive focus and level of detail varied considerably. The content of the present document reflects the information and views expressed in the replies, which do not necessarily coincide with the views of UNODC or Member States, nor does it imply any endorsement.

## II. DEFINITIONS AND CONTEXTUAL BACKGROUND

4. Despite the fact that Commission on the Status of Women, in its Agreed Conclusions adopted at its 57th session, and the General Assembly, in resolution 68/191, used the term “gender-related killing of women and girls” most replies referred to the term “femicide”. This is reflected in the present document.
5. The term “femicide” was publicly introduced by Diana Russell while testifying about murders of women at the International Tribunal on Crimes against Women in Brussels in 1976. In 2001, Russell adapted her definition to “the killing of females by males because they are females.”
6. The criminal justice use of the terms “femicidio/feminicidio” with a gender-related meaning has been spreading throughout the Spanish speaking world since the last decade of XXI century, after the international exposure of the events in Ciudad Juárez, Mexico, in particular with the contribution of Spanish women’s rights activists.<sup>2</sup>
7. The first reference to femicide in official documents of the European Union was in the course of the hearing on feminicidio (killing of women) in Mexico and Guatemala at the European Parliament in April 2006. In October 2007 the European Parliament adopted a resolution on the murder of women (feminicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon.<sup>3</sup>
8. It was highlighted that femicides needed to be addressed in the specific contexts in which they occur, and not as isolated incidents. Attention needed to be paid to sociopolitical and economic dynamics, as well as overall patterns of gender-based violence, and how they affect the nature of femicide in a particular community, country, or region.
9. Femicide is the extreme manifestation of existing forms of violence against women. Gender-related killings are not isolated incidents which arise suddenly and unexpectedly, but are rather the ultimate act of violence which is experienced in a continuum of violence. Different forms of femicide include: Femicide as a result of domestic violence, intimate partner femicide, honour related femicide, including burn and acid attacks, dowry related femicide, organized crime related femicide, killings of women during war/armed conflict, female infanticide, FGM related femicide, killings due to accusation of witchcraft, sexual orientation related killings, femicide due to ethnic and indigenous community affiliation and killings of drug addicted abused women and prostitutes.<sup>4</sup>

<sup>2</sup> Spinelli, Barbara: “Femicide and Feminicide in Europe. Gender-motivated killings of women as a result of intimate Partner of intimate partner violence”, Expert Paper, October 2011.

<sup>3</sup> ACUNS, “Femicide — A Global Issue that Demands Action”, 2013.

<sup>4</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, A/HRC/20/16.

### III. STATISTICS AND SURVEYS

10. The Guidelines for Producing Statistics on Violence against Women: Statistical Surveys<sup>5</sup> were prepared to assist countries in assessing the scope, prevalence and incidence of violence against women. These Guidelines are responding to the need to provide methodological advice regarding selection of topics, sources of data, relevant statistical classifications, outputs, wording of questions and all other issues relevant for national statistical offices to conduct statistical surveys on violence against women.
11. Researchers and advocates made a number of recommendations for strengthening data on femicide. These can be summarized as follows:
  - (a) National-level data, national registries, or dedicated sections on femicide are needed in existing homicide databases. Such registries should include collated data from a range of sources, including police, mortuaries, courts, medical examiners, and other services in a position to identify cases of femicide and the circumstances surrounding them. Ongoing surveillance using medical examiner databases, such as the New York City femicide database, and efforts to link homicide and medical examiner data as currently done by the United States Centers for Disease Control and Prevention are needed;
  - (b) Standardized guidelines and categories for identifying and documenting cases of femicide, including intimate-partner femicide, are needed. In addition, guidance for homogeneity in documenting victim-perpetrator relationships and information regarding history of violence or threats of violence in those relationships are needed. Specific attention needs to be given to what may or may not be feasible in resource-poor regions;
  - (c) Ongoing training is needed to strengthen the capacity of police, mortuary staff, social workers, medical examiners, and hospital and other health care personnel to identify and document cases of femicide and the circumstances surrounding them. In addition, sensitizing of journalists through awareness raising and training are needed to strengthen skills in gender-sensitive, complete reporting on femicides;
  - (d) Comprehensive, centralized reports on the incidence and consequences of femicide need to be developed, disseminated, and publicized for use in awareness-raising and advocacy surrounding the topic of femicide. This can only be accomplished in tandem with the overall strengthening of data collection;
  - (e) Quantitative and qualitative research methods, which improve the understanding of the social context, including the characteristics, dynamics, and circumstances surrounding femicides, need to be further developed. Gaps in research on specific forms of femicide need to be addressed.

#### BOX 1

##### **GOOD PRACTICE: DATA COLLECTION IN FINLAND ON GENDER-MOTIVATED KILLINGS AS A RESULT OF DOMESTIC VIOLENCE**

The Finnish police use nationwide data systems called RIKI and Patja to record the reported crimes. The report form contains both compulsory and optional information on the crime. Gender and other personal data such as the age and address of the suspect and the complainant are always recorded. The form contains a field where it is possible to define the crime or case as “domestic violence”.

Information on the relationship of the suspect to the victim is optional. Statistic Finland use police data combined with data from family statistics to produce statistics on domestic violence and all related crimes.

Statistical tables on causes of death make it also possible to know how many women are killed by domestic violence each year (number of intimate partner feminicides). The source for these statistics is the death certificates made by medical authorities combined with data from the Population Register Centre. When the cause of death is not clear but an indicator of violence is present, the death certificate is not written until the preliminary result from police investigation on whether the case is a suicide, accident, or crime are available.

12. More research should be done on the relationship between firearms and femicide as well as on socio-economic and cultural risk factors, such as poverty, economic dependency of women, gender stereotypes and power imbalance between the perpetrator and victim.

<sup>5</sup> Jansen, Henrica: “Prevalence surveys on violence against women: Challenges around indicators, data collection and use”, 2012, available at <http://eige.europa.eu/literature-and-legislation/prevalencesurveys-on-violence-against-women-challenges-around-indicators>.

#### IV. ROLE OF CIVIL SOCIETY IN PROMOTING INTERNATIONAL AND NATIONAL LAWS — THE ISTANBUL CONVENTION

13. NGOs have committed themselves to the ratification of the Council of Europe convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which can be acceded to by all countries. Civil society can also be influential in the passage of national legislation with effective provisions. Academic institutions and advocacy groups can provide draft laws or provisions.
14. The Istanbul Convention makes it clear that femicide and violence against women can no longer be considered as a private matters but that States have an obligation to prevent violence, protect victims and prosecute the perpetrators. By being more comprehensive in nature than any of the previously available instruments, the Council of Europe Istanbul Convention significantly reinforces action to prevent and combat violence against women and domestic violence at global level through the “4 Ps approach”: (a) Prevention, (b) Protection and support, (c) Prosecution and (d) integrated Policies.
15. The application of measures to protect the rights of victims shall be secured without discrimination on any ground. No individual who has suffered gender-based violence should be excluded from the protection and support set out in the Istanbul Convention. This includes women and girls from any background, regardless of their age, race, religion, social origin, migrant status, gender identity or sexual orientation.
16. The Istanbul Convention also provides for a monitoring mechanism to ensure the implementation of the Convention and guarantees its long-term effectiveness. The group of experts (GREVIO) will not only monitor implementation, but also make recommendations to countries, thus offering advice and support. NGOs believe that national monitoring mechanisms should also be established with civil society participation.
17. The Istanbul Convention was also seen as being fully aligned with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and based on the premise that violence against women cannot be eradicated without investing in gender equality and that in turn only gender equality and a change in attitudes can prevent such violence from happening. This meant that signing and ratifying and ultimately implementing the Convention would also contribute to the implementation of the “women’s rights bill”. The CEDAW provides for civil society organizations to offer observations on the implementation of recommendation.
18. It was also highlighted that, in order to fulfil their international obligations to protect basic human rights, States agreed to take appropriate measures, including improvement, enactment and enforcement of legislation. In order to gradually change social and cultural attitudes of people towards gender equity and women’s human rights, strong political will was needed to set an example for socially acceptable behaviour, whilst punishing the violation of law without any exceptions. In this connection civil society has a strong role to play to reinforce political will.

#### V. PREVENTION MEASURES AND STRATEGIES

19. The prevention of violence against women requires far-reaching changes in the attitudes of the public, overcoming gender stereotypes and most importantly raising awareness. In this connection civil, society organizations, religious institutions, schools and families play the most important roles. Effective prevention measures against femicide can be found in the Declaration on the Elimination of Violence against Women of 1993.<sup>6</sup> In addition, to the criminalization of violence against women, the following measures were highlighted by contributors to this paper:
  - (a) **Raising awareness of the general public.** There was a need to engage the public through the media and to encourage civil society initiatives that expose all forms of violence against women to fight impunity;
  - (b) **Special measures for the education of girls.** Girl child education is a fundamental means to prevent violence against women and femicide. Education of girls up to the tertiary level is considered an urgent priority;
  - (c) **Affirmative action in appointing women.** It was considered necessary to advocate for the appointment of senior police as well as women in prosecutorial functions, also at national levels, in order to ensure physical security and safety of women and girls. The appointment of women in senior government and political functions would also help counter the perceived inferiority of women. Leadership at all levels was needed.
20. In many cities women and girls face violence not only in their homes and in relationships, but also in public spaces due to poor urban design and poor management of public spaces. The Women’s Safety Audit is a tool that enables a critical evaluation of the urban environment. Women and girls define the dangers that they feel in public urban spaces. This initiative was first developed in Canada following the recommendations of the 1989 report on violence against women and has further been developed by UN-HABITAT in the cities of Cape Town, Johannesburg, Durban, Dar es Salaam, Abidjan, Nairobi and

<sup>6</sup> General Assembly Resolution 48/104.

Warsaw. Listening to women can lead to improved design, planning and management of public spaces in order to reduce the feelings of insecurity and actual victimization.<sup>7</sup>

21. It is emphasized that femicide and violence against women must be addressed at the family, societal, governmental and international level if we are to expect any reduction. Resources and assistance from the international community and national budgets, particularly with regard to hiring and training police officers, design improvements, such as lighting and protective and safe shelters will be necessary to bring about major qualitative improvements.
22. A number of good practices were identified with regard to effective prevention measures and strategies, including: (a) focusing on the local level, (b) engaging government support, (c) involving professionals and key stakeholders, (d) supporting civil society organizations (e) researching women's security, (f) creating collaborative community structures, (f) ensuring representation of the community, especially for the most vulnerable groups/members, (h) establishing intersectoral teams and clarifying responsibilities, (i) promoting confidence-building efforts and education initiatives, (j) setting realistic goals, and (k) timing for change.
23. In order to tackle burn and acid attacks, the following recommendations have been made: (a) adopt a criminological perspective in developing preventive measures, (b) develop safe designs for delivering and storing kerosene for domestic purposes, (c) promote awareness among women and girls about the consequences of self-inflicted burns, (d) publicize the need for effective policy response including legislation, education and advocacy, (e) implement risk-assessment tools for treatment.<sup>8</sup>
24. Crime prevention interventions aimed at tackling femicide should be designed according to the type of femicide these seek to address, since different sets of circumstances allow for a particular type of intervening mechanisms.<sup>9</sup> Interventions for intimate partner femicide have a greater success rate if they are invoked at the earlier stages of abuse and violence.<sup>10</sup>
25. Femicide can only be effectively prevented if a holistic approach is adopted by the States, in tandem with relevant stakeholders and NGOs. It must also include a nationally coordinated strategy in respect with training around the substantive and procedural issues relating to Femicide targeting all the relevant actors who are needed for the effective implementation of legislation.<sup>11</sup>
26. Contributors to this paper strongly encouraged the sustainability and enhancement of domestic violence services for women, which should be a priority for policy makers. Women who are repeatedly subject to violence should be considered as a high-risk group of femicide. Greater economic independence may increase options for leaving abusive relationships. Data on intimate partner homicide should also be disaggregated.<sup>12</sup>
27. Intimate partner violence and gun ownership are strongly associated with femicide in the home. 60 per cent of Italian femicide cases involved guns. Health care, law enforcement, the judiciary, and service and advocacy professionals have opportunities to intervene to prevent intimate partner femicide and attempted femicide. If a woman confides that she is planning to leave a controlling abuser, it is important to warn her not to tell her partner that she is leaving him face-to-face.<sup>13</sup>
28. Governments should launch awareness raising initiatives and make the goal to stop violence against women an issue of national priority. A recent example of a successful information campaign targeting all citizens concerns the digitization of television in India, which broadcast the message every 15-30 minutes on all media networks. Such awareness campaigns should directly inform and warn the public that killing daughters, forcing women to abort female foetuses, dowry extortion and murders, "honour" killings and "witch" lynching are crimes and of the penalties they entail under law. As of now, the public is simply urged to be "nice" or "kind" to girls and women by referring to them as mothers or goddess that bring wealth.<sup>14</sup>
29. In order to prevent or reduce the number of femicides, it is imperative that the root causes are addressed. The issues of racism, discrimination, economic inequity, inadequate employment and educational opportunities and poverty in particular ethnic communities should be given social and political priority.<sup>15</sup>

7 ACUNS, "A global issue that demands action", 2013.

8 Natarajan, Mangai: "Understanding and Preventing Burn and Acid Attacks on Women", the City University of New York, 2014.

9 Ellis, Desmond & DeKeseredy, Walters: "Rethinking Estrangement, Interventions and Intimate Femicide", Violence against Women, Vol.3, 1997.

10 Ibid.

11 Amien, Waheeda: Legal Aid Clinic, University of the Western Cap.

12 Taylor, Rea and Jasinski, Jana L.: "Femicide and the Feminist Perspective", Homicide Research Working Group.

13 Violence Against Women and Attempted Femicide: A Case Study by Nancy Glass (Oregon Health and Science University) Jane Koziol-McLain (Auckland University of Technology). Jaquelyn Campbell (John Hopkins University) and Carolyn Rebecca Block (Illinois Criminal Information Authority).

14 Strategies to tackle femicides in India, Rita Banerji, November 2012.

15 Intimate Femicides in the US: The Black experience, Janice Joseph, Richard Stockton College of New Jersey, 2012.

## VI. PROTECTION

30. Civil society plays a major role in the protection of women and girls at risk. Shelters are provided and mostly run by local NGOs. Committed volunteers are available at all hours day and night to provide safety to women and children who are in danger of their lives. These facilities should be adequately funded and equipped to offer a secure and comfortable environment. Due to the nature of women associations, endangered women are often better able to relate their fears and threats and ask for the most appropriate assistance including psychological and practical support. Civil society organizations are also best placed to accompany victims through the courts procedures and to seek appropriate remedies and also compensation. If the woman has been killed, similar victim support services need to be provided to other members of her family.
31. Often battered women like the idea of a health-care professional notifying the police for them. It is important to consider the role of medical professionals might play in identifying women at high risk of intimate partner femicide.
32. It is important that cadre of workers be trained in this culture-sensitive and innovative approaches in order to combat femicide. This training should be also be supplemented by providing training to police officials, prosecutors, judges, and other public officials who may come into contact with potential or actual femicide cases in order to rise their awareness to this issue on the one hand, and develop and improve their humane and professional skills in dealing with such cases on the other hand.<sup>16</sup>
33. The criminal justice system often seems to be failing to safeguard the legal and human rights of the victim. Unless a new political, social and legal order is constructed to help society find alternate methods of dealing with such crimes, women will continue to be killed and held responsible for their own abuse and deaths. Policymakers and legislatures have an exceptional opportunity to reconstruct the legal system in a manner that will not dehumanize femicide and place the blame on the victim.<sup>17</sup>
34. Many Governments have consistently left provision of most necessary services — shelter, legal aid, and affordable, quality medical services — to donor- or privately funded NGOs and medical providers with limited funding. This situation must come to an end. Moreover, services have largely targeted one-off survivors of violence after the fact, neglecting those who are chronically abused within marriages and relationships and those who have long histories of abuse.<sup>18</sup>

## VII. INVESTIGATION AND PROSECUTION

35. Civil society can persuade States to introduce a number of new offences where these are not presently recognized as such by the law. These may include: psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, burning, forced abortion and forced sterilisation. In addition, civil society including religious institutions and media need to ensure that culture, tradition or so-called “honour” killings are not regarded as a justification for any of the above listed offences.
36. Once these new offences have found their way into the national legal systems, there is no reason not to prosecute offenders. In this connection, civil society organizations can influence States to introduce legislation and take a range of measures to ensure the effective investigation of any allegation of violence against women. This means that law enforcement agencies will have to respond to calls for help, collect evidence and assess the risk of further violence to adequately protect the victim.
37. Furthermore, civil society can monitor judicial proceedings so that the rights of victims at all stages of the proceedings are respected and secondary victimisation is avoided. NGOs can help ensuring that a variety of civil law remedies are applied, which allow victims to seek justice and compensation, primarily against the perpetrator, but also in relation to state authorities if they have failed in their duty to diligently take preventive and protective measures. The right to claim compensation for damages suffered should be guaranteed by law.
38. Recommendations concerning investigations and prosecutions of femicide can also be found in the Model Protocol (Panama Protocol) for the investigation of femicide in Latin America. Once there is awareness of a violent crime such as the killing of a woman, State authorities should be obliged to start ex officio without delay, a serious, impartial and effective investigation by all legal means available, which is focused on the determination of the truth, and the pursuit, capture, prosecution and eventual punishment of the perpetrators, especially when State agents are involved.
39. Concerning the quality of the criminal investigation, the duty of conducting an exhaustive investigation, effective, serious and impartial of crimes, was reiterated by the Inter-American Court of Human Rights: “An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government”.<sup>19</sup>  
All members of the public who witness femicide or other acts of violence should cooperate with the investigation.

16 Shalhoub-Kevorkin, Nadrea: “Mapping and analyzing the landscape of Femicide in Palestinian Society”, Women’s Center for legal aid and counseling, 2014.

17 Ibid.

18 Mc Evoy, Claire: “Battering, Rape and Lethal Violence — A baseline of information on physical threats against women in Nairobi”, Working paper of the Small Arms Survey, December 2012.

19 Inter-American Court of Human Rights, Velasquez Rodriguez Case, Judgment of July 29, 1988.

40. The investigation must be comprehensive, this implies that (a) the victims are supported during the investigation process and (b) the investigation must exhaust all legal means available and focus on the determination of the truth, capture, prosecution and eventual punishment of those responsible. In addition, investigators should determine whether the woman or girl was killed because of her gender, or due to accidental death, suicide or natural death.
41. It is also important to identify whether the attack was motivated by race or minority status and to carry it out with vigour and impartiality. The patterns in unsolved femicide cases often are due to insufficiency in the investigations.
42. The obligation of investigating femicide requires professional staff capable of identifying the different factors surrounding gender-motivated killings. Supportive technical personnel and forensic equipment are also required.

## BOX 2

### **BEST PRACTICE: SWEDEN — MANUAL ON VIOLENCE AGAINST WOMEN FOR PATROL OFFICER AND DETECTIVES AND GUIDELINES FOR PROSECUTORS**

Sweden has a manual for patrol officers and detectives on how to prevent, detect and investigate men's violence against women, as well as guidelines for prosecutors to improve preliminary investigations and also to ensure professional and efficient support to victims from the first point of contact with law enforcement and throughout the entire legal proceedings. These guidelines include special information about dealing with honour-based crime.

43. A number of Member States now entrust intervention to specialized units in the police and/or prosecution service. Specialized courts meant to handle cases of domestic violence or gender-based violence have also been established in a number of countries. Prescribing and empowering multi-agency cooperation is another important aspect of promising practice. In the Netherlands, ("Safe Houses") create a structure that facilitates multiagency cooperation (police, prosecutors, municipality, support workers and child protection). The idea is that much violent crime, including intimate partner violence or child abuse, is complex and multifaceted, hence it needs to be combated in a multidisciplinary manner. In this light, the involvement of NGOs should be supported.
44. Often there is a perceived lack of political will to tackle femicide and violence against women among the leadership of the police. Once a crime is recorded at a police station, the police are obliged to follow up on the case. In practice, however, they may not bother, may solicit a bribe, send a survivor home to reconcile with the accused. Police also push women to pursue traditional dispute mechanisms, involving a chief, elder, or family member to adjudicate a case informally. Where police officers are overwhelmed by all types of crime and deal with poor living and working conditions, they often view violent acts against women as petty or minor offences.<sup>20</sup>
45. The benefits of employing women in policing have been recognized and advocated in many countries. NGOs suggest that hiring procedures be changed in favour of women being hired, taking into account their other capacities and previous non-police experience. To affect the police organization as a whole, it is important for women applicants to be able to apply for and hold officer ranks beginning with lieutenant or its equivalent. This will ultimately allow them to affect policy and influence the organizational climate from the top-down and to change the male oriented command model to a more egalitarian system where men and women are equal.
46. Different types of femicide occur under particular sets of circumstances. Hence, various intervening factors arise, which place obstacles in the effectiveness of the criminal justice system. In the case of intimate partner femicide, the presence of children, loyalty and reluctance to file a complaint often contribute to the ineffectiveness of the criminal justice response. Battered women who have cooperated with the police and prosecutors up to the point of sentencing often change their minds and prefer their partner treated rather than imprisoned.<sup>21</sup>
47. In order to improve the quality of the investigation,<sup>22</sup> multisectoral research should be conducted on most effective methods to fight femicide from efficient response teams as well as practical measures, such as emergency mobile apps (emergency signal boxes).

20 Mc Evoy, Claire: "Battering, Rape and Lethal Violence — A baseline of information on physical threats against women in Nairobi", Working paper of the Small Arms Survey, December 2012.

21 Ellis, Desmond, DeKeseredy, Walters, "Rethinking Estrangement, Interventions and Intimate Femicide", Violence against Women, Vol. 3, 1997.

22 ACUNS: "Femicide II: A global issue that demands action", Excerpt from the draft Latin-American Action Protocol for the Investigation of Femicide, 2013.

### BOX 3

#### GOOD PRACTICE: ACCESS TO THE POLICE VIA THE INTERNET IN CHILE

Many national police forces have a web presence. Information on recruitment, crime prevention, telephone contacts and locations of police stations, and even video-based announcements, are common. Beyond this basic information, many agencies also have links to special areas and topics and permit e-mail contact. Of interest are the websites of the Carabineros de Chile and the Policia de Investigaciones de Chile. Their websites provide the public with access to various organizational departments, agency reports, hiring requirements, crime prevention information, and to the organization's magazine.

There is also additional information that can be accessed after registering and obtaining a user name and password.

### III. VICTIM AND FAMILY SUPPORT SERVICES AND COMPENSATION

48. The horrific act of stranger femicide affects primarily the loved ones of victims who may suffer for the rest of their entire lives. Victims of violence and femicide should be eligible for compensation either from the perpetrator or the State. Survivors and families must have access to comprehensive services that ensure a prompt response from police and access to the justice system, shelters, legal aid, health care, psycho-social counselling, 24-hour hotlines and long-term support. Children of femicide victims deserve special assistance for their well-being and social integration (e.g. in their schools) until they are adults and protection from further victimisation from the perpetrator as well discrimination from society.
49. Beyond medical care, practical assistance should be provided to the family of victims, including grief counselling, mental health treatment, funeral costs and crime scene clean-up (if in the home), travel costs to receive treatment, moving expenses, social services and the costs of house-keeping and child-care if the victim family is unable to perform these tasks.

### IX. RECOMMENDATIONS

50. Civil society includes a variety of actors, such as relatives of femicide victims, human rights activists, women's rights defenders, journalists, religious communities, etc. support groups as well as women's organizations and NGOs working on community, national, regional and international levels. The role of civil society has been essential in the defence of women's rights, offering legal advice to victims of violence, running campaigns to change existing legislation, denouncing systematic and structural femicide and violence against women in both public and private spheres, as well as exposing government failure to fulfil commitments. Good cooperation between civil society and governmental bodies is essential to successfully prevent and address femicide and violence against women in general.
51. The following contributions and strategies by the civil society should be encouraged to eradicate femicide worldwide and used as a set of practical recommendations:
  - (a) Promote legal reform (penal codes and special laws against femicide);
  - (b) Encourage the establishment of specialized police and prosecution units to investigate and prosecute femicide or attempted murder of women and girls and provide sensitization trainings;
  - (c) Participate in the design and implementation of national plans against femicide;
  - (d) Assure adequate protection of vulnerable groups, such as migrant women, Roma women, disabled and elderly women as well women of minority groups;
  - (e) Introduce consideration of the violence issue in indigenous and certain ethnic communities;
  - (f) Demand access to justice for victims both during peace and war;
  - (g) Encourage cooperation between lawyers, health professionals and NGOs in giving support to victims with regard to their rights, services to be provided and participation in legal processes;
  - (h) Monitor the States to guarantee the fulfilment of their responsibilities and due diligence in order to protect the lives of women and girls;
  - (i) Establish, support and operate services, networks and institutions for preventing femicide and protecting women, such as shelters, hotlines and other facilities of protection;
  - (j) Place the issue of femicide and violence against women on public agendas related to citizen security and secure sufficient funding of programmes and initiatives;
  - (k) Carry out prevention activities with specific at risk groups;
  - (l) Encourage Women Safety Audits and help to create a safer urban environment (i.e. improve lighting, avoid underpass, more frequent police controls, etc.);

- (m) Launch mass campaigns to raise awareness and disseminate information;
- (n) Sensitize the media and provide training for journalists to report in a respectful and objective manner;
- (o) Follow up evaluations of the implementation of the laws and inspections of police practices are needed at regular intervals;
- (p) Press for reliable data-keeping and sharing;
- (q) Ensure the effectiveness of crime scene investigation, chain of custody controls, good training and coordination of police, investigators, prosecutors and judicial authorities to respond more quickly and effectively to crimes against women, prevent contamination of valuable evidence;
- (r) Urge for compensation of victims and their families as well as provide psychological assistance, social services, housing as well as employment support;
- (s) Press for disciplinary measures of sanctions to be imposed against officials who fail to carry their responsibilities and prosecution as required by law, or who themselves engage in acts constituting femicide/violence against women;
- (t) Urge States to bring national law into compliance with international standards on discrimination and violence against women;
- (u) Urge Member States to adapt crime victim compensation and legislation to provide for victims and their families.

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15 August 2014

Original: English

**Expert Group on gender-related killing of women and girls** Bangkok, 11-13 November 2014

Items 4 and 5 of the provisional agenda\*

### **3.2 DISCUSSION ON WAYS AND MEANS TO MORE EFFECTIVELY PREVENT, INVESTIGATE, PROSECUTE AND PUNISH GENDER-RELATED KILLING OF WOMEN AND GIRLS, CONCLUSIONS AND RECOMMENDATIONS OF THE EXPERT GROUP**

**Gender-related killing of women and girls: promising practices, challenges and practical recommendations**

**Background paper prepared by the Secretariat**

#### **I. Introduction**

1. With the adoption of resolution 68/191, entitled “Taking against gender-related killing of women and girls”, the General Assembly expressed its deep concern for the alarming proportion of different manifestations of gender-related killing of women and girls<sup>23</sup> and for their high level of impunity and urged Member States to exercise due diligence to address acts of violence against women. Recognizing the key role of the criminal justice system in preventing and responding to gender-related killing of women, the Assembly also invited Member States to strengthen their criminal justice response.<sup>24</sup>
2. Furthermore, it requested the Secretary-General to convene an open-ended intergovernmental expert group meeting to discuss ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women, with a view to making practical recommendations drawing on current best practices. Pursuant to the Assembly mandate and thanks to the support provided by the Government of Thailand the meeting of the open-ended intergovernmental expert group is to be held in Bangkok from 11 to 13 November 2014.
3. With a view to facilitating the discussion and the exchange of knowledge at the above meeting, the United Nations Office on Drugs and Crime (UNODC), in cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, prepared this document, which highlights some current and promising practices and includes draft practical recommendations for consideration by the expert group.

<sup>23</sup> \* UNODC/CCPCJ/EG.8/2014/1. Hereinafter, the term “women” includes girls under the age of 18.

<sup>24</sup> General Assembly resolution 68/191. V.14-05360 (E)

## II. FRAMING THE PROBLEM

### A. WHAT IS GENDER-RELATED KILLING OF WOMEN?

4. Gender-related killing of women is generally understood to refer to the intentional murder of women because they are women, whether they occur in public or in private. The concept emerged in the 1970s in sociological research under different labels, including “femicide” or “feminicide”, and has been the subject of recent criminal law reforms, especially in Latin America. In her 2012 report, the Special Rapporteur on violence against women, its causes and consequences considered examples from different regions and stressed that the global prevalence of gender-related killing of women was reaching alarming proportions.<sup>25</sup> She identified such killing as the extreme manifestation of violence against women,<sup>26</sup> often representing the final event of an extended and ignored continuum of violence. Rooted in gender-based discrimination and the unequal power relations between men and women, gender-related killing is frequently exacerbated by other forms of discriminations based on race, caste, class, geographical location, religion or belief, education attainment, ability and sexuality and a general tolerance of violence against women.<sup>27</sup>
5. The Special Rapporteur distinguished active or direct forms of gender-related killing from passive or indirect forms. Direct forms include: killing as a result of intimate partner violence; sorcery/witchcraft-related killing; “honour”-related killing; armed conflict-related killing; dowry-related killing; gender identity- and sexual orientation-related killing; and ethnic- and indigenous identity-related killing. Indirect forms encompass: deaths due to poorly conducted or clandestine abortions; maternal mortality; deaths from harmful practices; deaths linked to human trafficking, drug dealing, organized crimes and gang-related activities; the death of girls or women from simple neglect, through starvation or ill-treatment; and deliberate acts or omissions by the State.<sup>28</sup>
6. Conceptualizing gender-related killing of women has proven difficult. There is little consistency among lawmakers, service providers and researchers regarding its constitutive elements. Different forms of lethal violence vary depending on factors such as political and cultural contexts, circumstances or social dynamics. A key challenge is to determine the specific gender context and circumstances in which women are killed and to avoid treating women as vulnerable to homicide merely because they are women.
7. Victims of gender-related killing are not only the women directly affected. The term “victims” was defined by the General Assembly as the “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws [...] A person may be considered a victim [...] regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term ‘victim’ also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization”.<sup>29</sup>

### B. RELEVANT INTERNATIONAL NORMATIVE AND POLITICAL FRAMEWORKS

8. Gender-related killing of women is both a form of violence against women and one of its consequences. As such, States’ obligations to address violence against women, and hence gender-related killing of women, arise from their duty under international human rights law to prevent human rights violations within their jurisdictions, protect individuals, punish the perpetrators of violations and provide redress to the victims.<sup>30</sup> Accordingly, States must “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.”<sup>31</sup>
9. This due diligence standard was further developed by the 1995 Beijing Platform for Action,<sup>32</sup> other international and regional instruments and declarations<sup>33</sup> and human rights mechanisms.<sup>34</sup> At a systemic level, it implies obligations to address the

<sup>25</sup> A/HRC/20/16.

<sup>26</sup> The Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104) defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”.

<sup>27</sup> A/HCR/17/26, para. 40.

<sup>28</sup> A/HRC/20/16, para. 16.

<sup>29</sup> Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex.

<sup>30</sup> A/HRC/20/16, para. 82. See also Inter-American Court of Human Rights (IACtHR), *Velásquez Rodríguez vs. Honduras*, Judgment of 29 July 1988, Series C. No. 4; European Court of Human Rights (ECtHR), *Opuz vs. Turkey*, Judgment, 9 June 2009, para. 128.

<sup>31</sup> Declaration on the Elimination of Violence against Women, art. 4 (c). See also Committee on the Elimination of Discrimination against Women **Recommendation No. 19 (1992)**, para. 24 (t).

<sup>32</sup> A/CONF.177/20/Rev.1, annex II, paras. 112-130.

<sup>33</sup> See, respectively, Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104; updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 65/228, annex; Human Rights Council resolutions 7/24, 11/2, 14/12; the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará Convention); the 2003 Protocol on the Rights of Women to the African Charter on Human and Peoples’ Rights (Maputo Protocol); the 2011 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention); and the 2004 Association of Southeast Asian Nations’ (ASEAN) Declaration on the Elimination of Violence Against Women.

<sup>34</sup> A/HRC/23/49, paras. 23-40.

structural causes and consequences of violence against women. At the individual level, States must establish and use effective means to respond to each case.<sup>35</sup> It also entails that traditions, customs or religious considerations cannot be invoked as a justification to avoid these obligations.<sup>36</sup>

10. The obligation to prevent and protect requires States to adopt comprehensive measures to address the root causes of and risk factors for violence against women and discrimination.<sup>37</sup> It is not limited to the adoption of political and legal frameworks<sup>38</sup> or to the establishment of formal judicial remedies. Law enforcement and the justice system must have sufficient capacity to operate effectively and eliminate impunity through effective criminal investigations that allow for adequate sanction and reparation of the victims.<sup>39</sup> The obligation also entails establishing appropriate, immediate, timely, exhaustive, serious and impartial judicial response to acts of violence against women<sup>40</sup> as well as measures to ensure adequate training of criminal justice personnel, coordination within the criminal justice system and cooperation with victim protection and support organizations.<sup>41</sup> In some circumstances, this obligation extends to a “positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual.”<sup>42</sup> Preventive measures also include the obligation to address harmful gender stereotypes and wrongful gender stereotyping.<sup>43</sup>
11. The duty to investigate, prosecute and punish has two main purposes: to prevent repetition of harmful acts and to provide justice to the victims.<sup>44</sup>

International standards have been developed concerning criminal investigations and proceedings. In particular, judicial institutions should be independent and impartial. Investigations should be prompt, effective, exhaustive, and aimed at establishing the truth and at identifying, prosecuting and sanctioning the perpetrators.<sup>45</sup>

12. The updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, adopted by the General Assembly in December 2010 to provide to Member States a set of specific recommendations related to the criminal justice system, underline that investigations should be carried out with a gender perspective, should consider the specific vulnerability and the victims’ needs and should use techniques that minimize intrusion into their lives while abiding by standards for the collection of evidence.<sup>46</sup> The updated Model Strategies also provide that the investigation and prosecution of acts such as gender-related killing of women should be initiated ex officio and without delay by competent authorities.<sup>47</sup> They also indicate that evidentiary rules should be non-discriminatory, should allow the admission of all relevant evidence and should preclude the admissibility of the defence of “honour” or “provocation”.<sup>48</sup> Furthermore they prescribe that evidence of prior acts of violence by the perpetrator should also be considered during court proceedings.<sup>49</sup>

Finally, it is foreseen that the exercise of powers by police, prosecutors and other criminal justice officials should be in line with the rule of law and codes of conduct and that such officials should be held accountable for any infringement thereof through appropriate oversight and accountability mechanisms.

13. States’ obligations also encompass the duty to guarantee victims’ rights to an effective remedy,<sup>50</sup> including (a) equal and effective access to justice; (b) adequate, effective and prompt reparations for harm suffered; and (c) access to relevant

35 Ibid., para. 20.

36 See Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104, art. 4.

37 Report of the Special Rapporteur on violence against women, Radhika Coomaraswary, **Violence against women in the family**, E/CN.4/1999/68, 10 March 1999, para. 25.

38 The Committee on the Elimination of Discrimination against Women underlined that States’ obligations encompass preventing direct and indirect discrimination, i.e., laws, policies, programmes or practices that seem to be neutral but, in practice, have a discriminatory effect against women because of structural and pre-existing inequalities. **General Recommendation No. 28**, CEDAW/C/GC/28, para. 16.

39 IACtHR, **González and others vs. Mexico**, 2009, para. 252; Committee on the Elimination of Discrimination against Women Communication No. 5/2005, **Sahide Goeke vs. Austria**, CEDAW/C/39/D/5/2005 (6 August 2007) and Communication No. 20/2008, **Violeta Komova vs. Bulgaria**, CEDAW/C/49/D/20/2008 (27 September 2011).

40 Inter-American Commission on Human Rights, **Access to Justice for Women Victims of Violence in the Americas**, OEA/Ser.L/V/II. Doc. 68, 20 January 2007, para. 296.

41 Committee on the Elimination of Discrimination against Women Communication No. 5/2005, para. 12.3 and Communication No. 20/2008, para. 9.16.

42 ECtHR, **Opuz vs. Turkey**, para. 128. See also Committee on the Elimination of Discrimination against Women Communication No. 20/2008, **Violeta Komova vs. Bulgaria**, CEDAW/C/49/D/20/2008 (27 September 2011) and Communication No. 5/2005, **Sahide Goeke vs. Austria**, CEDAW/C/39/D/5/2005 (6 August 2007), para. 12.

43 Convention on the Elimination of All Forms of Discrimination against Women, Art. 2(f) and 5(c). Committee on the Elimination of Discrimination against Women **General Recommendation No. 28**, para. 16. See also OHCHR, **Gender Stereotyping as a Human Rights Violation**, October 2013, [www.ohchr.org/Documents/Issues/Women/WRGS/StudyGenderStereotyping.doc](http://www.ohchr.org/Documents/Issues/Women/WRGS/StudyGenderStereotyping.doc).

44 A/HRC/23/49, para. 73.

45 Committee against Torture, **Final observations: Spain**, United Nations Doc. CAT/C/ESP/CO/5 (9 December 2009), para. 24; Id, **Final observations: Albania**, United Nations Doc. CAT/C/ALB/CO/2 (26 June 2012), para. 25; Committee on the Rights of the Child, **General observation No. 12**, United Nations Doc. CRC/C/GC/12 (20 July 2009) and **General observation No. 13**, United Nations Doc. CRC/C/GC/13 (18 April 2011).

46 General Assembly resolution 65/228, annex, para. 16 (e).

47 Ibid., para. 15 (b).

48 Ibid., para. 15 (d).

49 Ibid., para. 15 (g).

50 Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104, art. 4 (d) and (g); Belém do Pará Convention, art. 7; Istanbul Convention, art. 17 and 18; and Maputo Protocol, art. 4 and 10.

information.<sup>51</sup> In criminal proceedings, victims should be heard<sup>52</sup> or enabled to testify through measures that protect their privacy, identity and dignity while ensuring their safety and avoiding secondary victimization.<sup>53</sup> Remedies should also be “transformative” and address structural subordination and systemic marginalization.<sup>54</sup> Special attention is to be paid to children victims and witnesses of gender-related killing of women.<sup>55</sup> Victims should be enabled to speak to a female officer and should be informed of the offender’s release from detention or imprisonment.<sup>56</sup>

14. The above-mentioned obligations should be applied without discrimination based on any ground and should take into account the particular vulnerability to violence of specific groups of women, including those belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, women in institutions or in detention, women with disabilities, elderly women, widows, women in situations of armed conflict, women who are otherwise discriminated against, including on the basis of HIV status, and women victims of commercial sexual exploitation.<sup>57</sup>
15. The specific issue of gender-related killing of women has recently been addressed in the framework of various international forums,<sup>58</sup> including the General Assembly, the Human Rights Council and the Commission on the Status of Women, underlining the alarming prevalence of the phenomenon and recalling States’ obligations. The issue has also been addressed at the regional level. In Latin America, for example, in 2008, the monitoring mechanism of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women issued a specific declaration on “femicide”.<sup>59</sup>

### III. PROMISING PRACTICES AND CHALLENGES CONCERNING GENDER-RELATED KILLING OF WOMEN

16. Three main approaches can be distinguished with regard to the use of criminal law to prevent, investigate, prosecute and punish gender-related killing of women.

Some countries, mainly in Latin America, have established the crime of “femicide” or “feminicide” in their criminal codes, although the elements of the crime vary widely.<sup>60</sup> The second approach builds on the inclusion of gender-related aggravating factors for homicide offences. They include objective circumstances (i.e. the relationship between the victim and the perpetrator or the pregnancy of the victim) or subjective elements (i.e. hatred, prejudice or “honour”).<sup>61</sup> The third approach, taken by many countries, is to use existing gender-neutral criminal law provisions on homicide, murder or manslaughter, based on the general principle that men and women are equal before the law.<sup>62</sup>

17. Insufficient access to justice is a major obstacle for the effective prevention, investigation, prosecution and punishment of gender-related killing of women. It may be due to a multitude of factors such as (a) inadequate or discriminatory laws; (b) a lack of gender-sensitive procedures to deal with violence against women;<sup>63</sup> (c) persistence of discriminatory gender stereotypes and attitudes of police and other criminal justice officials (i.e. victim-blaming attitudes or under-enforcement in minority communities);<sup>64</sup> (d) insufficient funding for the implementation of legal or administrative provisions concerning victims’ rights; (e) stigma and fear of reprisals; (f) victims’ lack of information on their rights and procedures; or (g) limited geographic availability of judicial services. Social and economic factors, such as dependency on the income of her partner, may also prevent a woman from seeking justice.
18. Criminal justice institutions do not always have the capacity to prevent and address gender-related killing of women in a gender-sensitive manner. The challenges include gender stereotypes and discrimination, insufficient specialized expertise and training, and a lack of financial and human resources. Furthermore, it should be highlighted that the number of women employed within the justice system is frequently low, especially at the senior level.

51 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, paras. 10 and 11; General Assembly resolution 65/228, annex, para. 18 (a); and Istanbul Convention, art. 19.

52 General Assembly resolution 40/34, annex, para. 6 (b) and Convention on the Rights of the Child, art. 12.

53 General Assembly resolution 65/228, annex, para. 15 (c).

54 A/HRC/14/22, paras. 12 and 24.

55 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Economic and Social Council resolution 2005/20, annex.

56 General Assembly resolution 65/228, annex, paras. 16 (l) and 17 (c).

57 Ibid., Preamble.

58 General Assembly resolution 68/191; Human Rights Council resolution 23/25, and the **Agreed conclusions on the elimination and prevention of all forms of violence against women and girls** of the Commission on the Status of Women, E/2013/27-E/CN.6/2013/11.

59 **Declaration on Femicide**, OEA/Ser.L/II.7.10, 15 August 2008.

60 UNODC/CCPCJ/EG.8/2014/CRP.1, para. 8; Secretary-General’s campaign UNITE, **La regulación del delito de femicidio/feminicidio en América Latina y el Caribe**, July 2012.

61 UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 6-7.

62 Ibid., paras. 5 and 10.

63 For example, regarding the admissibility of circumstantial evidence, statute of limitation or the concept of self-defence.

64 European Union (EU), **Feasibility study to assess the possibilities, opportunities and needs to standardize national legislation on violence against women, violence against children and sexual orientation violence**, Brussels 2010, pp. 64 and 204, p. 65; Cusack, **Eliminating judicial stereotyping**, 2014, available at [www.ohchr.org/EN/Issues/Women/WRGS/Pages/Documentation.aspx](http://www.ohchr.org/EN/Issues/Women/WRGS/Pages/Documentation.aspx)

## A. DATA COLLECTION AND ANALYSIS

19. At the global level, several studies have been conducted that provide useful data on gender-related killing of women, particularly within the context of intimate partner violence. The 2011 **UNODC Global Studies on Homicide** highlighted that intimate partner/family-related violence was a major cause of female homicides and had a disproportionate impact on women.<sup>65</sup> In 2012, almost half of all female victims of murder (47 per cent, or 43,600 women) were killed by their family members or intimate partners, compared to 6 per cent (20,000) of male homicide victims.<sup>66</sup>
20. At the national level, statistical data provided to UNODC by Member States indicate that men outnumber women as victims of murder and other forms of crime, but that women are more likely to be victims of intimate partner homicide and are disproportionately affected by domestic and/or sexual violence.<sup>67</sup> The killing of women accused of sorcery/witchcraft is reported as a significant phenomenon in countries in Africa, Asia and the Pacific islands.<sup>68</sup> Dowry-related murders continue to be a widespread practice in some South Asian countries. For example, over 8,000 such cases have been reported in India every year during the period 2008-2012.<sup>69</sup> Prenatal sex selection, girl neglect and female infanticide remain a critical concern in some countries.<sup>70</sup> In Mexico and Central America, the growing phenomena of organized crime, human and drug trafficking and the proliferation of small arms have brought a considerable increase in the rates of killing of women,<sup>71</sup> although it is not clear whether the main drivers of these killings are related to gender.
21. Data and information on gender-related killings of women is available predominantly from administrative records of law enforcement and judicial sources. Some countries have also used population-based sources of information like victimization, demographic or health surveys to estimate women's exposure to partner and non-partner violence.<sup>72</sup>
22. It is important here to stress that "collecting sound data on the magnitude and nature of the problem has served in many countries as a stimulus to acknowledge and name the problem and initiate discussions on policies and strategies to address it".<sup>73</sup> In this regard, it should be recalled that existing United Nations initiatives can support countries in gathering data and information on gender-related killing of women. To improve the comparability of criminal justice data on intentional homicide and other offences, an international crime classification for statistical purposes is being developed under the auspices of the Statistical Commission and the Commission on Crime Prevention and Criminal Justice, and is expected to be endorsed in 2015.<sup>74</sup> The indicators for the documentation of the prevalence of violence against women, developed by the Statistical Commission, and the guidelines developed by the Statistics Division of the Department of Economic and Social Affairs help countries gather data on the forms of violence that can precede gender-related killing of women, but do not relate to gender-related killing of women as such.<sup>75</sup>
23. The different manifestations, causes and consequences of gender-related killing of women are still not well understood. "Reliable and globally comparable data on its natures and prevalence remain scarce"<sup>76</sup> and victimization surveys and other population-based sources, by their very nature, do not lend themselves to the collection of information on homicides.<sup>77</sup>
24. Administrative records of homicides often do not capture information on gender-related killing. In many cases, they are not disaggregated by sex and do not include data on the motivation, context or circumstances of the crime, on the relationship between victim and perpetrator, the modus operandi or the connection between killing of women with their prior experiences of violence.<sup>78</sup>

Misclassifications of the murders of women under categories such as "crime of passion", "accidental death" or "suicide" lead to underreporting. Furthermore, single data sources (e.g. law enforcement data) provide only limited information while some other data sources (e.g. medical surveillance data) remain underused to assess risk factors. Key challenges include the use of a variety of sources and different methodologies<sup>79</sup> and the effective coordination among responsible agencies.<sup>80</sup>

65 UNODC, **Global Study on Homicide**, 2011, p. 57-58. In 2013, the World Health Organization (WHO) confirmed these figures in WHO, London School of Hygiene and Tropical Medicine and South African Medical Research Council, **Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence**, Geneva, 2013, p. 26.

66 UNODC, **Global Study on Homicide**, 2013, p. 49-56.

67 UNODC/CCPCI/EG.8/2014/CRP.1, paras. 41-55.

68 Marcia Kran, OHCHR, in Academic Council on the United Nations System, **Femicide: A Global Issue That Demands Action**, Vol. II, 2014, p. 41.

69 National Crime Records Bureau, **Crime in India 2012**, p. 81, available at <http://ncrb.nic.in/CD-CII2012/Compendium2012.pdf>

70 United Nations Population Fund (UNFPA) Asia and the Pacific Regional Office, **Sex Imbalances at Birth: Current trends, consequences and policy implications**, August 2012.

71 OHCHR, **Gender-related killings of women and girls**, August 2013, [www.ohchr.org/english/issues/women/docs/Gender\\_motivated\\_killings.pdf](http://www.ohchr.org/english/issues/women/docs/Gender_motivated_killings.pdf)

72 See, for example, European Union Agency for Fundamental Rights, **Violence against women: an EU-wide survey**, available at <http://fra.europa.eu/en/publication/2014/vaw-survey-main-results>

73 WHO study cited in note 43, p. 34.

74 E/CN.15/2014/10.

75 Statistics Division, **Report on the Meeting of the Friends of the Chair of the United Nations Statistical Commission on Statistical Indicators on Violence against Women**, February 2010, ESA/STA/AC.193/L.3.

76 Program for Appropriate Technology in Health et al., **Strengthening Understanding of Femicide: Using research to galvanize action and accountability**, 2009, p. 3.

77 UNODC Manual on Victimization Surveys, 2010, p. 9.

78 UNODC, **Global Study on Homicide**, 2013, pp. 99-108.

79 **Guidelines for Producing Statistics on Violence against Women**, ST/ESA/STAT/SER.F/11, 2013.

80 UNODC, **Global Study on Homicide**, 2013, p. 106.

25. These challenges are further complicated by discrepancies in the definition of the concept of gender-related killing of women, which lead to methodological divergence regarding the collection and analysis of data and prevent their comparability. Often, relevant data are limited to specific contexts such as intimate partner or domestic violence and restricted to the murder of a woman by a man (usually within a relationship framework), excluding other forms and contexts of victimization, including where women are perpetrators, the killing occurs outside an intimate relationship or in same-sex relationships.
26. Gaps in available data and research persist, especially in Asia and Africa and with regard to some forms of gender-related killing of women and their impact on specific groups. More research and data collection is needed to better understand and address “honour”- and dowry-related killing, ritualistic killing, killing during pregnancy or in the context of reproductive health and female infanticide, as well as to assess the specific vulnerabilities of elderly women, lesbians, transgender and transsexual women, migrant women or disabled women.

## B. PREVENTION

27. To effectively prevent and eliminate gender-related killing and related forms of violence against women, comprehensive approaches are required. Preventing violence can range from stopping violence from reoccurring to stopping it from happening in the first place, and effective interventions will vary accordingly. Promising prevention practices vary, but they include not only reforms to discriminatory laws and practices but also efforts to challenge social norms and stereotypes that support and condone male domination and control over women, and to strengthen women’s economic and social autonomy.<sup>81</sup>
28. Many countries have adopted integrated legal and policy frameworks (e.g. national plans of action and strategies) and reformed not only their criminal law and procedure but also other related areas of law (e.g. civil, family, asylum, migration or labour laws). Promising operational measures include community-based interventions and media campaigns,<sup>82</sup> as well as school-based curricula on respectful relationships and gender equality. Working with boys and men, before and after violence has occurred, is also an important aspect of prevention. For those who have already used violence, community- or prison-based perpetrator programmes are offered in some countries to enable boys and men to learn and practice alternatives to violence,<sup>83</sup> although their evaluations have yielded mixed results.<sup>84</sup>
29. Given that gender-related killing often represents the culmination of a continuum of violence against women, the criminalization of and timely responses to forms of violence that precede the killing can have a preventive impact. Relevant offences include domestic or intra-family violence, rape, forced marriage, trafficking in women and girls, stalking, acid attacks, female genital mutilation, sexual harassment and slavery.<sup>85</sup>
30. Available estimates of gender-related killing of women suggest that current legislations, policies and programmes are not effectively addressing violence against women. Comprehensive and effective measures to respond to such violence would go a long way in preventing gender-related killing, especially since they often represent the culmination of a continuum of violence.
31. A key challenge is achieving coherent and comprehensive legislative and policy frameworks that explicitly address gender inequality as the basis of violence against women.<sup>86</sup> Too often, existing laws are limited to intimate partner or domestic violence, ignoring the discriminatory basis and marginalizing forms and circumstances of violence that do not fit under these categories (i.e. deaths provoked by the sexual orientation or the gender identity of the victim, by non-family members or during armed conflicts).<sup>87</sup> In addition, the different branches of law involved in the prevention and response to violence that could lead to gender-related killing of women (criminal, civil, family and migration laws) are not always coherently coordinated and they deal with various forms of violence in a disconnected manner. Moreover, many countries still “see the violent experiences of women as disconnected events, taking place in the private sphere of relationship conflict and beyond the realm of policy makers.”<sup>88</sup> Finally, national strategies, plans or programmes often lack appropriate human resources, adequate funding or sustainability,<sup>89</sup> and are seldom subjected to effective monitoring and evaluation.<sup>90</sup>
32. At the operational level, measures to prevent and respond to violence against women are often less comprehensive and coordinated than required. Since victims need services that go beyond immediate protection,<sup>91</sup> a key challenge is effective coordination of different public sectors, including justice, law enforcement, education, health and social services. Moreover, informal support systems may provide victims the necessary support before the criminal justice system is called to intervene, while, at the same time, preparing for this intervention.

81 A/HRC/17/23, 19 April 2011.

82 UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 92-93.

83 EU Feasibility study, pp. 64 and 204, cited in note 42.

84 See [www.endvawnow.org/en/articles/229-perpetrators-of-violence-batterers.html](http://www.endvawnow.org/en/articles/229-perpetrators-of-violence-batterers.html)

85 Ibid., para. 11.

86 EU Feasibility study, p. 124, cited in note 42.

87 Ibid., p. 115.

88 WHO Study, p. 31, cited in note 43.

89 A/HRC/23/49, para. 49.

90 A/HRC/17/23, para. 62.

91 For example, the availability of shelters should be associated with other policies that enable battered women and their children to live safe and ..... autonomously (Desmond Ellis and Walter S. DeKeseredy, *Rethinking Estrangement, Interventions and Intimate Femicide, Violence against Women*, Vol. 3 No. 6, December 1997, p. 603).

33. In some countries, the expansion of police preventive initiatives represents a positive development. However, “some of the main failures in the adequate protection of women victims of violence emerge in the initial response by authorities to an emergency call, and the police are often the first authority that women call on.”<sup>92</sup> Moreover, the intervention of the police is often restricted to the specific context of violence (i.e. domestic violence), the relationship between the victim and the perpetrator, or procedural momentum (when a criminal proceeding has been initiated).<sup>93</sup>
34. Alternative dispute resolution mechanisms (such as mediation, conciliation, arbitration or community-based or traditional dispute resolution) have been used as preventive tools in family and criminal laws, in order to hasten conflict resolution, reduce court backlog or preserve social relationships for the disputants.<sup>94</sup> However, many concerns have been raised regarding their effectiveness, the power imbalance between the perpetrator and the victim, the risk for women to be discriminated against and suffer retaliation, the lack of judicial safeguards and the inadequacy to meet victims’ needs.<sup>95</sup>
35. The relationship between firearms and intimate partner violence (threats and murders) is another key challenge. Studies show that women are much more at risk of been murdered if there was a gun in their home.<sup>96</sup> In addition to restricting the possession and use of firearms,<sup>97</sup> export controls may be required to minimize the risk of violence against women.<sup>98</sup>
36. News media play a fundamental role in “shaping society’s perception of crime as well as public opinion of offenders and victims.”<sup>99</sup> In many societies, news coverage is highly marked by harmful gender stereotypes and myths, sending “a clear message to consumers that [violence against women] is not a serious crime,”<sup>100</sup> while media could play an essential role in raising awareness regarding violence against women.

### C. INVESTIGATION AND PROSECUTION

37. Several promising practices can be identified with regard to the criminal procedure. In many countries, violence in the family or against a partner is considered a public offence that does not require the complaint of the victim or private prosecution.<sup>101</sup> In others, prosecuting authorities are required to continue criminal proceedings despite the victim’s withdrawal of complaint in the cases of domestic violence.<sup>102</sup> In a third group of countries, the prosecutor retains a margin of discretion in deciding whether to pursue criminal proceeding of domestic violence.<sup>103</sup> Some legal systems provide the police with special powers in cases of domestic violence, such as the permission to enter the home without a warrant, to temporarily ban the offender from the home or to arrest the suspect to protect the victims and/or to prevent future assault.<sup>104</sup> In other instances, judges can also issue urgent court decisions *ex parte* on probable cause within a day.<sup>105</sup>
38. Some countries have designated forms of violence against women as a priority for the police and prosecution,<sup>106</sup> and established special units within the police and prosecution or specialized courts, some of them focusing on gender-related killings of women.<sup>107</sup> Good practices also include the implementation of specialized institutional policies, guidelines and protocols,<sup>108</sup> and the provision of training for judicial operators.
39. At the global level, specific recommendations on the role of the criminal justice system in responding to violence against women are contained in a series of UNODC tools and publications such as the **Handbook on Effective Police Responses to Violence against Women**,<sup>109</sup> the **Handbook on Effective Prosecution Responses to Violence Against Women** (forthcoming) and the recent publication **Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women**.<sup>110</sup> A number of quality standards for the provision of essential police and justice sector responses to violence against women are also currently being developed by UN-Women and UNFPA, together with UNODC and the United Nations Development Programme (UNDP).

92 A/HRC/23/49, para. 50.

93 Council of Europe, **Protecting women against violence, Analytical study on the results of the third round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in the Council of Europe member states**, 2010, pp. 17-18.

94 Gender Equality Commission of the Council of Europe, **Feasibility Study Equal Access to Justice**, GEC (2013) 1 abridged Rev, 28 May 2013, paras. 48-53.

95 Due Diligence Project, **Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women**, pp. 61-62.

96 Small Arms Survey, **Small Arms Survey 2013: Everyday Dangers**, Chapter 2. Too Close to Home: Guns and Intimate Partner Violence, July 2013, [www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2013/en/Small-Arms-Survey-2013-Chapter-2-EN.pdf](http://www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2013/en/Small-Arms-Survey-2013-Chapter-2-EN.pdf)

97 General Assembly resolution 65/228, annex, para. 14(c)(1).

98 Arms Trade Treaty, article 7(4).

99 Tara N. Richards et al., **Exploring News Coverage of Femicide: Does the News Add Insult to Injury?**, *Feminist Criminology* 2011, Vol. 6(3), p. 179.

100 Ibid.

101 EU Feasibility Study, p. 64, cited in note 42.

102 ECtHR, **Opuz vs. Turkey**, para. 87.

103 EU Feasibility Study, p. 64, cited in note 42.

104 Ibid.

105 Ibid., p. 63.

106 Ibid., p. 64.

107 Ibid. See also UNODC/CCPCI/EG.8/2014/CRP.1, paras. 61-73.

108 See also UNODC/CCPCI/EG.8/2014/CRP.1, paras. 83-87; OHCHR/UN-Women, **Modelo de protocolo latinoamericano de investigación de las muertes de mujeres por razones de género (femicidio/feminicidio)**, 2014.

109 Available at [www.unodc.org/documents/justice-and-prison-reform/Handbook\\_on\\_Effective\\_police\\_responses\\_to\\_violence\\_against\\_women\\_English.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf).

110 Available at [www.unodc.org/documents/justice-and-prison-reform/Strengthening\\_Crime\\_Prevention\\_and\\_Criminal\\_Justice\\_Responses\\_to\\_Violence\\_against\\_Women.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf).

40. At the regional level, in Latin America, OHCHR and UN-Women have developed a regional model protocol for the investigation of gender-related killing of women to provide criminal justice officials with practical tools to guide their investigation and judicial strategies.<sup>111</sup>
41. In her report of 2012, the Special Rapporteur on violence against women, its causes and consequences emphasized that impunity for the killing of women has become a global concern.<sup>112</sup> Attrition and low conviction rates remain a real challenge for successful prosecutions. The main causes are commonly identified as: (a) insufficient attention given to previous complaints including inadequate risk assessment and management strategies; (b) procedures that place the responsibility for initiating investigations and prosecutions on the victim; (c) lack of gender-sensitive criminal investigations; (d) insufficient reliance on evidence other than witnesses' testimonies;<sup>113</sup> (e) erroneous legal classification of the offence; (f) use of mitigating circumstances to lower the sentences; and (g) insufficiency of effective protection programmes for victims and witnesses. Where customary judicial systems exist, their parallel application may jeopardize gender-sensitive justice. Furthermore, it is not always clear to what extent intimate partner violence or any motives relative to social constructs and norms based on "honour", women's sexuality or discrimination are considered as aggravating the general offence.<sup>114</sup>
42. It should also be noted that some forms of gender-related killing of women are rarely investigated. Examples include fire-related deaths of women, the practice of sati,<sup>115</sup> disappearances of women, female infanticide, witchcraft/sorcery-related killing, forced suicides and self-immolations of women.
43. Gender-insensitive judicial practice also stands in the way of the effective prosecution and punishment of gender-related killing of women. For example, significant concern has been raised about allowing an accused's cultural background to be considered as factor of special significance in the context of provocation as a partial defence or mitigation for homicide offences.<sup>116</sup>

#### D. VICTIMS' RIGHTS

44. A variety of measures have been adopted by countries to provide protection, support and assistance to women victims of violence. They include risk and safety assessments, enforcement of protection orders, shelters, free psychosocial and legal assistance, toll-free telephone help lines or electronic devices to obtain rapid police assistance.<sup>117</sup> An adequate legal basis is also crucial to ensure that victims have access to justice and can obtain assistance, protection and compensation.<sup>118</sup>
45. Throughout the years, the United Nations has adopted several normative instruments on the rights for the victims of crime, including violence against women.<sup>119</sup> The European Union directive on the rights of victims<sup>120</sup> contains an extensive catalogue of provisions that have already been codified by many of its member States.<sup>121</sup> In Latin America, the recent criminal procedural reforms undertaken in several countries established special attributions to prosecutor's offices as State guarantors of victims' rights and reinforced the role of the victims within criminal proceedings.
46. The involvement of affected parties in criminal procedure is essential. However, victims continue to face many hurdles to claim their rights and participate in criminal proceedings. In the case of gender-related killing of women, these hurdles are often faced by the children of the women who have been killed or other family members. Often, these obstacles are the combination of inequalities and biases at legal, institutional, structural, socioeconomic and cultural levels.<sup>122</sup>
47. The individual and collective dimensions of reparations of gender-related killing of women are usually overlooked or limited to the criminal response. The imposition of a prison sentence on the perpetrator, sometimes coupled with the payment of pecuniary damages, is often considered sufficient. The Special Rapporteur on violence against women, its causes and consequences underlined the need to engender the way reparations are conceived in order to respond to this type of violence as "part of a larger system of gender hierarchy that can only be fully grasped when seen in the broader structural context."<sup>123</sup> In this

111 The drafting process of the **Modelo de protocolo latinoamericano de investigación de las muertes violentas de mujeres por razones de género (femicidio/feminicidio)** involved experts and judicial operators from all Latin America and Europe.

112 A/HRC/20/16, para. 19.

113 A/HRC/23/49, para. 53.

114 A/HRC/23/49.

115 The practice of sati is defined as the burning alive of a widow on her husband's pyre. See A/HRC/20/16, para. 77.

116 Research shows that inadequate protection has been provided to women threatened of "honour"-related crimes owing to their being characterized as "cultural" rather than understood as an extreme form of violence. WHO and Pan American Health Organization, **Femicide**, 2012.

117 UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 97-107.

118 *Ibid.*, paras. 14-25.

119 See, inter alia, (a) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex; (b) Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Economic and Social Council resolution 2005/20, annex; (c) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, annex; and (d) updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 65/228, annex.

120 EU, **Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing the Council Framework Decision 2001/220/JHA.**

121 EU Feasibility study, p. 90, cited in note 42.

122 Gender Equality Commission of the Council of Europe, **Feasibility Study Equal Access to Justice**, GEC(2013) 1 abridged Rev., 28 May 2013, para. 234.

123 A/HRC/14/22, para. 31.

regard, the key challenge is to provide “transformative” reparations that “aspire [...] to subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systematic marginalization and structural inequalities.”<sup>124</sup>

#### **IV. PRACTICAL RECOMMENDATIONS**

##### **A. GENERAL RECOMMENDATIONS**

**48.** Member States should be encouraged to:

- (a)** Ratify and implement relevant universal and regional human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Rome Statute of the International Criminal Court, the Maputo Protocol, the Belém do Pará Convention and the Istanbul Convention;
- (b)** Review, and when necessary, adopt or amend laws, policies, procedures and practices in line with the recommendations contained in the updated Model Strategies, and the recommendations of the relevant human rights mechanisms and committees such as the Committee on the Elimination of Discrimination against Women, in order to ensure that relevant laws, policies, procedures and practices are in conformity with international human rights law, principles and standards, especially regarding women’s rights;
- (c)** Adopt a legal framework to effectively address gender-related killing of women, including, where appropriate, by providing for specific offences or aggravating circumstances and by ensuring that perpetrators cannot invoke mitigating circumstances such as “passion”, “violent emotion”, “honour” or “provocation” to escape criminal responsibility;
- (d)** Strengthen the capacity of criminal justice institutions to prevent, investigate, punish and remedy gender-related killing of women, including by:
  - (i)** Implementing training programmes and awareness campaigns;
  - (ii)** Combating and eradicating gender stereotypes and discrimination within institutions and providing adequate sanctions for discrimination and other misconduct;
  - (iii)** Promoting the employment of women in the legal and law enforcement professions, especially at the senior level;
- (e)** Provide sufficient human, technical and financial resources for the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women;
- (f)** Monitor the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women and evaluate their effectiveness and impact, including from a gender perspective, through transparent and participatory processes;
- (g)** Take into consideration the Latin American model protocol for the investigation of gender-related killing of women, recently developed by OHCHR and UN-Women,<sup>125</sup> and consider developing similar instruments for other regions.

**49.** Relevant United Nations agencies, in particular UNODC, OHCHR and UN-Women, should be encouraged to:

- (a)** Continue to raise awareness among Member States regarding gender-related killing of women, and to support Member States, upon request, in developing and implementing strategies and policies at the national, regional and international levels to prevent and address gender-related killing of women;
- (b)** Facilitate the gathering and dissemination of relevant and reliable data and other information to be provided by Member States;
- (c)** Conduct and coordinate additional empirical research on the context, root causes, risk factors and consequences of gender-related killing of women, and explore the feasibility of conducting a joint global analytical report based on empirical data, with a view to foster a global understanding of gender-related killing of women;
- (d)** Organize one or more expert group meetings to develop specific technical guidance on the gender-related killing of women that can assist Member States in addressing this issue and implementing the practical recommendations of the intergovernmental expert group meeting.

**50.** Human rights mechanisms, including relevant treaty bodies and special procedures, should be encouraged to continue to address gender-related killing of women in their work and to consider the recommendations of the intergovernmental expert group meeting when calling on States to implement their due-diligence obligations in this regard.

##### **B. DATA COLLECTION AND ANALYSIS**

**51.** Member States should be encouraged to:

- (a)** Develop, with the assistance of relevant United Nations agencies, a framework to adequately conceptualize a global understanding of gender-related killing of women, for example by identifying and establishing elements that could be used to characterize and classify forms of gender-related killing of women, including for statistical purposes;

<sup>124</sup> Ibid., para. 85.

<sup>125</sup> See supra note 92.

- (b) Participate actively in the finalization of the draft international classification of crime for statistical purposes, to be submitted to the Statistical Commission and the Commission on Crime Prevention and Criminal Justice in 2015, and consider ensuring that it includes elements to enable the gathering of data on gender-related killing of women;
- (c) Consider developing an indicator on gender-related killing of women to complement the indicators for the documentation of the prevalence of violence against women agreed in the framework of the Statistical Commission, and use these indicators to collect, process and analyse data;
- (d) Strengthen the collection, analysis and dissemination of data on gender-related killing of women, using relevant variables such as age, racial and ethnic origin, judicial history, relationship between the victim and the perpetrator, modus operandi, context and motive, taking special care to include reports on violence in rural and marginalized areas, and the situation of specific groups of women;
- (e) Collect and analyse data in an integrated manner to consider the links between gender-related killing and different forms of violence against women, including disappearances of women and girls, human trafficking, forced suicides of women, harmful practices, intentionally and non-intentionally inflicted injuries;
- (f) Ensure that official data and information are collected and published regularly and transparently, in a format that responds to the needs of a variety of audiences, while respecting confidentiality and preserving the safety and privacy of the victims;
- (g) Analyse data from a gender perspective, involving, to the extent possible, relevant government agencies, civil society, academia, victims' representatives and the international community;
- (h) Provide regular and institutionalized training to relevant personnel on technical and ethical aspects of the collection and analysis of data on gender-related killing of women;
- (i) Participate actively in the annual data collection conducted by UNODC through the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems in order to increase the international availability of reliable data on crime and criminal justice and to improve analyses of global and regional crime threats and the criminal justice response to them.

## C. PREVENTION

52. Member States should be encouraged to:

- (a) Ensure that measures to prevent gender-related killing of women:
  - (i) Are based on a human rights approach (which includes the participation and empowerment of rights-holders);
  - (ii) Are gender-sensitive;
  - (iii) Are integrated and holistic, taking into account the relationship between the direct and indirect victims, perpetrators and their wider social environment and can be tailored to each individual case;
  - (iv) Address the specific needs of persons that are placed in vulnerable situations or conditions and consider multiple forms and the intersections of discrimination;
  - (v) Take into account urban and rural settings and characteristics;
  - (vi) Are developed in close cooperation with civil society, in particular women's groups and victims' organizations;
- (b) Promote changes in social norms and attitudes harmful to women through educational programmes and awareness-raising and by conducting or encouraging work with schools and local communities;
- (c) Encourage news media to adopt codes of ethics regarding gender-sensitive reporting on violence against women cases, to ensure that victims' dignity and privacy is respected and to avoid the dissemination of harmful and degrading gender stereotypes, as well as to promote gender equality and non-discrimination;
- (d) Carry out a gender analysis of lethal and other forms of violence against women, to identify the risk factors for and root causes of such violence, taking into account the combined effect of structural determinants, such as social, cultural, economic and political factors, and individual factors;
- (e) Adopt legislation, policies and measures to prevent lethal risks to women victims of violence and to protect victims and witnesses, including simple, quick and accessible protection and restraining or barring orders and adequate risk assessment and management strategies;
- (f) Regulate the possession, use, storage and export of firearms, including by providing for ownership restrictions and risk assessments, in particular where violence against women has been reported, and carry out awareness-raising campaigns on the dangers of firearms;
- (g) Ensure that all forms of violence against women are criminalized and adequately investigated, prosecuted and punished;
- (h) Ensure adequate coordination between different areas of law (such as family law, civil law, criminal law, immigration law) to coherently prevent and address violence that could lead to gender-related killing of women;
- (i) Enhance coordination between institutions mandated to prevent, investigate, punish and remedy gender-related killing of women, as well as coordination with other sectors, including education, health and social services;

- (j) Promote the rehabilitation of perpetrators, including by developing and evaluating treatment and reintegration/rehabilitation programmes that prioritize the safety of the victims;
- (k) Exchange information and experience on promising practices to prevent lethal violence against women.

#### **D. INVESTIGATION AND PROSECUTION**

**53.** Member States should be encouraged to:

- (a) Adopt or review criminal policies, including prosecutorial policies, to ensure that they address all risk factors that can lead to lethal violence against women
- (b) Ensure that competent authorities investigate and prosecute each case of gender-related killing of women with due diligence;
- (c) Ensure that women have equal protection under the law and equal access to justice;
- (d) Minimize the risk of secondary victimization during criminal investigations and prosecutions;
- (e) Ensure an integrated, multidisciplinary and gender-sensitive approach to the investigation of gender-related killing of women, and promote and institutionalize close collaboration and information-sharing among institutions involved in the investigation of gender-related killing of women;
- (f) Establish specialized and multidisciplinary units within the police, prosecution service and the courts with specific expertise and sufficient human and financial resources;
- (g) Develop and disseminate specialized manuals and protocols and provide regular and institutionalized training to officials involved in the investigation and prosecution of gender-related killing of women so as to ensure that they understand the gendered nature of violence, respond to the specific needs and vulnerabilities of the victims and conduct transparent and effective investigations and prosecutions;
- (h) Monitor and sanction criminal justice officials who discriminate against women, who refuse to apply legislation protecting women's rights, or who do not exercise due diligence in proceedings involving violence against women, in particular gender-related killing of women;
- (i) Consider, where national legal frameworks permit, expanding the extraterritorial jurisdiction for relevant crimes committed outside the jurisdiction;
- (j) Consider establishing appropriate mechanisms and processes to ensure cross-border recognition and enforcement of protection orders.

#### **E. VICTIMS' RIGHTS**

**54.** Member States should be encouraged to:

- (a) Make respect for the cultural identity, ethnicity, social origin and language of victims of gender-related killing of women an integral part of the legal framework, institutional policies and practices;
- (b) Ensure that laws, policies and practices concerning child victims and witnesses are child-sensitive and respect the rights of the child, in line with the Convention on the Rights of the Child and the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime;
- (c) Ensure that adequate and effective judicial mechanisms are available to all victims, including in rural and marginalized areas, to enable them to obtain redress for harm suffered;
- (d) Enable victims to participate in the criminal proceedings, taking into account their dignity, well-being and safety;
- (e) Ensure that victims are provided with prompt and accurate information regarding their rights and available measures for protection, support, assistance and judicial mechanisms to obtain redress, in a way that takes into account the diversity of their language, ethnicity, race, social and economic origin, including by implementing public information campaigns;
- (f) Provide adequate psychological support for officials working with victims;
- (g) Ensure the availability of adequate reparations, including restitution and compensation, in criminal, civil and administrative proceedings, which respond to the needs of victims;
- (h) Ensure that reparations address structural subordination, systemic marginalization and other institutional and social factors that contribute to violence against women and gender-related killing;
- (i) Encourage and facilitate the participation of women in the design, implementation, monitoring and evaluation of reparations;
- (j) Ensure effective cooperation between all relevant State agencies, including the judiciary, prosecution services, law enforcement agencies, local and regional authorities, as well as non-governmental organizations and other relevant organizations and entities, in protecting and supporting victims.

### **3.3 REPORT OF THE SECRETARY-GENERAL DURING THE 24TH SESSION OF THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE ON THE OUTCOME OF THE OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP ON GENDER-RELATED KILLING OF WOMEN AND GIRLS**

#### **I. INTRODUCTION**

1. On 18 December 2013, the General Assembly adopted resolution 68/191, entitled "Taking action against gender-related killing of women and girls", in which it requested the Secretary-General to convene an open-ended intergovernmental expert group meeting to discuss ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls, with a view to making practical recommendations, drawing also on current best practices, in consultation with relevant United Nations entities and human rights mechanisms.
2. The meeting of the open-ended intergovernmental expert group was organized by the United Nations Office on Drugs and Crime and hosted by the Government of Thailand in Bangkok from 11 to 13 November 2014.

#### **II. ORGANIZATION OF THE MEETING**

##### **A. BUREAU OF THE MEETING**

3. The following officers were elected by consensus:

Chair: Kanchana Patarachoke (Thailand)

First Vice-Chair: María Guadalupe Díaz Estrada (Mexico);

Second Vice-Chair: Marilena Olavo Gamboa Lauriano (Angola);

Rapporteur: Anni Lietonen (Finland)

##### **B. ATTENDANCE**

4. The meeting was attended by experts from 31 Member States, including Angola, Canada, Chile, Côte d'Ivoire, Fiji, Finland, Germany, Iraq, Islamic Republic of Iran, Israel, Italy, Japan, Lebanon, Mali, Mexico, Myanmar, Nauru, Oman, Pakistan, Peru, Philippines, Portugal, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Spain, Switzerland, Thailand, United Arab Emirates, United States of America. Observers from the State of Palestine and the following organizations also attended the meeting: Office of the United Nations High Commissioner for Human Rights, United Nations Entity For Gender Equality And The Empowerment Of Women, United Nations Office on Drugs and Crime, United Nations Population Fund, Organization of American States, College for Criminal Law Science of Beijing Normal University, International Centre for Criminal Law Reform and Criminal Justice Policy, Academy of Criminal Justice Sciences, Academic Council of the United Nations System, International Council of Women, Soroptimist International, World Society of Victimology.

#### **III. OUTCOME OF THE MEETING**

##### **GENERAL CONCLUSIONS AND RECOMMENDATIONS**

5. The meeting recognized the high level of impunity and lack of accountability in cases of gender-related killing of women and girls<sup>126</sup>, which often represented the final event of a continuum of violence. It was noted that gender-related killing of women and girls was criminalized in some countries as "femicide" or "feminicide" and has been incorporated as such into national legislation in those countries.
6. Participants highlighted the need for measures to prevent and address these crimes and their causes, taking into account the specific situation in each country. Tailored approaches were required to address different forms of gender-related killing, ranging from "honour" and dowry related killing to female infanticide. The particular challenges arising from situations of armed conflict, where women have been targeted, were also acknowledged.
7. Participants stressed the importance of adopting and implementing relevant laws, policies, procedures and practices at all levels, in line with international human rights law and making use of international standards and norms in crime prevention and criminal justice. It was stressed that States have a duty to strongly condemn all forms of violence against women and to refrain from invoking any custom, tradition or religious considerations to avoid their international obligations. The meeting also recognized the importance of mutual legal assistance, especially in cases where the presence of the perpetrator during proceedings was required. Due consideration should be given to financial and budgetary constraints of States in dealing with gender-related killing of women.

<sup>126</sup> Hereinafter, the term "women" includes girls under the age of 18.

8. Practical tools that could be considered as models for action at the national and international level included the Latin American Model Protocol for the Investigation of Gender-related Killing of Women<sup>127</sup> and the Recommendations for the Effective Investigation of the Crime of Femicide<sup>128</sup>. References were made to the decisions of the Inter-American Court of Human Rights the European Court of Human Rights, the International Criminal Court, the UN Tribunals for the former Yugoslavia and Rwanda, as well as the jurisprudence of the UN Committee for the Elimination of Discrimination against Women.
9. The meeting discussed the following practical measures that could be taken by Member States to more effectively prevent, investigate, prosecute and punish gender-related killing of women:
  - a. Consider ways to enhance international cooperation in these cases, including by ratifying and implementing the UNTOC and Protocols thereto, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Rights of the Child and its Protocols, the Rome Statute of the International Criminal Court, the Maputo Protocol, the Belém do Pará Convention and the Istanbul Convention and their follow-up mechanisms
  - b. Consider translating and disseminating the Latin American Model Protocol for the Investigation of Gender-related Killing of Women, to be used as a model for regional and country-level adaptation, and training justice officials on its contents and use, in collaboration with relevant UN entities;
  - c. Review, evaluate and update national laws to effectively address gender-related killing of women, including, where appropriate, by providing for specific offences or aggravating circumstances and by reviewing their legislation to ensure that it does not include discriminating factors: “passion”, “violent emotion”, “honour” or “provocation” that allow perpetrators to escape criminal responsibility;
  - d. Strengthen the capacity of criminal justice institutions to prevent, investigate, prosecute, punish and remedy gender-related killing of women, including by:
    - i. Assessing the effectiveness of laws;
    - ii. Implementing training programmes and awareness campaigns;
    - iii. Identifying gender stereotypes and discrimination within institutions, providing adequate sanctions for discrimination, sexual misconduct and other misconducts, and ensuring that measures are taken to address them;
    - iv. Promoting the recruitment, employment and appropriate working conditions of women in the legal and law enforcement professions, especially at decision-making level;
    - v. Promote and enhance coordination at all levels of government between institutions mandated to prevent, investigate, prosecute, punish and remedy gender-related killing of women, as well as coordination with other relevant sectors, including civil society, education, health, social services and security sector;
    - vi. Provide sufficient human, technical and financial resources for the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women, including by adopting gender-sensitive budget policies as well as monitoring and accountability procedures;
    - vii. Monitor the implementation of laws, policies, procedures and practices and gender-sensitive budget policies to prevent and respond to gender-related killing of women and evaluate their effectiveness and impact, including from a gender perspective, through transparent, participatory and inclusive processes;
    - viii. Continue and enhance international cooperation and technical assistance to address capacity gaps and exchange of information on the implementation of promising practices to prevent and address gender-related killing of women, with the support of relevant United Nations entities and competent regional institutions and civil society, including academic and research institutions.

## DATA COLLECTION AND ANALYSIS

10. The meeting noted that the UN office of Statistics and other UN entities have collected valuable gender-related data. The meeting acknowledged the importance of collecting, analyzing and disseminating disaggregated data on violence against women, gender-related killing of women and their root causes. The meeting stressed the importance of the collection of qualitative data in order to explain the causes and motivations for gender-related killing of women as well as providing insights into survivors’ experiences.
11. Different sources and collection methods were identified, including victim surveys, national prevalence surveys on violence against women, official records of health and criminal justice agencies, national violent death reporting systems. Such data was especially important to evaluate the effectiveness of relevant laws, policies and strategies.

<sup>127</sup> Available at <http://www.unodc.org/documents/justice-and-prison-reform/Expert-group-meeting-Bangkok/ProtocoloLatinoamericanoDelInvestigacion.pdf>

<sup>128</sup> Available at [http://www.aecid.es/Centro-Documentacion/Documentos/Informes%20y%20gu%C3%ADas/2014\\_GUIA%20investigacion%20de%20FEMINICIDIO.pdf](http://www.aecid.es/Centro-Documentacion/Documentos/Informes%20y%20gu%C3%ADas/2014_GUIA%20investigacion%20de%20FEMINICIDIO.pdf)

12. Challenges included availability of data, underreporting or non-registration of complaints, differences in definitions and collection methodologies and difficulties in accessing available data. Limited resources, insufficient training or poor coordination between relevant agencies posed further obstacles. In order to harmonize different types of data, it was suggested to rely on “metadata” as a means of classifying data and attempting to move forward and analyze data in hand. It was also noted that the collection of data could be burdensome for some government agencies and that the widespread collection of data is not always practical or feasible.
13. In order to address these challenges, the meeting discussed the following practical measures that could be taken by Member States:
  - a. Identify elements that could be used at the national and international levels to characterize and classify forms of gender-related killing of women, in particular for statistical purposes;
  - b. Strengthen the collection, analysis and dissemination of qualitative and quantitative data on gender-related killing of women and other forms of violence against women, focusing on factors such as age, racial and ethnic origin, criminal history of perpetrators, relationship between the victim and the perpetrator, modus operandi, context and motive, taking special care to include reports on violence in rural and marginalized areas, and the situation of specific groups of women and victims;
  - c. Collect and analyse data in an integrated manner to consider the links between gender-related killing and different forms of violence against women, such as human trafficking or harmful practices;
  - d. Collect and analyse data on indirect forms of gender-related killing of women, such as deaths due to poorly conducted and clandestine abortions; maternal mortality; deaths from harmful practices; deaths linked to human trafficking, drug dealing, organized crime and gang-related activities; the death of girls from simple neglect, through starvation or ill-treatment; and deliberate acts of omissions by the State;
  - e. Collect and publish official data and information regularly and transparently, in a format that responds to the needs of a variety of audiences, while respecting confidentiality and preserving the safety and privacy of the victims; and consider the provision of technical assistance in this regard as a matter of priority;
  - f. Analyze data from a gender perspective, involving, to the extent possible, relevant government agencies, civil society, academia, victims’ representatives and the international community;
  - g. Provide adequate human and financial resources for the collection, analysis and dissemination of data on gender-related killing of women;
  - h. Provide regular and institutionalized training to relevant personnel on technical and ethical aspects of the collection, analysis and dissemination of data on gender-related killing of women.

## PREVENTION

14. Prevention was considered as a cost-effective intervention to protect women from gender-related killing, as part of a broader effort to create a culture of lawfulness, recognizing that the absence of effective law enforcement places women in conditions of acute vulnerability. The meeting underlined the importance of preventive policies and measures and their regular monitoring and evaluation. Strategies to prevent gender-related killing of women should be integrated and holistic, recognizing that justice is built on a human rights foundation and includes a gender-sensitive approach.
15. Close cooperation with civil society and the engagement of stakeholders like religious leaders, women’s organizations, community leaders, human rights defenders, businesses, or sports teams were mentioned as important elements of promising, innovative initiatives. Specific reference was made to the use of convenience stores as shelters and pharmacies to identifying vulnerabilities and enhancing the reporting of incidents. The role of community policing and the importance of involving men and boys in prevention were also underscored. Participants also highlighted the importance to promote and protect the family, as the fundamental group of society and the natural environment for the well-being of all its members, in particular women and children, in fighting gender-related killing of women, recognizing that the family should be a place of safety.
16. In order to further strengthen efforts to prevent gender-related killing of women, the meeting discussed the following practical measures that could be taken by Member States:
  - a. Promote changes in social norms and attitudes harmful to women through early and continuous educational programmes and awareness-raising and by conducting or encouraging work with schools and local communities;
  - b. Encourage news media to adopt codes of ethics regarding gender-sensitive reporting on violence against women cases, to ensure that victims’ dignity and privacy is respected and to avoid the dissemination of harmful and degrading gender stereotypes, as well as to promote gender equality and non-discrimination;
  - c. Adopt legislation, policies and measures to prevent lethal risks to women victims of violence and to protect victims and witnesses, including simple, quick and accessible protection and restraining or barring orders, adequate and targeted risk assessment and management strategies, and confidential 24/7 hotlines, shelters or other measures to facilitate access to safety, assistance and support; such protective measures should not be dependent on the initiation of a criminal case;
  - d. Promote women safety audits in order to create a safer urban environment (e.g. improved street and underpass lighting or more frequent police patrols in areas prone to molestation of women);

- e. (Promote strategies and measures by relevant authorities and civil society to encourage reporting and early detection of violence that may result in gender-related killing of women;
- f. Regulate the possession, use and storage of firearms by violent offenders, including by providing for ownership and possession restrictions, in particular where violence against women has been reported, and carry out awareness-raising campaigns on the risks of exposure to firearms in domestic disputes;
- g. Review, evaluate and update criminal and civil laws in order to ensure that all forms of violence against women are penalized and prohibited and, if not, to adopt measures to do so, to prevent such violence from escalating into gender-related killing of women;
- h. Promote and facilitate coordination among government agencies and courts responsible for different areas of law (such as family law, civil law, criminal law, immigration law) to coherently prevent and address violence that could lead to gender-related killing of women;
- i. Promote the rehabilitation and re-education of perpetrators, including by developing and evaluating treatment and reintegration, rehabilitation and education programmes that prioritize the safety of the victims;
- j. Ensure the provision of adequate human and financial resources for the prevention of gender-related killing of women and for the monitoring and evaluation of results;
- k. Evaluate prevention programmes and interventions to build a knowledge base on what works to prevent violence against women.

## INVESTIGATION, PROSECUTION AND SANCTION

17. The meeting stressed the importance of investigating and prosecuting gender-related killing of women as part of a comprehensive strategy at all levels to prevent and respond to violence against women. It was recognized that investigations and prosecutions of gender-related killing of women were hampered by factors such as negative gender stereotypes, secondary victimization, corruption, impunity and a lack of confidence in the criminal justice system. The meeting noted that there are international standards, guidelines and tools for the effective investigation and prosecution of cases of violence against women<sup>129</sup>.
18. The meeting discussed the following practical measures that could be taken by Member States to ensure that gender-related killing of women is adequately investigated, prosecuted and sanctioned:
  - a. Adopt or review criminal policies, including investigatory and prosecutorial policies, to address potential risk factors that can lead to lethal violence against women;
  - b. Ensure that competent authorities investigate, prosecute and sanction each case of gender-related killing of women with due diligence and without delay;
  - c. Ensure that women have equal protection under the law and equal access to justice, including, where relevant, legal aid, language support services and witness protection;
  - d. Minimize the risk of secondary victimization during criminal investigations, prosecutions and trials, inter alia, through testimonial aids and assistance for victims and witnesses;
  - e. When relevant, consider adopting an integrated, multidisciplinary and gender-sensitive approach to the investigation of gender-related killing of women, and promote and institutionalize close collaboration and appropriate information-sharing among institutions involved in the investigation of gender-related killing of women, respecting the victim's right to privacy;
  - f. Establish, where appropriate, specialized and multidisciplinary units within the police, provide prosecution service with specific expertise and sufficient human and financial resources and encourage the courts to gain specific expertise;
  - g. Develop and disseminate specialized manuals and protocols and provide regular and institutionalized training to officials involved in the investigation, prosecution and sanction of gender-related killing of women so as to ensure that they understand the gendered nature of violence, respond to the specific needs and vulnerabilities of the victims and conduct accountable and effective investigations and prosecutions;
  - h. Develop appropriate mechanisms and enhance capacities for forensic investigations to identify human remains and missing persons, such as centers for missing persons and DNA databases, to support the prosecution of gender-related killing of women;
  - i. Monitor and sanction criminal justice officials (police, prosecutors, interpreters and court officials) who deny women access to justice, including for example those who discriminate against women, who refuse to apply legislation

<sup>129</sup> See, e.g., UNODC Handbook and Training Curriculum on Effective Police Responses to Violence against Women, UNODC Handbook on Effective Prosecution Responses to Violence against Women and Girls, UNODC publication on Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women

protecting women's rights, or who do not exercise due diligence in their official duties in cases involving violence against women, in particular gender-related killing of women;

- j. Taking into account the responsibility of States to define and sanction criminal offences, ensure that appropriate sanctions for perpetrators of gender-related killing of women are in place that are proportionate to the gravity of the offence;
- k. Provide adequate human and financial resources for the investigation and prosecution of gender-related killing of women.

## VICTIM SUPPORT AND ASSISTANCE

19. The meeting recognized the right of victims to be treated with respect for their dignity. It was understood that victims of gender-related killing of women also included the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims or to prevent victimization, in line with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Participants stressed the importance of adequate reparations and of addressing structural subordination, systemic marginalization and other institutional and social factors that contribute to violence against women and gender-related killing. Corruption, organized crime and drug trafficking were cited as factors that contributed to victimization.
20. In order to guarantee support and assistance for victims of gender-related killing of women, the meeting discussed the following practical measures that could be taken by Member States:
  - a. Make respect for the cultural identity, ethnicity, social origin, and language of victims of gender-related killing of women an integral part of the legal framework, institutional policies and practices;
  - b. Ensure that the needs of women in vulnerable conditions are addressed, including elderly women, rural women, indigenous women, foreign women, immigrant women in irregular situations, women victims of human trafficking, children of women victims of violence, women with disabilities, and women in armed conflict;
  - c. Ensure that laws, policies and practices concerning child victims and witnesses are child-sensitive and respect the rights of the child;
  - d. Protect and support victims, drawing on the important role of civil society and ensuring effective cooperation between all relevant State agencies, including, where appropriate, the judiciary, prosecution services, law enforcement agencies, local and regional authorities ;
  - e. Ensure that health and other social services are available to the victims independently from their cooperation with the justice system;
  - f. Ensure that adequate and effective judicial mechanisms are available to all victims to allow them to access justice and to enable them to obtain redress for harm suffered;
  - g. Ensure that victims are provided with prompt and accurate information regarding their rights and available measures for protection, support, assistance and judicial mechanisms to obtain redress, in a way that takes into account the diversity of their language, ethnicity, race, social and economic origin, including by implementing public information campaigns;
  - h. Enable victims to participate in the criminal proceedings, taking into account their dignity, well-being and safety, while respecting the legal rights of defendant and to prepare victims for social reintegration;
  - i. Ensure the availability of adequate reparations, including restitution and compensation, in criminal, civil and administrative proceedings, that respond to the diverse needs of victims, in accordance with national law;
  - j. Provide adequate human and financial resources to guarantee the rights of victims of gender-related killing of women.



# PART 4

ACADEMIC PAPERS AND ARTICLES ON SPECIFIC COUNTRIES AND TOPICS RELATED TO  
SEXUAL VIOLENCE AGAINST WOMEN IN CONFLICT AND FEMICIDE

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*“The bodies of women became the battlefield of conflict in the DRC.  
This underscores the need for the Government to implement recommendations regarding  
women’s human rights and preventing sexual violence.”*

Prince Zeid Ra’ad Al Hussein, United Nations High Commissioner for Human Rights

## 4.1 PROTECTING WOMEN AGAINST VIOLENCE – A GLOBAL CHALLENGE

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The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 was a milestone in protecting the rights of women, although it has not lived up to the hopes pinned on it. National legal systems still vary considerably in the extent to which they obstruct women's access to the justice system. Violence against women is frequently not prosecuted, as it is considered a "normal" by part of society and the prevalent culture, including for example, the machismo culture of Central America (Domazetoska et al. 2014, 117). Countries frequently fail to provide adequate protection and legal support for women and girls affected by gender-based violence. The problem, however, does not just affect developing countries. Keskinen (2012) claims that access to the justice system in developed countries (which she refers to as "welfare states") is relatively easy, although not equally easy for everyone in society. She points out that migrants and victims from culturally different milieus have greater difficulties in accessing the justice system. This article provides an overview of some of the different forms of violence against women across various nations and regions, taking into consideration a multiplicity of cultural, social, political and economic factors that lead to their perpetuation.

### MINORITY GROUPS

Countering violence against women in these groups is especially challenging. Major problems affecting minority groups are magnified for example, by the lack of adequate support on the part of the local community when meeting the specific needs of the different groups of the affected women, as well as treating domestic violence as a private family matter. As suggested by Bent-Goodley (2009, 264), "because GBV [gender-based violence] touches the lives of people from such diverse cultures, it requires a culturally based approach. The different social and cultural contexts are critical to developing responses that are effective and make sense to the particular population". Normally, however, for a variety of reasons, women from minority groups are not offered sufficient protection by the civil service. Take for example, the following three minorities: the black community in the US; the Roma community; and immigrants. These groups differ significantly from one another in many respects. What they have in common, however, is that they are not adequately protected from violence.

Women from all three of the aforementioned groups are more vulnerable to being victimised by violence than the rest of society. A black woman in the US is three times more vulnerable to being harmed by her partner than a Caucasian woman.<sup>130</sup> She is also almost three times more likely to be murdered by her partner (Joseph 2014, Taft et al. 2009, 51). Violence against women assumes a significant dimension in the Roma community, affecting as much as 95% of the population in some regions (Oprea 2004, 36). The situation is similar in migrant communities, where traditional cultures, often based on a specific understanding of male honour, e.g. among refugees from Islamic countries, persist (Klaus 2014, Toor 2009, Idriss and Abbas 2011).<sup>131</sup>

Domestic violence is often a result of structural factors. One such is poverty. The groups mentioned above have an inordinately high proportion of poor people. The poverty in which they live is sometimes – as in the case of the Roma – extreme. Institutional racism is another factor commonly encountered by these groups.<sup>132</sup> Women also encounter this when they seek help. They are presumed to be criminals or benefit scroungers and their problems and needs are given short shrift by social workers. **The entire system of providing assistance to victims of domestic violence has been devised for middle-class women. It does not meet the needs of those who suffer from poverty and discrimination, and who require broader support over a longer period due to the increased difficulty of finding work and accommodation in a new place.** These people also find it considerably more difficult to break up with a partner. Such a decision can seriously impoverish them and leave them with the burden of having to support children single-handedly, as the fathers are seldom in a position to pay child support (Althoff 2013; Taft et al. 2009). The system in place to assist victims of domestic violence is also ill-suited to meet cultural requirements and none of the support staff belong to any of the aggrieved groups. Many black women, for instance, have mentioned the importance of dealing with a black, female social worker in surveys, as their shared background makes it easier for the victim to communicate (Kanyeredzi 2013; Bent-Goodley 2009).

130 However, once income levels are taken into account, it turns out that black and white men are not all that different when it comes to violence towards their partners (Afro-Americans are even less inclined to resort to violence). The main catalyst for violence is therefore income level and poverty, and not skin colour (Taft et al. 2009, 51).

131 A similar understanding of male honour exists in Indian communities and among black men in South Africa (Mathews, Jewkes and Abrahams 2015).

132 There are, however, situations where black women take advantage of the racism of police officers and report violence more frequently, as they know that black perpetrators will be more zealously prosecuted (Kanyeredzi 2013, 213).

## SEXUAL VIOLENCE

Sexual violence, whose victims are almost entirely women, falls into a separate category. The scale of sexual violence is difficult to ascertain on account of the shame and embarrassment that victims suffer in revealing what was done to them – not just to the authorities but even to close family members. The FRA (2014, 41-42) survey shows that as many as 11% of women in the EU have experienced sexual violence, and that of these, 20% have been raped. The greatest obstacle in counteracting sexual violence is that in many societies women are blamed for either causing or contributing to the actions of perpetrators through inappropriate behaviour (according to surveys conducted by Amir 1967). This way of thinking has several consequences: a reluctance on the part of victims to report rape; a reluctance on the part of police officers to fill out crime reports and treat rape as a serious matter; and light sentences being handed down to perpetrators (if they are even convicted).

Yet, the most serious repercussion is that it is the survivor, and not the perpetrator, of sexual violence who bears the stigma. This can even degenerate into aggression on the part of society.<sup>133</sup> This stigma is a result of female honour being perceived in a very specific way and being closely linked to sexuality in many societies. As a consequence, violating the sexual “purity” of a woman, even without her consent, violates her honour. In some of the traditional societies mentioned above, a woman’s honour is not an individual virtue, but one linked to the honour of a man. This means that violating the “honour” of a woman automatically violates the “honour” of her male custodian (e.g. father, brother or husband) as well as that of her entire family (Idriss and Abbas 2011). This necessitates clearing the family’s good name, which might entail e.g. having the disgraced woman killed by members of the family.<sup>134</sup> These activities are usually vindicated by society and the law treats the perpetrators lightly (Cohan 2010).

Another consequence of having the honour of a woman linked with that of a man, and by extension, the entire nation, is the instrumental use of rape in armed conflict. This is intended to symbolically humiliate an enemy nation and demonstrate domination by dishonouring its women. Rape is used as a tool to intimidate an entire community, punish an opposing side (or to punish particular women for e.g. resistance activities) or to compel certain activities e.g. resettlement or collaboration. It is also a means of torture when forcibly extracting information. These uses of rape are widespread in armed conflicts all over the world and have occurred in Bosnia, Rwanda, Congo and Myanmar (Burma) in recent years (Monteiro 2013).<sup>135</sup>

Rape is also used as a tool of homophobia. One of its functions is to try to “fix” lesbian women and make them “normal”. Lesbians living in very traditional cultures can be subjected to “corrective rape” in addition to the physical violence that all homosexuals experience. This occurs in different countries, including South Africa and Poland (Brown 2012; Świerszcz 2011).

## THE ELDERLY

Many studies treat the elderly as a homogenous group, especially when comparing them with other groups. As with the rest of society, factors such as age, state of health, social, financial and marital status, race and sex affect elderly people’s susceptibility to victimisation.

The elderly are most vulnerable to crimes against property, especially theft, fraud and swindle. Financial exploitation of the elderly is another type of abuse, which involves e.g. unlawful and improper use of the property or resources. People who suffer from infirmity or who are dependent on their families or institutions often fall victim to neglect and physical and psychological violence. Pain (1995) stresses that elderly people experience domestic violence significantly more often than is commonly thought.

Multi-generational families, where several younger members can take turns caring for an elderly member, are more commonly found in developing countries. The nuclear family is a major concern in highly industrialised countries, as older family members find themselves increasingly less able to draw upon a large pool of other members for assistance. In poorer societies that are nevertheless highly developed (e.g. the “new” EU member states), the burden of care is often borne by a single child with no support from either the family or public institutions. This leads to enormous frustration that can turn to hostility towards the older person (Jaroszewska 2012, 118). Care centres and professional care-takers are more common in more affluent western societies, although they are generally not subjected to any systematic inspection. While total institutions such as prisons and psychiatric hospitals are inspected (e.g. by the CPT in Europe), relatively few elderly care homes are liable to inspection. This is because they are very often private establishments. Physical and psychological violence, however, are not uncommon. Nor is neglect in its many forms (Görge 2006).

Elderly women fall victim to crime more frequently than elderly men. This is due to a range of factors, including the fact that women live longer than men and more frequently reach old age with one or more disabilities, which in turn, considerably increases their risk of victimisation (Wahidin and Cain 2006, 2; Jaroszewska 2012, 117). Elderly women experience different aspects of violence depending on the culture they live in. Elderly women in various parts of the world (including Central Africa, Oceania and Asia) are subjected to oppression of a completely different kind, for example through accusations of sorcery and witchcraft. Men are also accused of witchcraft, but women are on the whole more adversely impacted due to a range of factors, including their relative economic impoverishment (INAPNG 2013). Women accused of sorcery and witchcraft are killed, maimed, mutilated, evicted from their homes and abducted (UN SRVAW 2012, 10-11). Although women of all ages are vulnerable to these types of accusations, elderly women are particularly at risk by virtue of being dependent on others and/or being in possession of goods coveted by younger relatives.

<sup>133</sup> This was the case with Rwandan women who decided to accuse their rapists (Haskell 2011).

<sup>134</sup> Another way for the family to restore “honour” is to offer the rape victim to her rapist in marriage (Moller Okin 1999, 15-16).

<sup>135</sup> It is also used by criminal gangs in South America for precisely the same reason. This is discussed further below.

## FEMICIDE SENSU STRICTO

The term “femicide” is of relatively recent coinage and denotes the killing of women or girls because of their gender<sup>136</sup>. The scope of this definition has not been precisely determined, but it includes various forms of violence against women and girls that may result in their death (Vienna Declaration 2012). Most of them are described in this text. In this part, however, we would like to cover femicide **sensu stricto**, i.e. actions specifically intended to kill women or girls. One of the forms this takes is “honour killings”. These murders are described above as being perpetrated on rape victims. However, any female behaviour deemed improper (or unbecoming of a woman) by the family or society in general could justify an honour killing. Merely being suspected of engaging in such behaviour or being gossiped about for doing so is often enough to justify this punishment (Toor 2009). Behaviour related to sexuality is almost always deemed improper. This includes anything from wearing inappropriate attire that is unbecoming of a woman, through marrying an unsuitable man (i.e. one not coming from the same culture as the woman), to being raped. Honour killings, as with most activities related to violence against women, are underpinned by a specific perception of women and their place in society, i.e. women are seen as subordinate to men, and as objects to be possessed (Gill 2011). Historically, honour killings were widely practised around the world. Nowadays, however, they mainly (although not exclusively) apply to women from the Middle East and South Asia. A lack of reliable data makes it difficult to determine the scale of the phenomenon, although in 2000, the United Nations Population Fund estimated that, worldwide, some 5,000 women fall victim to honour killings every year (McClelland 2013).

The city of Ciudad Juárez, Mexico, is also well known for a certain form of femicide aimed at protecting traditional cultural values. Women began to be murdered under the catchphrase of cleaning up the city and fighting prostitution. The fact that women were disappearing and being killed was ignored by local authorities and the police, who claimed that the victims themselves were to blame as they were undoubtedly drug addicts and/or prostitutes. Any female behaviour that was not traditional began to be equated with prostitution in Juárez, as did the presence of women in the public sphere, including the workforce, i.e. any activity outside the home traditionally not ascribed to women. “The discourse of the public woman normalized the violence and used the victims’ bodies as a way to substantiate the politics based on patriarchal notions of normality. Normal Mexican families, with normal, private women safely at home, had nothing to worry about.” (Wright 2011, 713-714).

Other forms of femicide include sex-selective foeticide, i.e. aborting female fetuses, and female infanticide, i.e. killing new born females. These are grounded in the low status of women in the given society and on women becoming members of their husbands’ families upon marriage. Women are additionally subject to economic considerations. Giving a daughter away in marriage can be inordinately expensive in some cultures and not every family can afford it. Raising girls, including educating them, is similarly expensive, and, as they are only going to join their future husbands’ families, it is considered a waste of money. This results in significant shortages of girls in India and China, which in turn activates another form of violence against women, viz. abducting girls from their parents and selling them as wives at home or abroad (Hitrova 2013, Gerdes 2014).

Women are also murdered by organised crime gangs (especially drug cartels) in several parts of the world, but especially in Central America. This is a ramification of the prevailing macho culture and its associated objectification of women. Here, killing women has a similar rationale to the use of rape as a means of war described above. This is a typical feature of the wars between rival crime gangs. One way to inflict damage on an enemy and demonstrate power over “him” is to kill (or rape) “his” women. Women are also killed in order to intimidate the local population and warn the government off combating drug cartels (or pressure it into calling off existing campaigns) (van der Graaf 2013).

## HUMAN TRAFFICKING

Men, women and children all fall victim to human trafficking. Women, however, make up two-thirds of the world’s human trafficking victims.<sup>137</sup> The European Commission reports that “women and children are particularly affected: women and girls represent 56% of victims of forced economic exploitation and 98% of victims of forced commercial sexual exploitation”.<sup>138</sup> The issue of human trafficking first came to light in the last century and steps have been taken to curb it ever since. Unfortunately, as communication and movement between distant places has nowadays been significantly facilitated, human trafficking is being facilitated as well. Globalisation has helped shape this new face of human trafficking. Shelley (2007) shows how human trafficking is now a cross-border crime managed by multi-ethnic organised syndicates. Its victims are invariably poor and socially excluded. Globally speaking, people who fall victim to human trafficking mostly live in the world’s poorest countries and have little chance of getting out of them. Victims in wealthier countries mainly belong to socially excluded groups. This makes human trafficking a high-reward, low-risk crime. The victims, by virtue of their low social status, have few opportunities to adequately protect themselves, get away or even be informed of their rights.

The ways in which the gender of the victims affects their vulnerability to trafficking differ depending on region. Nevertheless, some of the factors that account for the prevalence of female survivors in this business are the same worldwide. Men and women differ in their access to resources, the social functions they perform and how they comprehend their options. These factors affect their

136 See further “Femicide: A Global Issue that Demands Action” Vienna 2014, <http://acuns.org/new-2nd-edition-of-femicide-a-global-issue-that-demands-action/>

137 “Put yourself in my shoes”: a human trafficking victim speaks out, <http://www.unodc.org/unodc/en/frontpage/2012/November/put-yourself-in-my-in-my-shoes-a-human-trafficking-victim-speaks-out.html> (accessed: January 2015).

138 European Commission, Migration and Home Affairs, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm) (accessed: January 2015).

greater or lesser propensity to take up job offers that might lead to becoming trafficking victims. The legal options for migration will depend on the demand for labour (most often factory and agricultural work) in particular industries, and these job offers are usually addressed to men. Legal employment opportunities in areas traditionally associated with women's work, such as housework and adult entertainment, are considerably more limited. As a result, women opt for illegal and more dangerous forms of migration more frequently than men (Cameron and Newman 2008, 38).

Human trafficking of women is very closely connected with sex trade. This is because the demand for prostitution services is universal and constant, and because prostitution itself is often illegal or only partially decriminalised. Prostitution must seem a reasonable way to earn money to many women struggling with poverty. What they fail to realise, however, are the appalling conditions under which they will be working. Other women are formally recruited as childcare workers, elderly care workers and other types of manual work, completely unaware that they will be working in fact as prostitutes.

A huge problem in the Middle East and the Gulf Region is that women are forced into becoming house slaves. There have been increasing reports on new forms of slavery being practised in the Islamic State over the past year. The military group known as ISIS trafficks women and justifies the practice. The Islamic State considers that such activities revive the tradition of forcibly making the women of a subjugated foe the wives of the victors. It claims that subjugating the families of unbelievers and taking their women as concubines is a deeply rooted aspect of *shari'a* (IBT 2014).

## CONCLUSION

A woman's right to freedom from violence is a political and social issue. Whether, and if so, in what ways, violence against women is perceived as a serious problem varies from one cultural region to another. How seriously this issue is treated mostly depends on the status of women in the given society. It is societies that determine which actions constitute this type of violence, how law enforcement agencies respond and how much support the victim can expect. This last factor does not just refer to support from law enforcement agencies but also from near and distant family and friends. The identity of the aggressor is likewise a cultural issue. There can only be one intimate partner in smaller families, but there are more people who can inflict violence in more extended multi-generational families (and older women may be among the perpetrators). The different status of women, and consequently their protection from violence, is strongly associated with historical and religious factors. The place of women in society is not only different in different parts of the world, it can vary considerably in a given region.

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## 4.2 SEXUAL VIOLENCE AGAINST WOMEN IN CONFLICT: AN EXTREME MANIFESTATION OF VIOLENCE AND A WEAPON OF WAR

ANDRADA FILIP

### INTRODUCTION

Sexual violence against women remains an unresolved human rights problem. Time and again conflicts erupt during which alarmingly high rates of rape and other forms of sexual violence are being recorded. The purpose of this article is to offer a brief historical overview of this gruesome practice, and make an analysis of the current situation encountered in several countries. The aim is to point out that while sexual violence is deeply rooted in patriarchal social norms, it ultimately represents a predatory mode of warfare which is dehumanizing and brutal. It is essential to adopt and implement adequate legislation to prohibit such acts. Nevertheless, such an approach is insufficient, unless values of gender equality and are instilled in all members of society, in order to change the underlying social norms.

### BRIEF HISTORICAL OVERVIEW

Sexual violence against women has existed since time immemorial. Testimonies of horrific acts perpetrated against women in times of conflict have been written over and over again, from antiquity to modernity. Soldiers of Greek, Macedonian and Roman armies used to perpetrate degrading sexual violence against women and girl captives, this being a habitual objective and a practice of ancient warfare.<sup>139</sup> A narrative from the Babylonian Talmud's account of the Roman destruction of Jerusalem tells the story of the Roman general Titus who breached the walls of Jerusalem and raided the temple, where he seized a woman and raped her on the altar.<sup>140</sup>

Sexual violence is the ultimate form of exhibition of power and dominance not just on women but on a community or nation as a whole. In the twentieth century, during the Second World War the Japanese army established so called "comfort stations", which combined several elements of control: deprivation of liberty and forced sexual labour.<sup>141</sup> In effect, this represented a system of slavery, violating customary international law. Both German and Russian soldiers raped women in their countries of occupation as rewards for their fighters or simply because they could.

A few decades later, a similar pattern of behaviour became evident during the war in Bosnia-Herzegovina, 1992-1995, when systematic rape was carried out. It is widely acknowledged that the Bosnian case represented an instance in which sexual violence was used in an ethnic conflict as a weapon of demoralization against an entire society.<sup>142</sup> The genocide in Rwanda, which occurred between April and July 1994, represents another instance in which rape was carried out on a massive scale against Tutsi women, as a key strategy of the genocidal campaign. The **Akayesu case** represented the first instance in which the International Criminal Tribunal for Rwanda (ICTR) agreed that acts of sexual violence can also be qualified as acts of violence.<sup>143</sup> As such, the tribunal recognized that consent bears no meaning for acts of a sexual nature that have a nexus to genocide, armed conflict and crimes against humanity.<sup>144</sup>

### CURRENT SITUATION: EXAMPLES OF INCIDENTS AND PERPETRATORS

Presently, we are witnessing sexual violence being carried out against women in several regions that are experiencing conflict around the world, spanning from Syria and Iraq to Nigeria and Sudan. The nature of each of these conflicts is different, so are the stages in which they unfold, and the war strategies being implemented by the parties involved. The fundamental characteristic shared by each of these conflicts is that women are regarded as some sort of prey to be captured, enslaved, raped, tortured and abused in a way which the perpetrators deem suitable and even rewarding.

According to Amnesty International, "hundreds of Yezidi women and girls have had their lives shattered by the horrors of sexual violence and sexual slavery in IS captivity".<sup>145</sup> These women are exposed to a series of horrendous traumatic experiences in captivity, leaving them emotionally and physically scarred for life – should they survive the toll of the atrocities inflicted upon them by the cruel insurgents. The following testimonies reveal the intensity of their suffering, despair and helplessness: **"The man who was holding us said that either we marry him and his brother or he would sell us" ... "At night we tried to strangle ourselves with our scarves. We tied the scarves around our necks and pulled away from each other as hard as we could".**<sup>146</sup>

139 Gaca, Kathy (2011) , **Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights**, University of Pennsylvania Press, p. 80,

140 Watts Belser, Julia (2014 ) 'Sex in the Shadow of Rome: Sexual Violence and Theological Lament in Talmudic Disaster Tales' **Journal of Feminist Studies in Religion**, p. 6

141 Argibay, Carmen (2003), 'Sexual Slavery and the Comfort Women of World War 2', **Berkley Journal of International Law**, Vol. 21 (2), p.375

142 Coneth-Morgan 2004 in Skjelsbaek (2006), 'Victim and Survivor', **Feminism & Psychology**, Vol. 16(4), p. 373

143 For further information please consult: <http://www.unictr.org/en/cases/ictr-96-4>

144 MacKinnon, Catherine (2008), 'The ICTR's Legacy on Sexual Violence', **New England Journal of International and Comparative Law**, Vol. 14(2), p. 102

145 **Iraq: Yezidi women and girls face harrowing sexual violence**, December 2014, available at: <https://www.amnesty.org/en/articles/news/2014/12/iraq-yezidi-women-and-girls-face-harrowing-sexual-violence/>

146 **'Horrors of Sexual Violence: Yazidi Women forced into Slavery, Commit Suicide, Amnesty Says'**, December 2014, available at: <http://rt.com/news/216891-yazidi-women-suicide-isis/>

The existence of various international legal instruments which prohibit and punish acts of sexual violence have done little to stop or prevent these heinous crimes or deter the abusers. Depending on the nature of the conflict, the perpetrators can be state or non-state actors, such as insurgent militias or terrorist groups. Very often, the perpetrators from the lower and higher levels of the responsible government remain unpunished, should an investigation and trial even take place. In order to ensure that such horrific acts of violence against women cease to occur when a conflict erupts, it is necessary to make further advances in the realm of international and national law, when it comes to defining and punishing such acts. Furthermore, it is also important to address prevailing social norms, which lie at the roots of extreme patriarchal values. These envisage women as completely subservient to men, while projecting them as mere commodities to be used in order to advance the purposes of men. It is not mere coincidence that when a conflict erupts, women are usually far more vulnerable than men. This is not because men are called to arms and women are left alone to care for their homes and families, but because male soldiers or insurgents often have such degrading perceptions of women that they end up inflicting torture, rape and other cruel acts upon them.

The justifications given for such acts vary, and there is no systematic official data available on sexual violence in conflict. According to the testimony of a perpetrator of sexual violence during the war in the Democratic Republic of Congo, “when we rape we feel free”.<sup>147</sup> In the case of ethnic conflicts, such as in Rwanda and Bosnia, males from one ethnic group raped the women of the other rival clan in order to wipe out their ethnicity.

Over the last five decades we have witnessed how Islamist movements have asserted themselves as relevant political players in the Middle East. Brigadier-General Mark Kimmit, former spokesperson for the American troops in Iraq, considered that Islamist movements are reactionary movements in revolt against modernity, trying desperately to turn back the time.<sup>148</sup> Meijer also argues that Islamist movements represent social movements, which primarily seek to create meaning and identity, operating usually in authoritarian or semi-authoritarian states, initially at the periphery of society.<sup>149</sup>

## SEXUAL VIOLENCE PERPETRATED BY THE IS AND SEXUAL CRIMES IN ISLAMIC COUNTRIES

The IS (Daesh) has adopted and disseminated a flawed interpretation of Islam among its followers, according to which adherents are permitted to rape infidel women, and even take so called ‘sex slaves’. As such, a pamphlet was released by IS a few months ago, offering guidelines to their followers on how to capture, keep and sexually abuse female slaves.<sup>150</sup> A report published by Amnesty International in 2014 makes reference to accounts given by Yezidi women who have managed to escape imprisonment.<sup>151</sup> According to their testimonies, these men were not always IS fighters, but also local businessmen, who bought or made arrangements to be married to Yezidi girls, thus forcing them also to convert to Islam.

There have also been numerous cases reported in the media in recent years of Sharia courts punishing the rape victim, usually a young girl, instead of her rapist(s), when the alleged act was discovered in the community. Thus, sharia courts in Pakistan have punished young women, who dared to accuse their attackers. Similarly, cases of raped women being punished have also been recorded in Bangladesh and Somalia.<sup>152</sup> A case from Afghanistan of a 10-year old girl who was raped by a **mullah** sparked fierce criticism by national women NGOs, after the perpetrator was allowed to go scot-free while the girl’s family openly planned to carry out an ‘honour killing’ against her.<sup>153</sup>

Women’s rights in Islam represent a sensitive issue, and the topic becomes ever more controversial in the face of atrocious crimes such as mass rapes and enslavement carried out by Islamist groups, and the discourses of cultural relativism surrounding the lives of Muslim women in Islamic communities and Western societies. At present we are witnessing an upsurge of Islamist groups, amassing a large number of recruits from both conservative and Western societies, adopting a twisted and rigidly conservative interpretation of Islam, and legitimating violent crimes such as rape and sexual enslavement of women. Even though sexual violence is universal, the atrocities inflicted by these Islamist groups and their radical followers bear a particularly misogynistic and scarring element towards the targeted women. It is important to note that throughout the history of Islam, only men have interpreted the sources of Islamic tradition<sup>154</sup>. Likewise, Muslim men have arrogated to themselves the task of defining the ontological, teleological and sociological status of women.<sup>155</sup>

147 ‘As the Democratic Republic of Congo suffers another day of bloodshed, its soldiers talk with astonishing candour of their own brutality’, June 2014, The Independent, available at: <http://www.independent.co.uk/news/world/africa/exclusive-as-the-democratic-republic-of-congo-suffers-another-day-of-bloodshed-its-soldiers-talk-with-astonishing-candour-of-their-own-brutality-9506990.html>

148 Meijer (2005), ‘Taking Islamist Movements Seriously: Social Movement Theory and the Islamist Movement’, *International Review of Social Theory*, Vol. 50, p. 282

149 Kimmet (2004), cited in Meijer (2005), ‘Taking Islamist Movements Seriously: Social Movement Theory and the Islamist Movement’, *International Review of Social Theory*, p. 282. The remarks were made in the aftermath of the Fallujah attacks.

150 ‘Isis releases ‘abhorrent’ sex slaves pamphlet with 27 tips for militants on taking, punishing and raping female captives’, *The Independent*, December 2014, available at: <http://www.independent.co.uk/news/world/middle-east/isis-releases-abhorrent-sex-slaves-pamphlet-with-27-tips-for-militants-on-taking-punishing-and-raping-female-captives-9915913.html>

151 Escape from Hell, Torture and Sexual Slavery in Islamic State *Captivity in Iraq* (2014) Amnesty International Report, p.9

152 Chelser, Phyllis (2014), **Punished for being Raped and for Accusing Rapists: Women’s Burden under Sharia**, Breitbart, available at: <http://www.breitbart.com/national-security/2014/10/28/punished-for-being-raped-the-burden-of-women-under-sharia/>

153 Nordland, Rod (2014), **Struggling to Keep Afghan Girl Safe After a Mullah is Accused of Rape**, The New York Times, available at: [http://www.nytimes.com/2014/07/20/world/asia/struggling-to-keep-afghan-girl-safe-after-a-mullah-is-accused-of-rape.html?\\_r=1](http://www.nytimes.com/2014/07/20/world/asia/struggling-to-keep-afghan-girl-safe-after-a-mullah-is-accused-of-rape.html?_r=1)

154 For this article, the following are being considered as the sources of Islamic tradition: the **Qur’an**, the **Sunnah** (practical traditions of the Prophet Muhammad), **hadith** (oral saying attributed to the Prophet Muhammad), **fiqh** (jurisprudence), and the **Shari’a**, a code of law which regulates aspects of Muslim life. Riffat, Hassan (2005), ‘Women’s Rights in Islam: Normative Teachings versus Practice’, in *Islam and Human Rights: Advancing a US-Muslim Dialogue*, Shireen Hunter & Human Malik eds., CSIS Press Washington DC, p 45

155 Riffat, Hassan (2005), ‘Women’s Rights in Islam: Normative Teachings versus Practice’, in *Islam and Human Rights: Advancing a US-Muslim Dialogue*,

## SEXUAL VIOLENCE PERPETRATED BY BOKO HARAM

Boko Haram is another Islamist movement which originated in Africa and has been applying a similar treatment to women: captivity and enslavement. The movement originated in Nigeria in 2002 and its initial goal was to oppose Western education. 'Boko Haram' means 'opposing Western education' in the local Hausa language. In 2009 the group started conducting military operations in order to create an Islamic state, which was subsequently declared in 2014.<sup>156</sup> As of late, Boko Haram has made a pledge of allegiance to the IS, vowing to push forward its expansion.<sup>157</sup>

Testimonies of women who have managed to escape from Boko Haram militants indicate that they were forced to marry their oppressors and have been subjected to sexual violence, even if they were under age.<sup>158</sup> Some of those women have reportedly returned to their villages after a couple of months, a few pregnant and others with infants born during captivity.<sup>159</sup> According to estimates from a Human Rights Watch Report, approximately 500 girls from Northern Nigeria have been abducted since the establishment of the group.<sup>160</sup> Most women seem to have been intentionally abducted because they were students, Christian, or both. Those women, who opposed converting to Islam, have been especially subjected to elevated levels of physical and psychological abuse, rape and forced marriage. Additionally, abducted women have also been forced to engage in attacks against government officials and civilians and carry ammunition. One victim, who was forced to take part in such an operation, recalls how "on the way back from another operation, I was told to approach a group of five men we saw in a nearby village and lure them to where the insurgents were hiding."<sup>161</sup> The report states that government forces fighting Boko Haram have committed numerous abuses against the civilian population, using excessive force and persecuting anyone suspected of supporting the Islamist group.<sup>162</sup> Violations against women and girls have also been committed, thus the reports calls for fair investigations and prosecutions of all perpetrators, irrespectively if they are part of Boko Haram or the Nigerian armed forces. The need to support survivors of gender-based sexual violence with adequate medical and mental health services is also emphasized.<sup>163</sup> Due to the existing culture in some highly conservative and religious parts of Nigeria, which stigmatizes victims of rape and leaves them covered in shame, it is assumed that many cases of sexual violence have gone underreported.<sup>164</sup>

## ANALYSIS AND DISCUSSION

The necessity arises to stress that sexual violence is not linked to any religion in particular. Indeed, Islamist groups have been carrying out such crimes recently on a large scale in regions where they seek to assert their own deeply misguided interpretation of Islam, along with a series of hardline conservative values and principles. However, Islamist groups must not be singled out as the main perpetrators of sexual violence, since rape was endemic in conflicts such as the Korean War and Sri Lankan Civil War, which had nothing to do with Islam. Furthermore, sexual violence remains a huge social problem in some parts of democratic societies as well, this being the case of the world's largest democracy—India. Sexual violence is carried out there in rural and urban areas alike, whereby a culture of silence is obscuring rapes and sexual crimes, so that investigations are rarely carried out and perpetrators are often not prosecuted. In his first parliamentary address, India's new Prime Minister, Narendra Modi, emphasized the need to ensure the protection of women and that they deserve to be treated in a dignified manner.<sup>165</sup> This occurred after the nation's conscience was jolted when a young medical student was brutally gang-raped in a moving bus and dumped alive on the street after being eviscerated.<sup>166</sup> The grotesque act led to massive national protests prompting the government to amend and tighten the existing anti-rape law. The media also began to bring sexual violence ever more into the spotlight, framing it as a national social problem.

The aforementioned cases illustrate that sexual violence can occur in times of war, in a country experiencing political instability and conflict over longer periods of time as well as in democracies and in times of peace. Thus, it can occur in areas of a country where the government is lacking sufficient capacities to properly oversee the implementation and adherence to national laws and international legal standards. Sexual violence is predominant in patriarchal societies in which women are not put on the same equal status as men, attributing traditional gender roles to both of them, and seeking to stigmatize and silence the issue of sexual relations inside and outside of marriage. Nevertheless, rape remains a global problem, by no means restricted to developing countries, as it is inextricably linked to male privilege and superiority, which are encountered everywhere.

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Shireen Hunter & Human Malik eds., CSIS Press Washington DC, p.46

156 Chothia, Farouk (2015), 'Who are Nigeria's Boko Haram Islamists?', **BBC News**, available at: <http://m.bbc.com/news/world-africa-13809501>

157 'ISIS welcomes Boko Haram's allegiance and plays down coalition victories', 12 March 2015, **the Guardian**, available at: <http://www.theguardian.com/world/2015/mar/12/isis-welcomes-boko-harams-allegiance-and-plays-down-coalition-victories>

158 Alter, Charlotte (2014), 'Girls who Escaped Boko Haram Tell of Horrors in Captivity', **Time Magazine**, <http://time.com/3540263/girls-boko-haram-escape/>

159 'Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northern Nigeria' (2014), **Human Rights Watch Report**, p. 18

160 'Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northern Nigeria' (2014), **Human Rights Watch Report**, p. 21, available at: [http://features.hrw.org/features/HRW\\_2014\\_report/Those\\_Terrible\\_Weeks\\_in\\_Their\\_Camp/assets/nigeria1014web.pdf](http://features.hrw.org/features/HRW_2014_report/Those_Terrible_Weeks_in_Their_Camp/assets/nigeria1014web.pdf)

161 Ibid. p. 26

162 Ibid., p.5

163 Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northern Nigeria' (2014), **Human Rights Watch Report**, p. 6

164 Ibid. p. 35

165 Virmani, Priya (2014), 'Sexual Violence in India is a Patriarchal Backlash that Must be Stopped', **The Guardian**, available at: <http://www.theguardian.com/commentisfree/2014/jun/17/sexual-violence-india-patriarchal-narendra-modi-women-reform-rape>

166 Rama, Lakshmi (2014), 'Two Years After Infamous Delhi Gang Rape, India isn't any Safer', **The Washington Post**, available at: <http://www.washingtonpost.com/blogs/worldviews/wp/2014/12/16/two-years-after-infamous-delhi-gang-rape-india-isnt-any-safer/>

Hence, sexual violence can occur as collateral damage to an ongoing conflict or it can merely be a manifestation of conservative, patriarchal values, or deviant sexual behaviour. The crucial point is to acknowledge its dimension as a crime, violent in nature, affecting the victim physically and mentally, and not just an act infringing upon the dignity and honour of another human being.

## THE IMPORTANCE OF LEGAL INSTRUMENTS

UNSC Resolution 1820 states that 'rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide'.<sup>167</sup> The Resolution also emphasizes that girls and women are particularly targeted and subjected to sexual violence during war, as part of a strategy to humiliate, instill fear and forcibly relocate a particular community or ethnic group.<sup>168</sup> Girls and women are tools in this strategy. They are recipients of the hatred and desire to inflict punishment and exact revenge on a particular military group. Sexual violence is perpetrated with the overarching goal of weakening and humiliating a perceived enemy.

In order to efficiently and effectively address the social malaise represented by sexual violence, it is necessary to ensure that any such acts are strictly prohibited and punished under national and international law. It is also crucial to highlight that the problem need not necessarily be tied to a conflict or war strategy in particular, but that sexual violence in itself is a violent crime, and that the physical and psychological harm caused to the victim is sufficient proof to have the perpetrator prosecuted and tried. Besides being a medical issue, rape is also subject to legal inquiry, whereby along with bringing evidence of physical and psychological damage, one must also prove criminal intent. This implies that crimes of sexual violence ought to be regarded as a matter of international human rights law, and not limited to humanitarian law. Thus, they can be applied to anyone, in times of peace and conflict alike. Legal instruments must seek to protect women and girls from such acts of violence, and at the same time, complementary efforts must be taken in the cultural realm of social norms and principles. However, it is not enough to merely create legal instruments and to enact laws.

## CONCLUSION

The legal practice of investigations, prosecutions and trials, and an educational system which instills in individuals the belief that men and women are equal and deserve the same kind of treatment must be cemented continuously in order to eradicate the scourge of sexual violence. Ultimately, social mindsets that give preference to patriarchal norms cannot be altered without educating all members of society.

## 4.3 GENOCIDE THROUGH FEMICIDE: VIOLENCE AGAINST INDIGENOUS WOMEN

### ILSE WUYTS AND STEPHANIE KRAUTH

#### SCOPE AND DELIMITATION OF THE SUBJECT

This paper will focus on cases where violence directed specifically against women is used as a tool for the genocidal destruction of indigenous peoples. In such context, femicide must be understood as a broader concept than merely the killing of females; rape, mutilation, torture, forced sterilization, sexual slavery, etc., even when those assaults do not result in death, are included. After all, in many cases, it is questionable whether surviving can be considered as a blessing.

While sexual violence (against both women and men) has always been a common feature of wartime, it is usually considered as a by-product of armed conflicts and not as a deliberate military strategy<sup>169</sup>. However, when mass rape is used as a weapon against civilian population with the target being the destruction or removal of the entire ethnic group, the subject of femicide becomes more apparent. Genocidal rape is often accompanied by the murder and/or mutilation of the victim<sup>170</sup>. Even when the woman survives, she might afterwards be victim of an honour killing, imprisoned for adultery or illegal pregnancy, banned from her

167 UNSC Resolution 1820, adopted in June 2008, available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20S%20RES%201820.pdf>

168 UNSC Resolution 1820, adopted in June 2008

169 S. FISHER, (1996). 'Occupation of the Womb: Forced Impregnation As Genocide', *Duke Law Journal* nr. 46, p 91.

170 L. Smith-Spark, BBC News, (December 8, 2004) 'How did rape become a weapon of war' <http://news.bbc.co.uk/2/hi/4078677.stm> (Last access February 22, 2015).

community, abandoned by her husband, declared unmarried or commit suicide<sup>171</sup>. For this reason, mass rape is a well-suited tactic for genocidal campaigns<sup>172</sup>. Forced pregnancy and forced sterilisation are obvious tools, but the infliction of humiliation and shame can serve this objective as well<sup>173</sup>.

The Bosnian war and the civil wars in DRC and Rwanda are well-known examples where genocidal rape was documented. However, for the purpose of this paper, we decided to focus on cases of war atrocities committed against indigenous women. At this point, it is worth mentioning that because of the wide diversity between indigenous people, the UN-system hasn't adopted an official definition of "indigenous". Instead, it developed a modern and inclusive understanding of this term based on the following<sup>174</sup>:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member;
- Historical continuity with pre-colonial and/or pre-settler societies;
- Strong link to territories and surrounding natural resources;
- Distinct social, economic or political systems;
- Distinct language, culture and beliefs;
- Form non-dominant groups of society;
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

## EXAMPLES FROM THE PAST

The use of violence against women as a tool for the destruction of a native population is nothing new. Therefore, before addressing two current cases, we will give a brief overview of some historical examples. For starters, there are accounts of war atrocities committed against indigenous women in times of colonial expansion: Yakut, Chukchi and Aleut women were enslaved during the Russian Empire's conquest of Siberia<sup>175</sup>; Aboriginal women were raped by the British settlers or were sterilized by the Australian state without their knowledge or consent<sup>176</sup>; also in North-America, Indian women were severely targeted to stop reproduction and to kill the concept of gender equality that lived among many Indian societies, often their genital organs were put on sticks for exhibition by white men<sup>177</sup>.

The Indonesian government has been accused to encourage the military to employ sexual violence and torture against indigenous women in three separate cases<sup>178</sup>. In Aceh and West Papua, women were particularly targeted in order to suppress the independency movements in those provinces. Also during the occupation of East-Timor from 1975 to 1999, the Indonesian army used rape and sexual mutilation as a method to torture the local population. Other forms of violence against women were forced marriages (a euphemism for sexual slavery) and forced sterilization<sup>179</sup>.

Another example where violence against indigenous women was particularly severe is the persecution of the Jumma people, a collective term for indigenous tribes in the Chittagong Hill Tracts region in Bangladesh<sup>180</sup>. With its independency in 1972, the Bangladeshi Constitution imposed Islam as the state religion and Bengali as the sole official language. There was no room for cultural differences and minority rights. When the Jumma revolted to resist the government policies to wipe out their culture, the government encouraged massive settlements of Bengalis in the region, supported by the army<sup>181</sup>. During the protracted guerrilla war that lasted for twenty years, the armed forces and the supportive paramilitary engaged systematically in mass rapes of

171 J. Gottschall, (2004). 'Explaining wartime rape', *Journal of Sex Research* nr. 41, p 131; Genocide intervention fund, 'Darfur: Gendered Violence and Rape as a Weapon of Genocide', <http://www.ncdsv.org/images/darfurgenderedviolencerapeweapon.pdf> (Last access February 22, 2015); Center on law & globalization, 'Overview: Rape and Genocide' [http://clg.portalxm.com/library/evidence.cfm?evidence\\_summary\\_id=250036](http://clg.portalxm.com/library/evidence.cfm?evidence_summary_id=250036) (Last access February 22, 2015).

172 C. MacKinnon, Center on Law and Globalization, (2006). 'Genocide rape is different than war rape' [http://clg.portalxm.com/library/keytext.cfm?keytext\\_id=181](http://clg.portalxm.com/library/keytext.cfm?keytext_id=181) (Last access February 22, 2015).

173 J. Leaning, S. Bartels, and H. Mowafi, (2009). 'Sexual Violence during War and Forced Migration' in S. Forbes Martin and J. Tirman. *Women, Migration, and Conflict: Breaking a Deadly Cycle*, Netherlands, Springer, p 174.

174 United Nations Permanent Forum on Indigenous Issues. 'Who are indigenous peoples?' [http://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf) (Last access February 22, 2014).

175 D. Forsythe, (2009). 'Encyclopedia of Human Rights, Volume 1'. Oxford University Press, p 145-151.

176 C. Tatz, (2006). 'Confronting Australian Genocide' in R. Maaka and C. Andersen, *The Indigenous Experience: Global Perspectives*. Canadian Scholars Press, p 127.

177 J. Ahni schertow, (December 15, 2006). 'Colonialism, Genocide, and Gender Violence: Indigenous Women' in *IC Magazine*. <https://intercontinentalcry.org/colonialism-genocide-and-gender-violence-indigenous-women/> (Last access March 4, 2015).

178 Commission on Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to Indonesia and East Timor, E/CN.4/1999/68/Add.3. (January 21, 1999) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/103/19/PDF/G9910319.pdf?OpenElement> (Last access February 21, 2015).

179 Amnesty International USA, (1995). 'Women in Indonesia & East Timor: Standing Against Repression', New York, Amnesty International USA, p 14.

180 K. Chakma and G. Hill, (2013). 'Indigenous Women and Culture in the Colonized Chittagong Hills Tracts of Bangladesh' in K. Visweswaran, *Everyday Occupations: Experiencing Militarism in South Asia and the Middle East*, Pennsylvania, University of Pennsylvania Press, p 132-157.

181 B. Chowdhury, (2002). 'Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord', unpublished manuscript for the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana-Champaign, p 6-7 <https://ideals.illinois.edu/bitstream/handle/2142/228/ChowdhuryOP.pdf?sequence=2> (Last access February 22, 2014).

indigenous women to create fear in order to combat the insurgency<sup>182</sup>. Amnesty International collected many witness accounts of gang rape followed by murder by bayoneting women in their genital areas<sup>183</sup>. When the rape did not occur in front of their families or communities, many women never admitted that they had been raped out of fear of being ostracized by their families. Among the Jumma people, women represent the honour of the group. Victims of rape are often rejected by their husbands and families or may not be able to get married<sup>184</sup>.

Also in Myanmar, the Burmese government has been accused of the use of genocidal rape against the Karen people during the long lasting civil war<sup>185</sup>. The Karen was the largest ethnic minority group in Eastern Burma. Whereas Burma is mostly a Buddhist nation, the Karen practise Christianity. Pursuing the objective to eliminate those who do not fit in to what is thought of being “Burmese”, the military government launched what they called counter-insurgency campaigns. The killing of indigenous women and forced pregnancy were part of such “Burmanization” campaigns<sup>186</sup>.

In addition, during the Guatemala Civil War between 1960 and 1996, 1.771 civilians from the Mayan Ixils indigenous group were killed. The Commission for Historical Clarification, a United Nations’ backed Truth Commission, set up under the 1996 peace accords, concluded that the Guatemalan government was responsible for more than 93 percent of the human rights violations<sup>187</sup>, and that between 1981-1982 genocide was committed by the Guatemalan state in which between 70 and 90 percent of the indigenous communities were wiped out<sup>188</sup>. Approximately 100 000 women have been raped during this period, the big majority of them being Mayan. After years of silence, Maya women have spoken up about the violence they suffered. Their testimonies are recently being heard in a trial of genocide against the former Guatemalan dictator Jose Efraim Rios Montt<sup>189</sup>. The victims have suffered from various forms of sexual violence, going from rape to mutilation, sexual slavery and sterilizations<sup>190</sup>. Moreover, pregnant women were particularly targeted to ensure no more indigenous children were born. Some were kicked in the bellies to make them involuntarily abort; others, who later died of bleeding, had their unborn babies cut out, after which a stick was inserted through the fetus’ butt hole until it eventually came out from its mouth<sup>191</sup>.

While the aforementioned countries, as a result of international pressure, have made efforts to establish internal peace, the violence against indigenous people, and in particular against women and children, has not entirely ended<sup>192</sup>. Likewise, it will probably take decades, if ever at all, before the victims will receive justice for their suffering. Nevertheless, genocidal campaigns against the indigenous population have ceased in those countries. In the next section, we will discuss two cases where genocide of indigenous people with extreme violence against women is still taking place as we speak.

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182 S. O'BRIEN, (2004). 'The Chittagong Hill Tracts' in D. SHELTON, **Encyclopedia of Genocide and Crimes against Humanity**, New York, Macmillan Reference, p 176-177.

183 Amnesty International, (1986). 'Bangladesh: Unlawful killings and torture in the Chittagong Hill Tracts', London, Amnesty International Publication.

184 J. ARENS, (2011). 'Genocide in the Chittagong Hill Tracts, Bangladesh' in S. TOTTEN and R. HITCHCOCK, **Genocide of indigenous Peoples: a critical bibliographical review** (Vol. 8), New Brunswick, Transaction Publishers, p 128.

185 J. MILBRANDT, (2012). "Tracking Genocide: Persecution of the Karen in Burma", **Texas International Law Journal** 48, p 66.

186 World without genocide site, Burma case. <http://worldwithoutgenocide.org/genocides-and-conflicts/burma> (Last access February 18, 2015).

187 A. Moloney - Thomson Reuters Foundation, (May 10, 2013). 'Guatemalan war rape victims break silence in genocide trial' <http://www.trust.org/item/20130510144558-362tb/> (Last access February 18, 2015).

188 Amnesty International, (May 8, 2013). 'Guatemala's trial of the decade in ten fact' <http://www.amnesty.org/en/news/guatemala-s-trial-decade-ten-facts-2013-05-08> (Last access February 18, 2015).

189 Jose Efraim Rios Montt was found guilty of genocide and crimes against humanity by the Guatemalan courts in May 2013. However, ten days after the historical verdict, the Constitutional Court of Guatemala annulled the conviction and ordered a retrial arguing a legal technicality. The retrial began in January 2015, but many doubts have been raised about its future impartiality. [http://www.huffingtonpost.com/jomarie-burt/new-genocide-trial-in-guatemala\\_b\\_6382940.html](http://www.huffingtonpost.com/jomarie-burt/new-genocide-trial-in-guatemala_b_6382940.html) (Last access February 22, 2015).

190 J.R. PARRA, (22 Febrero 2012). 'Guatemala: Speaking out on the Genocide of Indigenous Women' <http://globalvoicesonline.org/2012/02/22/guatemala-speaking-out-on-the-genocide-of-indigenous-women/> (Last access February 18, 2015).

191 Genocide Watch 'El genocidio de Guatemala' [http://www.genocidewatch.org/images/Genocidio\\_de\\_Guatemala.pdf](http://www.genocidewatch.org/images/Genocidio_de_Guatemala.pdf) (Last access February 18, 2015).

192 Aboriginal women are 35 times more likely to suffer from violence than other women in Australia. It is to be noted, however, that the lion's share of the assaults are intercommunal or domestic. Australian Human Rights Commission, (2012). 'Australian study tour report: Visit of the special rapporteur on violence against women' p 18-20 <https://www.humanrights.gov.au/sites/default/files/document/publication/UNSRVAW%202012%20Web%20Version.pdf> (Last access March 5, 2015); In 1977, Northern Cheyenne tribal judge Marie Sanchez argued: "Indian women of the Western Hemisphere are target of (a) genocide that is ongoing... the modern form (is) called sterilization". However, even though since then a law against these practices exists, American Indian women continue to suffer from other forms of contraceptive coercion: Meg Devlin O'Sullivan, (2007). "'We worry about survival' American Indian women sovereignty, and the right to bear and raise children in the 1970' p 70 and p 181-182; In remote areas of West-Papua, Indonesian army troops have not ceased to commit human rights violations, including sexual violence against women and girls, but most assaults go unreported: G. Harvey, (January 15, 2014). 'The human tragedy of West Papua' published on the diplomat. <http://thediplomat.com/2014/01/the-human-tragedy-of-west-papua/> (Last access March 5, 2015); In the remaining conflict areas in Myanmar, sexual violence continues to be used to terrorize the civilian population: K. News, (November 25, 2014). 'Burma military's continued use of sexual violence 'widespread' against ethnic women' <http://karennews.org/2014/11/burma-militarys-continued-use-sexual-violence-widespread-ethnic-women.html/> (Last access March 5, 2015); The rape of Jumma women by Bengali settlers in the Chittagong Hill Tracts is an ongoing problematic: International Council for the Indigenous Peoples of CHT (ICIP-CHT), (October 31, 2013). 'A submission on Jumma indigenous rural women of the Chittagong Hill Tracts (CHT), Bangladesh, regarding General Discussion on Rural Women, under Article 14 of CEDAW, to the United Nations Committee on the Elimination of Discrimination against Women' [http://www.ohchr.org/documents/hrbodies/cedaw/ruralwomen/internationalcouncilfortheindigenouspeoplesofcht\\_icip-cht.pdf](http://www.ohchr.org/documents/hrbodies/cedaw/ruralwomen/internationalcouncilfortheindigenouspeoplesofcht_icip-cht.pdf) (Last access March 5, 2015); In Guatemala, while the crimes suffered in the civil war by Maya women are coming to light, in the shadows, the daughters of these women are suffering the same fate: L. Wolfe, (March 9, 2012). 'Guatemala's war may be over, but the battle continues to be fought on women's bodies' appeared on women under siege. <http://www.womenundersiegeproject.org/blog/entry/guatemalas-war-may-be-over-but-the-battle-continues-to-be-fought-on-womens> (Last access March 5, 2015).

## THE CONSTANT DENIAL OF ONGOING GENOCIDE IN COLOMBIA AND SUDAN

### SUDAN

In the first instance, we will discuss briefly the war in Darfur, where since 2003, acts of genocide are terrorizing the non-Arab indigenous populations in the region. To understand the origins of the conflict, one has to go back to the early nineties, when the predominantly Arab-controlled government was accused of apartheid policies, marginalizing the non-Arab “black” population<sup>193</sup>. Ten years later, in 2001, the non-Arab indigenous tribes living in the Darfur region swore to work together in order to defend their people against the oppression by the Sudanese government<sup>194</sup>. Shortly after, several rebel groups (which formed an alliance in 2011: the Sudan Revolutionary Front<sup>195</sup>) launched attacks against police stations and military convoys, demanding more representation within the central government of Sudan<sup>196</sup>. Al-Bashir responded by unleashing the army in the area to combat the insurgency. However, the Sudanese military force was already deployed both in the South and the East of the country. The outnumbered soldiers proved soon enough to be incapable of countering the hit-and-run raids by the rebels<sup>197</sup>.

Therefore, in the middle of 2003, the army decided to change tactics and engage the Janjaweed as a paramilitary force in the conflict. The Janjaweed are militia recruited among Arabized indigenous nomadic tribes in Darfur<sup>198</sup>. It is important to note that historically, these nomadic tribes have had clashes with the sedentary population of the region in battles over resource and land allocation; a tension that has been exacerbated in the last decades as a result of desertification and population growth<sup>199</sup>. It is with the participation of the Janjaweed that the civilians from the non-Arab indigenous tribes became the prime victims of the armed conflict. On a regular basis, men are killed, women and children (gang) raped, babies bludgeoned to death and villages burned down<sup>200</sup>.

Mass rape is used as a deliberate strategy to exterminate the non-Arab population from the Fur, Zaghawa, and Masalit ethnic groups<sup>201</sup>. In many cases, women and girls are raped in front of their families. If they are caught alone, when looking for wood for instance, they are marked by biting, branding or genital mutilation after the rape<sup>202</sup>. In this way, the perpetrators take advantage of the social stigma lying on rape victims within this society. Raped women might be ostracized from their communities, abandoned by their husbands (as far as they are still alive) and girls become unmarriageable<sup>203</sup>. If a woman is impregnated by the rapist, she can be imprisoned for “illegal” pregnancy<sup>204</sup>.

Some victims have testified about the ethnic cleansing motivation behind the assaults: “**Black girl, you are too dark. You are like a dog. We want to make a light baby**”<sup>205</sup>. This message reveals clearly the propaganda from the Sudanese government against the non-Arab population<sup>206</sup>. As mentioned earlier, the Janjaweed are recruited in Arabized but equally indigenous people out of the Darfur region; hence, they have basically the same skin-color as their victims. Nevertheless, it is to be noted that in Sudan, a child’s ethnicity is attached to the ethnicity of the father<sup>207</sup>.

Even though the Sudanese government claims that the Janjaweed are criminals and outlaws acting on their own initiative, evidence supports that the Sudanese army provide weapons and financial assistance to the militia and coordinate joint attacks<sup>208</sup>. Moreover, in spite of his indictment for genocide and crimes against humanity by the International Criminal Court, the Sudanese president, Omar al-Bashir, denies not only all involvement in the attacks on local population, but he also refutes the existence of genocidal campaigns in Darfur<sup>209</sup>.

193 H. JOHNSON, (2011). ‘Waging Peace in Sudan: The Inside Story of the Negotiations that Ended Africa’s Longest Civil War’, Sussex, Academic Press, p 38.

194 J. FLINT and A. DE WAAL, (2005). ‘Darfur: A Short History of a Long War’, London, Zed Books, p 76-77.

195 Aljazeera, (November 13, 2011). ‘Sudan rebels form alliance to oust president’ <http://www.aljazeera.com/news/africa/2011/11/2011111313442277256.html> (Last access February 21, 2015).

196 T. GINGERICH and J. LEANING, (October 2004). ‘The Use of Rape as a Weapon of War in the conflict in Darfur, Sudan’, prepared for the US Agency for International Development/OTI, p 3.

197 Ibid footnote 22

198 Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, United Nations, (January 2005), p 32-33.

199 Ibid footnote 24.

200 M. Hirsch, Women under siege, (February 8, 2012). ‘Darfur- Sudan’ <http://www.womenundersiegeproject.org/conflicts/profile/darfur-sudan> (Last access February 22, 2015); J. Hagan, W. Rymond-Richmond and P. Parker (August 2005). ‘The Criminology of Genocide: The Death and Rape of Darfur’ [http://johnhagan.org/pdfs/criminology\\_of\\_genocide.pdf](http://johnhagan.org/pdfs/criminology_of_genocide.pdf) (Last access February 22, 2015).

201 The Telegraph, (September 21, 2004). ‘Respect rule of law, Annan tells world leaders’ <http://www.telegraph.co.uk/news/1472245/Respect-rule-of-law-Annan-tells-world-leaders.html> (Last access February 22, 2015).

202 A. Natsios, (2006). ‘Moving Beyond the Sense of Alarm’ in S. Totten and E. Markusen, **Genocide in Darfur: Investigating the Atrocities in the Sudan**, New York, Routledge, p 33.

203 Ibid footnote 24, p 28.

204 L. Bates, Women under siege, (April 25, 2012). ‘Defining justice when the law is unjust: How gender imbalance affects women around the world’ <http://www.womenundersiegeproject.org/blog/entry/defining-justice-when-the-law-is-unjust-how-gender-imbalance-affects-women> (Last access February 22, 2015).

205 E.Wax, Washington Post Foreign Services, (June 30, 2004). ‘We want to make a light baby’ <http://www.washingtonpost.com/wp-dyn/articles/A16001-2004Jun29.html> (Last access February 22, 2015).

206 Human Rights Watch, (June 23, 2004). ‘Sudan: Darfur atrocities spill into Chad’ <http://www.hrw.org/news/2004/06/22/sudan-darfur-atrocities-spill-chad> (Last access February 22, 2015).

207 Ibid footnote 33.

208 S. Totten, (2010). ‘An Oral and Documentary History of the Darfur Genocide’. Santa Barbara, Praeger Security International, p 18; [http://www.icc-cpi.int/en\\_menus/icc/situations%20and%20cases/situations/situation%20icc%200205/Pages/situation%20icc-0205.aspx](http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200205/Pages/situation%20icc-0205.aspx) (Last access February 22, 2015).

209 E. Thomasson, Reuters, (July 14, 2008). ‘ICC prosecutor seeks arrest of Sudan’s Bashir’ <http://www.reuters.com/article/2008/07/14/us-warcrimes-sudan-idUSL1417202620080714> (Last access February 22, 2015).

The humanitarian crisis attracted a lot of international attention until approximately 2011, when the Doha Agreement was signed between the Liberation and Justice Movement and the Sudanese government, which was meant to establish peace in the region<sup>210</sup>. However, the Agreement appeared to be a failure and the violence is slowly escalating again in Darfur<sup>211</sup>. Human Rights Watch recently published a report describing an attack of Sudanese army troops on the town of Tabit from 30 October to 1 November 2014<sup>212</sup>. The report documents 27 first-hand accounts of rape, often by multiple perpetrators, and credible information about an additional 194 incidents of rape, which all happened in 36 hours. In addition, it is estimated that in 2014 alone more than 450,000 people in Darfur have been displaced because of violence.

## COLOMBIA

The second country we would like to address is Colombia, where since years the “silent” killing of indigenous tribes is happening. Although international authorities, such as the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya<sup>213</sup>, as well as civil society and the representatives of the targeted indigenous groups have been trying hard to raise awareness of the situation, progress still needs to be made.

As a matter of fact, Colombia is suffering from an internal armed conflict for years now and indigenous people are the principal victims. According to Colombia’s Constitutional Court, at least 27 of the 90 distinct indigenous populations existing in the country are at risk of physical or cultural extinction as a result of the armed conflict<sup>214</sup>, because of killings, disappearances, forced recruitment into the armed forces, sexual violence and forced displacement<sup>215</sup>. However, it is debated whether the atrocities can be qualified as genocide or not; notably the mental element, the genocidal intent, is disputed<sup>216</sup>. Moreover, in comparison to the genocide in Darfur, there is much less evidence with regard to the State’s responsibility for the violence against the indigenous people. Nonetheless, irrespective whether the Colombian army is implicated or not, by its lack of attention to the gravity of the situation and its negligence to prosecute the perpetrators, the Colombian government creates the perfect conditions for what can be called a “silent genocide with impunity”<sup>217</sup>.

Often, this violence occurs in front of the community, creating what the National Indigenous Organization (**Organización Nacional Indígena- ONIC**) calls a spiritual and cultural harm to the individual but also the community; the big majority of such violence being directed against women and sexual related<sup>218</sup>. A horrible example of this occurred in 2003 and was allegedly committed by the army pretending to be “paramilitaries”, a Colombian armed group: a 16 years old pregnant girl was raped in front of her community together with three other girls; subsequently she was opened up in order to extract her baby which was cut in pieces while the community was forced to observe; afterwards the death bodies were put in a plastic bag and thrown in the river<sup>219</sup>.

Another illustration of extreme atrocities against women is the Bahía Portete Massacre in 2004, in which the Wayuu community was attacked. The bloodbath was allegedly committed by the paramilitaries, but the Wayuu are convinced that government forces were involved. A survivor describes how women were specifically targeted: **“They carried out their threat because they cut all of the women’s heads off, they put a grenade in one woman’s head. All of that ... It was a Sunday.”**<sup>220</sup>. It is believed that this act was committed for several reasons. First of all, within the Wayuu community, women are regarded as untouchable in conflicts<sup>221</sup>.

210 Sudan Tribune, (April 27, 2011). ‘Draft Darfur Peace Document’ [http://www.sudantribune.com/IMG/pdf/DPA-\\_Doha\\_draft.pdf](http://www.sudantribune.com/IMG/pdf/DPA-_Doha_draft.pdf) (Last access February 22, 2015).

211 All Africa, (September 19, 2012). ‘Sudan: Ambassador Smith- ‘Security Situation in Darfur Deteriorated Compared to 2011’ <http://allafrica.com/stories/201209200049.html> (Last access February 22, 2015).

212 Human Right Watch, (February 2015). ‘Mass Rape in Darfur: Sudanese Army Attacks against Civilians in Tabit’ [http://www.hrw.org/sites/default/files/reports/sudan0215\\_web.pdf](http://www.hrw.org/sites/default/files/reports/sudan0215_web.pdf) (Last access February 22, 2015).

213 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. James Anaya on The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur, A/HRC/15/34/, (8 January 2010) [http://www.politicaspUBLICAS.net/docs/2010\\_anaya\\_inf\\_colombia.pdf](http://www.politicaspUBLICAS.net/docs/2010_anaya_inf_colombia.pdf) (Last access February 18, 2015).

214 V. Belazelkoska, IC Magazine, (January 17, 2013). ‘Colombia: Indigenous peoples still plagued by violence amidst reconciliatory talks’ <https://intercontinentalcry.org/indigenous-communities-in-colombia-still-plagued-by-violence-amidst-reconciliatory-talks/> (Last access February 18, 2015).

215 Autoridad Nacional de Gobierno Indígena, Organización Nacional de Indígena de Colombia (ONIC), (July 19, 2013). ‘Pueblos Indígenas exigimos presencia de oficinas de la ONU en Colombia’ <http://cms.onic.org.co/2013/07/pueblos-indigenas-exigimos-presencia-de-oficinas-de-la-onu-en-colombia/> (Last access February 18, 2015).

216 M. Flash, Human Rights Brief- Center for Human Rights & Humanitarian Law, (March 16, 2013). ‘Situation of Human Rights of Indigenous Peoples in Colombia’ <http://hrbrief.org/2013/03/situation-of-human-rights-of-indigenous-peoples-in-colombia-2/> (Last access February 22, 2015).

217 ABColombia, (October 2010). ‘Caught in the crossfire: Colombia’s indigenous peoples’ [http://www.abcolombia.org.uk/downloads/Caught\\_in\\_the\\_Crossfire.pdf](http://www.abcolombia.org.uk/downloads/Caught_in_the_Crossfire.pdf) (Last access February 22, 2015); SwiwwInfo, (July 9, 2009). ‘The silent killing of indigenous people in Colombia’ <http://www.educweb.org/webnews/ColNews-Sep09/English/Articles/Silenceontuelespeoplesind.html> (Last access February 22, 2015).

218 ABColombia, Sisma mujer, U.S. Office on Colombia, (November 2013). ‘Colombia: Mujeres, Violencia Sexual en el Conflicto y el Proceso de Paz’ [http://www.abcolombia.org.uk/downloads/Sexual\\_violence\\_report\\_Spanish.pdf](http://www.abcolombia.org.uk/downloads/Sexual_violence_report_Spanish.pdf) (Last access February 15, 2015).

219 Organización Indígena de Colombia (ONIC), (2012). ‘Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia: La violencia sexual, una estrategia de guerra’. This report was presented to Margot Wallström, Special Representative on Sexual Violence in conflict during her visit to Colombia, May 16, 2012. <http://manzanadiscordia.univalle.edu.co/volumenes/articulos/V7N2/art10.pdf> (Last access February 18, 2015).

220 Cultural Survival, (Winter 2004). ‘It Seems Impossible To Believe: A Survivor Describes the Massacre that Destroyed Her Wayuu Community’ <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/colombia/it-seems-impossible-believe-survivor-describes-mas> (Last access February 18, 2015).

221 Semana, (January 3, 2015). ‘El infierno que se convirtió en un parque natural’ <http://www.semana.com/nacion/articulo/bahia-portete-el-parque-natural-que-antes-era-un-infierno/413773-3> (Last access February 18, 2015).

Moreover, they play a vital role in the group structure on the cultural, economic and political level<sup>222</sup>. Secondly, several of the victims were also leaders of the community. It is very likely that they were punished for speaking up about the abuses that the Wayuu people are suffering<sup>223</sup>.

However, the objective of the massacre was not only to intimidate the indigenous people by creating terror, it was also aimed at displacing the population. In fact, Bahía Portete is not only surrounded by multinationals, but furthermore, it represents a strategic port with valuable natural resources; it is the perfect spot for trafficking<sup>224</sup>. Even though the paramilitaries completed their goals to displace the Wayuu people (who even had to flee the country), they continue to threaten the indigenous community. Every year, when the Wayuu return to Bahía Portete for the anniversary of the massacre, they find violent messages, specifically against their women, left on the walls of their former houses<sup>225</sup>.

By depriving them of their territories, indigenous populations have not only been put in danger for their survival but their identity as well as their cultural existence is compromised. As an indigenous woman said: **“To lose our land is to lose ourselves (...) Leaving is taking one more step toward death”**<sup>226</sup>. As a matter of fact, because of the special connection they have with their territory, forced displacement has unmeasured spiritual and cultural impacts on indigenous people. Furthermore, it puts women and children in a specific dangerous situation being more exposed to risks, such as food insecurity, diseases and exploitation among others (especially in an armed conflict situation) because of their new status of indigenous displaced people<sup>227</sup>.

## CONCLUSION

Article II of the Convention on the Prevention and Punishment of the Crime of Genocide lists different offences that are considered as acts of genocide when they are perpetrated with the intent of destroying in whole or in part a national, ethnical, racial or religious group<sup>228</sup>. In this paper we have focussed on the physical or cultural extermination of indigenous people by targeting the women of the group. Some of the crimes directed against women are directly covered in article II, such as killings (under a), genital mutilation (under b) and forced sterilization and/or abortion (under d).

The Convention doesn't mention rape as an act of genocide. However, as described above, mass rapes can fall under several of the listed acts of genocide, when they are used as a deliberate strategy to destroy the targeted population. Rape can bring about the suicide of the victim (hence, the application of art. II, a); forced impregnation can “dilute” the ethnicity of the next generation (art. II, d); the stigma of being raped can prevent women from forming a family within the group (art. II, d); rape often inflicts humiliation and self-hate, causing mental harm to members of the group (art. II, b); finally, the threat of mass rapes can cause enough fear to force communities to flee from their homes, thus inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part (art. II, c). Indigenous people are particularly sensible to displacement because of their special connection to their territories. The expulsion from their territory doesn't only compromise their identity as a group, but can even cause the loss of the entire culture because the people are forced to adapt to a new society in order to survive.

## 4.4 EQUALITY FOR AFGHAN WOMEN IS PROGRESS FOR ALL AFGHANS

### DR. MASSOUDA JALAL

#### Founding Chairperson, Jalal Foundation and former Minister of Women, Afghanistan

Jalal Foundation extends a hand of solidarity to all women of the world in celebrating March 8 as the International Day of Women. Today, we celebrate the achievements of the past 13 years including the restoration of equal rights in the legal frameworks, adoption of protective measures against violence toward women, improvement of women's access to education and health services, and the opening of opportunities for women's participation in public life and politics. The seeds of gender equality had

222 Centro Nacional de Memoria Histórica, (2010). ‘La Masacre de Bahía Portete, Mujeres Wayuu en la mira’, p 17 <http://www.centrodememoriahistorica.gov.co/2014-01-29-15-07-55/la-masacre-de-bahia-portete-mujeres-wayuu-en-la-mira> (Last access February 18, 2015).

223 *ibid* footnote 50, p 82-86 and p 91-93.

224 *ibid* footnote 50, p 22-23 and p 137.

225 L. Shemel, Women war and Peace, (1 November 2011) ‘A Return to Bahía Portete’ <http://www.pbs.org/wnet/women-war-and-peace/features/a-return-to-bahia-portete/> (Last access February 18, 2015).

226 **“Perder nuestra tierra es perdernos nosotros (...) Irnos es dar un paso más hacia la muerte”**. ACNUR (UNHCR). “Perder nuestras tierra es perdernos nosotros”- Indígenas y el desplazamiento forzoso en Colombia’ [http://www.acnur.org/t3/fileadmin/Documentos/RefugiadosAmericas/Colombia/Los\\_indigenas\\_y\\_el\\_desplazamiento\\_forzoso\\_en\\_Colombia.pdf?view=1](http://www.acnur.org/t3/fileadmin/Documentos/RefugiadosAmericas/Colombia/Los_indigenas_y_el_desplazamiento_forzoso_en_Colombia.pdf?view=1) (Last access February 18, 2015).

227 *Ibid* footnote 41; B. BARRETT, Colombia Reporters, (April 27, 2012). ‘Indigenous leaders accuses Colombian government of genocide’ <http://colombiareports.co/indigenous-leader-accuses-colombia-of-genocide-over/> (Last access February 22, 2015).

228 Convention on the Prevention and Punishment of the Crime of Genocide adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.

sprouted in the hardened soil of Afghanistan and many women began to take active part in national reconstruction efforts. Afghan women have been driving change, not only for themselves, but more for everybody.

Nevertheless, nearly three decades after the UN Decade for Women, so much more remains to be done to elevate the status of Afghan women. The decree on the elimination of violence against women did little in preventing women-directed violence and is now being questioned by legislators for its alleged anti-Islamic provisions. But, the state should play its important role through legal legislations. It should incriminate all forms of physical and sexual abuse of woman, from verbal harassment, through rape, to sex and child trafficking, in all its forms.

Likewise, the proposed Criminal Procedure Code provides that relatives of an accused may not testify against her/him, making it difficult for victims of domestic violence to access justice. Reported cases of violence against women increased by 28 percent and resurgence of Taliban-style cruelties toward women such as extra-judicial executions, beheadings, mutilations, honor killing and murder have been on the rise. The return of the Taliban, with their cultural extremism and parochialism, will have a negative impact on the set of family relationships, family's social and worldly choices, and will hamper development and proper social change.

The Taliban, ISIS and their increasing influence in national decision making, the imminent withdrawal of international security forces, represent factors which contribute to increasing anxiety about the future of Afghan women's rights. Many Afghan women have perished and the enemies of women's rights are increasing. But a great number of women, girls and men are also stepping forward to carry on with the struggle.

Sisterhood and solidarity with women around the world remains a major source of strength and hope to us. We trust that the international community will continue to give attention and support to their sisters in Afghanistan. On this day, we also call for protection of women in other countries in situation of armed conflict. We ask that women in those countries be consulted in peace negotiations in accordance with UN Security Council Resolution 1325. We also call for continuing support to survivors of natural disasters in other countries and appeal to world leaders to cooperate in the global effort to reduce global warming and rehabilitate natural resources.

As the post-2015 process continues, we call upon women world leaders to champion women's concerns in high level dialogues and ensure their inclusion in the post-2015 development agenda. Remember the widows, female heads of households, women with disability, girl children and female youth, HIV/AIDS survivors, women in armed conflict and other women who are most marginalized by life circumstances.

Jalal Foundations invites all Afghans to join the **Human Chains for Human Rights** that will be organized in all provinces to protest the increasing incidents of violence against Afghan women. Jalal Foundation is also launching the book '**Hanging by a Thread**' with the support of the International Forum for Rights and Democracy to raise Afghan women's concerns globally. This book will be launched also in the United States, Canada and England in May this year.

At last it is worth to mention that the belief in equality, in terms of human soul, spirit, dignity, and joint responsibility for the universe, is an essential concept in the man-woman relationship.

#### **4.5 PERSPECTIVES OF AFGHAN WOMEN: A SUMMARY OF FOUR EVENTS ORGANIZED BY ACUNS -VIENNA AND THE PERMANENT MISSION OF AFGHANISTAN<sup>229</sup>**

##### **ANDRADA FILIP**

##### **ONGOING TRANSITIONS IN AFGHANISTAN**

At present, three simultaneous transitions are taking place in Afghanistan namely in the fields of politics, security and economics. Concerns have been expressed with regard to the implications these processes will have for human rights in general, but especially for women's human rights. Many fear that once the international forces have withdrawn from Afghanistan these issues will stop representing a priority for Afghanistan's government. Hence, it is important to emphasize that the withdrawal of the ISAF (International Security and Assistance Forces) is not synonymous with the withdrawal of the international community. It was agreed during the latest international conference on Afghanistan which took place in Tokyo in 2012, that in spite of declining international aid, the international community will continue to support Afghanistan and make efforts in order to enable the transformation process to move forward.

At the same time, it is also important to acknowledge the fragile, yet momentous achievements which have been made in Afghanistan in the realm of women's empowerment. One significant hindrance which is slowing down the process of developing

<sup>229</sup> The content of this text reflects the inputs made during the panel discussions from the following events: **A Parliamentary Perspective on Consolidating Democracy during Afghanistan's Decade of Transformation** (18<sup>th</sup> of February 2015), **Afghanistan—A Country in Transformation, Promoting Peace and Development through Art** (December 2014), **Perspectives of Afghan Women: 2014 and Beyond** (10<sup>th</sup> of July 2014), **Female Parliamentarians' Perspectives on the Situation of Women in Afghanistan** (14<sup>th</sup> of February 2014). For the purpose of this publication we have respected the Chatham House Rules; therefore we do not mention the names of the panelists who have put forward the arguments and ideas which have been introduced into this text.

women's rights is the lack of trained judiciary and law enforcement officials. Afghanistan has a law on eliminating VAW (violence against women), yet in practice this law is not being effectively implemented, especially in rural areas.<sup>230</sup> Nonetheless, the government is making efforts to maintain the development of the human rights of women, as an important, cross-cutting issue, for their government institutions and reform agendas.

Furthermore, it is necessary to emphasize that the enforcement and consolidation of women's human rights represents an incremental, long-term process, which implies ongoing efforts on behalf of the Afghan government and the international community.

## ACHIEVEMENTS MADE AFTER THE FALL OF THE TALIBAN REGIME

Thirteen years ago Afghanistan and the international community embarked on a common journey to combat international terrorism and provide stability, development and sustainability in Afghanistan. Afghan women were the prime victims of the regime imposed by the Taliban and the abuses they had to endure were atrocious. These often included public flogging, violent domestic and public abuse which culminated in acts of femicide and sexual violence. Still, thirteen years after the fall of the Taliban regime, violence against women, including physical, sexual and psychological abuses remain pandemic<sup>231</sup>.

In the past thirteen years significant advances have been made in securing the rights of Afghan women, ranging from legislation and institution-building to capacity-building and economic empowerment. In spite of these efforts, much remains to be done in addressing the challenges that are hampering the implementation of women's rights.

## EXISTING NATIONAL LEGAL INSTRUMENTS ENFORCING WOMEN'S RIGHTS

The adoption of a new constitution in 2004 is the most important achievement in protecting and promoting women's rights in this country. According to Article 7 the government is obliged to comply with the UN Charter and international treaties and conventions to which Afghanistan is a party, as well as the Universal Declaration of Human Rights. Article 22 forbids all forms of discrimination among the citizens of Afghanistan. Furthermore, this implies that all Afghan citizens, men and women alike, are to be treated equally before the law and possess equal rights and obligations. In accordance with the new Constitution, a series of laws have been enacted or amended, directly and indirectly, to affect the rights and freedoms of women. In this respect, it is important to make a reference to the Law on Elimination of Violence against Women, enacted in 2009, which explains and criminalizes a list of acts representing VAW, such as under-age marriage, forced marriage **baad**, which is marriage for settling a dispute, etc. Another example is the Electoral Law which establishes a 25% quota for seats in the Parliament to be allocated to women. However, it is a different matter when it comes to quotas in the Provincial Councils.

## FUTURE PERSPECTIVES FOR AFGHAN WOMEN

It is crucial to support women in becoming active political players as Afghanistan needs female Members of Parliament to represent and advance the interests of Afghan women. Today 28% of Afghanistan's MPs are women. Women's human rights militants are demanding at least a 25% share of the seats in the District Councils. Furthermore, it is essential to ensure that there is sufficient political will in order to allow for a woman to be appointed in the Supreme Court. The new government has made a commitment to prioritize women's rights. The current President, Mr. Ashraf Ghani, has clearly emphasized that women must be represented at the highest levels of government, including the Supreme Court.<sup>232</sup>

Democracy represents an essential feature of the Afghan political system for women's rights. In the last thirteen years they have had the right to raise their voices, talk about what went wrong in the past and express their pain and anguish. Nevertheless, the Supreme Court of Afghanistan, which has been vested with the authority to interpret the laws of Islamic tradition that affect women's lives, remains male dominated.

In spite of this, today Afghan women can envisage a different future for their daughters as they have now witnessed that women can be empowered too and become active citizens of their country. In 2014, when the presidential elections took place in Afghanistan, a record number of women have cast their votes, making it a milestone achievement for their participation in political life. Women thus represented 38% of the electorate. Yet, women have so far not been involved in ongoing security and peace

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230 For more information please see: <http://www.stopvaw.org/afghanistan>

231 UN Women Director Phumzile Mlambo-Ngcuka, cited in Mashru, Ram (2014), 'Violence Against Women in Afghanistan Peaked in 2013', **The Diplomat**, available at: <http://thediplomat.com/2014/01/violence-against-women-in-afghanistan-peaked-in-2013/>

232 'Afghan President-elect to name woman to Supreme Court', 22 September 2014, **New York Daily News**, available at: <http://www.nydailynews.com/news/politics/afghan-president-elect-woman-supreme-court-article-1.1948094>

talks with the Taliban, even though this is contradictory to the provisions of UNSC Resolution 1325.<sup>233</sup> Justice cannot be achieved without involving all members of society in the reconciliation process.

The women of the world should not forget Afghan women as their fate is tied to the stability of Afghanistan and that of the entire region. Generally speaking, Afghanistan has made lots of achievements, but many challenges remain. Afghanistan however, wishes to become a participant in the world community, and Afghan women have the potential to become magnificent players. It is crucial that the international community continues to support the transition process in Afghanistan, ensuring that women's empowerment remains a priority. Afghan women also need constant reassurance that the international community will not abandon them, as was the case in the past: after the defeat of the Soviets. The international community must also be patient; Afghanistan needs to learn how to stand on its own feet. Currently, the country remains in a highly delicate situation. Women and their rights should also be at the forefront of all efforts the international community is willing to undertake in Afghanistan, especially in the realm of peace and reconciliation.

A psychological war has also been taking place in Afghanistan and citizens have been immensely affected by the decades of conflict and instability. This aspect should not be overlooked when it comes to public perceptions and harnessing the consensus and political will necessary for consolidating women's human rights. The civil society and the media also play a crucial part in mobilizing support for women's rights and persuading them to participate in elections.

### UNODC PROJECTS IN AFGHANISTAN

One less known aspect of the hardships faced by women in Afghanistan is the issue of providing adequate services of female drug addicts. Many of these women have been exposed to drugs from an early age and others use drugs in order to desperately escape from the harsh realities of their lives. It is crucial to ensure that such women have access to drug treatment services, however this remains extremely difficult. UNODC and several women's organizations from Afghanistan have been undertaking efforts in order to work with health care units and health care professionals in Afghanistan to fill this gap.<sup>234</sup> One positive aspect of this endeavor has been the fact that men have supported the growth of this initiative and have committed their efforts to this cause. UNODC's goal has been to help Afghanistan build the necessary capacities in order to sustain these efforts. This is not a matter of providing aid for a pre-determined period of time, but sustainable efforts and an on-going commitment are needed. Women are likely to suffer from drug addictions for years to come and unfortunately, funding remains limited. UNODC seeks to train and build the competence of Afghan health care professionals, so that they can carry on the work by themselves.

Another project launched by UNODC in Afghanistan which is worth mentioning in this connection is the women's prison project: Developing Post-Release Opportunities for Women and Girl Prisoners. This project is important because women are often imprisoned for running away from abusive husbands or minor offences against Sharia Law." In 2006, this project established an educational programme for female offenders and helped develop a national policy addressing the social reintegration needs of female prisoners throughout their imprisonment and following their release.<sup>235</sup> The UN recognized early on that there is an urgent need to protect the rights of women by reforming legislation and ensuring they have access to legal counseling during criminal procedures. Furthermore, a great number of women are being prosecuted and imprisoned for 'moral crimes', which according to international standards do not meet the necessary standards to be classified as criminal violations.<sup>236</sup> Women are particularly affected by customary laws related to marriages, abduction and adultery and the practice of exchanging girls or women in marriage as restitution for a crime or dispute between households, communities or tribes.<sup>237</sup> A vast amount of research has pointed out that these women, once imprisoned, will be subjected to severe human rights abuses. Hence, there is a great need to support their reintegration through community sanctions and other alternative measures. Building on the experience gained from implementing this project, UNODC released a study which stressed the need to develop a national policy on how female offenders should be treated in Afghanistan.<sup>238</sup> There is an urgent need to prevent women from being imprisoned unnecessarily and unfairly.

### THE CRUCIAL ROLE OF THE INTERNATIONAL COMMUNITY IN SUPPORTING AFGHANISTAN'S FUTURE DEVELOPMENT

The future of the country lies in the hands of the new generation of Afghans. They are the country's most important resource. They have great potential, yet they have the ability to do both constructive and destructive things. It is the prime responsibility of the Afghan government to harness this potential and to create opportunities for young men and women so that they can effectively contribute to the transformation and development of their country. As such, providing education and job opportunities

233 The full text of UNSC Resolution 1325 is available here: <http://www.un.org/womenwatch/osagi/wps/>

234 For further information please consult the UNODC website, where you can find more details about this project: <http://www.unodc.org/unodc/en/hiv-aids/turning-the-tide-for-women-and-girls-who-use-drugs-in-afghanistan.html>

235 **Afghanistan: Female Prisoners and their Social Reintegration**, UNODC Study, March 2007, p. 3

236 *Ibid.* p. 6

237 *Ibid.* p. 16

238 **Afghanistan: Female Prisoners and their Social Reintegration**, UNODC Study, March 2007, p. 65

for Afghan youth is essential. In recent years, the increased availability of new information technology has enabled Afghans to access information more easily and connect with people from other countries. This gives them the opportunity to overcome the isolation which their country had succumbed to during the decades of war and discover alternative ways of life.

With the help of the international community, Afghanistan has managed to consolidate its democracy by making advances in three key areas: infrastructure, institutions and decision-making. Millions of Afghan girls are now attending schools and women's rights are enshrined in the constitution. Progress however has been uneven: some provinces have a better track record for upholding women's human rights than others. Security levels also differ from one province to another. In areas controlled by Taliban insurgents, tribal courts continue to enforce a hardline version of Sharia law which is completely dismissive and unmerciful towards women's human rights. One issue which should not be overlooked is the need to persuade families to allow their daughters to be educated beyond the 6<sup>th</sup> grade, and provide economic incentives and scholarships for girls to attend universities and colleges. Only by attending higher levels education will women achieve economic independence, and avoid remaining confined within the walls of their homes, forced to limit themselves to their roles as mothers and domestic workers.

## CONCLUSION

All in all, 2014 represented a turning point for Afghanistan because of a series of transitions that took place: the withdrawal of the ISAF, the presidential elections and the decrease in foreign aid. The latter will pose significant challenges for the economy as new sectors must be explored and developed. The mining sector stands out as one which has great potential to bring in revenues, however corruption and the existing culture of patronage need to be tackled effectively, in order to avoid another 'resource curse' story. Since 2001, women's empowerment represents one of Afghanistan's most important achievements. Women have been a powerful driving force behind the country's transformation process and they must be supported to become ever more powerful agents of change, as their contribution is crucial for ensuring peace and stability. In order to prove that the lessons of history have been learned, the international community must not repeat the mistakes made after the withdrawal of Soviet troops from Afghanistan in 1989. History might have been written differently if the international community had continued to engage with Afghanistan and supported its people. It is imperative to avoid such disengagement at all costs. Continuous support must be pledged to Afghanistan and to its women in particular, in order to ensure that the country gradually becomes a healthy member of the international community.

## 4.6 VICTIMS OF SEXUAL VIOLENCE DURING THE WAR IN BOSNIA

### ADNANA MULALIC-VIKALO, LL.M

"Sexual violence in conflict needs to be treated as the war crime that it is; it can no longer be treated as an unfortunate collateral damage of war." —

UN Special Representative on Sexual Violence in Conflict, Ms. Zainab Hawa Bangura

During the war in Bosnia and Herzegovina women were raped and pushed into, sexual slaveries, forced pregnancies, forced abortions, enforced detentions and other crimes under domestic and international law. Sexual violence against women in Bosnia was systematically employed to destroy communities, install fear, and for ethnic cleansing. Victims were often brutally beaten to death. Women and girls were particularly targeted because they were defenseless.

Survivors are now suffering serious psychological and physical problems, post-traumatic stress disorder, anxiety, depression, loss of confidence, insomnia, STDs, hypertension, and thoughts of suicide.

Rape camps were established in several cities (Keraterm, Manjaca, Trnopolje, Omarska, Vilina Vlas). Some of those victims were very young, (the youngest victim was 12 years old), some were of childbearing age, and some very old. Women were raped because they were female. After being raped the women felt ashamed, and frequently refused to talk about their experiences and to seek help. There is a common myth that rape during war-time is predictable crime and has been viewed as a collateral damage. The government of Bosnia and Herzegovina has no a program at the national level to support women victims of sexual violence in war.

The number of women raped during the war in Bosnia is very difficult to determine.

The estimates range between 20,000 and 50,000.

So far 25,000 victims have been established in the U.N. report by the Committee on the Elimination of Discrimination against Women in 1994.<sup>239</sup> The U.N. experts pointed out that some of the camps were not accessible for investigation, and that number

<sup>239</sup> Committee on the elimination of discrimination against women thirteenth session 17 january – 4 february 1994.

25,000 is on the low side. It should be noted that this report was made before the mass rape which occurred in Srebrenica in 1995. According to report of Civil Society "Women War Victims" the youngest victim was 12 years old and the oldest was 60 years old at the time when they were raped.<sup>240</sup>

The U.N. Special Representative Margot Wallstroem stated that 50,000 to 60,000 women in Bosnia have been victims of the war-time rape.<sup>241</sup>

Rape is very often viewed as a lesser crime of war. UN Special Representative of the Secretary-General Margot Wallström in her article: **Making the Link Between Transitional Justice and Conflict-Related Sexual Violence** wrote that in the proceedings at the International Criminal Tribunal for the former Yugoslavia (ICTY) in Hague, one sexual predator which was indicted for his role related to rape camps in Foca defended himself by saying "but I could have killed them!"<sup>242</sup>

Rape usually causes very serious physical harm. Many women died as consequences of rape. Human right activist and president of the **Association of Women Victims of War** Bakira Hasecic and her sister both were raped in the town of Visegrad. Hasecic's sister died in a rape camp in Visegrad.<sup>243</sup>

The majority of rape victims face severe infections, because adequate treatments were not available during the war.

Worse still, many women conceive from the rape and mass unwanted pregnancies during war-time remain one of the hardest challenges for women and institutions. During the war in Bosnia, hospitals did not have necessary drugs for abortion. The UN mission that investigated rape in former Yugoslavia in January 1993 in the larger women clinics in Zagreb (Croatia), Tuzla, Zenica, Sarajevo (Bosnia) and Belgrade (Serbia) found 119 cases of unwanted pregnancies.<sup>244</sup> Exact number of children conceived as result of the brutal acts of rape during the war in Bosnia will never be known. Often women were held hostage in a rape camps until abortion was no longer possible for medical reason.

Victims of rape suffer serious health problems until today, 18 years after the war ended. In addition to physical problems that could persist for their entire life, they suffer from post-traumatic stress disorder, depression, anxiety, and suicide attempts.

Perpetrators of sexual violence need to be prosecuted and punished for their heinous crimes. For the many unnamed survivors of sexual trauma, punishment for their perpetrators is a step towards rehabilitation and closure.

Rape as a war crime cannot be anymore ignored, cannot be accepted, and cannot be treated as a collateral damage. Victims need justice now.

There are several international instruments such as resolutions, laws, and treaties that address rape as a war crime and violation of human rights.

Security Resolution 1820 noted that women and girls are particularly targeted by the use of sexual violence, including in some cases as "a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group". The resolution demanded the "immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians."<sup>245</sup>

Security Resolutions 1960 stressed that is time to end impunity. As long as perpetrators of violence are not prosecuted the chain of conflict will not see an end. The Resolution explains which steps need to be taken for both the prevention of and protection from sexual violence in conflict.<sup>246</sup>

Sexual violence has also been recognized as a crime under international law through jurisprudence by international criminal tribunals as well as the explicit Rome statute of the International Criminal Court.<sup>247</sup>

The Rome Statute does not only include rape but also sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other forms of sexual violence.

International laws and resolutions that recognize rape as a crime against humanity and international war crime should be implemented in the Bosnian justice system and judicial practice.

## CONCLUSION

Women raped during the war in Bosnia and Herzegovina are in great need of rehabilitation and reintegration into society.

They should be encouraged to cooperate with International Court for former Yugoslavia. It is important that witnesses/victims are afforded full legal protection, and assurance that the relevant authorities will take all possible measures to guarantee their safety. Psychosocial therapy and support must be made available free of charge for all victims and their families. Special support should be offered to Civil society/organizations that are specialized in offering help to war rape victims. Shelters with adequate legal and medical help should be established. Victims/survivors of the war must be given priority for employment opportunities as a way of rehabilitation and smoother re-integration into society. Victims of this horrible crime should be eligible for compensation either from the perpetrator or from the State.

240 <http://www.zena-zrtva-rata.ba/mcd/?mod=article&cat=Onama&article=119>.

241 <http://www.womenundersiegeproject.org/conflicts/profile/bosnia>

242 Introduction: Making the Link Between Transitional Justice and Conflict-Related Sexual Violence by Margot Wallström 2012 page 3.

243 [//bosniangenocide.wordpress.com/2013/12/25/visegrad-bosniak-women-use-human-shield-to-stop-serbian-nationalists-from-demolishing-memorial/](http://bosniangenocide.wordpress.com/2013/12/25/visegrad-bosniak-women-use-human-shield-to-stop-serbian-nationalists-from-demolishing-memorial/).

244 Alexandra Stiglmeier Mass rape: the war against women in Bosnia and Herzegovina 1994.

245 [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1820\(2008\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1820(2008))

246 [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1960\(2010\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1960(2010))

247 <http://legal.un.org/icc/statute/romefra.htm>

## 4.7 STORIES OF SEXUALIZED WAR VIOLENCE AFTER THE BOSNIAN WAR

GORAN BASIC<sup>248</sup>

### ABSTRACT

The aim of this article is to analyze verbally portrayed experiences of 27 survivors of the 1990's war in northwestern Bosnia. The focus lies on evaluating interviewees' description of wartime sexual violence and (redundant) analyzing discursive patterns that contribute in constructing the phenomenon "sexualized war violence". My analysis shows that the new social war order normalized the sexualized war violence in society. In many cases, these crimes are committed by neighbors and people known by the victim/survivor. After the war, all interviewees described war sexual violence as something morally reprehensible. These narratives paint a picture of the perpetrator as someone who is dangerous, evil and the absolute enemy. This enemy is a real but distant criminal who is seen as a clear threat to the existing social order from before the war.

### INTRODUCTION

The starting point of this article/report is the war that took place in northwestern Bosnia and Herzegovina and, more specifically, the interpersonal interpretations of sexual violence and the biographical impact of wartime sexual violence. Serbian soldiers and police weaponized their use of sexual violent force directly against the civilian populations in northwestern Bosnia. In their quest to expel Bosniacs<sup>249</sup> and Croats from this area, Serbian soldiers and police used mass executions, forced flight, systematic rape, and concentration camps (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994).

The aim of this article/report is to analyze the stories told by survivors of the war in northwestern Bosnia during the 1990s. The purpose is to study how the survivors describe wartime sexual violence and which discursive patterns emerge in the construction of the category "sexualized war violence". My question is: How do war survivors describe sexual violence and other sexual abuse during the war? In this study, I seek to touch upon the phenomenon "sexual war violence" by analyzing the narratives of the informants, namely their descriptions in relation to themselves and others (Riessman 2008).

This analysis will show that the interpretation of the biographical consequences of sexual war violence is intimately related to the subject's own war experiences. In this report, I try to highlight how the creation of the concept "sexual war violence" is made visible when the interviewees, in the empirical material, talk about (1) a sexual violence in the war, and (2) dissociation from the perpetrator of sexual violence after the war.

### METHOD

This study joins the narrative traditions within sociology where verbal stories are regarded as both discursive and based on experience. This study is based on interaction but it is also inspired by how people portray their social reality. Stories are interpretative because they are used to explain the situation through a subjective point of view, thus, they need to be analyzed (Riessman 2008).

This article is based on recorded interviews carried out with 27 survivors of the war in northwestern Bosnia and Herzegovina. The material for this study was collected during two phases. During phase one, i.e. March and November of 2004, I carried out fieldwork in Ljubija, a community in northwestern Bosnia. I interviewed 14 individuals who lived there at that time, five men and two women who had spent the entire war period in Ljubija, as well as four men and three women who were expelled from Ljubija during the war but had returned afterwards. Six of the fourteen interviewees were Serbs, five were Bosniacs, and three were Croats.

Under phase two, from April through June of 2006, I interviewed nine former concentration camp detainees and their four close relatives. The detainees had been placed in the concentration camps by Serbian soldiers and police despite being civilians during the war. At the time of the interviews, some of the interviewees lived in Sweden; some lived in Denmark and some in Norway. Eleven of those interviewed came from the municipality of Prijedor (to which Ljubija belongs). The two remaining interviewees came from two other municipalities in northwestern Bosnia. Ten men and three women were interviewed; three interviewees were Croats and ten were Bosniacs. Parts of the material collected in 2004 and 2006 have been analyzed in other reports and articles. These analyses are based on the above-described material and with partly different research questions (Basic 2015, submitted 1, 2, 3, 4, 2007, 2005).

The material was transcribed into the Bosnian language. Usually, I did this the same day or the following days to ensure a qualitative documentation of details and comments in the transcription. By commenting in the transcription, I created a categorization of

248 Goran Basic is a postdoctoral researcher at the Department of Sociology, Lund University. His research concerns fieldwork in Bosnia and Herzegovina, he has written articles on the postwar society and carried out an evaluation of a project in the juvenile care.

249 Bosnian Muslims began to identify themselves as Bosniacs during the war. The term 'Bosniac' is actually an old word meaning 'Bosnian,' which is now used both in an official context and everyday language. Both "Bosniac" and "Muslim" are used in everyday speech.

data (Silverman 1993/2006). When encoding the statements, I identified markers of sexual violence in the material. Empirical sequences presented in this study were categorized as “normalization of sexual violence”, and “dissociation from the perpetrator of sexual violence”.

## NORMALIZATION OF SEXUAL VIOLENCE IN THE WAR

Earlier research concerning sexual violence during the war in Bosnia and Herzegovina has noted the importance of post-war stories (Houge 2008; Skjelsbæk 2007). Stories about the “sexualized war violence” phenomenon in my study produce and reproduce the image of disintegration of the social order that existed in the society before the war.

The new social war order normalized the rape existence in society (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994). The narratives about sexualized war violence give an example of how the violence persists in its effects to the present day after the war in Bosnia. Milanko’s<sup>250</sup> story is one example of this: “I feel sick from it, they put on their uniforms and go out to the villages to rape and kill women,” and Radovan questions: “Who gives us the right to rape someone’s sister and mother?” Rada reveals: “During the war, in this apartment, when Briševo<sup>251</sup> was massacred, I was severely beaten by Serbs and my neighbor was raped.”

Nada also told me that she saw soldiers and policemen through the window as they were “partying by the Glass house. They raped women there. Drunk.” The drunk group of soldiers and policemen “continued and raped Gara (Nada’s neighbor who was raped).”

Bela gives us instance of the personal and individual aspects of this violence and how it carries into post-war social life. She says that “Ranka and Anka (both friends of the interviewee) became pale-white, I asked them what was wrong, and they answered, here comes Laic. He had raped them lots of times during the war”.

The new social war order normalized even the existence of concentration camps in society (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994).<sup>252</sup> Even the stories from the concentration camps contain episodes of sexualized war violence; Zahir’s story is one example of this: “Savages (Zahir refers to guards), they forced old Adnan (another inmate) to rape a girl, and she was not older than 15 years. They have also forced men on each other.”

Interviewees dramatize the described situation, aiming at presenting the perpetrators’ actions as morally despicable, and their subjection to sexual violence is described as one being in a state of submission and weakness. The image of the perpetrators and those subjected to sexual violence does not seem to exist merely as a construction of the mind. Stories retold 14 years after the crimes still describe perpetrators and those subjected to sexual violence vividly, even long after the war (Houge 2008; Skjelsbæk 2007).

Interviewees portray the perpetrators of sexual violence as a coherent violence-exercising group. In their description, they make an ethnic generalization of the perpetrators and the victims of sexual violence. Thomas Hylland Eriksen (1993) argues that ethnic identity is an ongoing process of relations between actors who perceive themselves as distant from members of other groups with whom they have or feel to have a minimum of regular interaction. Ethnic identity is based on the contrast with others. Hylland Eriksen believes that ethnic identity is most significant when it is perceived as threatened. Rada did not call the perpetrators soldiers or policemen; she said that “Serbs” used violence and raped Rada’s neighbor. She makes a generalization based on opposing positions between categories.

Through their stories on sexual war violence, interviewees highlight the decay of social control, which, according to their view, occurred at the beginning of the war (Houge 2008; Skjelsbæk 2007). Such a display of sexual violence could not be seen in northwestern Bosnia before the war. The social control of the pre-war society did not permit a situation in which a group of individuals were openly accepted as targets for sexual attacks.

Presser (2013) explains that social reality is versatile, especially in a war situation. Pre-war social control did not allow sexualized violence. However, during the war, these events served the purpose of building unity and enabling the future use of violence and sexual violence. In the mentioned example above, we have a situation where the use of sexual violent force increased dramatically in the war society. Collins (2008) argues that the ritualized use of violence, i.e., that which is done on a daily basis, is organized and becomes a norm in a war society. In this case, new deviants and new crimes emerged, for example, refusing to participate in wartime’s use of sexual violence. An old social order is rejected, and a new one emerges and is preserved.

250 All names and identifying information have been changed.

251 Briševo is a village that belongs to the municipality of Prijedor in northwestern Bosnia.

252 The interviewees who were detained in concentration camps told me that inmates died in great numbers because of food shortage, diseases, battering, and planned executions. Firearms were seldom used; instead, they used baseball bats or knives. According to the interviewees, all inmates lost between 20 and 40 kg of body weight and were so emaciated that they had trouble standing up and moving. The general atmosphere and the ritualized use of violence in the camps made the inmates apathetic, and at times, it seemed that they just waited to be killed to end the pain (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994, Basic submitted 1, 2007).

## DISSOCIATION FROM THE PERPETRATOR OF SEXUAL VIOLENCE AFTER THE WAR

The stories on sexual war violence reveal how the existing social order from before the war is rejected, and in its place, the wartime social order is therefore upheld. Stories of the phenomenon “sexualized war violence” produce and reproduce the image of human suffering during the war. In these stories, a correct moral behavior is constructed as a contrast to the stories of suffering during the war.

The rapes described seem to have a ritualized element with the “putting on the uniforms” and other systematized factors and appear to have been ethnically targeted. Stories about sexual war violence and human suffering serve to support my argument that sexual war violence in this war was more individualized - in many cases the attackers are known and exist in the victim’s social networks and are identified as sadistic, powerful and distant monsters.

Interviewees depict the perpetrators as big, strong, evil, and non-human. The suffering created by the perpetrators turns the latter into distant actors and a threat. The portrayal of the perpetrators produces and re-produces the picture of those submitted to this sexual violence as weak and inferior. By categorizing the perpetrators as such, interviewees also instruct others to identify the results of the perpetrators’ actions. By pointing out the perpetrators’ position, interviewees implicitly point out the perpetrators as contrasts to those subjected to sexual violence. Note how the perpetrator and the victims of sexual violence, in the previous empirical example, are constituted simultaneously. The perpetrators’ actions are clearly shaped through a concrete dramatization and an explicit designation.

Implicitly, interviewees create the correct morality when they reject the actions of the perpetrators (Houge 2008; Skjelsbæk 2007). In other words, interviewees’ rejection, which reveals itself during the conversation, contains a moral meaning. Presser (2013) argues that a connection exists between wartime violence and the social order. What interviewees tell us could be seen as a verbal reaction to their unfulfilled expectations. These expectations - for example, helping a human in distress, are morally correct actions, which from the interviewees’ perspective, are absent in the sexual violent situation they retell. Zahir seems surprised by the guards’ extreme use of sexual violence and the suffering they caused. He implicitly constructs the morally correct action regarding the sexual violent situation in contrast to that which he told us.

Stories about sexual war violence and human suffering are examples of a certain war interaction that includes a sense of ‘normalizing’ certain relations, partly between perpetrators and those subjected to violence, and partly between the perpetrators and the narrator. These stories are permeated by retelling, and are constructed so as to allow the different actors to distance themselves from one another, and thus maintain the war’s social order. The interviewed people in this study portray the perpetrators as dangerous, mad, and evil—on one hand as a clear threat to the pre-war prevailing order, and on the other, as an ideal enemy, a real but distant criminal.

## CONCLUDING REMARKS

Earlier research on the sexual violence during the war in Bosnia and Herzegovina recognized the importance of post-war narratives (Houge 2008; Skjelsbæk 2007). My primary purpose is to describe how the actual actors portray sexual violence during the war. My secondary goal is to analyze which discursive patterns are used in creating the category “sexualized war violence”.

This study shows that after the war in Bosnia, the interpretations of biographical consequences of sexual violence are intimately connected to previous war experiences. Narratives on the phenomenon “sexual war violence” depict a decay of pre-war social order. The use of sexual violence during the war is described as **organized** and **ritualized**, which implies that the use of sexual violence became a norm in society, rather than the exception.

The narratives of the phenomenon “sexual war violence” produce and reproduce the image of human suffering. Those subjected to sexual violence are portrayed in a de-humanized fashion and branded as suitable to be exposed to it. In these stories, morally correct actions are constructed as a contrast to the narratives on sexual war violence. In these descriptions, the perpetrator of sexual violence is depicted as a dangerous, evil, and ideal enemy. He is portrayed as real and powerful, yet he is the alien criminal who is said to pose a clear threat to the social order that existed before the war. The narratives on wartime sexual violence, war perpetrators, and those subjected to sexual violence during war are enhanced through the usage of symbols of ritualized ethnic violence. On one hand, the narrators make an ethnic generalization based on the differences between the ethnic categorizations; on the other hand, they present their own physical existence and ethnic identity and that of those subjected to sexual violence as being threatened by the sexual violent situation.

The disintegration of the existing, pre-war social order produces and reproduces a norm resolution that enables the ritualized wartime use of sexual violence. This development allows the normalization of war sexual violence in this time period even though the result, as this study shows, means human suffering. This study presents this development in society ambivalently as both allowed and normatively correct (during the war) and as prohibited and condemned (primarily in retrospect, in post-war narratives). It seems as if the category “sexual war violence” means different things depending on whether it happened during war or not, whether it is retold or observed, and who is telling the story. For some persons, sexual violence targeting civilians during the war is an act of heroism.

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## 4.8 FEMICIDE IN ARMED CONFLICT ZONES: THE CASE OF THE DEMOCRATIC REPUBLIC OF CONGO

### MARY NANTONGO

#### INTRODUCTION

The Democratic Republic of Congo (DRC) is the third largest country on the continent of Africa. It gained independence in 1960 and was ruled by Colonel Joseph Desire Mobutu from 1965 to 1996. The first civil war emerged in 1996, when Rwandan troops, known as the Alliance des Forces Démocratiques pour la Liberation du Congo-Zaire (AFDL), led by Laurent-Desire Kabila, entered DRC which forced Mobutu to flee the country as Kabila was declared the President.

Since then the country has been faced with continuous civil wars, notably around 1998-2003, that has claimed both combatants and non-combatants lives, especially women. The eastern part of the Democratic Republic of Congo has been hit the most leading to many grave forms of violence against women especially in the form of sexual violence.

<sup>253</sup>Sexual Violence against women in times of war is not a new phenomenon. Women`s bodies have always been used as battlefield and weapons by perpetrators, commonly in acts such as rape, which at times has led to death of the victims due to severe physical damage. Brutal forms of sexual violence, including sexual slavery, gang rape, mutilation, torture, and insertion of sharp objects into women`s vaginas, have been commonly performed on the victims.<sup>254</sup>

Armed groups and ``security`` personnel are the major perpetrators of crimes against humanity, especially violence against women, in conflict zones. However, non-combatants also exploit the opportunity of chaos and disintegration of the country to commit crimes, specifically violence against women through sexual abuses. As law and order is destroyed by the conflict, offenders are hardly punished for their crimes.<sup>255</sup>

In addition, sexual violence carried out against women in the Democratic Republic of Congo has been used by armed forces to further disintegrate the community, intimidate people for forced support, and create shame and humiliation, among other atrocities.

According to Hynes et al. (2000), throughout the world, one in every three women have been beaten, coerced into sex, or otherwise abused during her lifetime. Women are particularly vulnerable to rape during times of disintegration of social structures or flight from war torn areas and/or countries.

Consequently, war and conflict become too “costly” for women (Keener, 2012) due to inhumane acts of violation they undergo. Innocent Women pay a heavy price through detrimental human rights abuses carried out against them. Such abuses have led to some of the victims’ suicide attempts and other destructive actions because of the difficulties and complications that come up in the aftermath of the violation (Guzder, 2011).

Moreover, women also suffer from cultural and traditional violence such as female genital mutilation, early marriages, marital rape, honor killings and other human right violations, that are “legitimized” through cultural practices and tradition. Patriarchal beliefs that are strongly embedded in African society that discriminate women in the social structure by placing women at a lower level than men are also to blame for the high levels of continuous cases of femicide on the continent.

## FEMICIDE IN THE DEMOCRATIC REPUBLIC OF CONGO

There have been numerous acts of femicide committed in DRC among which sexual violence is reported to be the highest. This article looks into only one form of sexual violence carried out on Congolese women, namely rape, carried out by unknown perpetrators. The prevalence of rape and other forms of sexual violence in the eastern part of this country has been described as the worst of its kind in the world (Kasangye et al. 2014). Rape in this war torn country have been going on for over two decades. It has been argued that, despite the reported estimate of 1.8 million cases, the exact number of raped persons ever since the conflict started is unclear, as many women do not report the attacks.

It has been reported that these abuses have been mainly carried out by different armed forces operating in DRC including the Congolese security forces. The eastern part of the country has been the most affected part associated with the conflicts and has the highest reported cases of rape victims in the area. For instance, in July 2009, the Human Rights Watch`s report recorded a number of women and girls raped during the war in the eastern part of the country, with some of the victims who survived the gruesome act speaking out.<sup>256</sup>

**“We were three young women and we were on our way to Cirunga.... They [the soldiers] raped us and dragged us to their camp which was not far away. I stayed there for one month, under constant supervision.... There was no conversation between us; he had sex with me at any moment, when he felt like it, and with a lot of violence. I spent my days crying. I begged God to free me from this hell.”**

**— 23-year-old woman, Kabare, South Kivu, April 2009**

**“I was just coming back from the river to fetch water.... Two soldiers came up to me and told me that if I refuse to sleep with them, they will kill me. They beat me and ripped my clothes. One of the soldiers raped me... My parents spoke to a commander and he said that his soldiers do not rape, and that I am lying. I recognized the two soldiers, and I know that one of them is called.”**

**Edouard. —15-year-old girl, Minova, South Kivu, March 2009**

<sup>253</sup> Jocelyn Kelly (2010), Rape in War: Motives of Militia in DRC: United States Institute for Peace- Special Report, p.1

<sup>254</sup> Human Rights Watch (2002): The War Within The War: Sexual Violence Against Women and Girls in Eastern Congo, pp. 11-13

<sup>255</sup> War on Women (May 2011): Time for Action to End Sexual Violence in Conflict: Noble Women`s Initiative, p. 6

<sup>256</sup> Human Rights Watch (2009), Soldiers Who Rape, Commanders Who Condone Sexual Violence and Military Reform in the Democratic Republic of Congo, p. 8

As mentioned above, rape in Congo has been the highest form of human rights violation against women. For instance, a woman was gang raped by soldiers and her house was then set on fire leaving her with burnt scars<sup>257</sup>. Such incidences have led to the loss of many women's lives in the DRC without any justice.

As mentioned earlier, numerous cases of sexual abuses have been reported in Congo. For instance, the M23 fighting group that was formed in April 2012 and at that time greatly supported by Rwanda, gained control of Rutshuru and Nyiragongo territories in Congo's North Kivu province. Later in November it seized the main eastern city of Goma and committed many human rights abuses.

According to the Human Rights Watch report of July 2013, the M23 group raped 61 woman and girls between March and July of that year. These were the officially documented cases. However, due to stigma, labeling, shame and cultural issues it is feared that some women and girls did not come out to report or talk about the violence committed against them because of the fear of stigmatization from the community.

The report goes ahead to state that most victims were heard saying that after being raped, the perpetrators always threatened them not to talk about the incidents or they would be killed<sup>258</sup>.

## CONCLUSION

It has been calculated that thousands of women have been violated in one way or another in the Democratic Republic of Congo. These crimes have greatly affected the women physically, emotionally in terms of their psychological wellbeing and health.

The Democratic Republic of Congo has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on October, 17th 1986. Therefore the country is obliged to ensure that the convention and other international laws are observed, especially with regard to the protection of women.

Despite the so called effort by the Congolese government and a number of international organizations' interventions to bring an end to sexual violence against women, high rates of rape continue to be reported in this country. **Africa in focus** (2013) reported that an estimated 48 women were being raped every hour by militiamen and the notoriously undisciplined Congolese soldiers to the extent that the Democratic Republic of Congo has been named, "the Rape Capital of the World"<sup>259</sup>.

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## 4.9 SEXUAL VIOLENCE AGAINST FEMALE SLAVES AND MINORITY WOMEN BY THE “ISLAMIC STATE” (IS)

GEJSI PLAKU

**“In Rambussi we were held in a house with five other girls. There they did to me what they did to many other girls. I was raped. My cousin was not molested; they wanted to take her to marry her to a man but in the end they left her with us and then we managed to escape. One of the girls said she was not raped but I don’t know if it is true; I hope it is true.”<sup>260</sup>**

According to the United Nations over 1.8 million people have been displaced by violence through the so-called self-proclaimed world caliphate of the Islamic State (IS)<sup>261</sup> in 2014; up until August 2014 at least 8,493 civilians have died in the conflict reaching a peak in August with about 850,000 fleeing their homes.<sup>262</sup> Within weeks the extremist militant group carried out a deliberate policy of ethnic cleansing in the northern region of Iraq with fatal consequences for the ethnic and religious minorities who suffered violence at the hands of members of the IS. Hundreds of thousands of Kurds, Yezidis<sup>263</sup>, Assyrian Christians, Shabak Shi’a, Turkmen Shi’a, Sabeen Mandaeans as well as Sunni Muslims opposing the terror group have been subjected to persecution and different forms of violence by IS fighters.

Human rights violations committed by IS jihadists have mainly targeted civilian population and have been systematic and organized in nature. Their atrocities constitute crimes against humanity and include murder, executions by beheadings, mutilation, torture and imprisonment. Additionally, captive women have been raped, forced into marriages, sold for money and pushed into sexual slavery – sexual violence against women and girls has been used specifically as a tool to subjugate the civilian population.

Hostage-taking and the subsequent forced enslavement and sexual abuse of women belonging to ethnic minorities in IS-controlled territory are some of the grave instances of human rights abuses and criminal violations aimed at destroying these communities. A report published by the **UN Assistance Mission for Iraq** (UNAMI) states that IS militants have “systematically killed, tortured and raped” women and girls predominantly from Yezidi and Christian communities who have been subjected to particularly brutal treatment, including sexual abuse and also enslavement.<sup>264</sup> After the capture of the Sinjar area in northern Iraq through the jihadists in August 2014, Iraqi and Kurdish (Peshmerga) forces fled in the face of IS advance leaving civilians from the Yezidi and other minorities unprotected. The takeover of the Sinjar region was accompanied by an upsurge in violence against Yezidi women. Up to 500 women and girls were forcibly taken in this area, younger girls were separated from their families and “sold, given as gifts or forced to marry IS fighters and supporters. Many have been subjected to torture and ill-treatment, including rape and other forms of sexual violence, and have likewise been pressured into converting to Islam.”<sup>265</sup>

According to UN reports<sup>266</sup> the total number of women and children captured by the extremist militant group stands as high as 7,000, as the group went on a rampage to ethnically wipe out all those it saw as apostates and infidels. Donatella Rovera, Amnesty International’s Senior Crisis Response Advisor, who spoke to more than 40 former captives in northern Iraq, stated that “many of those held as sexual slaves are children – girls aged 14, 15 or even younger. **Islamic State** fighters are using rape as a weapon in attacks amounting to war crimes and crimes against humanity.”<sup>267</sup> Rape is also used as a tool of terror against the women’s family members that have not been abducted but continue to daily exist in fear.

After abduction, women and girls are distributed among IS jihadists as spoils of war, forcibly married off to the extremists and their supporters, pressed into sexual slavery or auctioned off as personal slaves. Far from hiding its heinous acts, the IS has boasted about the crimes they have committed. Based on their own interpretation of early Islam, the extremist militant group has given detailed theological reasons justifying their actions and seeking to legitimize these criminal acts. In its English-language online recruitment tool **Dabiq**<sup>268</sup> the IS militants discuss the treatment of female sex slaves by differentiating between women from

260 The account of a Yezidi girl who was abducted and held in IS captivity before being able to escape, from: “**Escape from hell: Torture and sexual slavery in Islamic State captivity in Iraq**”, Amnesty International 2014, Printed by AI, International Secretariat, United Kingdom

261 The Islamic State of Iraq and the Levant is an Islamist radical group that controls territories in Iraq and Syria and also operates in eastern Libya and other areas of the Middle East. The Arabic acronym is “Daesh”. In June 2014 the rebel group proclaimed itself to be a Caliphate and renamed itself the Islamic State (IS). Its origin can be tracked back to the foundation of **Jamat al-Tawhid wal Jihad** in 1999

262 Refugees – Numbers: <http://www.un.org/en/globalissues/briefingpapers/refugees/>, retrieved on February 19, 2015

263 A mostly Northern Kurdish-speaking religious minority whose original main settlement areas are in Northern Iraq, Northern Syria and Southeastern Turkey. The Yezidis consider themselves partly as a distinct ethno-religious group.

264 The report which was jointly conducted with the Office of the UN High Commissioner for Human Rights is based on 500 interviews with witnesses and was released in October 2014

265 Amnesty International, 2014, p. 4

266 Based on UN reports, s. “Jihadists boast of selling captive women as concubines”, *The Economist*, October 18, 2014

267 The New York Times, “Iraqi Yazidi Girls Abducted by IS Endured Horror”, December 22, 2014: [http://www.nytimes.com/aponline/2014/12/22/world/middleeast/ap-mi-iraq-amnesty.html?\\_r=0](http://www.nytimes.com/aponline/2014/12/22/world/middleeast/ap-mi-iraq-amnesty.html?_r=0), retrieved on February 21, 2015

268 The Clarion Project/Challenging Extremism, Promoting Dialogue: The Islamic State’s (ISIS, ISIL) magazine: <http://www.clarionproject.org/news/islamic-state-isis-isil-propaganda-magazine-dabiq#>, retrieved on February 20, 2015

Muslim sects who are regarded as heretical and the “mushrikin”, polytheists and pagans. According to **Dabiq** “...Before Shaytān [Satan] reveals his doubts to the weak-minded and weak-hearted, one should remember that enslaving the families of the kuffār [infidels] and taking their women as concubines is a firmly established aspect of the Sharī’ah...”<sup>269</sup>

The research and religious department of the jihadist army issued a pamphlet on the topic of female captives and sex slaves in November 2014 titled “**Questions and Answers on Taking Captives and Slaves**” which has been released to clarify the position of the IS on various relevant issues and instructing fighters on sexual activities with female captives. In compliance with the pamphlet – which includes 27 “Questions and Answers” – it is permissible to have sexual intercourse with non-Muslim slaves, including young girls, and that it is also permitted to beat them and trade in them, among others. An “al-Sabi” (woman who has been captured by Muslims) can be taken captive, bought, sold or given as a gift, as she is merely considered as property, which can be disposed by her owner. If the female captive is a virgin the “master” is permitted to have intercourse with her immediately after taking possession of the slave. If the owner dies his captives are handed over as part of his estate. As a form of **darb ta’deeb** (disciplinary beating) the female captive can be beaten at any time.<sup>270</sup>

As a result of the recent success of the Peshmerga forces against IS, some of the people held captive by IS militants are being released; separately, about 400 women and girls have managed to escape from captivity so far. When former female captives return to their communities, the vast majority of them are not able or willing to talk about their experiences and the violence they suffered. Given the deeply conservative nature of the Yezidi communities, rape and sexual violence is a deeply shameful and traumatic event for the entire community as well. Given the taboo regarding sexual abuse and rape, Yezidi spiritual leaders and politicians have called on members of the community not to shun, punish or ostracize women and girls who have had to endure sexual violence by the IS, but care for and support them. Despite an issued edict on this matter, the social stigma against IS female victims remains.

As a result of their abductions and captivity, these women and girls face social consequences for their future, such as difficulties to find suitable husbands. Furthermore, according to Amnesty International, women and girls who escaped IS captivity have been pressured through their family members and relatives to speak to the media. Local media representatives have often brought journalists to interview the escapees without first seeking their informed consent. The situation is aggravated through challenges in terms of accessing medical care and psycho-social support. While counselling is provided by humanitarian organizations and the Kurdistan Regional Government (KRG), most of the help and support is located far from the survivors who desperately need it. NGOs call for providing facilitated access of victims of sexual violence to adequate medical care and support services. “The KRG and the UN agencies and humanitarian organizations who are providing or putting in place such services should ensure that they are physically, geographically and financially accessible, and that survivors are provided with adequate and timely information on the available support services and how to access them. Information and materials about medical and psycho-social services must be made available in the appropriate languages so survivors are able to access them.” Support for survivors of sexual violence should be comprehensive and cover all levels including “prompt medical and forensic examination in accordance with survivors’ wishes, including trauma support and counseling; sexual and reproductive health care including emergency contraception, HIV counselling, testing and post-exposure prophylaxis, testing and treatment for sexually transmitted infections, the option for safe and legal abortion services and maternal health support; legal and financial assistance; access to shelters or housing, education and training; and assistance in finding employment.”<sup>271</sup>

According to the Resolution 1820 (2008) of the UN Security Council “women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group”. Rape and other forms of sexual violence are considered as a “war crime, a crime against humanity, or a constitutive act with respect to genocide”.<sup>272</sup> In this context Zeid Ra’ad al-Hussein, the UN’s human rights chief, condemned the “staggering” array of abuses and recommended that the Iraqi government accede to the Rome Statute, a treaty that established the International Criminal Court and requires all states that are parties to it to cooperate with the court on war crimes.<sup>273</sup>

In a joint statement the Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, and the Special Representative of the Secretary-General for Iraq, Nickolay Mladenov, condemned “the barbaric acts” of the IS against minorities as well and urged the immediate protection of civilians, calling Iraqi leaders to act in unison to restore control over territory that have been taken over by IS and implement inclusive reforms.

In light of the fact that 3,500 (mostly Yezidi) female slaves still are held captive by the **Islamic State**, that 1.6 million people still remain uprooted and that hundreds of thousands of refugees suffer daily living under harsh circumstances, it remains to be hoped that the military intervention in Iraq consisting of a coalition of 60 nations led by the US succeeds in damming up the growing influence of the IS and stopping this terror group soon.

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271 Amnesty International, 2014, p. 4

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273 Amnesty International, 2014, p. 17

## 4.10 GENDERED GENOCIDE: SRI LANKA'S WAR AGAINST TAMILS

TASHA MANORANJAN<sup>274</sup>

This paper explores the gendered impact of Sri Lanka's conflict, and offers vignettes of women's motivations for joining the Liberation Tigers of Tamil Eelam (LTTE). I explore the vast differences between Tamil women's lives with the LTTE, before its defeat in 2009, compared to women's lives today, under the thumb of their victor's abject military occupation.

Tamil women have suffered disproportionately throughout Sri Lanka's decades-long ethnic conflict. They have faced both the structural collapse of communities as well as the erosion of societal norms. In response, an increasing number of women joined the LTTE starting in the 1980s and throughout the years until 2009, and became an integral part of the armed resistance against the government.

As a result of prolonged exposure to this conflict, traditional Tamil gender relations shifted dramatically. Within Tamil society, women were historically valued as the bearers of culture, responsible primarily for maintaining the home. Parents carefully "protected" or controlled women from childhood until marriage, when authority over them would transfer to their husbands. Due to the fact that women's domains did not typically extend beyond their households, they were generally excluded from the political happenings. Society rigorously maintained the image of women as sacred bearers of family and community, utilizing females as symbolic markers to measure purity and respect. This cherished image of women rendered the violent experiences Tamil women faced during the war traumatic not only for them as individuals but also for the entire Tamil society.

In more recent years, Tamil women had joined the LTTE in greater numbers than their male peers. Though female cadres had different personal reasons for enlisting, many joined after experiencing some form of injustice at the hands of the Sri Lankan Army. Most women came from the heavily militarized north. The permanent insecurity of this environment inculcated a desire for freedom and statehood, which included the motivation to take up arms. One LTTE fighter, Senthulasi, described coming of age in Jaffna, a heavily-militarized city: Her cousin was raped and killed by the Army on her way home. Senthulasi said that she ran away from home at the age of 15 to join the LTTE and fight against the helplessness she felt daily. In speaking to me, she urged me to return to America and tell others about the Tamils' plight. She wanted me to say how girls who should be carrying pencils and books were instead carrying guns, keeping watch over the borders of Tamil Eelam instead of studying in school. I was struck by the intensity and commitment she felt for the Tamil struggle; she spoke so simply, with heartbreaking honesty.

Although most women initially joined the LTTE to find respite from this suffocating physical insecurity their involvement in the armed movement had unintended, yet profound, cultural and social consequences. Local psychologists noted that for Tamil women, "joining the militants [was a] liberating act, promising them more freedom and power.... Tamil society had always suppressed women into a subservient position... it was the war that has had a liberating role." Many of the female Tamil cadres with whom I spoke expressed their desire to fight for the liberation of both their ethnicity and also their subservient position in Tamil society.

When women first began to join the LTTE, they primarily worked in service and support roles as caregivers for the wounded, but later took on positions as frontline soldiers. This initially met with opposition from within the conservative Tamil community. Many of the earlier female cadres reported that male Tigers "wanted them to flee with the civilians." Women had to demonstrate their strength and competence to earn the respect of male LTTE cadres; one cadre told me women were "challenged to lift bigger bombs" to prove themselves. One can also attribute the acceptance of women's participation in the war to the government's indiscriminate bombings of civilian homes and schools: "a clear sexual division of labor in war... usually disappears when there is no clear differentiation between the 'battle front' and the 'home front' or 'rear'." Women were forced to protect not only their own physical integrity, but also that of their children. Female cadres eventually prided themselves on performing all tasks completed by their male counterparts. The LTTE even established male and female artillery divisions, despite doubts that women could not manage an artillery team due to their weight. Another female cadre, Isaimozhi, remarked with pride that they surpassed male cadres in certain areas of fighting, such as sharp shooting.

The LTTE also explicitly committed itself to gender equality and women's empowerment. The LTTE expanded the agency of both female cadres and civilian women within its territory by abolishing the dowry system and promoting education. I witnessed the effects of this policy: I saw billboards denouncing the dowry system and encouraging families to value children of both genders equally. Female civilians and cadres confidently drove motorcycles in saris and helmets – unheard of a decade ago.

As Tamil women advanced to new roles in society, they strove to realize their political aspirations. The female cadres with whom I spoke said that Sri Lankan soldiers fought only for a paycheck, whereas the LTTE fought for the freedom of their people and land. Isaimozhi said she aimed to kill on the battlefield, but simultaneously regretted that violence was the only way to establish Eelam. Isaimozhi cited the decades of police brutality, discrimination, and repression of Tamil rights and concluded that war was the only path to freedom. Isaimozhi told me, "Tamils have been living as slaves for the Sinhalese for decades. We can't live like that anymore. We all have to achieve freedom or we all have to die trying."

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274 Tasha Manoranjan is the founder and director of People for Equality and Relief in Lanka (PEARL), a non-profit advocacy organization dedicated to promoting human rights in Sri Lanka. She spent over a year documenting human rights violations committed against Tamil civilians in northern Sri Lanka, and remains committed to pursuing accountability for violations of international law.

Sexual assault has been a perennial feature of Sri Lanka's conflict and is traditionally considered a fate worse than death in the Tamil community. One female LTTE cadre, Vengai, described to me the strict policy of never leaving a fallen cadre's body behind. She remarked, "It is worth risking my life to save the lifeless body of another female cadre.... It would be easier to accept my own death, than the mutilation of their bodies and spirits." Stories concerning the rape and mutilation of women are well-known among Tamils; Krishanthi Kumaraswami's death is particularly infamous. Kumaraswami was an eighteen year old Tamil student who was arrested while passing through a Sri Lankan Army checkpoint in 1996. Her mother, younger brother, and a neighbor went to the checkpoint that afternoon to find her, refusing to leave until she returned safely with them. The soldiers killed all three of them. An hour later, they gang raped Krishanthi and buried her body. Reflecting the significance of this crime within the Tamil community, a Tamil schoolteacher, Padmini Ganesan, said, "Every Tamil remembers the Krishanthi case.... For us, the checkpoints are slow-motion: the trauma and the fear that we go through."

However, these stories do more than reflect on the vulnerable position of women in conflict. For many Tamils, the high rates of sexual assault against Tamil women in the war represented an attack on the integrity of their community.

## COMPARISON OF WOMEN'S STATUS BEFORE AND AFTER 2009

Women have been uniquely affected and specifically targeted throughout Sri Lanka's war. Post 2009, Tamil women have been targeted particularly because of the active role they played during the armed struggle. Women who were in the LTTE, or are perceived as being supportive of the LTTE – as all Vanni Tamils are perceived – are punished as a collective by triumphant Sri Lankan forces.

A report released in March 2014 by Yasmin Sooka, one of the experts appointed by the UN Secretary-General to report on Sri Lanka, found: "Abduction, arbitrary detention, torture, rape and sexual violence have increased in the post-war period . . . These widespread and systematic violations by the Sri Lankan security forces occur in a manner that indicates a coordinated, systematic plan approved by the highest levels of government."

In testimonies revealing the extent of sexual assault committed after 2009, survivors reported being raped by uniformed male officers from the Sri Lankan military. One woman was told, "you Tamil, you slave, if we make you pregnant we will make you abort . . . you are Tamil we will rape you like this, this is how you will be treated, even after an abortion you will be raped again."

Recent reports from local human rights groups have documented hundreds of Tamil women in northern Sri Lanka being forced to accept surgical implantation of long-term birth control. These reports add to previous reports of forced sterilization of Tamil women both during and after the war.

In May 2007, a confidential cable from the United States Embassy in Colombo discussed "an EPDP medical doctor named Dr. Sinnathambi, who performed forced abortions, often under the guise of a regular check-up, on Tamil women suspected of being aligned with the LTTE."<sup>275</sup>

A Health Department report from the Northern Province in 2012 found a 30-times higher rate of birth control implants of Tamil women in Mullaitivu, compared to the much more densely-populated Jaffna.<sup>276</sup> In August 2013, government health workers forced mothers to accept surgically-implanted birth control in three villages [[Veravil, Keranchi, Valaipaddu]] in Kilinochchi.<sup>277</sup> When the women objected, the nurses said that if they did not agree to the contraceptive, they could be denied treatment at the hospital in the future.<sup>278</sup>

According to the Home for Human Rights (HHR), an organization working to protect the fundamental rights of those living in Sri Lanka, more than 80 percent of Tamil women in central Sri Lanka were offered a lump sum payment of, usually, 500 rupees in return for their ability to reproduce. After receiving this payment, women underwent surgical sterilization. Though seemingly small, the sum is large for these predominately plantation workers. The population of this Tamil group has dropped by five percent annually since 1996, whereas the population of the country overall has grown by 14 percent.<sup>279</sup> HHR said: "This systematic pattern of authority-sanctioned coerced sterilizations may amount to an intentional destruction. . . of the Tamil estate population."<sup>280</sup>

In contrast, police and army officers are given a 100,000 rupees incentive from the government to have a third child. The officers taking advantage of this offer are overwhelmingly Sinhalese.<sup>281</sup>

Cases of coerced birth control and forced sterilization are clear evidence of genocide. The Genocide Convention obligation to prevent and punish genocide is not a matter of political choice or calculation, but one of binding international law. The UN Security Council should refer Sri Lanka to the International Criminal Court for investigation and prosecutions into war crimes, crimes against

275 Cable from Robert Blake, **Sri Lanka: GSL Complicity in Paramilitary**, Wikileaks (May 18, 2007), <http://wikileaks.org/cable/2007/05/07COLOMBO728.html>.

276 Annual Health Bulletin 2012, Department of Health Services Northern Province (Sri Lanka), **available at** [http://www.healthnp.org/progress/pdhs\\_1.pdf](http://www.healthnp.org/progress/pdhs_1.pdf).

277 The Social Architects, **Coercive Population Control in Kilinochchi**, Groundviews, (Sept. 13, 2013), **available at** <http://groundviews.org/2013/09/13/coercive-population-control-in-kilinochchi/>.

278 **Id.**

279 Demographic Engineering by the Government of Sri Lanka: Is this Eugenics?, The Sri Lanka Campaign, (Sept. 12, 2011), **available at** <http://blog.srilankacampaign.org/2011/12/demographic-engineering-by-government.html>.

280 **Id.**

281 **Id.**

humanity and genocide. Concurrently, courts in countries that may exercise jurisdiction over the events and alleged perpetrators should prosecute these crimes.

Deeply entrenched, institutionalized impunity for Sri Lanka's past crimes against Tamils has enabled ongoing violations against Tamil women to flourish. Tamils currently live in an environment absent of both war and peace.

Currently, there is one soldier for every three Tamils in the North: an unconscionably high ratio given that war ostensibly ended over five years ago.

In Tamil-speaking areas, the Sri Lankan military has increased its economic role, expanded the amount of land it controls, and is essentially establishing itself as a permanent, occupying presence.

The extreme level of militarization uniquely affects Tamil women. There are approximately 90k female-headed households after the end of the armed conflict. These women are especially vulnerable to sexual violence due to the military's predatory practices.

NGOs such as HRW and Freedom from Torture have reported on widespread and systematic sexual violence inflicted on Tamil women and men, including in detention and "rehabilitation" centers.

Local NGOs focusing on women's rights have reported on forced conscription of over 100 young Tamil women and girls from Vanni into the 99% Sinhalese military, under the pretext of performing clerical work. These women were not allowed to leave or contact their families when informed that they would be performing military duties. In December 2012, thirteen of these women were admitted to Killinochchi Hospital – many were unconscious. They were denied access to hospital staff, their families, and a local Tamil parliamentarian who inquired after their condition.

## CONCLUSION

Sri Lanka's suffocating political environment will only breed further violence and instability. Tamil women must play a greater role in the economic and political development of the northeastern regions of the country, and a just political solution must address their historically disadvantaged situation. The LTTE made strides in this direction when it conscientiously embraced a policy of gender equality, both in its armed movement and in its state-building apparatus. The lives of women in LTTE-controlled areas gradually but markedly improved over time.

These advances have been steadily corroded after the government's genocidal assault in early 2009. Where women once felt safe and secure, they are now vulnerable and under the military's constant gaze and thumb.

As evidence of ongoing atrocities adds to the evidence of the 2009 massacres – such as the mass graves found in Mullaitivu in 2014– international pressure for justice for Tamils is growing. The UN Office of the High Commissioner for Human Rights is currently investigating violations of international law in Sri Lanka, and will report to the UN Human Rights Council next March about its findings. There are still significant obstacles impeding a future in which Tamils live freely and in peace, but we must recognize how far we have come since the horrific bloodbath of 2009. The world now recognizes Sri Lanka as an authoritarian dictatorship that cannot be trusted with the fate of thousands of Tamils who were killed in 2009. From this realization, the world must recognize that Sri Lanka cannot be trusted with the political future of Tamils either.

### **4.11 MASS RAPE IN DARFUR: SUDANESE ARMY ATTACKS AGAINST CIVILIANS IN TABIT, HUMAN RIGHTS WATCH REPORT, FEBRUARY 2015, SUMMARY**

Over the course of 36 hours beginning on October 30, 2014, Sudanese army troops carried out a series of attacks against the civilian population of the town of Tabit in North Darfur, Sudan. The attacks included the mass rape of women and girls and the arbitrary detention, beating and ill-treatment of scores of people. The government of Sudan has denied that any crimes occurred and has prevented the African Union-United Nations Hybrid Operation in Darfur (UNAMID) from carrying out a credible investigation of the incident.

From research conducted remotely in November and December 2014, this report documents 27 first-hand accounts of rape, often by multiple perpetrators, and credible information about an additional 194 incidents of rape. Based on more than 130 interviews, the report provides a detailed account of the serious violations of international law that took place in Tabit from October 30 to November 1.

Sudanese government forces carried out the rapes and other abuses during three distinct military operations against the town during the 36-hour period: the first beginning the evening of Thursday, October 30; the second on the morning of Friday, October 31; and the third starting that evening and continuing until the following morning, November 1. Human Rights Watch found no evidence of a presence of any rebel force in the town immediately prior to or during the attacks.

Witnesses told Human Rights Watch that during each of these attacks, government soldiers went house-to-house in Tabit, searching houses, looting property, severely beating residents, and raping women and girls. On the two nights, soldiers forced many of the men to outdoor locations on the outskirts of the town, leaving the women and children especially vulnerable. The soldiers detained the men en masse, and threatened and physically abused them throughout the night.

Residents recognized some of the soldiers as among those stationed at the Sudanese Armed Forces (SAF) base on the outskirts of Tabit. Two soldiers who later defected to a rebel group, the Sudan Liberation Army/Abdul Wahid, told Human Rights Watch that other soldiers came from bases in El Fasher, the North Darfur capital 55 kilometers northeast of Tabit, and from Khartoum.

The aims of the military operations against Tabit are unclear. Numerous residents told Human Rights Watch that government soldiers entering their homes said that they were looking for a soldier who had been abducted and to punish his captors. One soldier who later defected told Human Rights Watch that they had been ordered to search for and punish rebel supporters in the town because of information that rebel forces deployed outside the town were planning to attack the SAF base. Two soldiers who had participated in the operations said that superior officers had ordered them to “rape women” because the women were rebel supporters.

Rape and other serious abuses against civilians in Tabit are serious violations of international humanitarian law (the laws of war) and international human rights law. Military personnel who participated in, aided or abetted, or ordered rape are responsible for war crimes. Commanding officers who knew or should have known of the mass rape – and took no action to prevent it or punish those responsible – are criminally liable as a matter of command responsibility.

The mass rape of women and girls in Tabit may amount to crimes against humanity. Crimes against humanity are serious offenses, including murder, torture and rape, committed as part of a widespread or systematic attack on a civilian population. As Human Rights Watch research has found, the rape was on a large scale and thus could be considered widespread. It was carried out in multiple locations at the same time during the course of three successive attacks on the civilians in the town, indicating it was systematic,

Since the attacks, Sudanese government officials, military commanders, and traditional leaders responsible for Tabit have taken drastic measures to prevent information about the rapes and other abuses from becoming public. They have threatened, intimidated, beaten, detained, and tortured residents of Tabit to prevent them from speaking out about what took place. The authorities have also repeatedly denied UNAMID and other investigators access to the town.

The Sudanese government-appointed Special Prosecutor for Crimes in Darfur visited Tabit on November 20; but amid a large government presence residents were too afraid to report what had occurred and he concluded that no crimes had been committed.

Most of the rape victims interviewed by Human Rights Watch said they were unable or unwilling to be treated at Tabit’s limited medical facilities because they feared arrest and further physical abuse by government officials.

Although UNAMID’s mandate includes the protection of civilians, it has not been able to undertake a credible investigation of the incident. On November 9, a UNAMID Integrated Field Mission visited Tabit for several hours, and, the following day the mission said in a statement it found no evidence to support the allegations of mass rape but failed to mention that UNAMID staff members were in the town in the presence of government security officials. Since then, UNAMID’s numerous attempts to obtain permission to enter Tabit have been rejected by the government.

The UNAMID statement and Sudan’s denials that crimes had occurred have contributed to the UN Security Council’s failure to ensure a strong international response to the incident, with Russia adopting the position that no crimes occurred. The African Union’s Peace and Security Council has also failed to respond publicly.

The Tabit atrocities demonstrate the continuing and urgent need for a professional and independent force that can help protect civilian populations in Darfur from attack. It also underscores the reality that the current UNAMID force has been hamstrung in its performance and in the implementation of its core mandate.

The UN and AU’s current review of UNAMID should focus on how to urgently improve and bolster the ability of UNAMID to protect people from the kinds of attacks that occurred in Tabit, and effectively investigate human rights abuses without endangering victims and witnesses.

The exact number of women and girls who were raped or subjected to sexual violence by Sudanese military personnel in Tabit will not be known until independent and impartial investigators with expertise in sexual and gender-based crimes are granted unfettered access to Tabit and town residents feel safe to share their experiences without fear of retaliation.

Human Rights Watch calls on the UN Security Council, the AU Peace and Security Council, and UNAMID to take concrete steps to protect civilians in Darfur from further abuse, ensure access to medical care for victims, and see that those responsible for crimes in violation of international law are brought to justice.

## 4.12 SOMALIA - SEXUAL VIOLENCE IN MOGADISHU: ENDING IMPUNITY IS FAR FROM REALITY – RESEARCH

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**Abstract:** More than twenty years of statelessness and related insecurity, including the proliferation of armed groups, the fragmentation of politics along clan-based lines, economic disruption and large scale population displacements, have had dire consequences on the rights and protection of women and young girls in Somalia. This has resulted in an increase in gendered patterns of violence, as disillusioned and armed young men have been turning against women and girls, and this has been treated with impunity by the responsible authorities. Implicated are the African Union Mission to Somalia (AMISOM) peacekeepers, government soldiers and some men within Internally Displaced Persons (IDPs) in Mogadishu. Allegations are circulating, according to which protectors are turning into perpetrators and exploiters. Despite all this, perpetrators and exploiters are rarely 'formally' prosecuted due to judicial and police force institutional incapacity and in other cases, the lack of recognition of the crimes themselves. Beyond stigma and shame that confine survivors to a 'culture of silence' there is also the fear of reprisal in cases where the perpetrator(s) is known to the survivor(s), making it difficult to find survivors and witnesses willing to come forward to testify, much less to prosecute. In other cases, survivors are not able to differentiate who is who among the perpetrators in uniform, either from the military, police, or armed militias. Sexual abuse in armed conflict has a long history and has always been faultily labeled as normal wartime behaviour. In Somalia such perpetrators are being treated with unreserved impunity. This pattern of behaviour is now becoming a growing concern. Critical to peace, stability and reconciliation is the question of protection of human rights of the most vulnerable persons and where such basic rights have been violated, then justice, protection and prevention must be administered by those shouldering responsibility.

### INTRODUCTION

In the recent past the Somali government with support from the African Union and the United Nations has made positive strides towards resolving its two decades of protracted conflict by containing the high levels of violence and its complex humanitarian crisis. Despite that, widespread violence is exposing its most vulnerable population to sexual and gender based violence (SGBV). Women and girls "in Mogadishu and the surrounding areas" have been victims to acts of 'sexual violence'<sup>282</sup> with victims being "subject to repeated and systematic sexual violence" and among those implicated "are members of organized armed groups and Somali security forces"<sup>283</sup>. The women and girls who participated in the focus group discussion hailing from various IDP<sup>284</sup> camps in Mogadishu said they live in fear due to abuses by armed groups members. Women and girls live in reasonable dread of being raped or assaulted when stepping outside their homes to collect firewood. This fear has become so deeply entrenched, that women seem to have become prisoners within their own homes, as they depend on male children or relatives to handle outdoor tasks like collecting firewood from the bush.

A recent Human Rights Watch report<sup>285</sup> notes that while its research hasn't found "a pattern of abuse that could be considered systematic", the rights body "findings raise serious concerns about abuses by AMISOM<sup>286</sup> soldiers against Somali women and girls" with survivors of sexual exploitation expressing feelings of "powerlessness" to fearing "retaliation or retribution, as well as the stigma and shame that the abuse could bring". Others, despite being engaged in exploitive relationships, feared losing "their only source of income".<sup>287</sup> In Mogadishu between January and November 2012, over 1,700 rape cases were registered by various service providers and notably, almost one third of the recorded incidents being perpetrated against children, including some boys.

282 In the context of this publication, the definition of "Sexual Violence" will borrow from UN reports that defines it as: 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. See...United Nations (2013). **Sexual Violence in Conflict: Report of the Secretary-General**, at UN's General Assembly 67 Session Agenda Item 33 Prevention of Armed Conflict, New York, March 14, 2013, Vol A/67/792 S/2013/149, p. 12

283 UN, 2013, p.14

284 United Nations estimates there are 1.1million IDPs in Somalia of whom at least 369,000 in Mogadishu (Ibid).

285 Human Rights Watch – **The Power These Men Have Over Us: Sexual Exploitation and Abuse by African Union Forces in Somalia**, released on September 2014.

286 AMISOM force in Somalia is comprised of 22,000 soldiers from Uganda, Kenya, Burundi, Sierra Leone, Djibouti and Ethiopia, has been fighting alongside Somalia troops against Al-Shabaab militants since 2007.

287 HRW, 2014, September, p.25

The reports made notes of the correlation between the “spike in the numbers of incidents recorded between April and July” in 2012 and the “intensification of military operations against Al-Shabaab”<sup>288</sup> in the Afgoye and Bala’d corridors near Mogadishu.

This complex web of factors does impede survivors’ quest for justice and protection. Claire Brown, a legal officer from Legal Action World Wide, says the very first problem is that at that moment, nobody even wants to go to court and seek justice. Even if some might need urgent medical attention, they first need to go to the police station – where the police may harass them, and label their allegations as false. There is then a great risk that such survivors will be harassed at different stages, and there is an even greater risk that the case would be dropped at any of these stages. In the end, women are very reluctant to pursue a prosecution due to the trauma that the process might expose.

Brown further notes that the problem with survivors’ pursuit of justice is compounded by fact that there is only one hospital in Mogadishu that provides a medical certificate and this is the military hospital. Therefore, if the attack is by someone from the military or the security forces, the doctor would probably not provide the certificate. Yet the woman or the girl, after going through all these hurdles, has to go back to the police, so that they can determine if there is a case to be investigated or not. In this context, the unequal status of women and girls within Somali society sharply increases their vulnerability to many forms of violations; chief among them being gender-based violence during a humanitarian crisis. As with any individual or family displacement, and exacerbated due to conflict and drought, existing community support structures are being disrupted, exposing them to unsafe physical surroundings, thereby increasing their vulnerability to exploitation. According to Human Rights Watch the “extremely vulnerable” Somali women and girls and the “differential power relations”<sup>289</sup> between these females and those who are supposed to protect them has created an environment conducive towards ‘sexual exploitation’.<sup>290</sup>

## RESEARCH METHODOLOGY

The research applied qualitative methods and in this case literature reviews and interviews were employed, which were later analyzed between October and November 2014. The literature review was done through the analysis of reports, books, journals, conference proceedings and presentations, in an effort to gather information on present trends of sexual violence, exploitation and abuse in Mogadishu. Data collection was done through interviews<sup>291</sup> and focus group discussions (FGD) based on non-probability sampling with survivors of sexual violence, relatives, community members, government officials, United Nations, African Union and human rights activists.

## METHODOLOGICAL CONSIDERATIONS

Insecurity within Mogadishu was a key factor that curtailed the freedom of the researcher but also critically the freedom of respondents. A key consideration of the research was the need to exercise sensitivity and precaution when conducting the interviews with survivors, whose privacy and condition warranted the need to conceal their identity and location. A challenge to the research was the failure by AMISOM to respond to a questionnaire, despite having been accused by human rights agencies for sexual exploitation and abuse by its staff, a key thematic area of this study. The research however reviewed AMISOM and member countries statements and actions. The prevailing violence and stigma associated with rape survivors was a key restricting factor and all efforts were put in place so as not to risk the life of those who had agreed to participate in the research.

## SEXUAL VIOLENCE & ABUSE (SEA) IN SOMALIA

Since 1991, Somalia has had no credible functioning centralized governing authority and in its absence, the protracted conflict has evolved into “violations of the laws of wars, including unlawful killings, rape and torture” that have been orchestrated by “all parties to the conflict” thereby “causing massive civilian suffering”<sup>292</sup>. The United Nations and its partners have “established referral systems for basic psychological support and health services” for women victims of SGBV. However, these referrals systems, such as the “Task Force on Sexual Violence” set up by Transitional Federal Government in December 2011, have not achieved much<sup>293</sup>.

288 UN, 2013, p.14

289 HRW, 2014, September, p.28

290 Sexual Exploitation – “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another”. See UN’s Secretary General’s bulletin ST/SGB/2003/13, 9 October 2003. <http://cdu.unlb.org/Portals/0/Documents/KeyDoc4.pdf> (accessed August 15, 2014) cited in Human Rights Watch, 2014, September, p.28

291 Those interviewed included five survivors of SGBV within the youngest being aged 9-years and the oldest being 55-years woman. The rest of the individual interview were with the Deputy Special Representative of the UN Secretary-General (DSRSG) for Somalia, The Prime Minister Spokesperson, Chairperson of the Parliamentary Committee on Human Rights, Women, and Humanitarian Affairs, Spokesperson of the Somali military court, the then Somalis Police Commissioner Hassan Sheikh. Then from the civil society; the programme officer with Somali’s Women’s Development Centre (SWDC) and Officer at Women’s Development Organisation (IIDA), Legal Officer of Legal Action World and a questionnaire submitted to AMISOM upon request had not been replied to by the time of research publication. On the Focus Group Discussions, there were two FGDs, first involving thirteen participants on 13<sup>th</sup> October 2014 at Al Cadaala camp and the second involving twelve participants on 15<sup>th</sup> October at Sayidka camp, both IDPs camp within Mogadishu. The FGD brought together 15 women aged 16-25 years of whom 6 were survivors and then the rest 10 participants were men aged 15-29 years.

292 Ibid.

293 UN, 2013, p.14

## PLIGHT AND VULNERABILITY OF IDPS IN MOGADISHU

Internally Displaced Persons in Mogadishu face risks to their lives, safety, security and dignity and are at a disproportionate risk of gross human rights abuses, especially women and unaccompanied children. The displaced Somalis who fled to Mogadishu have been subjected to a wide range of serious human rights abuses, including rape, beatings, ethnic discrimination, and restrictions on access to food and shelter and freedom of movement. The United Nations observe that the spike in cases of sexual violence in August 2012 was “linked to the presence of armed elements” within the IDPs settlements and “surrounding areas in the run-up to the selection of the post-transition leadership”<sup>294</sup>. While it is difficult to assess the extent of sexual and gender based violence against displaced women and girls, it is believed to be widespread although largely underreported throughout south-central Somalia. Fifty-five years old Mumina Maadeey says she was gang-raped in broad day light on June 5, 2014 while collecting firewood in Afgooye, Lower Shabelle-

**“{...} three men approached me and I never thought the men would rape me. They ordered me to put the wood I had collected down and despite pleading with the men and shouting ‘I am your mother, I am your mother please’. They attacked me and then raped me. At my age, I could even be their grandmother. We need the government to protect us. I am an old woman and I shouldn’t be talking about this. I feel sick and I hate myself. This has to stop. We left our homes and came to the (IDP) camp because of war and now we have another enemy, the men who are raping us.”**

On the other hand, those who have witnessed rapes talk of fear of reprisals by the perpetrators. Asha, a resident of the Al Cadaalo IDP camp, narrated during the focus group discussions (FGD) how she witnessed a woman being ambushed:

**“{...} a woman who was collecting firewood got ambushed by two men, who then beat her for trying to resist. One of the guys kept watch while the other raped her before they changed turns. The woman hasn’t reported to the police nor told other people due to social stigma and shame.”**

In another FGD forum 17-year old Mohamed echoes Asha’s story about how an 18-year old woman was raped and no one could run to her rescue “despite her screams, we couldn’t help her, fearing that the attackers might be armed”. Ali, a resident of Al Cadaala camp says being uprooted from home and forced to live within camps has taken away IDP’s ability to protect themselves:-

**“{...}if you are displaced then you have no power, we are powerless and that is the reason why our sisters and mothers are getting raped and sometimes we feel like we are helpless and also tired and sad to see women getting raped.”**

Somalia’s clan based social system is socially and economically marginalized and exposes women and girls “to violence due to their social isolation, poor living conditions and work opportunities”<sup>295</sup>.

**“{...} Nine-year old ‘Shamso Hussein’ had been sent to go and fetch water by her mother within Ex-Control camp on September 10th2014 only for the mother to see her daughter being brought back by a resident. When she was placed on the floor, her mother says “she looked like she had passed away and was bleeding badly and I started crying. I never thought this was going to happen to my daughter. We had just arrived at the camp (IDP) from Galween in Lower Shabbele. She couldn’t move. I waited for her father to come back and I told him what had happened. All he could say was that Allah should give our daughter justice and went out to look for help.” The mother adds “I didn’t have money to take her to hospital. I used traditional ways to treat her and tried to put her legs together. She was unwell for 30-days.” The mother says the family has yet to receive any help from anyone.”**

The IDP population in camps across Mogadishu has repeatedly fallen victim to a culture of sexual violence. Those working to tackle Sexual Gender Based Violence (GBV) describe this as being too pervasive and warranting national and international attention.

<sup>294</sup> UN, 2013, p.14

<sup>295</sup> Ibid.

## FROM PROTECTOR TO PERPETRATOR

In the context of Somalia, with regard to sexual exploitation and abuse, those significantly implicated as perpetrators are Somali government security officers and AMISOM peacekeepers<sup>296</sup>—the very same institutions entrusted with the protection of vulnerable populations. A Human Rights Watch report documents “twenty-one incidents of sexual exploitation and abuse by the African Union Mission to Somalia (AMISOM)<sup>297</sup> soldiers” which according to the report occurred “primarily on two controlled bases in Mogadishu”: one by “the Uganda People’s Defence Forces (UPDF)<sup>298</sup> and another one by “the Burundi National Defence Force<sup>299</sup> (BNDF), contingent” of camps located within the “compound Somalia national university.” The same reports note that most of the documented incidents “involved a Somali intermediary” who, due to AMISOM soldiers’ language barrier acted as “an interpreter” and that sometimes the same person sourced “women and girls directly from IDP camps” and helped them access the AMISOM bases<sup>300</sup>.

The hyper masculine culture deriving from a predominantly male environment has produced a tolerance for extreme behaviours where women and girls are a target for “members of state security forces, operating with complete impunity, sexually assaulting, raping, beating, shooting, and stabbing women and girls<sup>301</sup>. In 1992 allegations that UN peacekeepers were involved in cases of sexual abuse against local women were met by the infamous statement “**boys will be boys**”<sup>302</sup> by Yasushi Akashi, who was the head of the UN’s Transnational Authority in Cambodia at that time. This type of thinking has been equated with the equally infamous view of Nazi propaganda minister, Joseph Goebbels, according to which “**men should be trained as warriors and women as recreation for warriors and anything else is foolishness**”<sup>303</sup>. **This view has for long exemplified prevailing official perceptions regarding cases of sexual abuse by international troops**<sup>304</sup>.

## THE CONSEQUENCES OF SEXUAL EXPLOITATION AND ABUSE (SEA) TO AU PEACEKEEPING IN SOMALIA

The violation of codes of conduct may damage the impartiality of missions in the eyes of the local population, which, in turn, may impede the implementation of its mandate. The AU peacekeeping operation cannot legitimately advise the Somali government on adherence to international human rights standards and legal and judicial reform if its own peacekeeping personnel are engaging in acts of sexual violence against women. Sexual misconduct also increases the incidence of medical problems, including the risk of contracting or transmitting sexually transmitted diseases and survivors having to deal with possible psychological trauma as a result of their experiences. Babies born from rapes between victims and peacekeepers may face stigmatization by their families and communities, which may deprive them of economic, social and emotional support, which in turn may result in victims being driven into further exploitative relationships with peacekeepers in order to survive<sup>305</sup>.

The Deputy Special Representative of the UN Secretary-General (DSRSG) for Somalia, Fatiha Serour, stressed on the need to tackle the prevailing perceptions that further victimize the victim. She observed that during the preparations for the London Summit on Somalia, a religious leader noted that “**if a girl who was raped becomes pregnant, there is a need to remove the child from the girl as the baby represents something evil.**” Deputy Special Representative argues that such statements only reveal that the girl in this context is seen as the one who is wrong, yet in reality the girl’s rights and dignity have been violated.

## IMPUNITY AS AN OBSTACLE TO TACKLING SEXUAL EXPLOITATION AND ABUSE

Taking action against alleged perpetrators of sexual violence in Somalia is however, beset with difficulties. A major underlying problem is that the AU has no disciplinary authority over AMISOM peacekeepers, as they belong to member states seconding soldiers to the AU. In an interview with the late Somali Police Commissioner, he alluded that the hands of the Somali police are tied due to the absence of a protocol with countries providing soldiers to AMISOM operations; even when it comes to the

296 Chairperson of AU’s Commission report on the situation in Somalia, 16 October 2014: AMISOM peacekeepers in Somalia in conjunction with Somali government undertake a wide variety of complex tasks, from helping to build sustainable institutions of governance, to human rights monitoring, to security sector reform, to the disarmament, demobilization and reintegration of former combatants

297 In 2007 the African Union Peace and Security Council was mandated by UN’s Security Council to provide protection to Somalia government officials, the infrastructures and humanitarian operations. (The UN Security Council passed Resolution 1744 in February 2007. AMISOM mandate was expanded by Security Council Resolution 2036 (2012), paragraph 1 and 2 authorizing AMISOM “to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al-Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia.” Despite the resolution allowing the AU to increase its forces from 8,000 to 17,731 it denied AMISOM the right of civilian protection despite pressure from the African Union. See from United Nations Security Council, Resolution 1744 (2007), S/RES/1744 (2007), <http://www.un.org/News/Press/docs/2007/sc8960.doc.htm> (accessed November 6, 2014). See also United Nations Security Council 2036 (2012)

298 UPDF: The armed forces of Uganda, previously known as the National Resistance Army and according to International Institute for Strategic Studies its land forces and air wing force (2007-2011) was at 40,000 – 45,000. See IISS Military Balance 2007, 297; IISS Military Balance 2011, 44

299 BNDF: The state military organisation responsible for the defence of Burundi. See International Institute for Strategic Studies (IISS) (2012). **The Military Balance 2012**. London.

300 HRW, 2014, September, pp. 25-29

301 HRW, 2014, March, p.1

302 Martin, 2005

303 Kesic, 2001

304 Ballesteros, 2007, p.125

305 UN, 2005, p.8

prosecuting or returning of the accused soldiers to Somalia to face justice. Further on, he stated that while AMISOM is helping to protect civilians, something crucial for the dignity of Somali citizens is that we shouldn't accept civilians to be abused. In reality, **AU personnel in Somalia enjoy immunity from local jurisdictions.**

On the other hand, the African Union Commission has not shown with decisive actions its desire to follow to the letter its Code of Conduct that specifies that peacekeepers should not indulge in acts of sexual, physical or psychological abuse or exploitation of the local population and that any exchange of money, employment, goods or services for sex must be punished. Somali Police Commissioner Hassan Sheikh says there is a need for the "Somali government and AMISOM to establish a police committee to deal with sexual violence and exploitation" and that the "Somali government should have a "policy that would guide and stipulate how to tackle crimes and violations committed by AMISOM peacekeepers." This could help tackle the perception among peacekeepers that they are immune to prosecution for crimes they may commit while being deployed. The lack of host nations' jurisdiction gives these troops de facto immunity from prosecution in Somalia.

## LEGAL INTERVENTION AND IMPEDIMENTS

To this day, Somalia follows three different major law systems<sup>306</sup>. **Most of the time, these systems coexist in the same area and they are often contradictory.** As a result, **Somali people have the right to choose which law they apply in any given case**, a decision made on the **basis of self-interest**, while bearing in mind that when it comes to security and peace, the decision will provide for the interests of inter-clan relations. **Most of the survivors of sexual exploitation don't file complaints with "respective authorities because they fear stigma, reprisals from family members, the police, and the Islamist insurgent groups"** while others **"do not believe authorities would be able or willing to take any effective action"**<sup>307</sup>, a predicament that confines the survivors to silence and anguish. Maryan Daqal Xussen of the Somali's Women's Development Centre (SWDC) says they receive about **five to eight cases of rape every month committed by men aged between 18-30-years old and their challenge is dealing with the survivors' stigma faced by such victims.** In some cases, all they can do is to "inquire if they want to report the case, but most women feel ashamed and shy", which makes it difficult to pursue prosecutions.

Claire Brown further states that **in practice, the Attorney General's office has very little capacity.** The lawyers they work with have informed them that the CID and the Attorney General office **decide not to investigate in up to 85 per cent of cases**, hence the probability of having a perpetrator convicted is incredibly low. Last year there were 1,600 rapes reported and evidence has been found that only two of those were successfully convicted. Maryan Daqal Xussen says all is not lost as there are cases they "have taken to court and won but still, our judiciary needs training as sometimes it is not easy to get justice." The gender activist says that through the collaboration of the family they were able to prosecute a relative who had raped a baby girl while the mother was away shopping. As the mother was working with the Criminal Investigation Department, the rapist was jailed for 15-years. Consequently, **there is a widespread Somali distrust regarding these various systems, since it cannot be guaranteed that all people will be treated equally before the law, a violation of a basic human right to which all are entitled.**<sup>308</sup>

## PREVAILING LEGAL FRAMEWORKS

The centrality of traditional practices in Somali society is such that **most of the legal interventions, even when it comes to sexual violence, tend to be undertaken by clan or community authorities through customary laws structures.** Resolutions through this means are often sought out by survivors because of their accessibility, speed of action, affordability and because survivors wish to adhere to tradition in order to maintain their social credibility and honour. By comparison, the state legal system has a very poor geographical coverage, and is beyond access for large sections of the population. Gerstle and others argue that "restricted access to schools, roads, books, and other means of development, **many, if not a majority of Somalis live their lives without encountering the state justice system**"<sup>309</sup>. The UN also highlighted that within customary law there are inherent gender inequalities.

Maryan Daqal Xussen opines that there are **negative cultural practices where families "seek to have the rapist marry the survivor."** In this regard, the rights of the survivor are seen through the context of the **need to maintain the male-oriented clan's interest.** In **IDP camps**, there are cases where the perpetrator is allowed to remain in the community through a community settlement out of fear that the perpetrator would be given a lengthy service in the formal justice system, putting survivors at risk of reprisals and further sexual violence. Within Somalia, the sort of justice that victims of rape attain through customary justice contrasts with the actual outcomes of customary justice elsewhere. In Mogadishu's **IDP camps, rape cases involving a known perpetrator are addressed by clan leaders who negotiate compensation between the survivor and perpetrators' families without due consideration of the rights and needs of the survivors.**

The relative disadvantages and advantages of customary laws have been best summed up by the UN report that states **"although it has contributed to fostering degrees of peace between clans" it is uncertain "if customary law works for girls and women"**<sup>310</sup>. The

306 Customary law, Sharia legal systems whilst also considering international and national level legal frameworks

307 HRW, 2014, September, p.35

308 Article 7 states that "all people are equal before law and entitled to equal protection of the law", see UN General Assembly, **Universal Declaration of Human Rights**, 1948, December 10, 217A (III), art.7

309 Gerstle, Warsame, Ismail, & Nuh, 2007, p.82

310 Ibid.

report's findings concluded that customary laws are **extremely prejudicial towards girls and women**. Access to informal justice, especially for IDPs, is not guaranteed and seems to **depend on clan affiliations and status**. This is one of the many drawbacks of customary law, as it is built on the links between clan and sub-clan groups. As Gundel notes, "the **xeer** [customary law] is efficient for the regulation of inter-clan affairs" but a drawback among individuals outside these clans is that they "may not have the same rights and protection, because **xeer** is linked to clans and their area"<sup>311</sup>. Furthermore, access to informal justice is also hampered by **low level of education, as many women lack the relevant knowledge about customary law processes**.

**Sharia law has co-existed with Somali customary law throughout Somalia's history** and in comparison to customary law; it is **protective when it comes to women's rights**. In theory, **Sharia law does not permit violence against women**. As with customary law, the **Qadis** (Sharia legal judges) are male and the same concerns exist regarding the rights of women in this context;

[...] it cannot be taken for granted that all of the Qadis in the Somali Republic are cognizant of, or observe, all international human rights, particularly when the Somali Republic is not a signatory of the Convention on the Elimination of All Forms of Violence against Women. (Academy for Peace and Development, 2002)

In reality, **women perceive Sharia law positively** (similar to customary law) in terms of trust and for its ability to respond quickly. However, in some **cases pertaining to sexual violence, the testimony of a woman can be excluded from consideration**. This is a **major limitation of Sharia law** in addressing sexual violence, as UN reports highlight that women often lack the relevant knowledge regarding how Sharia law processes can protect and support their rights and cases<sup>312</sup>.

## INTERNATIONAL LEGAL FRAMEWORKS

At the national level, equality of rights between Somali citizens has been recognized by the recent constitution<sup>313</sup> of the post-transitional Federal Republic of Somalia. Equality of rights is also safeguarded in the 2008 Constitution of the Puntland State of Somalia and the 2001 Constitution of the Republic of Somaliland. Somalia's government with UN agencies and other partners **are in the process of drafting a gender policy that will promote gender equality and hopefully mainstream preventive and responsive measures against sexual and gender based violence in all government plans**<sup>314</sup>.

The Ministry of Women and Human Rights Development is in the final stages of finalizing a **Sexual Offences Bill** that will play a critical role in the prevention and protection of vulnerable persons including women and children in Somalia. The ministry is also working with other ministries towards the establishment of an **Independent Human Rights Commission at the federal level**. Such a commission could address the absence of an oversight body within Somalia, and could monitor, assess and evaluate the existing legal frameworks and above all their applicability and implementation. The UN's Deputy Special Representative for Somalia challenges the ministry to work with other ministries on the issue of human rights, calling it a "**cross cutting issue**."

**The Somali Penal Code, applied throughout Somalia includes punishments for rape, assault, incest, and 'hurt'**<sup>315</sup>. The formal system can in theory hold perpetrators of violence to account, yet **in practice sexual violence cases are rare due to women's preference for more accessible and culturally relevant customary laws**. Of the three forms of legal resolution in Somalia, 'formal' justice, is one that is least accessed by women. UNDP found that less than five per cent of female youth reported crimes such as sexual violence, rape, abduction, and forced detention to the authorities.

The same report found that 54 per cent of those who were interviewed reported having very easy access to community elders for seeking justice, whereas almost 50 per cent reported that access to legal courts and police officials was difficult<sup>316</sup>. Whilst the lack of geographical coverage offered by formal law courts is a major factor behind the preference for customary law, so too is the **lack of trust in formal justice**. Formal justice is often turned to when other community-based options have been exhausted<sup>317</sup>. Other reasons given by women for not pursuing formal justice include fear of shame due to having rape incidents being made public and thus causing damage to their social standing, as well as inadequate protection and difficulties encountered during prosecution due to evidence tampering and witness withdrawal. UN attributes this to "perceived weaknesses in the formal justice system"<sup>318</sup>.

Maryan Daqal Xussen says that while NGOs have taken cases to court, the judiciary staff "need training as sometimes it's not easy to get justice" and this could be coupled with an **increased number of female judicial officers**. The Police Commissioner Hassan Sheikh notes also that there is also a need to train police officers "on human rights, something the junior officers especially lack and need". In reality, any effective and credible prosecution will need to involve police forces. The Somali government will also

311 Ibid.

312 UNDP, UNPOS & UN Women, 2012, p.87

313 The Federal Republic of Somalia, Provisional Constitution, August 2012, Mogadishu, Somalia, Article 11:1, '**All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability**'

314 Draft Gender Policy of Somalia, 2014

315 UNDP, UNPOS & UN Women, 2012, p.80

316 UNDP, Somalia Human Development Report, 2012

317 Ibid.

318 Ibid.

**need to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).** Such a move could boost the effectiveness of the African Charter on Human and Peoples' Rights, on the Rights of Women in Africa that Somalia has already ratified. The charter commits the government to countering all forms of discrimination against women, including violence, via the appropriate legislative and institutional measures.

## RESPONSES AND INTERVENTIONS

Since March 2014, when human rights agencies and civil society groups raised the alarm over increasing cases of sexual exploitation and abuse in Somalia, the Somali government, Africa Union and the United Nations have been finding ways to either take action or explain their intentions. Somali President Hassan Sheikh Mohamud, while speaking to military cadets at a training camp in Mogadishu on April 10<sup>th</sup> 2013, stated that "security forces who rape and rob our citizens must be fought and be defeated just like Al-Shabaab." The President said that his government had indicated its resolve on tackling the matter by creating relevant ministries and supporting deliberations towards legislations seeking to promote human rights, gender equality and sexual reproductive rights programmes in Somalia.

The African Union, as the custodian of AMISOM, in response to the Human Rights Watch report has stated that the "allegations will be thoroughly investigated and appropriate measures will be taken". However, the AU Commission registered its deep concern over what it called the imbalance, inaccuracies and partial view contained in the report. The Commission argued that the report used a small number of cases to arrive at a generalized conclusion and secondly, that the report was contradictory by making sweeping general assertions about AMISOM's culpability before exhaustively interrogating the scale and prevalence of such crimes. Thirdly, the report lacks coherence in its account of AU's efforts to prevent and respond to the allegations<sup>319</sup>. Beyond questioning the report, the AU Commission has deployed "an investigation team to look into allegations of Sexual Exploitation and Abuse" levelled against AMISOM personnel and "establish the facts"; the team was expected to complete its investigation by November 30, 2014<sup>320</sup>. Throughout the interview, the Deputy Special Representative of the UN Secretary-General (DSRSG) for Somalia, Fatiha Serour, says it is "important to expose these cases" and that UNSOM has written to the AU, stressing that those who have more information about such cases should inform the authorities.

The UN Deputy Special Representative noted that while UNSOM wants to see the allegations investigated, the AU should contemplate a joint probe due to the "need for transparency" adding "it is the responsibility of the troop contributing country to carry out the necessary criminal investigations, in a transparent manner." Uganda, in early November 2014, suspended 15 military officers including two generals who previously commanded Uganda's contingent in Somalia, serving under the auspices of AMISOM. Furthermore, Uganda's military has banned all the accused army officers from future deployments in Somalia. Uganda said the suspended officers were under investigation for "sexual exploitation" in Somalia, but Burundi, whose troops were also implicated in the SEA, had covered this matter in silence. However, the seriousness of the Ugandan action can be questioned after its army spokesman, Lt. Col Paddy Ankunda, downplayed the seriousness of sexual exploitation allegations made by Human Rights Watch, saying that "reports of sexual exploitation are a small matter"<sup>321</sup>.

In previous occasions where AMISOM troops have been implicated in sexual exploitation, as with December 2012 following "media reports of shops on the AMISOM base" being used as hot-spots for "exploitative sex", the then AMISOM force commander ordered all such shops to be closed and banned Somali women from the camp base<sup>322</sup>. However, the owners of the shop "refused to relocate" as ordered by the AMISOM commander. Human Rights Watch notes that the commander directive could only have "merely relocated the problem to a new area"<sup>323</sup>. United Nations Secretary General Ban Ki-moon, in his 2013 report to the Security Council, highlighted that sexual violence acts in countries like Somalia are tantamount to violations of UNSC Resolution 1960 (2010) that among other things, calls for "timely investigation of alleged violations in order to hold perpetrators accountable." **Almost one year on, the Somali women, victims of sexual violation, are still waiting for the UN Secretary General's words to be turned into action.** The Security Council resolution does accord the Secretary General powers, which if exercised, could ensure that perpetrators will be prosecuted. **The level of violence and weak government structures shouldn't be allowed to derail the path towards prosecution and prevention of SEA.** The same violence that has subjected women and girls to 'double victimization' should not be allowed to take away or hinder their access to justice and protection.

319 AU, 2014, September, 8, pp.1-2

320 AU, 2014, October, 17, p.1

321 Daily Monitor, 2014, November, 6.

322 Ibid.

323 HRW, 2014, September, p.31

## KEY RECOMMENDATIONS

As Somalia undergoes transition from two decades of protracted conflict, the tackling of sexual violence will involve several approaches;

### Somali Federal Government

- Strengthening the capacities of the civil society to respond to survivors and support them through programs and activities that will help seek justices
- Strengthen the capacities of the community to be better informed and willing to rise above the 'culture of silence'
- Influencing and mobilizing the political, religious and clan leadership to spearhead better cultural attitudes and practices
- Establish a sexual violence desk within the police forces and strengthen their capacity to detect, investigate and prosecute SEA
- Establish a system through which the Government ministries, UNSOM, AMISOM, and the civil society can collaborate, and make steps towards addressing SGBV

### AFRICAN UNION/AMISOM/UN

- For AMISOM to be forthcoming and accountable, donors to its operations in Somalia, namely the United Nations, African Union, United States, European Union and Britain, need to demand that legal action is taken against sexual exploitation and abuse.
- Revisit MOU with the Somali government and align it with the revised standard Memorandum of Understanding between troop countries and the UN's Department of peacekeeping operations.
- Expedite the commission of inquiry investigating allegations of sexual abuses and exploitations by AMISOM forces and take the appropriate measures to punish those responsible for abuses and misconducts in Somalia.
- Adopt a common understanding and definition among the troop contributing countries with regards to sexual exploitation and abuse.
- Respect and implement **UN security Resolution 2093, which requires AMISOM to take adequate measures to prevent sexual violence and sexual exploitation and abuses** by applying policies consistent with UN's policy of zero tolerance towards sexual exploitation and abuses in the context of peacekeeping.

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## 4.13 THE TARGETING OF FEMALE SOLDIERS IN MODERN WARS

STEPHANIE KRAUTH<sup>324</sup>

**“It is now more dangerous to be a woman than to be a soldier in modern wars.”**

Reading this quote from Major General Patrick Cammaert, Deputy Force Commander of the United Nations Mission to the Democratic Republic of Congo<sup>325</sup>, one cannot help but think of civilian women, yet we often tend to forget female soldiers. They are not only women but also soldiers, hence, based on this quote, it could be said that there is nothing more dangerous in modern wars than to be a female soldier. For this reason, I have decided to focus in this paper on how women in the military or in rebel and terrorist groups are specifically targeted because of their gender.

Very often, instead of finding gender equality as part of the army or armed groups, female soldiers face exactly the opposite. Although recently many countries have made efforts of feminization of their army, the institution still tends to be marked by machismo and women in armed groups still do not find themselves in the same conditions as men.<sup>326</sup> Unfortunately, because of the need for women to survive in such institutions or groups, female victims, regardless whether the abuses are accepted or not, tend to keep the incidents to themselves out of fear of being seen as weak. A girl combatant in Liberia explained this kind of situation when assuring she was not raped, even though she was coerced into sex:

**“They didn’t harass me. They never raped me! But they were forcing me to love to them. I was loving the one. Because I was forced to survive. They force me because they have arm! (...)And you are forced. When you see them you have fear, and when that fear enters you, you do anything. Then you are praying for your life.”<sup>327</sup>**

To provide a better perspective on life-threatening situations in which female soldiers often find themselves in war, I will take a brief look into the role of female soldiers in history, then study the case of military women. Afterwards, the role of female combatants in rebel or terrorist groups will be analyzed in more detail. This paper will only focus on women enrolled in “organized” armed groups but it is important to acknowledge the role women often play in civil wars and revolutions, such as during the Spanish Civil War or the French Revolution<sup>328</sup>.

### THE ROLE OF FEMALE SOLDIERS IN HISTORY

Throughout history, women have been participating in conflicts on the front line<sup>329</sup> for various reasons: out of man power needs, as it happened during the Second World War for the Soviet armies<sup>330</sup>; for voluntary reasons, such as their belief in the revolutionary cause of the conflict or self- defense of their community, as it is currently the case in Kurdistan with the Yekineyen Parastina Jin (YPJ), i.e. the Women’s Protection Unit<sup>331</sup>; or because they were forced to do it in order to protect themselves or others from rape and/or abuses, as it was often the case in the conflict in Liberia<sup>332</sup>.

In Africa, the role of female soldiers has been historically important: in Nigeria, in the 17<sup>th</sup> century, princesses commanded armies that seized dozens of cities, extending kingdoms. In Ghana, Yaa Asantewaa, a female warrior, led a rebellion against British colonialism<sup>333</sup>. In Asia, Triệu Thị Trinh, led a Vietnamese resistance force against China<sup>334</sup>. In Latin America, several countries count with equally

324 I would like to thank and acknowledge the comments made by Ilse Wuyts, Kristal Piñeros, Jenna Thompson

325 Soraya Chemaly, (October 5, 2012). ‘Worldwide, It’s “More dangerous to be a woman than a soldier in modern wars”’ [http://www.huffingtonpost.com/soraya-chemaly/rape-in-conflict\\_b\\_1501458.html](http://www.huffingtonpost.com/soraya-chemaly/rape-in-conflict_b_1501458.html) (last access February 15, 2015).

326 Lilian Bobea, article published in the magazine: “Nueva sociedad” n°213, (Januray/February 2008). ‘Mujeres en uniforme: la feminización de las Fuerzas armadas- Un estudio del caso dominicano’ [http://www.nuso.org/upload/articulos/3494\\_1.pdf](http://www.nuso.org/upload/articulos/3494_1.pdf) (last access February 15, 2015).

327 Report coordinated by Irma Specht- International Labour Office Geneva, (June 1, 2006). ‘Experiences of girl-combatants in Liberia’ [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/---ifp\\_crisis/documents/publication/wcms\\_116435.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_crisis/documents/publication/wcms_116435.pdf) (last access February 15, 2015).

328 History Net. ‘Women in Civil War’ <http://www.historynet.com/women-in-the-civil-war> (last access March 8, 2015); Nora Carlin, (March 1985). ‘Women and struggle for socialism’ Chapter 6- The revolutionary tradition and women’s liberation [http://www.anu.edu.au/polsci/marx/contemp/pamsetc/women/ws\\_6.htm](http://www.anu.edu.au/polsci/marx/contemp/pamsetc/women/ws_6.htm) (last access March 8, 2015); Aileen O’Carroll, ‘Mujeres Libres’ [http://flag.blackened.net/revolt/ws98/ws54\\_mujeres\\_libres.html](http://flag.blackened.net/revolt/ws98/ws54_mujeres_libres.html) (last access March 8, 2015).

329 Lydia Smith, (October 7, 2014). ‘Kurdish Female Fighters: The History of Women on the Frontline’ <http://www.ibtimes.co.uk/kurdish-female-fighters-history-women-frontline-1468932> (last access March8, 2015).

330 Sara Miller Llana and Whitney Eulich, (January 29, 2013). ‘Why combat role for US women could reverberate worldwide’ <http://www.csmonitor.com/World/Global-Issues/2013/0129/Why-combat-role-for-US-women-could-reverberate-worldwide> (last access February, 15 2015).

331 Erika Solomon, (December 12, 2014). ‘Women of 2014: The women of the YPJ, the Syrian Kurdish Women’s Protection Units’ <http://www.ft.com/intl/cms/s/0/e0d911be-7fa6-11e4-adff-00144feabdc0.html#axzz3TpkGwYr8> (last access March 1, 2015); The Week, (October 7, 2014). ‘YPJ: The Kurdish feminists fighting Islamic State’ <http://www.theweek.co.uk/middle-east/islamic-state/60758/ypj-the-kurdish-feminists-fighting-islamic-state#ixzz3GjLHVdW> (last access March 8, 2015).

332 ibid footnote 4.

333 ibid footnote 7.

334 ‘L’histoire par les femmes’ site <https://histoireparlesfemmes.wordpress.com/category/aventurieres/combattantes/> (last access February 15, 2015).

famous women soldiers. Just to name a few: Gregoria Apaza Nina, an indigenous revolutionary woman, was known in Bolivia for participating with her brother in a revolt against Spanish colonial rule; Micaela Bastidas Puyucahua, a Peruvian revolutionary, was a martyr of Peruvian independence; and Manuela Hurtado de Pedraza, who fought to liberate Buenos Aires<sup>335</sup>. Latin American women have also played an important role in more recent revolutions, such as in the Sandinista movement in Nicaragua.

Knowing the stories of these well-known female soldiers, it could seem difficult to understand why in today's world women soldiers are often still considered unfit for conflicts. Therefore, it is important to note that the majority of the aforementioned well-known female soldiers could rely on a male figure, be it a husband or a relative in the armed group, who protected them from other risks not necessarily related to the battlefield.

Because of these female figures previously discussed, some people argue that "women have historically protected their nations against the threat of enemy forces". However, the conditions under which this happened should not be forgotten. In an effort to analyze these different conditions, when referring to modern wars, this paper makes a distinction between women soldiers in the military and female combatants in rebel or terrorist groups. As a matter of fact, a closer look shows that well-known women soldiers are often not permanently attached to a country's army (they are often part of it because of man power needs specific to a certain time). Conversely, when it comes to rebel or terrorist groups, women tend often to be permanent members. Nevertheless, it is important to note that some forces include a substantial percentage of female soldiers. For example, women are drafted into military service as part of Israel's mandatory military conscription<sup>336</sup>.

## WOMEN SOLDIERS IN THE MILITARY

As previously mentioned, there have been efforts of feminization of States' armies. For instance, not that long ago, following the movement in other countries for ensuring more gender equality and changing the belief that women are not suited for the battlefield, Australia decided for the first time to allow women soldiers the right to participate actively during combat. This may come as a surprise, since Australia has been the center of many scandals related to sexual violence in military schools in Afghanistan<sup>337</sup>. Unfortunately, this is often the case in armies where women soldiers are engaged. In fact, recent reports from Israel have shown that one in every eight women soldiers reported to have been sexually harassed in 2013, despite the fact that in the Israeli military, they are considered to be the equals of their fellow male soldiers<sup>338</sup>.

Given this context, it is impossible not to think of the US, the biggest military power in the world. With regard to the US, as former Representative Jane Harman, Democrat of California, puts it: "a female soldier in Iraq is more likely to be raped by a fellow soldier than killed by enemy fire."<sup>339</sup> In *The Lonely Soldier: The Private War of Women Serving in Iraq*, Helen Benedict examines the experience of women soldiers in Iraq and other places. The author of the book describes the threat of sexual violence that women have to face in their own units<sup>340</sup>. The fear of being targeted does not end in the battlefield, but continues in the quarters, where drinking water after a certain hour could end up in sexual assault because it means a visit to the bathroom at night. A documentary has also been made on the subject, which was released in 2012: *The Invisible War*,<sup>341</sup> where the problem is exposed, and the campaign "Invisible No More" was launched. Discussions have ensued regarding the issue whether the military or civilian tribunals should deal with such complaints. Even though there has been a lot of public attention focusing on this problem, things are not likely to change for the time being. Considering the power of the military in the US, it is questionable whether changes are going to happen soon. Meanwhile, some female soldiers, having difficulties after their assault, commit suicide<sup>342</sup>.

These are only a few examples involving just two of the most important military powers. The problem is however much more complex and many cases are highly unlikely to ever be reported. The situation of women becomes even more problematic when it comes to assaults within non-military armed groups, as I will discuss in the next section.

335 Ana María Portugal- Fundación ISIS Internacional, (2011). 'Las mujeres en la historia de América Latina y el Caribe- Serie Patriotas y Revolucionarias' <https://accensum.files.wordpress.com/2011/04/patriotas-y-revolucionarias.pdf> (last access February 15, 2015).

336 *ibid* footnote 7.

337 One of the most known scandals was a sex-for-money competition between sailors, the contest consisting on sleeping with the most female crew members possible. EFE, (September 2010). 'Nueva denuncia de violación sexual empuña a las fuerzas armadas australianas' [http://noticias.lainformacion.com/politica/fuerzas-armadas/nueva-denuncia-de-violacion-sexual-empana-a-las-fuerzas-armadas-australianas\\_HKov0tEW4mgIkV2NJC-jSD/](http://noticias.lainformacion.com/politica/fuerzas-armadas/nueva-denuncia-de-violacion-sexual-empana-a-las-fuerzas-armadas-australianas_HKov0tEW4mgIkV2NJC-jSD/) (last Access March 8, 2015); EFE, (September 2011). 'Las mujeres del ejército australiano asumirán cargos de combate en cinco años' <http://www.abc.es/agencias/noticia.asp?noticia=938921> (last access on 15 February 2015).

338 Omri Efraim, published by Israel News, (2014). 'Report: 1 in 8 IDF women soldiers experienced sexual assault in 2013' <http://www.ynetnews.com/articles/0.7340.L-4484305.00.html> (last access February 15, 2015).

339 Nancy Gibbs, (March 8, 2010). 'Sexual Assaults on Female Soldiers: Don't Ask, Don't Tell' <http://content.time.com/time/magazine/article/0,9171,1968110,00.html> (last access February 15, 2015).

340 Helen Benedict, (April 2009). 'The Lonely Soldier: The private War of Women Serving in Iraq' (For more information about the book please visit the Veterans Today's website <http://www.veteranstoday.com/2009/02/05/the-lonely-soldier-the-private-war-of-women-serving-in-iraq-by-helen-benedict/>) (last access February 15, 2015).

341 'The invisible war' site <http://invisiblewarmovie.com/> (last access February 15, 2015).

342 Doyle Murphy (February 22, 2015). 'Suicide of Florida soldier recently returned from Afghanistan leads to questions of whether she was sexually assaulted overseas' <http://www.nydailynews.com/news/national/florida-soldier-sister-suspects-sex-assault-led-suicide-article-1.2125225> (last access March 14, 2015); Humanitarian Rights Monitor South Korea. 'Female Military Officer Commits Suicide after Repeated Sexual Harassment' <http://www.humanrightskorea.org/2013/female-military-officer-commits-suicide-repeated-sexual-harassment/> (last access March 14, 2015).

## WOMEN COMBATANTS IN REBEL OR TERRORIST GROUPS

There are many historical examples of women being part of terrorist and rebel groups. The existence of a woman's role as a combatant in those groups is widely witnessed and also very important for these groups. This is the case for groups such as the Revolutionary Armed Forces of Colombia (FARC) and Al-Qaeda. One of the associated groups of the latter created for example the "burqa-clad" or "burqa brigade": an all-jihadist female fighters unit that bears an increasingly important role in attacks towards the International Security Assistance Force<sup>343</sup>. Some of these groups consider "women fighters" a great advantage since they seem less likely than men to arouse suspicion when launching terrorist attacks. Moreover, the Islamic restriction against searching females allows them to hide all kind of arms or explosives under their burqas<sup>344</sup>. This is why more and more women are being recruited in these groups, much like child soldiers, and they are often trained to be suicide bombers, as it was the case in Pakistan with women guerrillas (sometimes under age)<sup>345</sup>.

However, less is known about how they came to join such groups and how they are treated, once becoming part of them. For example, during the Iraqi war, Al-Qaeda allegedly ordered the rape of women to later convince them to act as suicide bombers to restore their families' lost honor by becoming martyrs<sup>346</sup>. As discussed before, in some situations, it is hard to know or even distinguish whether joining the group is made as a voluntary or forced decision. Sometimes, even as part of a group, they are captured by enemy groups and incorporated into the other army and subjected to abuse<sup>347</sup>, which does not come as a surprise since they were often conscripted in the first place.

One example of this would be the case of women and girls in the Revolutionary Armed Forces of Colombia (FARC). Here, after having often been forced to join the armed forces, women become victims of sexual violence within the first hours after joining the group. As a matter of fact, girls and teenagers (a favorite target group) are forced to have sexual relations with the commanders<sup>348</sup> and then are told they have to have a certain number of sexual partners inside the group, because it is their duty to support their male fellows. Furthermore, it has recently been revealed that the FARC have to meet a "quota" of recruited women between age 13 and 15 years old<sup>349</sup>. They are used as sexual objects to maintain team cohesion, but are also sent as spies to have sexual relations with the military commanders. While forcing them to have sexual relations inside the group, they also are forced to take contraceptive measures, contrary to their male fellows<sup>350</sup>. In case they get pregnant, they are forced to either abort or, if they do manage to have the baby, they lose their rank in the group and their baby is taken away<sup>351</sup>.

Often, the only security for girls inside such groups comes from having a boyfriend in the armed forces. Generally, they are then less harassed by their other fellows fighters or not at all. Being the commander's "wife" may also help. This position will often ensure them the security of being able to keep their babies and to be abused by "only" one man, although their sexual services can always be solicited by men with more power in the armed group than their "husband" or "boyfriend."<sup>352</sup>

## CONCLUSION

Female soldiers, often active fighters who perpetrate violent acts together with men, are targeted in wars by the enemy, but also by their own fellow male comrades<sup>353</sup>. There is a significant lack of gender equality within the armed forces and rebel or terrorist groups; hence women are often subjected to gender-based violence. Nevertheless, they can play a key role in future peacekeeping operations and therefore, should be particularly protected<sup>354</sup>. As a matter of fact, women can fulfill some of the functions required in peacekeeping as well as or even better than men. In the 2002 Report on Women, Peace and Security<sup>355</sup>, UN Secretary General

343 San Webb and Steve Nolan, (October 28, 2012). 'Taliban unveils female burka brigade' <http://www.dailymail.co.uk/news/article-2224336/Taliban-recruits-burka-brigade--dont-worry-doesnt-look-like-hit-much.html> (last access February 15, 2015); Houriya Ahmed- Combatting Terrorism Center, (July 3, 2010). 'The growing threat of female suicide attacks in western countries' <https://www.ctc.usma.edu/posts/the-growing-threat-of-female-suicide-attacks-in-western-countries> (last access February 17, 2015).

344 Frank Crimi, (November 6, 2012). 'Al-Qaeda's Female Suicide Bomber Death Cult' <http://www.frontpagemag.com/2012/frank-crimi/al-qaedas-female-suicide-bomber-death-cult/> (last access February 15, 2015).

345 Afiya Shehrbano Zia, (October 4, 2011). 'Female suicide bombings in Pakistan - what's in it for women?' <https://www.opendemocracy.net/5050/afiya-shehrbano-zia/female-suicide-bombings-in-pakistan-whats-in-it-for-women> (last access February 15, 2015).

346 ibid footnote 21.

347 ibid footnote 4.

348 María Camila Rincón Ortega- El Espectador, (December 13, 2013). 'Violencia sexual fue una práctica sistemática de AUC y FARC' <http://www.elespectador.com/noticias/judicial/violencia-sexual-fue-una-practica-sistemática-de-auc-y-artículo-461810> (last access February 15, 2015).

349 Infobae América (June 16, 2011). 'Las mujeres de las FARC, abusadas y violadas' <http://www.infobae.com/2011/06/16/1027272-las-mujeres-las-farc-abusadas-y-violadas> (last access February 15, 2015).

350 El Espectador, (December 2, 2013). 'Fiscalía investiga 1.169 casos de violencia sexual cometidos por las AUC y las FARC' <http://www.elespectador.com/noticias/judicial/fiscalia-investiga-1169-casos-de-violencia-sexual-cometido-artículo-461699> (last access February 15, 2015).

351 ABColombia, Sisma mujer, U.S. Office on Colombia, (Noviembre 2013). 'Colombia: Mujeres, Violencia Sexual en el Conflicto y el Proceso de Paz' [http://www.abcolombia.org.uk/downloads/Sexual\\_violence\\_report\\_Spanish.pdf](http://www.abcolombia.org.uk/downloads/Sexual_violence_report_Spanish.pdf) (last access February 15, 2015).

352 ibid footnote 4.

353 Dara Kay Cohen- World Politics, (July 18, 2013). 'Female Combatants and the Perpetration of Violence: Wartime Rape in the Sierra Leone Civil War' [https://wcfia.harvard.edu/files/wcfia/files/cohen\\_world\\_politics\\_2013.pdf](https://wcfia.harvard.edu/files/wcfia/files/cohen_world_politics_2013.pdf) (last access February 15, 2015).

354 It is important to note however, that there have been several cases of sexual abuse within the UN peacekeeping missions and that a Conduct and Discipline Unit have been put on place by the UN as well as other guidelines to prevent this type of situations to repeat themselves: Anna Patricia Valerio, (March 2, 2015). 'Putting a stop to sexual abuse by UN peacekeepers' <https://www.devex.com/news/putting-a-stop-to-sexual-abuse-by-un-peacekeepers-85611> (last access March 8, 2015).

355 Secretary General of the United Nations, (October 16, 2002). 'Report of the Secretary-General on women, peace and security' <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/634/68/PDF/N0263468.pdf?OpenElement> (last access February 17, 2015).

Kofi Annan suggested that female peacekeepers make better negotiators and communicators than men. He said women have easier access to other women when it comes to registering female combatants and collecting weapons and arms (usually left to women for safekeeping)<sup>356</sup>. For the same reasons, the UNSC Resolution 1325 calls for women's involvement in peacekeeping efforts<sup>357</sup>.

In any case, women, whether they are soldiers or civilians, often fall victims in war. Specific action should be taken to stop them from being targeted because of their gender.

#### 4.14 'HE SAID I NEEDED TO STOP BEING A LESBIAN'<sup>358</sup>: THE UNPUNISHED CRIME OF CORRECTIVE RAPE IN SOUTH AFRICA

KHUSHITA VASANT

"If there is someone who is trying to rape those lesbians, I can appreciate their thing. It's just to let them know that they must be straight. For me, I have no time to rape them but if another guy wants to teach them the way, they must rape them, they must rock them. Once she gets raped by a guy, I think she'll know a way ... which is nice."

-- Unnamed black South African youth.<sup>359</sup>

It was only when the brutal gang-rape and murder of a national level female football player made headlines in newspapers around the world did people really become aware of the criminal and deeply inhuman act of 'corrective rape' rampant in parts of South Africa. In April 2008, the partially clad body of 31-year-old Eudy Simelane was discovered in a creek on the outskirts of Johannesburg.<sup>360</sup> Simelane, a member of South Africa's acclaimed **Banyana Banyana** football team, was walking home after a night out with friends. She had been gang-raped and stabbed 25 times in the chest, face and legs.<sup>361</sup> It emerged that she was raped to correct her 'defect' of lesbianism. Like in all such cases of 'corrective rape', Simelane's attackers believed they were teaching her 'a lesson'<sup>362</sup> and showing her how to be 'a real woman'<sup>363</sup> and 'what a real man tasted like'<sup>364</sup>.

Coined in South Africa, "'corrective rape' is the term used to describe the practice of raping African women and girls thought to be lesbians with the claimed purpose of turning them into 'real African women'— the underlying belief being that homosexuality is a 'disease' imported by the white colonial empire."<sup>365</sup> With such a mindset, perpetrators of this kind of violence aim to justify the rape of those women who appear not to adhere to conventional gender roles and behavior.<sup>366</sup> Corrective rape is also known as 'curative rape' or 'punitive rape' carried out by a man or a gang of men. In South Africa, the slang for gang-rape is 'jackrolling'<sup>367</sup>. In a society that is deeply patriarchal and homophobic, masculine-looking women or butch lesbians challenge and threaten male superiority<sup>368</sup> and hence, they must be punished or 'cured' for their transgressions. Not to forget that many believe the ultimate test of proving one's manhood is a demonstrated show of aggression. The case of Simelane has helped put a face to a gruesome practice but there remain innumerable nameless black lesbian women who precariously navigate their lives daily through homophobic hate speech, threats of rape to actual rape, and mutilation. If one were to roughly construct the profiles of a hypothetical victim and assailant, one would find that those targeted are generally black lesbians residing in poor townships<sup>369</sup> who dare to break heteronormative gender roles and live openly as lesbians; a typical perpetrator is often known to the victim and is predominantly a black male.<sup>370</sup> Still, the threat of corrective rape is not exclusive to black lesbians – white women and gay men

356 Jennifer N. Ross- FOCAL, (November 2004). 'The Changing Role of the Military in Latin America' [http://www.focal.ca/pdf/security\\_Ross\\_changing%20role%20military%20Latin%20America\\_November%202004\\_FPP-04-11.pdf](http://www.focal.ca/pdf/security_Ross_changing%20role%20military%20Latin%20America_November%202004_FPP-04-11.pdf) (last access February 15, 2015).

357 UN Security Council (October 31, 2000). 'Resolution 1325 (2000)- Adopted by the Security Council at its 4231th meeting, on 31 October 2000' <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement> (last access February 17, 2015).

358 Action Aid. (2009: 5). **Hate crimes: The rise of 'corrective' rape in South Africa**. Story of 30-year old Nomawabo who was raped by her best friend in school.

359 Kelly, Annie and Topham, Laurence. The Guardian. Transcribed from the video: **South African women fall victim to 'corrective rape'**. (2009).

360 Kelly. The Guardian. (2009). **Raped and killed for being a lesbian: South Africa ignores 'corrective' attacks**.

361 Ibid.

362 Human Rights Watch. (2011: 23, 36). **"We'll Show You You're a Woman"**.

363 Di Silvio. (2011: 1471).

364 ActionAid. (2009: 12).

365 Di Silvio. (2011: 1470. Note 5).

366 Ibid.

367 The term 'jackroll' refers to the forced abduction and gang-rape of women by a gang of young men in black townships of South Africa. It was coined after the gang "Jackrollers" that operated in the late 1980s.

368 Msibi. (2009: 51).

369 Town planning during the enforcement of apartheid system saw cities and towns segregated into residential areas on the basis of race, with townships usually reserved for non-whites. Traces of this policy continue to exist and a township denotes an underdeveloped and disadvantaged area built on the fringes of towns and cities.

370 Anguita. (2011: 491).

have reported fearing retribution for their choice in daring to own and proclaim their homosexuality – but it's the black lesbian women who remain most vulnerable.<sup>371</sup>

Evidently, it is dangerous for a black woman in a South African township to be openly lesbian. There is danger in stepping out of the house after dark, and even more so if you do not appear feminine enough. If raped, there is the risk of contracting HIV from your rapist. And, then there is the danger that your own mother would arrange for you to be raped so that you can be cured of lesbianism. Take, for instance, the case of Pearl Mali who was raped daily from the ages of 12 to 16 by an elderly man her mother brought home from church one day.<sup>372</sup> Mali bore a son from the regular rapes and was kicked out of her home, with the baby snatched away from her so that she wouldn't "make him gay too".<sup>373</sup> Overall, same-sex behavior is deeply pathologized in the Rainbow Nation, and being gay or lesbian is seen as 'un-African' and a 'middle-class white phenomenon'.<sup>374</sup>

### THE GHOST OF APARTHEID & 'CRISIS OF MASCULINITY'<sup>375</sup>

There seems to be no single reason for the country's widespread rape problem – a confluence of factors is at play. South Africa has moved on from those years when apartheid was the country's social policy but a section of the population remains haunted by its colonial ghost. The marginalization of, and the use of extreme violence against working-class black men during apartheid manifests itself today against black lesbians. During apartheid, the family was the only sphere where men could re-assert their dominance<sup>376</sup> in a traditional and patriarchal society. However, in 1996, a new egalitarian Constitution promising freedom from discrimination on the basis of race, class, gender, religion and even sexual orientation – the first of its kind enshrined in any Constitution around the world – ended up challenging and threatening the heteronormative and orthodox African society with men starting to feel disempowered and irrelevant.<sup>377</sup> Ironically, the recognition and protection awarded to women and sexual minorities under the new South African law has ended up sparking violence against them.<sup>378</sup> During the apartheid regime, the disenfranchised black working-class men were the 'other' under a white minority rule. Corrective rape is, then, an intersection of gender, sexual orientation and race and a "weapon of social control of the three-times 'other', the black-lesbian-women".<sup>379</sup> Homosexuality challenges patriarchy and the patriarchal male's sense of entitlement. It is then something that needs to be cured or fixed. In a 2011 interview with the BBC, 35-year old Thulani Bhengu justified corrective rape by saying "when someone is a lesbian, it's like saying to us men that we are not good enough."<sup>380</sup>

### NO HATE CRIMES. JUST ANOTHER RAPE OR MURDER: SOUTH AFRICA HAS A DUTY

For a country not at war, South Africa has the worst statistics for gender-based violence.<sup>381</sup> International non-profit organization ActionAid reveals some shocking numbers on sexual violence against women in South Africa: almost 50% of the women will be raped in their lifetime and for every 25 men made to face trial for rape, 24 walk free.<sup>382</sup> On the streets of South Africa, it may be possible to easily find homophobic men who support the idea and act of corrective rape. According to a survey by CIETAfrica, nearly 20% of South African men said a survivor of corrective rape enjoyed the experience and "asked for it".<sup>383</sup> In another survey, one in four men in the country admitted to having raped and many confessed to having assaulted more than one victim.<sup>384</sup> In 2011, when South African lesbian activist Noxolo Nogwaza was raped, stoned and stabbed to death, the police refused to recognize the gruesome attack as a hate crime motivated by her sexual orientation. Instead, a police ministry spokesman stated, "murder is murder, whether somebody is Zulu, English, male or female – we don't see colour, we don't see gender".<sup>385</sup> Similarly, when in 2009, a man pled guilty to the rape and murder of Simelane and was sentenced to 32 years in jail, the judge stated that the footballer's sexual orientation had "no significance"<sup>386</sup> in the crime.

The Constitution of South Africa, it would appear, is years ahead of its people. When it's not African tradition, it is Christianity inherited from the white colonizers or Islam handed down from former migrants and prisoners that acts as a bulwark toward accepting sexual minorities. Take, for instance, the shocking words of a South African bishop, endorsing corrective rape with little or no fear of the law:

371 In a 2008 survey, gay rights group Triangle found that 86% of black lesbians from the Western Cape region of South Africa feared sexual assault while 44% of white lesbians reported the same. See ActionAid report (2009: 6).

372 Carter. *The New York Times*. (2013). **The Brutality of 'Corrective Rape'**.

373 Ibid.

374 Wells and Polders. (2006: 21).

375 Wood. (2005: 304).

376 Ibid.

377 Ibid.

378 Anguita. (2011: 491).

379 Ibid. (2011: 490).

380 Fihlani. BBC. (2011). **South Africa's lesbians fear 'corrective rape'**.

381 Moffett. (2006: 129).

382 ActionAid. (2009: 5). **Hate crimes: The rise of 'corrective' rape in South Africa.**

383 Ibid. (2009: 12).

384 Smith. *The Guardian*. 2009. **Quarter of men in South Africa admit rape, survey finds.**

385 BBC. (2011). **South Africa killing of lesbian Nogwaza 'a hate crime'**.

386 ActionAid. (2009: 10) **Hate crimes: The rise of 'corrective' rape in South Africa.**

**‘Homosexuality is far more of an abomination in the eyes of God than rape. Rape is unlawful sexual intercourse. Homosexuality is unnatural and unlawful sexual intercourse. It is far better for a virgin to suffer rape than for one to engage in homosexuality - even voluntarily.’**

- (Bishop Moagi Khuna<sup>387</sup>, *The Star*, Nov. 10, 2004).<sup>388</sup>

Clearly, there is a limit to how much black letter law can accomplish, however progressive it may be. Even though many nations guarantee the rights of lesbians and gays, South Africa is the only one that explicitly forbids discrimination on the basis of a person’s sexual orientation in its constitution.<sup>389</sup> Lorenzo Di Silvio examines the South African law to find a remedy for corrective rape. He notes that corrective rape implicates a number of constitutionally protected rights under the 1996 Constitution.<sup>390</sup> He suggests that a group of women at risk of corrective rape could file a preventative suit by claiming that the Bill of Rights has been infringed<sup>391</sup>, i.e.: women need not have been raped to go to court. Further, if violated, victims could make a delictual claim<sup>392</sup> seeking compensation for the harm suffered.<sup>393</sup> Most importantly, South Africa’s courts are not exempt from enforcing its international legal obligations as the country has made a firm commitment to international legal obligations and values of human rights.<sup>394</sup>

## SEX HAS CHANGED

Homosexuality in Africa is no less controversial than it is in Western societies. Often, the opponents of homosexuality are people who don’t fully understand it. Homosexuality, they would say, is a sin, is un-African, and forbidden simply because a faith proscribes it. A further ground for outlawing and terming it as blasphemous is that homosexual sex doesn’t lead to procreation and that sex is supposed to be strictly a union between a man and a woman. Such notions assign strict gender roles and identity to a person. It would seem that in the pre-modern and early modern era, a person’s identity was not defined by what he or she did in the bedroom. Homosexual acts did not make one “a homosexual”. French philosopher and historian Michel Foucault makes this distinction clear: “the sodomite had been a temporary aberration; the homosexual was now a species”.<sup>395</sup> Acts of sodomy turned into an “interior androgyny” and “hermaphroditism of the soul”.<sup>396</sup> It is only in recent times that sexuality has been employed to characterize and categorize a person and turned into a focal point in identity politics.

Anti-gay groups and politicians in Africa can protest as long and loud as they want to about how homosexuality is un-African, but there is evidence that homosexuality has held a position in African tradition and been institutionalized. Take, for instance, the marriages or sexual relationships between same-sex **sangomas** who are indigenous traditional healers of South Africa. They may not be fodder for mainstream discourse but they have prevailed through apartheid and continue to exist with there being little or no fear of corrective rape<sup>397</sup> in the minds of the black women involved in such unions. In fact, a **sangoma** transforms her marginal status into one that is valorized.<sup>398</sup> South African writer Mark Gevisser articulates this schism between the traditional and modern:

**“The tension is, ultimately, between two very different ways of dealing with homosexuality, the traditional approach, which finds ways of accommodating it and not talking about it, and the modern, ‘Western’ way, which claims for homosexuals a public ‘gay’ identity.”<sup>399</sup>**

## CONCLUSION

I believe lesbian women in South Africa, particularly those living in black townships, are incredibly brave in claiming sovereignty and autonomy over their body and life, even if it means that a pair of baggy trousers and butch appearance makes them the target of homophobic attacks. To wipe out the gruesome acts of corrective rape, the use of violence must be divorced from ideas about masculinity. Public disapproval of homosexuality needs to be erased. Education in schools and a re-education of the general population could help in changing attitudes. South African courts need to pro-actively make sure that survivors of corrective rape

387 Bishop ‘Khuna’ is likely also spelled as ‘Khunou’ as per several other online sources referencing the abovementioned quote.

388 Sanger and Clowes. (2006: 36). (The statement by South African Bishop Moagi Khunou was originally made in *The Star* newspaper under the title: **‘Rape Better Than Same-Sex Intercourse’**. The original article/letter seems not to exist anymore on the Internet or the publication’s online archives. Multiple academic citations, however, exist.)

389 ActionAid. (2009: 6) **Hate crimes: The rise of ‘corrective’ rape in South Africa.**

390 Di Silvio. (2011: 1485).

391 Ibid. (2011: 1499).

392 Ibid. (2011: 1500).

393 Through the enforcement of the law of delict, it is hoped that cases of corrective rape dwindle.

394 Di Silvio. (2011: 1503).

395 Foucault. (1990: 43).

396 Ibid.

397 Nkunzi and Morgan. (2006: 10).

398 Morgan and Reid. (2003: 387).

399 Morgan and Reid. (2003: 377).

are not re-victimized. The law must prosecute crimes motivated by one's sexual orientation for what they really are – hate crimes – and perpetrators must be tried under The Equality Act of 2000.<sup>400</sup> South Africa already has a solid framework for punishing crime motivated by a person's race or gender – all it needs to do is broaden and include 'corrective rape' in the definition and classify it as a hate crime. It is absolutely crucial that the police and judiciary recognize corrective rape for the crime that it really is. If the government, activists and citizens are really serious about addressing the scourge of corrective rape, perhaps now is the time for another Truth and Reconciliation Commission in South Africa.

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<sup>400</sup> The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 outlaws discrimination on the basis of race, gender, sex, pregnancy, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth etc.

## 4.15 THE UN-LED INTERVENTIONS TO PREVENT FEMICIDE IN FAMILIES AND INTIMATE PARTNER RELATIONSHIPS IN SERBIA (2010-2014)

VESNA JARIC<sup>401</sup>

**Abstract:** The paper describes the interventions initiated and supported by United Nations agencies in Serbia to prevent and eliminate violence against women in family and in intimate partner relationships. To illustrate the change that occurred over the period 2010-2014 in public perception and discourse on violence against women (VaW), and femicide in particular, the paper presents the analysis of media outlets collected through the four-year long thematic press clippings on VaW and gender equality. Data on a particular form of femicide registered through media analysis are set against the official statistics in order to expose the limits of the official statistics due to the lack of legal definition of femicide. The final part presents the multisectoral model for protection of women from violence, the institutionalization of which has been supported by the UN in Serbia as an efficient protection system and is crucial in ensuring the prevention of femicide.

### CONTEXTUALIZING FEMICIDE

The word “femicide” was used the first time in a public forum by Diana Russell in 1976<sup>402</sup> during her speech in Belgium before the International Tribunal for Crimes against Women<sup>403</sup>. The term has continuously been a subject of feminist discussions, starting from its definition that aims to respond to a two-fold requirement: it should be broad yet specific enough<sup>404</sup> so that it may capture the complexity and variability of multitude forms of killings of women by men with the underlying harmful social and cultural gender norms and practices in the background. After years of dwelling and fine-tuning, Russell provided the comprehensive definition of femicide as “the killing of females by males because they are female”<sup>405</sup>. The word “female” has been used consciously to include baby girls and older girls. Rashida Manjoo<sup>406</sup>, the UN Special rapporteur on VaW, has recently proposed a descriptive term “gender motivated killings of women” to stress “very different contexts of femicide, set against the multiple forms of discrimination and violence against women”<sup>407</sup>. These definitions comprise infinite variability of manifestations of femicide and depict inclusively the term in a way to design the magnitude of the phenomenon across the world and the urgency for global action. Forms of femicide significantly vary over time and geographical coordinates<sup>408</sup>. It stresses their intrinsic relation to a dominant, socially-constructed gendered context. For the purpose of specific research conducted in a determined context, it appears plausible to contextualize the notion of femicide, while providing reasoning for delineation of the applied understanding of the case. It shouldn’t be understood as challenging the universality of the wide notion of femicide, but rather as a case specific femicide research that feeds into a wide notion of various forms of femicide occurring across the world.

In Serbia the notion of “femicide” has been introduced by feminist academics and activists over the past decade. It is not still a widely acknowledged term by institutions and potentially interested professionals dealing with violence against women, and is yet to gain recognition by the general public in Serbia. Unlike the tendency in global feminists’ discussions to widen the definition and make it as broad and inclusive as possible, in Serbia, the term has gained somewhat limited contours. This has happened even among local feminists, activist and academics, who are using the term to unveil the hidden forms of violence and to raise awareness on gender motivated killings of women. Namely, the apprehension of “femicide” in Serbia is mostly circumscribed to depict the gender-related killings<sup>409</sup> of women in family and intimate partner relationships context. The causes of narrowing down the focus of femicide to one particular aspect of femicide may be traced to several contributing factors. Since the decade of 2000, women’s NGOs and academics in Serbia started researching closely violence against women perpetrated by men within the walls of a home and hidden by patriarchal social norms. The first prevalence studies<sup>410</sup> in the country were conducted by

401 Joint project coordinator of UNCT Serbia JP “Integrated Response to Violence against Women in Serbia”

402 The Origin and Importance of the Term Femicide, December, 2011. [http://www.dianarussell.com/origin\\_of\\_femicide.html](http://www.dianarussell.com/origin_of_femicide.html)

403 Diana E. H. Russell and Nicole Van de Ven (compiled and edited). 1976. **Crimes Against Women: Proceedings of the International Tribunal**, Les Femmes, USA.

404 The Latin America’s case is very illustrative, where Lagarde “enriched” the term with the impunity of perpetrators aspect. On the one hand it introduced a new element, but on the other narrowed down the concept. It is worth noting that in the Latin (Roman) language family the term “feminicidio” is preferred. It was introduced by Mexican feminist scholar and Congresswoman Marcela Lagarde in 1992 as a translation of English term “femicide” and only later, in 2005, the new connotations were added.

405 Diane Russell and Roberta Harness, 2001: 13–14)

406 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo (A/HRC/20/16/Add.4), Human Rights Council, Twentieth session, Agenda item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: UN Special Rapporteur Report May 2012: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-16-Add4\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-16-Add4_en.pdf)

407 A/HRC/20/16/Add.4, p.5.

408 In middle ages in Europe the burning of witches was a widespread practice that took lives of millions of women. The practice of so called “honor killings” is still persistently present in some cultural contexts, while in others it is considered as shameful past.

409 ECOSOC Resolution E/RES/2013/36 introduces the term gender-related killings of women and girls to describe what has been introduced in some countries by the term “femicide” and “feminicide”, as explained in the introduction of the resolution.

410 Nikolic-Ristanovic (ur.), 2002; Otasevic (ur.),2005

women's NGOs in cooperation with academics<sup>411</sup> and international organizations<sup>412</sup>. Despite not providing national representative data for the country, these pioneer researches were extremely informative and crucial for opening new spaces for action and advocacy for women's movement in Serbia. These researches gave scientific grounding and validation to the voices of women's groups and grassroots organizations working with survivors of VaW in regards to pervasive prevalence of VaW in family in the country. They have also inspired substantively the subsequent prioritization of gender equality policies within the state gender equality mechanisms. For example, the roof gender equality strategy<sup>413</sup> identified six priority areas, where the fifth was entitled "Violence against Women". Despite the overarching title, the content was mostly focused on VaW in family and in intimate partner relationships, reflecting the dominant focus of the discussion. During 2010, the UN supported two prevalence researches, in Central Serbia<sup>414</sup> and in AP Vojvodina<sup>415</sup>, which informed the national policy drafting process in the field of preventing and combating VaW.

## CONTRIBUTION OF THE UN IN SERBIA TO ENDING VAW

UN-led interventions in the country privileged the focus on ending violence against women in family and in intimate partner relationships, in line with what was recognized by stakeholders as a burning issue and one of the most prevalent forms of VaW that hasn't had enough attention of institutions and the society. The UN agencies in Serbia have implemented a holistic approach to this particular form of violence against women, articulated through the 5Ps, symbolized by a hand with five fingers signifying due diligence to the elimination of violence against women.

**Policy** – UN has supported the Serbian Government in setting up a holistic strategic framework to examine the multi-dimensional nature of violence against women in the family and in intimate partner relationships. This includes the need to articulate institutional action spreading across several sectors as well as implementation of this strategic framework. It was a result of participatory drafting process which included representatives of women's NGOs and line ministries. The National Strategy<sup>416</sup> shaped a significant portion of the subsequent UN-led interventions in this field in Serbia.

**Prevention** – UN has supported a holistic approach to prevention (primary, secondary and tertiary) of violence against women. The interventions focused on raising public awareness through public campaigns, knowledge exchange about violence against women through research and creating platforms to present the knowledge and make it available to professionals and interested members of the public<sup>417</sup>, on strengthening the capacities of professionals and service providers to better understand gender-based violence and respond more adequately to the needs of female survivors of violence, on introducing the first programme for the perpetrators of violence in the country, as well as on working with the media on deconstructing sensationalist reporting on the issue.

**Protection** – UN has worked on improving the system of protection of women from violence by strengthening the response of general and specialist services, with a special focus on the specialist service of telephone SOS helpline for women survivors of violence and on establishing an integrated response to the violence against women based on functional multisectoral cooperation.

**Prosecution** – Prosecution and punishment of perpetrators is a critical point of the system of protection from violence against women, because, alongside its repressive function, it also serves to create an atmosphere of certainty of punishment, making conditions unfavourable for perpetrators and having a preventive effect. UNDP has supported the introduction of the first specialized curriculum for judges and prosecutors regarding violence against women in the Judicial Academy, which has become an integral part of the regular training programme of this institution.

**Partnership** – UN in Serbia, as a neutral partner, has had the opportunity to facilitate a constructive dialogue between the public and the private sectors, between institutions of the system and specialist support services for women survivors situated mainly within the non-governmental (NGO) sector, throughout all the interventions with the aim of establishing solid partnerships.

Such a complex network of activities implemented by the UN in Serbia over the past seven years contributed to establishing solid institutional grounds for the effective implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention.

411 The research was conducted by Victimology Society of Serbia, a local NGO which gathers many feminist scholars. It covered 7 towns across Serbia (Belgrade, Subotica, Novi Sad, Vrnjačka Banja, Zaječar, Užice and Niš) and in about 40 villages. The sample comprised of 700 adult women (18+) and data collection was done through individual face-to-face interviews.

412 WHO methodology was applied and the local study was conducted within the broader international comparative study **The Multi-country Study on Women's Health and Domestic Violence against Women** conducted under WHO in 10 countries, where 24.000 women in total were interviewed. In Serbia, the sample comprised 1456 women, age between 15 and 49, who reside in the urban part of the city of Belgrade were (in 11 municipalities were approximately 1,3 million persons reside.

413 **National Strategy for improving the position of women and promoting gender equality** (2009-2015), Sl.glasnik 15/2009, available at: [http://sigurnakuca.net/upload/documents/Normativni\\_okvir/Nacionalna\\_strategija\\_cir.pdf](http://sigurnakuca.net/upload/documents/Normativni_okvir/Nacionalna_strategija_cir.pdf)

414 Babovic, 2010, realized within UNDP supported project "Combating Sexual and Gender Based Violence" on a sample of 2500 women in Central Serbia.

415 (Nikolic-Ristanovic, 2010, realized within the UN Trust Fund to End VaW supported project "Towards Comprehensive Protection of Women from Violence", implemented by the Provincial Secretariat for Labour, Employment and Gender Equality of Autonomous Province of Vojvodina.

416 Nacionalna strategija za sprečavanje i suzbijanje nasilja nad ženama u porodici i u partnerskim odnosima (2011-2015), „Službeni Glasnik“ 27/2011. (National Strategy for preventing and eliminating violence against women in family and intimate partner relationships, Official gazette 27/2011)

417 In cooperation with the Fund B92, UN in Serbia established the first web-one-stop-shop-info-center [www.sigurnakuca.net](http://www.sigurnakuca.net) about violence against women with the following content available, for example: "what is violence", "how to protect oneself", "where to seek the assistance and support"; making data, research, information, updated news, database of femicide narratives, database of service providers with search engine by municipalities, helpline telephone numbers, calendar of events, video library, forum, information about programmes for perpetrators, etc. In the first year, the website was visited by 30,000 unique visitors.

UN interventions in Serbia in the area of prevention and elimination of violence against women are an integral part of the development assistance programme because enabling access to development to all social groups is a basic requirement of an inclusive society, and as gender differences represent one of the first social stratifications. Therefore, development based on the principle of equal opportunities for women and men includes support to government institutions to act with due diligence in providing security to all citizens, taking into account gender-specific threats and risks.

## MEDIA MONITORING OF REPORTING ON VAW

The media attention to the issue of violence against women has been important for at least two reasons. Firstly, the media have a role to select and inform on events that are recognized to be of public interest. Testimonies collected by media professionals over the past four years through training on gender-sensitive reporting of cases of VaW for journalists and editors, informed us that the issue of VaW has not been until recently recognized as an issue that should be addressed in the public domain. It was perceived as a private domain concern of families and individuals. Thus, VaW stayed outside of the sphere of interest of the wider society. Consequently, the general perception was that VaW in the family and in intimate partner relationships was not a relevant social concern for the community or for the State. Secondly, the media have a role in shaping socially desirable perceptions and attitudes towards determined issues. The manner in which the media report on VaW impacts the creation of general public discourses around this issue. For these two reasons it is essential to observe both the quantity and the quality of media reports on the topic of interest.

In 2010<sup>418</sup>, UNDP initiated the regular media monitoring through thematic press clippings on violence against women in Serbia. In the period 2010-2012, the press clipping was provided by Ninamedia agency, while the period 2013-2014 was covered by the agency Ebart. The press clipping by both agencies was done against the same criteria: key words and coverage of media sources, instructed in both cases by UNDP in order to assure the methodological consistency and comparability over the time. The regular annual quantitative analysis of media outlets on VaW in the period 2010-2014<sup>419</sup> enabled us to observe the reporting trends over the four-year period.

Over the observed period of time, 2010-2014, it has been possible to identify the three most significant trends:

1. The increase of media attention to reporting on the issues of VaW and gender equality;
2. The narrowing down of the focus of media attention to the issue of VaW, at the expense of other issues relevant to gender equality;
3. The boom in the media's interest on the issue of VaW in 2013.

During 2013-2014, the focus of media interest narrowed to the topic of violence against women while all other topics related to gender equality remained almost neglected. The explanation for these trends may be partially attributed to the comprehensiveness of the UN interventions in the field of eliminating VaW in Serbia, which included extensive work in prevention efforts and the focus on work with the media. The multiplication of acting stakeholders and increased complexity of activities in the area of prevention and elimination of violence against women supported and headed by UN surely contributed to the shaping of media attention. At the same time the executive power gender mechanisms have been losing their previous positions<sup>420</sup>, which loosened the presence and the attention to other topics related to gender equality. In 2012, UN interventions in the area networked and came together in a joint UN programme titled "Integrated Response to Violence against Women in Serbia", so the effects of the interventions multiplied and gained additional visibility. In 2013, UN agencies established close cooperation with the B92 Fund which resulted in setting the web-one-stop-shop-info-center<sup>421</sup> on VaW and in creating public campaigns with the aim to increase the outreach. Such an approach clearly contributed to major visibility of the efforts.

In the period 2010-2014, the UN implemented training for journalists and editors on gender-sensitive reporting of violence against women throughout Serbia<sup>422</sup>, which consequently resulted in a broadened perception that violence against women is a socially important topic of public interest. In regular UNDP research about the citizens' perception of discrimination in Serbia, in 2013 for the first time women appeared as the most discriminated against social group.<sup>423</sup> Hence, this supports the hypothesis that UN activities considerably contributed to the visibility of the issue in the public sphere.

418 The first comprehensive state intervention in the field of VaW was supported at the national level by UNDP through the project "Combating sexual and gender based violence", more information available at: <http://www.rs.undp.org/content/serbia/en/home/ourwork/povertyreduction/successstories/combating-the-violence-against-women/>

419 Medijska eksponiranost nasilja nad ženama i rodna ravnopravnost u 2010, Ninamedia, Projekat "Borba protiv seksualnog i rodno zasnovanog nasilja", Beograd, 2011. Medijska eksponiranost nasilja nad ženama i rodna ravnopravnost u 2011, Ninamedia, Projekat "Borba protiv seksualnog i rodno zasnovanog nasilja", Beograd, 2012. Medijska eksponiranost nasilja nad ženama i rodna ravnopravnost u 2012, Ninamedia, Projekat "Borba protiv seksualnog i rodno zasnovanog nasilja", Beograd, 2013. Analiza medija za 2013. godinu, Medijski arhiv Ebart, projekat "Integrirani odgovor na nasilje nad ženama", 2014. Analiza medija za 2014. godinu, Medijski arhiv Ebart, projekat "Integrirani odgovor na nasilje nad ženama", 2015.

420 The Law on Ministries, Official Gazette RS, No. 44/2014 abolished the executive power gender mechanism on the national level, Gender Equality Directorate with the Ministry of Labour, Employment and Social Policy of the Serbian Government.

421 [www.sigurnakuca.net](http://www.sigurnakuca.net)

422 Within the UNCT Serbia JP "Integrated Response to VaW in Serbia", supported by the UN Trust Fund to End Violence against Women, in the period 2013-2014 over 60 journalists and editors were trained on gender sensitive reporting on VaW throughout the country (Belgrade, Novi Sad, Vrnjaka Banja, Sjenica, Kragujevac, Alibunar, Prijepolje). Within the UNDP project "Combating sexual and gender based violence" (2009-2012) work with media professionals was initiated through trainings, analysis of media outlets, promotion of responsible reporting, awards to journalists, media houses, documentary movies tackling the issue in a professional and ethical way.

423 CESID (2013), Izveštaj o istraživanju javnog mnjenja. Odnos građana prema diskriminaciji u Srbiji, UNDP, Beograd, str. 23, str.12-14.

## MEDIA REPORTING ON FEMICIDE

In the absence of official recognition of the crime of femicide and the following official statistics of the crime, media reports on VaW have been over the past years the major source of information on femicide in family and in intimate partner relationships.

Over the observed period, 2010-2014, a progressive increase in number of reports on murders of women has been registered. This increase mostly goes along the lines of the general increase of media attention to the issue of VaW, as presented in the previous section. The exceptions of this parallel trend are the years 2012 and 2014. Namely, in these years, the general attention of media to the issue of VaW decreased in comparison to the preceding years (2011 and 2013), while the number of media outlets specifically on the issue of femicide increased. It indicates the increase of focused attention specifically to the issue of killings of females in the context of family and in intimate partner relationships. It represents the change of public discourse through media in regards to femicide as it becomes increasingly recognized as an important concern of public interest and domain.

## REVEALING THE HIDDEN STATISTICS - ADVOCATING THE VISIBILITY OF SILENT VICTIMS OF FEMICIDE

Since 2010, thematic press clipping on VaW commissioned by UNDP have been shared on regular basis with the Women against Violence Network in Serbia<sup>424</sup> which gathers 27 specialist women's NGOs that are active in preventing and eliminating VaW. The organizations from the network have been already monitoring and reacting to media reporting on VaW in the country. Still, in the absence of regularity and systematic monitoring through thematic press clipping their observations and reactions were targeted to specific examples of "bad" reporting and particular cases of femicides. The availability of regular thematic press clippings on VaW opened the possibility to produce semiannual and annual reports on femicide, based on the analysis of media outlets<sup>425</sup>. The Network has been publishing the semiannual and annual reports on femicides since 2010 and has established the practice of public announcements through press releases of the findings of their analysis twice a year. Data from the reports and press releases have found wide resonance in the public. The figures of prevalence of femicides have been used by female politicians in the public arena to advocate for media and institutional attention to the issue. Although there hasn't been a conventional agreement of the parties to act in such a division of roles, the common interest to raise awareness on this issue resulted in increased media attention to VaW and femicide in particular as illustrated through the previous section.

In the absence of official statistics on a specific crime of femicide in family and in intimate partner relationships it cannot be stated whether there has been a real increase of the number of femicides in the country. The only certainty is that the general increase of media attention on VaW and on killings of women has brought to the attention of general public more information regarding these issues and has raised the general level of information and awareness.

The presentation of these figures of femicide by the media over the same period did not problematize either the source of information or the lack of official statistics against which to validate these data. The result of the uncritical presentation of these figures in the period 2010-2013 resulted in the creation of a general discourse of catastrophic proportions of increase of killings of women by their partners and family members. The authentic paradox was generated: the summarized presentation of data on femicide revealed in the media reports increased the media's attention to report more on the issue. This consequently resulted in an increase in the number of cases that came to the attention of the media, thus, increasing the number of cases of femicide registered through media sources analysis. The paradox appeared clearly already in the year 2014. Namely, the year 2014 presented a different picture in comparison to the registered trend over the period 2010-2013. In the year 2014, there was a sharp drop in the number of femicides registered through media reports in comparison to 2013, while the number of articles in the print media on murders of women stayed pretty much the same.

In 2014 the focus on VaW remains high, while the focus on femicides increases and the number of registered femicide cases decreases. Thus, for the first time the quantitative increase of media reports on killings of females has not coincided with the increase in the number of women murdered in the same period. As there have not been legislative changes that would have allowed the monitoring of femicide prevalence in the country, it remains impossible to state whether there has been **de facto** decrease of number of femicides. Nevertheless, the observation of the phenomenon over time through the same tool enabled us to register the **change**. Before elaborating on one of the possible explanations of this change and the UN contribution to potentially reducing femicide in the country, it is important to present the available official statistics implicitly in relation to the femicide and to comment on its limitations.

## THE BLIND EYE OF THE OFFICIAL STATISTICS

Media are both a valuable and unreliable source of information. Namely, media may reveal extremely valuable information on a particular case of femicide that would have stayed out of public reach otherwise. Still, they are an extremely unreliable source of prevalence data, as there is no means of control whether all or only selected cases reached the attention of the media. In addition, the media's comments and opinions create and guide perceptions that cannot be consistently measured against official statistics.

424 Women against Violence Network in Serbia: <http://www.zeneprotivnasilja.net>

425 Women against Violence Network in Serbia – Thematic reports on femicide, based on media reports analysis for the period 2010-2014: <http://www.zeneprotivnasilja.net/femicid-u-srbiji>

In this section, the data provided by state institutions will be briefly overviewed and commented. The data were provided by the Ministry of Interior of Republic of Serbia upon request of the Ministry of Labor and Social Policy<sup>426</sup>. These two categories were selected as they would ideally coincide with the definition of femicide in family and in intimate partner relationships observed through media reports. Nevertheless, it is immediately clear that there cannot be any possibility of comparison. There is no specific criminal act on homicides in partner relationships. The data provided are based on official statistics on criminal acts, i.e. murders (e.g. art. 113,114,115 of Criminal Law). These were selected on the basis of the availability of information of relationship between the victim and the perpetrator, which is not consistently registered. For example, cases of an intimate partner who perpetrated a femicide and committed suicide right after the murder are not registered in these categories and remain invisible. The cases registered under 'domestic violence with fatal outcome' depend upon the definition of family in the Criminal Law which differs substantively from the Family Law definition. Contrary to the Family Law's definition of the family, the Criminal Law circumscribes the family members only to persons living in the same household which excludes all those cases of femicide committed after separation, which is a crucial risk factor for this form of femicide as demonstrated by femicide narratives.

Despite the blind eye of the official statistics in presenting in an aggregated manner all the cases related to femicide in family and in intimate partner relationships, it is still possible to recognize the gender-specific nature of the crime of the homicides committed in partner relationship. Namely, the available official data show that in 80% of cases women were victims of violence/physical abuse by their intimate partners and 20% of victims were men. The statistics do not reveal the sex of the perpetrator, so it is not possible to draw further conclusions.

According to data published in the Ombudsman report<sup>427</sup> for the 18-month period starting January 2013 until June 2014, a total of 78 homicides occurred in which 42 of the victims were female (**30 female victims in 2013 and 12 in the first six months of 2014**), 25 males while the sex of 11 persons was not clearly specified. Of the 78 homicides, 31 were committed by intimate partners (23 of these were female victims) and 47 (19 of these were female victims too) were within families. Again, data from the independent state institution report are not comparable with those retrieved from media reports, as there is no shared definition of the crime that would be observed over time through official statistics.

## BEYOND THE NUMBERS – RESTORING THE FEMICIDE NARRATIVES

Exposing the numbers of femicides in family and in intimate partner relationships dominated and shaped public discussion around the issue, but has not led to any substantive policy or legislative changes. As the number of femicides was increasing, the media were giving more attention to presenting femicides as a phenomenon in expansion and nurtured the general perception that the country is being overwhelmed by violence. Sensationalism has been a dominant discourse (Mrsevic, 2013). The near total absence of VaW experts' opinions and formulation of concrete advocacy requirements has further fueled the perception of helplessness. Even more confusingly, many different subjects started recalling the media's attention by exposing *ad hoc* different numbers of femicides, without using as source the media analysis produced by the Women against Violence Network.

With the idea of getting back to the basics of the problem, the UN in cooperation with the B92 Fund<sup>428</sup> published a database of stories on femicides. Inspired by the Italian blog "Oltre la violenza"<sup>429</sup> within the Corriere della Sera's blog "La Ventisettesima ora", the UNDP and the B92 Fund prepared a website space dedicated to female victims of femicide<sup>430</sup> in Serbia. The "database of stories of femicide" contains the femicide narratives of each woman killed by her intimate partner or family member in the period 2011-2014. These narratives have been an attempt to reconstruct without the ingredients of sensationalism the facts of the events by stressing the following aspects of the individual stories: what was happening prior to the murder, was there a registered history of violence, was the woman assisted by the institutions, was the perpetrator known to the institutions, have there been any interventions by state institutions and why they did not prevent the femicide, were the social and family networks aware of the violence, have they ever interfered to protect the victim, what happened on the day of the murder, what kind of institutional reaction followed and was there an institutional epilogue. All the information was retrieved from the contents published by the media. There was no further investigation into the cases through different sources of information. Staying true to the facts, retrieving information from media sources proved to be a challenging task. The vast majority of media reports are value-dyed, colored with interpretations and judgments, with the tendency to "investigate the perpetrator's reasons for murder" and the "victim's faults". The presentations of the victim and the perpetrator are almost always stereotypical, following the pattern of "good, diligent, obedient and beautiful victim" and the "bad-tempered, violent-character perpetrator", supported by testimonies of neighbors, relatives and family members.

Restoring femicide stories without sensationalizing them has meant paying tribute to the victims and to recall the attention of society that these women could have been saved. "With regard to the ultimate act of killing of the woman, there were already several indicators that predicted it. There was not a single case where femicide was the first act of violence to come to the knowledge

426 Official communication of the Ministry of Interior to the Ministry of Labor and Social Policy, n. 01-14304/11-2 of 17.01.2012. (in response to official communication n.011-00-4-51/2011-01 of 09.12.2011.)

427 „Poseban izveštaj Zaštitnika građana o primeni Opšteg i posebnih protokola za zaštitu žena od nasilja“, del.br 33738, 18.11.2014, pp. 21-22.

428 Fund B92 is non-profit foundation attached to one of the most important media houses in the Region of Western Balkans B92. Fund B92 pursues socially responsible public campaigns. As of beginning of 2013 UN has been partnering with the Fund B92 within the "Integrated Response to VaW in Serbia" joint programme with the aim to increase the outreach and visibility of the efforts invested in the field.

429 <http://www.corriere.it/cronache/speciali/2015/la-strage-delle-donne/>

430 [http://www.sigurnakuca.net/nasilje\\_nad\\_zenama/femicid/femicid\\_-\\_price\\_o\\_ubijenim\\_zenama.318.html](http://www.sigurnakuca.net/nasilje_nad_zenama/femicid/femicid_-_price_o_ubijenim_zenama.318.html) The stories were prepared and updated by Nikola Zdravkovic (period 2011-2013) and Jovana Timotijevic (period 2013-2014), with support of Vesna Jaric.

of family, friends, relatives, institutions, wider community. It appears clear that violence, stalking and threats preceded every single case of femicide. This is an important indicator that femicide in family and in intimate partner relationships is preventable. The essence of the prevention of femicides is in the effective and efficient protection mechanisms that stop violence against women and keep women safe from it.

## **ONE OF THE POSSIBLE RESPONSES TO PREVENT FEMICIDE IN FAMILY AND IN INTIMATE PARTNER RELATIONSHIPS –MULTISECTORAL COOPERATION AND SPECIALIST SERVICES**

There are two key aspects to the prevention of femicide and protection of women from gender-based violence: multisectoral cooperation and specialist services. Their inter-connectedness and cooperation is a decisive factor of success of the service provided and for the provision of safety of the survivors.

### **ESTABLISHMENT OF AND SUPPORT TO THE MULTISECTORAL COOPERATION MODEL IN SERBIA**

In Article 18, Chapter IV<sup>431</sup> of the Istanbul Convention requires member countries to establish efficient mechanisms of intersectoral cooperation. The UN in Serbia have developed its support in two parallel courses of action to strengthen the institutions in the system to establish effective cooperation between the relevant government bodies for the protection of women from violence:

1. Strengthening sectoral systems to recognise different forms of violence and to improve institutional response to violence against women (centres for social work, police, public prosecutors) through specialized training programmes for professionals (in accordance with Article 15 of the Istanbul Convention);
2. Creating conditions for an “integrated response” to violence against women by establishing mechanisms for multisectoral cooperation (in accordance with Article 18 of the Istanbul Convention).

The first course of intervention was realized in close cooperation with specialized institutions for the training of staff from different sectors such as the Academy of Criminology and Police Studies, Judicial Academy and the Institute for Social Welfare. The intervention was based on the implementation of specialized trainings for response in the cases of violence against women in the family and in intimate partner relations, within legal mandates of each of the sectors and based on the developed guidelines for action for each of them. Working within the system, with the institutions that have the mandate to introduce and implement specialized trainings for staff and service providers in these individual systems resulted in the institutionalization and accreditation of trainings on violence against women in the family and in intimate partner relations. This approach was also motivating for the training beneficiaries (judges, prosecutors, police officers, social workers, etc.), because their participation was officially acknowledged and recognized. In the last five years, over 3,000 service providers went through the specialized trainings for service providers supported by UN agencies in Serbia.

On the other hand, integrated response to violence against women is a complementary and simultaneously supported approach that comes from raised awareness of the necessity of a multisectoral intervention with the aim of adequate protection of the victims of violence. Namely, if there is no exchange of information or cooperation between different systems regarding the protection of victims from violence, the entire burden of activation stays on the victim herself. Such an approach has demonstrated significant limitations in practice and resulted in a number of fatal outcomes of violence, i.e. femicide in the family and in intimate partner relations. It is not realistic to expect from the victim, who is already in a state of exhaustion and from her perspective often in a hopeless situation, to have the necessary resources to independently mobilize relevant institutions into action. A multisectoral approach shifts the responsibility from the victim to the system, so the institutions of the system take over the initiative to activate community resources with the aim to support the victim to leave the situation of violence. In practice, this means that each institution in the chain of protection of the victims of violence is responsible for information sharing, documenting and exchange

431 Chapter IV – Protection and Support  
Article 18 – General obligations

- 1) Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.
- 2) Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.
- 3) Parties shall ensure that measures taken pursuant to this chapter shall:
  - be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim; – be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment; – aim at avoiding secondary victimisation;
  - aim at the empowerment and economic independence of women victims of violence; – allow, where appropriate, for a range of protection and support services to be located on the same premises;
  - address the specific needs of vulnerable persons, including child victims, and be made available to them.
- 4) The provision of services shall not depend on the victim’s willingness to press charges or testify against any perpetrator.
- 5) Parties shall take the appropriate measures to provide consular and other protection and support to their nationals and other victims entitled to such protection in accordance with their obligations under international law.

of information with other institutions. A multisectoral model of protection of women from violence in Serbia is regulated on the national level through a set of protocols<sup>432</sup>. The umbrella document is the **General Protocol on Cooperation of Institutions, Bodies and Organisations in the Protection of Women from Violence in The Family and in Intimate Partner Relations**<sup>433</sup>, adopted by the Government of Serbia, defining the framework of cooperation of the relevant institutions within the system and general principles, on which the protection is based (shifting the focus from the protection of the family to the protection of survivor/individual, which is an important conceptual step forward in service provision by the institutions of the system).

The General Protocol binds the relevant systems to more closely define the actions of service providers of individual systems in the protection of women from violence, which resulted in the development of special protocols of the Ministry of Interior (Moi), Ministry of Labour, Employment and Social Policy (MoLESP), Ministry of Health (MoH) and Ministry of Justice (MoJ). Within the same framework, the Special Protocol of the Ministry of Education can be incorporated to complement the protection system with the focus on child protection from neglect and abuse. Keeping in mind the role of the schools in detecting violence in the family through direct work with the children, an intersectoral mechanism for the protection of women from violence actively involves the education sector. The set of documents for intersectoral cooperation that was adopted on the national level was in its process of development very much inspired by the collected sporadic local agreements on cooperation that arise from the practice. In this respect, the process drew inspiration bottom-up. Once the frame was set and adopted on the national level, it was taken back to the local level (top-down approach). Since 2011, UN agencies in Serbia have supported implementation of specialized trainings for intersectoral cooperation in more than 40 towns and for more than 2,000 service providers, which have been implemented by a specialist women's NGO Autonomous Women's Centre<sup>434</sup>. Today, nearly every municipality in Serbia has signed a local agreement on the implementation of the set of protocols for intersectoral cooperation, but they are implemented with very different levels of success<sup>435</sup>. If we look at the change through official statistics, we can see that, on the national level, there is a continued year after year increase of the number of registered cases of violence in the family and in intimate partner relations both in the social welfare system (Branković, 2013: 105) and by the police authorities, which testifies positive developments in the institutional capacities for identification and response to violence against women. In 2013, the Institute for Social Welfare registered for the first time doubling in the number of criminal charges initiated by the centres for social work in relation to 2012<sup>436</sup>, which indicates positive institutional developments in establishing intersectoral cooperation.

It is necessary to point to the "missing piece of the puzzle" in this image of institutional response to violence. Namely, an efficient and integrated response to violence against women requires active participation of specialist support services for the women who are in the situation of violence.

## SPECIALIST SUPPORT SERVICES

The Istanbul Convention differentiates and defines general support services<sup>437</sup> and specialist support services<sup>438</sup>. Specialist services are different from general services inasmuch as their focus is based on feminist principles with focus at the women survivors' needs<sup>439</sup>. Their role is complementary and not competitive with the services of the institutions of the system. They deal with the issues in a way that is not possible to introduce in the institutions of the system. The illustration of this statement is a case of SOS telephone helpline for women survivors of violence, the capacities of which were mapped by a project supported by UNDP in 2012<sup>440</sup>. At that time, 24 service providers of specialist SOS helpline service were identified, of which 3 were placed in centers for social work (CSW) and 21 helplines were run by specialist women's NGOs. As part of the Integrated Response to Violence against Women in Serbia<sup>441</sup> project, UNDP supported 11 specialist women's organisations in providing the SOS specialist service.

432 "Multisectoral Cooperation – Institutional Response to Violence against Women", UNDP, Belgrade, 2013: <http://www.rs.undp.org/content/serbia/en/home/library/poverty/multisectoral-cooperation--institutional-response-to-violence-ag/>, accessed on 28 January 2015 and [http://sigurnakuca.net/un\\_protiv\\_nasilja/publikacije\\_projekta/protokoli\\_o\\_postupanju\\_i\\_saradnji\\_ustanova\\_organ\\_a\\_organizacija\\_.50.html](http://sigurnakuca.net/un_protiv_nasilja/publikacije_projekta/protokoli_o_postupanju_i_saradnji_ustanova_organ_a_organizacija_.50.html), accessed on 28 January 2015

433 General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationship, adopted by Government Conclusion No. 05 N. 56-8645/2011 on 24 November 2011 – a set of protocols published in Multisectoral Cooperation – Institutional Response to Violence against Women, UNDP, Belgrade, 2013.

434 Autonomous Women's Centre: [www.womenngo.org.rs](http://www.womenngo.org.rs)

435 Special Report of the Ombudsman on the Implementation of General and Special Protocols for the Protection of Women from Violence, ref. no. 33738, 18 November 2014.

436 Institutional response to domestic violence - Report made at the request and according to the structure submitted by the UNDP office in Serbia, August 2014. Institucionalni odgovor na nasilje u porodici - Izveštaj sačinjen na zahtev i prema strukturi koju je dostavila kancelarija UNDP u Srbiji, avgust 2014.

437 Article 20 – General support services

1 Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

2 Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.

438 Article 22 – Specialist support services

1 Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.

2 Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.

439 Kelly Liz, (2008) "Combating violence against women: minimum standards for support services", Directorate General of Human Rights and Legal Affairs Council of Europe, Strasbourg, September 2008

440 Branković, 2012

441 [http://www.rs.undp.org/content/serbia/en/home/operations/projects/poverty\\_reduction/integrated-response-to-violence-against-women-in-serbia/](http://www.rs.undp.org/content/serbia/en/home/operations/projects/poverty_reduction/integrated-response-to-violence-against-women-in-serbia/)

In the one-year period through November 2014, these 11 specialist women's NGOs and their 50 consultants and 50 volunteers responded to over 5,000 survivors' calls and provided direct support services to over 2,000 women survivors of violence. In addition, through their activities in local communities, these organisations reached over 20,000 individuals. These data are even more impressive considering that among these 11 organisations there are three Roma women's NGOs (Osvit – Dawn from Niš, Association of Roma Women Novi Bečej and Daje), that provided direct support to as many as 1,128 Roma women. To compare, the report of the Gender Equality Deputy Ombudsman states that in the period from 1<sup>st</sup> January 2013 until 30<sup>th</sup> June 2014, centres for social work registered and worked with "397 Roma women and women from other national minorities"<sup>442</sup>.

It is possible to draw several lessons learnt from this data:

- Specialist services are close to beneficiaries, and as grassroots organizations they are established and recognized on the territory they work on, and that the beneficiaries have more trust to address them for help and support;
- Specialist services reach beneficiaries that often remain unrecognized by the system, or for whom the system remains unavailable, so they are complementary with the services provided by the institutions of the system;
- Specialist services are an efficient mechanism for recognition and urgent response to violence against women, as well as for initiating the involvement of institutional protection mechanisms. In addition, specialist services are able to implement long-term programmes of support to women leaving violence, based on trust and support.

These findings have directed the focus of UNDP's efforts towards institutional recognition of specialist support services for women survivors. The Law on Social Welfare<sup>443</sup> opens the possibility to recognize the so-called "other" service providers (Art. 17). Therefore the working group of representatives of women's NGOs and two line ministries in charge of social policy and interior affairs was supported by UNDP to develop minimum standards for the service of helpline for women victims of violence<sup>444</sup>. This was achieved in the form of a by-law that would more closely define the institutional position of specialist services and specialist helpline service for women survivors of violence<sup>445</sup>. Institutional recognition and positioning of specialist services for women with the experience of violence potentially opens the way to establishing a unique helpline for Serbia based on the network of women's NGOs specialized in this work<sup>446</sup>.

An efficient system of protection requires networking, coordination and using the capacities of all relevant sectors and specialist services that are also formally recognized as part of the mechanism of institutional protection. As long as the system provides services in a non-coordinated manner, by sectors, it won't be possible to speak of an adequate institutional response to prevention of and protection from violence.

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444 The process has been supported by the expertise of Prof. Dr Liz Kelly from CWASU who facilitated opening of the dialogue between the state institutions and NGOs regarding the possibility of setting specific minimum standards for the SOS helpline.

445 Draft Rulebook on minimum standards for the helpline service for women and girls with the experience of gender based violence, **Social Policy No. 1-2014**, Institute for Political Studies, Belgrade, 2014, p. 161-173.

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Network Women against Violence in Serbia – Femicide in Serbia in 2014: [http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativno-narativni\\_izvestaj\\_za\\_2014\\_godinu.pdf](http://www.zeneprotivnasilja.net/images/pdf/FEMICID-Kvantitativno-narativni_izvestaj_za_2014_godinu.pdf)

Network Women against Violence in Serbia – Femicide in Serbia in the period 2010-2013: [http://www.zeneprotivnasilja.net/images/stories/pdf/femicid/FEMICID\\_Kvantitativno\\_-\\_narativni\\_trogodisnji\\_izvestaj\\_2010-2012\\_godina.pdf](http://www.zeneprotivnasilja.net/images/stories/pdf/femicid/FEMICID_Kvantitativno_-_narativni_trogodisnji_izvestaj_2010-2012_godina.pdf)

Mršević Z. (2013) Pojam i rasprostranjenost femicida: <http://www.zoricamrsevic.in.rs/najnovije/2013-mrsevic-femicid.pdf>

The Origin and Importance of the Term Femicide, December, 2011. [http://www.dianarussell.com/origin\\_of\\_femicide.html](http://www.dianarussell.com/origin_of_femicide.html)

Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo (A/HRC/20/16/Add.4), Human Rights Council, Twentieth session, Agenda item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: UN Special Rapporteur Report May 2012: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-16-Add4\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-16-Add4_en.pdf)

UNDP Serbia project "Combating sexual and gender based violence", more information available at: <http://www.rs.undp.org/content/serbia/en/home/ourwork/povertyreduction/successstories/combating-the-violence-against-women/>

UNCT in Serbia Joint project "Integrated Response to Violence against Women in Serbia": [http://www.rs.undp.org/content/serbia/en/home/operations/projects/poverty\\_reduction/integrated-response-to-violence-against-women-in-serbia/](http://www.rs.undp.org/content/serbia/en/home/operations/projects/poverty_reduction/integrated-response-to-violence-against-women-in-serbia/)

## 4.16 COMBATting FEMICIDE IN MULTIPLE WAYS: THE COST ACTION IS1206 ON 'FEMICIDE ACROSS EUROPE'<sup>447</sup>

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Europe may lag behind the rest of the world when it comes to carrying out scientific research in the field of criminology, but recently it has proven to be a leader on the issue of the lethal killing of women and girls. Femicide is a major cause of premature and unnatural death for women globally, and is distinct from homicide and other forms of gender violence. The problem of domestic violence has received huge resources and attention, but femicide has, until recently, been virtually ignored. Until we initiated the COST (European Cooperation in Science and Technology)<sup>448</sup> Action in Europe, agencies had funded initiatives on gender and violence, but not specifically on femicide; research was in its infancy. In the belief that understanding and combatting femicide requires an interdisciplinary approach focusing on victim and perpetrator, on cultural and psychological causes, and on societal issues, the COST Action IS1206 was launched on 9 April 2013.

### GOALS

The Action has several objectives:

- To produce an articulated and common theoretical and interdisciplinary framework about femicide. This has been achieved through the exchange of ideas by researchers by means of coordinated network meetings, workshops and conferences and the participation of experts from European and non-European countries alike.
- To establish preliminary conditions for comparisons of European data on femicide, both qualitative and quantitative, in an attempt to reach the level of other countries, which are advanced in the study of this subject.
- To set up coalitions on the prevention of femicide across Europe bringing together established and early career-researchers as well as policy makers and advocacy groups.
- To publish academic articles as well as recommendations and guidelines for policy makers.
- To discuss strategies and directions to prevent femicide with advocacy groups, women's shelters, police and prison personnel and other service providers.
- To monitor femicide in the future through the establishment of a European Observatory.

Whether all of these goals can be reached in the four years allocated to the Action remain to be seen. In particular, large funding would have to be acquired to establish a European Observatory, which could serve Europe in the future.

To date, 27 countries in Europe have officially joined the COST Action IS1206. Each country has two members on the management committee of the Action and up to six substitute members. All of these are eligible to attend COST meetings.

### STRUCTURE

In order to achieve its aims, the Action set up four working groups around the following subjects: definitions, data collection, cultural issues, and advocacy and prevention. The working group (WG1) on Definitions proved of relevance to all. The COST Action had purposely called itself 'Femicide'. This term, in line with Diane Russell's initial formulation, refers to the act of killing a woman or girl because of her gender. Originally, Russell had claimed that this was an act motivated by a patriarchal and misogynist culture.<sup>449</sup> In 2001, she redefined the term to refer to "the killing of females by males **because** they are female", a definition which we have adopted.<sup>450</sup>

However, as can be seen particularly from the work of South American researchers, the term 'femicide' is also in use,<sup>451</sup> and sometimes the two are ideologically opposite. In addition, a multiplicity of other terms is employed, such as female homicide, gender-based lethal violence, uxoricide, and the term the UNODC uses: 'gender-related killings of women and girls'.<sup>452</sup> Beyond the

447 The author is Chair of the COST Action IS1206.

448 **COST is an intergovernmental framework for European Cooperation in Science and Technology, allowing the coordination of nationally-funded research on a European level.** Until 2014, COST activities used to be run under the European Commission's FP7, but then the COST Association was set up as international non-profit association under Belgian law (AISBL). It is the structure integrating governance with scientific, technical and administrative functions of COST, formerly managed by the European Science Foundation through the COST Office. As of 1 October 2014, the COST Association is the legal entity to implement all COST activities under Horizon 2020 based on the Framework Partnership Agreement signed with the European Commission on 24 July 2014.

449 Russell, D. and Radford, J. (Eds.), **Femicide: The Politics of Woman Killing**, New York: Twayne Publishers, 1992 and Buckingham, England: Open University Press, 1992. Reprinted, Ann Arbor: UMI, Books on Demand, 2003

450 Russell, D. and Harmes, R.A. (Eds.), **Femicide in Global Perspective**, New York: Teachers College Press, 2001.

451 The conference in Santiago, Chile on 23 January 2013 had to use both terms Femicide/Feminicide (sic).

452 At the UNODC meeting in Bangkok on 11-13 November, 2014, as part of the ACUNS delegation, I requested to replace this cumbersome title with the simple term 'femicide'. While retaining the original designation through precedent, the general conclusions of the meeting now note that:

semantic variations, the group has discussed the meaning of femicide and what can be incorporated within its rubric. For example, can sex selection before birth be included in the definition? If so, how can one document the killing of a foetus? Should the casual killing of a woman or a girl be counted as femicide? Do intimate partner murders and slayings specifically committed because the victim is female also count as femicide?

The second working group (WG2) on data collection assesses quantitative and qualitative data and examines reliability sources in an attempt to build a comparative model of femicide rates in Europe. Of course, the members of this working group are aware of the difficulties in comparing data. In one of our meetings, U.K. researcher Janet Stamatel suggested that at this stage we could confine ourselves to 'meta-data', data about data, which are ways of categorizing information through harmonization with the European Homicide Monitor, web information, publications and so on.<sup>453</sup>

The third working group (WG3) aims at identifying femicide patterns in minority and often 'silent' groups. This relates to cultural issues, such as femicide among migrant women, or so-called 'honour killings' among both migrant and indigenous groups. In WG3, we received presentations from members of minority groups, and inter alia discussed legislative issues related to these phenomena.

The fourth working group (WG4) aims at comparing services and provisions for high-risk groups, and working on how to disseminate good practices. To this end, members visited shelters for victims of severe domestic violence in different countries and learned from representatives of the police and prison services in the United Kingdom, Italy and Romania.

In order to encourage young researchers in particular to participate fully in the workings of COST Action IS1206, a training school on femicide – the first ever – will take place in Italy in July 2015. In addition, short-term scientific missions (STSMs) are offered to enable researchers to travel to different countries (Germany to Sweden, Italy to UK, Greece to Cyprus and so on) and study at host institutions for short periods in order to compare data, receive supervision and understand the pan-European situation on femicide.

The meetings are disseminated on the Action's website ([www.femicide.net](http://www.femicide.net)) as well as some of the presentations of the international speakers. To the best of our knowledge, this is the first website on femicide, per se, in existence.

## ACHIEVEMENTS

While Europe lagged behind the US and other countries in the study and prevention of femicide, it is now surging forward with 27 European countries at its helm. This is not a fly-by-night attempt to tackle femicide but a concerted action to prevent femicide with European partners. It has already raised awareness about the issue and in the brief time that the network has existed, representatives of the COST Action have met with politicians, legislators and service providers, who may change realities in their own countries and within Europe as a bloc.

The discussion as to what we mean by the term femicide has been encouraged by world-renowned professors, including Jacqueline Campbell (U.S.), Russell and Rebecca Dobash (U.K.), Naeemah Abrahams (South Africa), Capitolina Diaz (Spain). These professors have mentored the entire management committee and the result is the beginning of a scientific consensus on definitions, as well as an increased awareness on global trends.<sup>454</sup> Diane Russell who pioneered the term 'femicide' is due to lecture at the second annual conference of the COST Action in Zaragoza, Spain.

During the first annual conference, which took place in Lisbon, members of the Action met a Member of Parliament at the Assembleia da Republica who shared an interest in our activities in not just fighting domestic violence, but also towards putting an end to femicide itself. Eventually, this meeting may lead to important societal impact and possibly legislation; a follow-up conference is planned to discuss the idea of the European Observatory.

The field of data collection is vast. Both qualitative and quantitative data have to be compared cross-nationally. Variations in femicide rates across regions and countries have been reported widely. During the period 1985-2010, female homicide victimization, as Stamatel calls it, increased in some countries in Europe (e.g. Switzerland, Slovenia, Portugal) and remained relatively stable in others (e.g. France and Italy). Some other countries, such as Norway, had extremely low rates of femicide. Understanding the macro-level variations in these data requires complex analysis that bridge criminological theories and socio-historical circumstances.<sup>455</sup> The COST Action networking has already resulted in one academic publication comparing ten European countries. Corradi and Stockl compare national statistics on intimate partner violence in Finland, France, Germany, the Netherlands, Italy, Germany, Portugal, Slovenia, Spain, Sweden and the UK, and examine policy-making in these countries. Notwithstanding the differences, the authors find similarities in policy developments and the impact of activist women's movements and public action in all the countries.<sup>456</sup>

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"gender-related killing of women and girls was criminalized in some countries as "femicide" or "feminicide" and has been incorporated as such into national legislation in those countries".

453 A copy of Stamatel's presentation and explanation of the use of meta-data can be found at: <http://www.femicide.net/#!work-group-i-year-2/c11dx>

454 S. Weil (ed.), "What is Femicide? Concepts and Definitions" (with power point presentations by J. Campbell, R.&R. Dobash and N. Abrahams), Jerusalem: COST publication, 2014.

455 Stamatel, J. (2014), Explaining variations in female homicide victimization rates in Europe. *European Journal of Criminology* 11 (5): 578-600.

456 Corradi, C. and Stockl, H. (2014), Intimate Partner Homicide in 10 European Countries: Statistical data and policy development in a cross-national perspective. *European Journal of Criminology*, 11 (5): 601-618.

Cultural issues are significant in the rates of femicide. For example, culture and religion play an important role in preserving the patriarchal structure of Cypriot society, which impacts the prevalence and increases the frequency of domestic violence and femicide. Most Greek Cypriots belong to the Orthodox Church of Cyprus (78%), while most Turkish Cypriots are Muslim (18%). Spain also used to be a patriarchal society, but in recent decades changes have been taking place that affect the idea of masculinity. Some men cannot adapt to new realities and this may be an important factor explaining intimate partner violence and femicide. As in other countries, as soon as a woman decides to end a relationship or get a divorce, she becomes more 'at-risk'. This is also the situation among Ethiopian immigrants in Israel<sup>457</sup> -- in the last 14 years, ten women from one family were murdered in the town of Ramle on the reasoning of upholding the 'honour' of the family; only two men were convicted.<sup>458</sup> This kind of phenomenon demands special treatment and cannot just be regarded as an extreme form of domestic violence.<sup>459</sup>

To this end, members of the Action attempt to identify and compare national organizations which try to protect women and address the problem of severe domestic violence, and care for survivors, as well as engage with the police and prison service providers who deal with the perpetrators of violence and murder.

## CONCLUSION

Representatives from all the European countries, in conjunction with colleagues from other countries the world over, are committed to raising awareness about femicide, combatting the phenomenon and lowering femicide rates in the future.

### 4.17 MODEL PROTOCOL: ENDING IMPUNITY FOR FEMICIDE ACROSS LATIN AMERICA—THE PANAMA PROTOCOL

#### 10 SEPTEMBER 2014, UN WOMEN

The UN Human Rights Office in collaboration with UN Women has developed a **Model Protocol** to guide investigations and prosecutions launched in the wake of gender-based murders of women in Latin America.

The **Protocol has already been translated into Portuguese** and is being translated into English. It is an important document, not only for giving very specific practical guidance to police, prosecutors and the entire criminal justice / victim support system but also for emphasizing the responsibility that the State has for ending impunity and preventing secondary victimization. **The Protocol sets down guidelines for working with the indirect victims and the families of the deceased.** It expands the concept of femicide to include kidnapping and disappearances and the reality that witnesses, relatives and legal representatives are often killed to obstruct investigations. There are provisions which speak of the necessity of special measures when there is a large group of victims, as in the case of systematic sexual femicides. If the indirect victims or the relatives belong to ethnic groups (indigenous people, persons of African descent, Garifunas, Roma, etc) it is necessary to provide the investigation team and the court with an expert who speaks their language and knows the customs and traditions of such a group or ethnicity. If the femicide is committed by public servants, the State must adopt rapid effective measures to avoid a repetition and initiate a prompt investigation of the people who may be held responsible. Police and the armed forces should be "purified". Sexist or discriminatory comments based on gender stereotypes should be avoided and no inquiries into the private life of the victim, her social relations, her work choices, or her sexual preferences

**The Panama Protocol references Security Council Resolution 1325** which calls upon States to guarantee the protection and respect of women and girls' rights particularly in relation to the police and the judicial system, in cases of armed conflict. The Convention of Belem Do Para states that pregnancy, displacement, situations of armed conflict or special vulnerability, refugee/migrant status, poverty, deprivation of liberty, being elderly or being a juvenile should all be considered.

As a model instrument, it could be considered for adoption by other regions of the world.

Reliable figures for femicide are difficult to establish but the Small Arms Survey, a research organization established by the Swiss Government, which investigates small arms and related violence, estimates that globally, more than 65,000 women and girls are murdered annually, accounting for almost a fifth of all homicides.

457 Weil, S. **The Sun Rises, the Sun Goes Down, but She is Gone: The Killing of Ethiopian Immigrant Women 2005-8**, Report submitted to the Ministry of Absorption and Immigration, 2009. (in Hebrew)

458 Kubovich, Y. 'One Family Clan, 10 Murdered Women-and only two Convictions', Ha'aretz. 28 Oct., 2014. (<http://www.haaretz.com/news/national/.premium-1.622980>)

459 Chesler, P. Are Honor Killings Simply a Form of Domestic Violence? **Middle East Quarterly**, Spring 2009: 61-69.

Increasing rates of violence against women have been reported across Latin America and the Survey says that of the 25 countries with the highest femicide rates, more than half are in the Americas. Women are more often killed by men they know well, their former partners, family members or friends, according to the Survey, which finds too, that in countries with high levels of lethal violence, women are frequently attacked by gangs and organized criminal groups, often in a general climate of indifference and impunity.

Research by the UN Human Rights Office supports these findings, identifying an increase in organized crime, human trafficking, drug trafficking and the proliferation of small arms as major reasons for the many murders of women in Latin America. These factors are compounded by structural discrimination, including inadequate legal frameworks.

The Inter-American Court and Commission have also expressed concern at the levels of violence and impunity, concluding that underlying societal beliefs about the inferiority of women have created a culture of discrimination within law enforcement and judicial institutions, resulting in negligent investigations and a lack of sanctions against perpetrators.

In response, the UN Human Rights Office and UN Women have worked together to draft a Model Protocol for the investigation of gender-related killings of women in Latin America. Drawing on a methodology developed in 2011 by the UN Human Rights Office, specifically for the investigation of femicide in El Salvador, the Protocol is for use by investigators and prosecutors across the region to ensure gender-based murders of women are exhaustively and independently investigated.

“The objective is to take a decisive step to end impunity – which in some of our countries reaches 98 per cent of all reported cases – by providing the implementation guidelines to the operators of justice and thus sending a clear message of zero tolerance of violence against women,” explained Anna Coates, Acting Regional Director of UN Women for the Americas and the Caribbean, at the launch of the Protocol. She highlighted the opportunity that this unique and innovative tool represents for the region, and its contribution to integrate a gender perspective within the institutions responsible for investigating, prosecuting and guaranteeing reparations.

In the foreword to the Protocol, Rashida Manjoo, the UN independent expert on violence against women, acknowledges that many countries, including in Latin America have modified their criminal codes to include gender-related killings and have adopted other measures directed at eradicating gender-based violence. However, she says, impunity rather than accountability continues to be the norm in many contexts.

Significant challenges remain, she says, including: the discriminatory manner in which crimes against women and girls are dealt with; the insufficient attention given to previous complaints presented by the victims; the inadequacy of criminal investigations; and the use of mitigating circumstances to lower sentences.

The Protocol addresses many of the individual, institutional and structural factors relevant to understanding and responding to gender-related killings, Manjoo says. “The value of the Model Protocol is that it is practical. Its content draws on both the theoretical and practical experiences of a range of experts, including prosecutors, police, coroners, and judges, across Latin America, and beyond,” she says.

“It is a positive example of a collaborative effort involving regional organizations and practitioners, affirming their expertise and experience, to address and challenge impunity in the killings of women,” Manjoo says.

Several Latin American countries are already working to integrate the Protocol into their legal systems and others have expressed interest in following suit.